STATE OF NORTH CAROLINA

SESSION LAWS AND RESOLUTIONS

PASSED BY THE

2013 GENERAL ASSEMBLY

AT ITS

REGULAR SESSION 2013

BEGINNING ON

WEDNESDAY, THE NINTH DAY OF JANUARY, A.D. 2013

HELD IN THE CITY OF RALEIGH

ISSUED BY
SECRETARY OF STATE ELAINE F. MARSHALL

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STATE OF NORTH CAROLINA

PRESIDING OFFICERS OF THE 2013 GENERAL ASSEMBLY

DANIEL J. FOREST (R) .....President of the Senate..... Wake

THOM TILLIS (R) .....Speaker of the House ..... Mecklenburg

EXECUTIVE BRANCH

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

PAT MCCRORY (R).....Governor ..... Mecklenburg

DANIEL J. FOREST (R) .....Lieutenant Governor ..... Wake

ELAINE F. MARSHALL (D).....Secretary of State .....Harnett

BETH A. WOOD (D). .....Auditor ..... Wake

JANET COWELL (D) .....Treasurer ..... Wake

JUNE S. ATKINSON (D) .....Superintendent of Public Instruction ..... Wake

ROY A. COOPER, III (D) .....Attorney General.....Nash

STEVEN W. TROXLER (R).....Commissioner of Agriculture .....Guilford

CHERIE K. BERRY (R).....Commissioner of Labor .....Catawba

WAYNE GOODWIN (D) .....Commissioner of Insurance .....Richmond

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

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

SENATE OFFICERS

Name	*Position*	*Address*
DANIEL J. FOREST	President	Raleigh, Wake County
PHILIP E. BERGER	President Pro Tempore	Eden, Rockingham County
LOUIS M. PATE, JR.	Deputy President Pro Tempore	Mount Olive, Wayne County
SARAH LANG	Principal Clerk	Raleigh, Wake County
LEE SETTLE	Reading Clerk	Pinehurst, Moore County
PHILIP KING	Sergeant-at-Arms	Southport, Brunswick County

SENATORS

District		Name	Party	County	Address
1		BILL COOK	R	Beaufort	Chocowinity
2		NORMAN W. SANDERSON	R	Pamlico	Arapahoe
3		S. CLARK JENKINS	D	Edgecombe	Tarboro
4	+	EDWARD W. JONES	D	Halifax	Enfield
	*	ANGELA R. BRYANT	D	Nash	Rocky Mount
5		DON DAVIS	D	Greene	Snow Hill
6		HARRY BROWN	R	Onslow	Jacksonville
7		LOUIS M. PATE, JR.	R	Wayne	Mount Olive
8		WILLIAM P. RABON	R	Brunswick	Southport
9		THOMAS C. GOOLSBY	R	New Hanover	Wilmington
10		BRENT JACKSON	R	Sampson	Autryville
11		E.S. NEWTON	R	Wilson	Wilson
12		RONALD J. RABIN	R	Harnett	Spring Lake
13		MICHAEL P. WALTERS	D	Robeson	Fairmont
14		DANIEL T. BLUE, JR.	D	Wake	Raleigh
15		NEAL HUNT	R	Wake	Raleigh
16		JOSHUA H. STEIN	D	Wake	Raleigh
17		TAMARA BARRINGER	R	Wake	Cary
18		CHAD BAREFOOT	R	Wake	Wake Forest
19		WESLEY A. MEREDITH	R	Cumberland	Fayetteville
20		FLOYD B. MCKISSICK, JR.	D	Durham	Durham
21		ROBERT B. CLARK III	D	Hoke	Raeford
22		MIKE WOODARD	D	Durham	Durham
23		ELEANOR KINNAIRD	D	Orange	Chapel Hill
24		RICK GUNN	R	Alamance	Burlington
25		GENE MCLAURIN	D	Richmond	Rockingham
26		PHILIP E. BERGER	R	Rockingham	Eden
27		TRUDY WADE	R	Guilford	Greensboro
28		GLADYS A. ROBINSON	D	Guilford	Pleasant Garden
29		JERRY W. TILLMAN	R	Randolph	Archdale
30		SHIRLEY B. RANDLEMAN	R	Wilkes	Wilkesboro
31		PETER S. BRUNSTETTER	R	Forsyth	Lewisville
32		EARLINE W. PARMON	D	Forsyth	Winston-Salem
33		STAN BINGHAM	R	Davidson	Denton
34		ANDREW C. BROCK	R	Davie	Mocksville
35		TOMMY TUCKER	R	Union	Waxhaw
36		FLETCHER L. HARTSELL, JR.	R	Cabarrus	Concord
37		DANIEL G. CLODFELTER	D	Mecklenburg	Charlotte
38		JOEL D. M. FORD	D	Mecklenburg	Charlotte
39		ROBERT A. RUCHO	R	Mecklenburg	Matthews
40		MALCOLM GRAHAM	D	Mecklenburg	Charlotte
41		JEFF TARTE	R	Mecklenburg	Cornelius
42		AUSTIN M. ALLRAN	R	Catawba	Hickory
43		KATHY HARRINGTON	R	Gaston	Gastonia
44		DAVID L. CURTIS	R	Lincoln	Denver
45		DANIEL F. SOUCEK	R	Watauga	Boone
46		WARREN DANIEL	R	Burke	Morganton
47		RALPH E. HISE, JR.	R	Mitchell	Spruce Pine
48		TOM APODACA	R	Henderson	Hendersonville
49		MARTIN L. NESBITT, JR.	D	Buncombe	Asheville
50		JIM DAVIS	R	Macon	Franklin

\+ Deceased December 14, 2012

* Appointed January 7, 2013

HOUSE OFFICERS

Name	*Position*	*Address*
THOM TILLIS	Speaker	Cornelius, Mecklenburg County
PAUL STAM	Speaker Pro Tempore	Apex, Wake County
DENISE G. WEEKS	Principal Clerk	Raleigh, Wake County
CLYDE COOK, JR.	Sergeant-at-Arms	Garner, Wake County

REPRESENTATIVES

District		Name	Party	County	Address
1		BOB STEINBURG.	R	Chowan	Edenton
2		W.A. (WINKIE) WILKINS	D	Person	Roxboro
3		MICHAEL SPECIALE	R	Craven	New Bern
4		JIMMY DIXON	R	Duplin	Mount Olive
5		ANNIE W. MOBLEY	D	Hertford	Ahoskie
6		PAUL TINE	D	Dare	Kitty Hawk
7	+	ANGELA R. BRYANT	D	Nash	Rocky Mount
	*	BOBBIE RICHARDSON	D	Franklin	Louisburg
8		SUSAN MARTIN	R	Wilson	Wilson
9		BRIAN BROWN	R	Pitt	Greenville
10		JOHN R. BELL IV	R	Wayne	Goldsboro
11		DUANE HALL	D	Wake	Raleigh
12		GEORGE GRAHAM	D	Lenoir	Kinston
13		PAT MCELRAFT	R	Carteret	Emerald Isle
14		GEORGE G. CLEVELAND	R	Onslow	Jacksonville
15		PHILLIP R. SHEPARD	R	Onslow	Jacksonville
16		CHRIS MILLIS	R	Pender	Hampstead
17		FRANK ILER	R	Brunswick	Oak Island
18		SUSI H. HAMILTON	D	New Hanover	Wilmington
19		TED DAVIS, JR.	R	New Hanover	Wilmington
20		RICK CATLIN	R	New Hanover	Wilmington
21		LARRY M. BELL	D	Sampson	Clinton
22		WILLIAM D. BRISSON	D	Bladen	Dublin
23		JOE P. TOLSON	D	Edgecombe	Pinetops
24		JEAN FARMER-BUTTERFIELD	D	Wilson	Wilson
25		JEFF COLLINS.	R	Nash	Rocky Mount
26		N. LEO DAUGHTRY	R	Johnston	Smithfield
27		MICHAEL H. WRAY	D	Northampton	Gaston
28		JAMES H. LANGDON, JR.	R	Johnston	Angier
29		LARRY D. HALL	D	Durham	Durham
30		PAUL LUEBKE	D	Durham	Durham
31		HENRY M. MICHAUX, JR.	D	Durham	Durham
32		NATHAN BASKERVILLE	D	Vance	Henderson
33		ROSA U. GILL	D	Wake	Raleigh
34	++	DEBORAH K. ROSS	D	Wake	Raleigh
	**	GRIER MARTIN	D	Wake	Raleigh
35		CHRIS MALONE	R	Wake	Wake Forest
36		NELSON DOLLAR	R	Wake	Cary
37		PAUL STAM	R	Wake	Apex
38		YVONNE LEWIS HOLLEY	D	Wake	Raleigh
39		DARREN G. JACKSON	D	Wake	Raleigh
40		MARILYN AVILA	R	Wake	Raleigh
41		TOM MURRY	R	Wake	Morrisville
42		MARVIN W. LUCAS	D	Cumberland	Spring Lake
43		ELMER FLOYD	D	Cumberland	Fayetteville
44		RICK GLAZIER	D	Cumberland	Fayetteville
45		JOHN SZOKA	D	Cumberland	Fayetteville
46		KEN WADDELL	D	Columbus	Chadbourn
47		CHARLES GRAHAM	D	Robeson	Lumberton
48		GARLAND E. PIERCE	D	Scotland	Wagram
49		JIM FULGHUM, M.D.	R	Wake	Raleigh
50		VALERIE P. FOUSHEE	D	Orange	Chapel Hill
51		MIKE C. STONE	R	Lee	Sanford
52		JAMES L. BOLES, JR.	R	Moore	Southern Pines
53		DAVID R. LEWIS	R	Harnett	Dunn
54		DEB MCMANUS	D	Chatham	Siler City
55		MARK BRODY	R	Union	Monroe
56		VERLA INSKO	D	Orange	Chapel Hill
57		PRICEY HARRISON	D	Guilford	Greensboro

58		ALMA ADAMS	D	Guilford	Greensboro
59		JON HARDISTER	R	Guilford	Greensboro
60		MARCUS BRANDON	D	Guilford	High Point
61		JOHN FAIRCLOTH	R	Guilford	High Point
62		JOHN M. BLUST	R	Guilford	Greensboro
63		STEPHEN M. ROSS	R	Alamance	Burlington
64		DENNIS RIDDELL	R	Alamance	Snow Camp
65		BERT JONES	R	Rockingham	Reidsville
66		KEN GOODMAN	D	Richmond	Rockingham
67		JUSTIN P. BURR	R	Stanly	Albemarle
68		D. CRAIG HORN	R	Union	Weddington
69		DEAN ARP	R	Union	Monroe
70		PAT B. HURLEY	R	Randolph	Asheboro
71		EVELYN TERRY	D	Forsyth	Winston-Salem
72		EDWARD HANES, JR.	D	Forsyth	Winston-Salem
73		MARK W. HOLLO	R	Alexander	Taylorsville
74		DEBRA CONRAD	R	Forsyth	Winston-Salem
75		DONNY C. LAMBETH	R	Forsyth	Winston-Salem
76		CARL FORD	R	Rowan	China Grove
77		HARRY WARREN	R	Rowan	Salisbury
78		ALLEN RAY MCNEILL.	R	Randolph	Asheboro
79		JULIA C. HOWARD	R	Davie	Mocksville
80	+++	JERRY C. DOCKHAM	R	Davidson	Denton
	***	ROGER YOUNTS	R	Davidson	Lexington
81		RAYNE BROWN	R	Davidson	Lexington
82		LARRY G. PITTMAN	R	Cabarrus	Concord
83		LINDA P. JOHNSON	R	Cabarrus	Kannapolis
84		RENA W. TURNER	R	Iredell	Olin
85	++++	MITCH GILLESPIE	R	McDowell	Marion
	****	JOSH DOBSON	R	McDowell	Nebo
86		HUGH BLACKWELL	R	Burke	Valdese
87		EDGAR V. STARNES	R	Caldwell	Hickory
88		ROB BRYAN	R	Mecklenburg	Charlotte
89		MITCHELL S. SETZER	R	Catawba	Catawba
90		SARAH STEVENS	R	Surry	Mount Airy
91		BRYAN R. HOLLOWAY	R	Stokes	King
92		CHARLES JETER	R	Mecklenburg	Huntersville
93		JONATHAN C. JORDAN	R	Ashe	West Jefferson
94		JEFFREY ELMORE	R	Wilkes	North Wilkesboro
95		C. ROBERT BRAWLEY	R	Iredell	Mooresville
96		ANDY WELLS	R	Catawba	Hickory
97		JASON SAINE	R	Lincoln	Lincolnton
98		THOM TILLIS	R	Mecklenburg	Cornelius
99		RODNEY W. MOORE	D	Mecklenburg	Charlotte
100		TRICIA ANN COTHAM	D	Mecklenburg	Matthews
101		BEVERLY M. EARLE	D	Mecklenburg	Charlotte
102		BECKY CARNEY	D	Mecklenburg	Charlotte
103		WILLIAM BRAWLEY	R	Mecklenburg	Matthews
104		RUTH SAMUELSON	R	Mecklenburg	Charlotte
105		JACQUELINE MICHELLE SCHAFFER	R	Mecklenburg	Charlotte
106		CARLA D. CUNNINGHAM	D	Mecklenburg	Charlotte
107		KELLY M. ALEXANDER, JR.	D	Mecklenburg	Charlotte
108		JOHN A. TORBETT	R	Gaston	Stanley
109		DANA BUMGARDNER	R	Gaston	Gastonia
110		KELLY E. HASTINGS	R	Gaston	Cherryville
111		TIM MOORE	R	Cleveland	Kings Mountain
112		MIKE HAGER	R	Rutherford	Rutherfordton
113		CHRIS WHITMIRE	R	Transylvania	Rosman
114		SUSAN C. FISHER	D	Buncombe	Asheville
115		NATHAN RAMSEY	R	Buncombe	Fairview
116		TIM D. MOFFITT	R	Buncombe	Asheville
117		CHUCK MCGRADY	R	Henderson	Hendersonville
118		MICHELE D. PRESNELL	R	Yancey	Burnsville
119		JOE SAM QUEEN	D	Haywood	Waynesville
120		ROGER WEST	R	Cherokee	Marble

*	Appointed January 9, 2013	+	Resigned January 4, 2013
**	Appointed June 1, 2013	++	Resigned June 1, 2013
***	Appointed July 15, 2013	+++	Resigned July 1, 2013
****	Appointed January 29, 2013	++++	Resigned January 6, 2013

LEGISLATIVE SERVICES COMMISSION

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

HOUSE SPEAKER THOM TILLIS, *COCHAIR*

SEN. THOMAS M. APODACA	REP. LINDA P. JOHNSON
SEN. HARRY BROWN	REP. JUSTIN P. BURR
SEN. MARTIN L NESBITT, JR.	REP. NELSON DOLLAR
SEN. ROBERT ANTHONY RUCHO	REP. TIMOTHY KEITH MOORE

LEGISLATIVE SERVICES STAFF DIRECTORS

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

PREAMBLE

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

ARTICLE I
DECLARATION OF RIGHTS

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

Section 1. The equality and rights of persons.

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

Sec. 2. Sovereignty of the people.

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

Sec. 3. Internal government of the State.

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

Sec. 4. Secession prohibited.

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

Sec. 5. Allegiance to the United States.

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

Sec. 6. Separation of powers.

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

Sec. 7. Suspending laws.

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

Sec. 8. Representation and taxation.

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

Sec. 9. Frequent elections.

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

Sec. 10. Free elections.

All elections shall be free.

Sec. 11. Property qualifications.

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

Sec. 12. Right of assembly and petition.

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

Sec. 13. Religious liberty.

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

Sec. 14. Freedom of speech and press.

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

Sec. 15. Education.

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

Sec. 16. Ex post facto laws.

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

Sec. 17. Slavery and involuntary servitude.

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

Sec. 18. Court shall be open.

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

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

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

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

Sec. 20. General warrants.

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

Sec. 21. Inquiry into restraints on liberty.

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

Sec. 22. Modes of prosecution.

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

Sec. 23. Rights of accused.

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

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

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

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

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

Sec. 26. Jury service.

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

Sec. 27. Bail, fines, and punishments.

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

Sec. 28. Imprisonment for debt.

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

Sec. 29. Treason against the State.

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

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

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

Sec. 31. Quartering of soldiers.

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

Sec. 32. Exclusive emoluments.

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

Sec. 33. Hereditary emoluments and honors.

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

Sec. 34. Perpetuities and monopolies.

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

Sec. 35. Recurrence to fundamental principles.

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

Sec. 36. Other rights of the people.

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

Sec. 37. Rights of victims of crime.

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

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

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

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

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

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

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

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

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

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

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

ARTICLE II
LEGISLATIVE

Section 1. Legislative power.

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

Sec. 2. Number of Senators.

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

Sec. 3. Senate districts; apportionment of Senators.

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

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

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

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

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

Sec. 4. Number of Representatives.

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

Sec. 5. Representative districts; apportionment of Representatives.

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

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

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

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

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

Sec. 6. Qualifications for Senator.

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

Sec. 7. Qualifications for Representative.

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

Sec. 8. Elections.

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

Sec. 9. Term of office.

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

Sec. 10. Vacancies.

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

Sec. 11. Sessions.

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

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

Sec. 12. Oath of members.

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

Sec. 13. President of the Senate.

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

Sec. 14. Other officers of the Senate.

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

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

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

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

Sec. 15. Officers of the House of Representatives.

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

Sec. 16. Compensation and allowances.

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

Sec. 17. Journals.

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

Sec. 18. Protests.

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

Sec. 19. Record votes.

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

Sec. 20. Powers of the General Assembly.

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

Sec. 21. Style of the acts.

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

Sec. 22. Action on bills.

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

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

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

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

(5) Other exceptions. Every bill:

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

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

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

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

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

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

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

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

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

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

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

(b) Sine die

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

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

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

Sec. 23. Revenue bills.

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

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

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

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

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

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

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

ARTICLE III
EXECUTIVE

Section 1. Executive power.

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

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

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

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

Sec. 3. Succession to office of Governor.

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

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

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

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

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

Sec. 4. Oath of office for Governor.

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

Sec. 5. Duties of Governor.

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) Sine die. If the date of reconvening the session occurs after the expiration of the terms of office of the members of the General Assembly, then the members serving for the reconvened session shall be the members for the succeeding term.

Sec. 6. Duties of the Lieutenant Governor.

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

Sec. 7. Other elective officers.

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

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

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

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

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

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

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

Sec. 8. Council of State.

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

Sec. 9. Compensation and allowances.

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

Sec. 10. Seal of State.

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

Sec. 11. Administrative departments.

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

ARTICLE IV
JUDICIAL

Section 1. Judicial power.

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

Sec. 2. General Court of Justice.

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

Sec. 3. Judicial powers of administrative agencies.

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

Sec. 4. Court for the Trial of Impeachments.

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

Sec. 5. Appellate division.

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

Sec. 6. Supreme Court.

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

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

Sec. 7. Court of Appeals.

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

Sec. 8. Retirement of Justices and Judges.

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

Sec. 9. Superior Courts.

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

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

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

Sec. 10. District Courts.

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

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

Sec. 11. Assignment of Judges.

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

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

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

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

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

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

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

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

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

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

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

Sec. 14. Waiver of jury trial.

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

Sec. 15. Administration.

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

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

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

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

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

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

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

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

Sec. 18. District Attorney and Prosecutorial Districts.

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

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

Sec. 19. Vacancies.

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

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

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

Sec. 21. Fees, salaries, and emoluments.

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

Sec. 22. Qualification of Justices and Judges.

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

ARTICLE V
FINANCE

Section 1. No capitation tax to be levied.

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

Sec. 2. State and local taxation.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(d) to suppress riots or insurrections;

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

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

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

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

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

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

Sec. 5. Acts levying taxes to state objects.

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

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

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

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

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

Sec. 7. Drawing public money.

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

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

Sec. 8. Health care facilities.

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

Sec. 9. Capital projects for industry.

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

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

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

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

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

Sec. 11. Capital projects for agriculture.

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

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

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

Sec. 12. Higher education facilities.

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

Sec. 13. Seaport and airport facilities.

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

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

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

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

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

Sec. 14. Project development financing.

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

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

ARTICLE VI
SUFFRAGE AND ELIGIBILITY TO OFFICE

Section 1. Who may vote.

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

Sec. 2. Qualifications of voter.

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

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

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

Sec. 3. Registration.

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

Sec. 4. Qualification for registration.

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

Sec. 5. Elections by people and General Assembly.

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

Sec. 6. Eligibility to elective office.

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

Sec. 7. Oath.

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

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

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

Sec. 8. Disqualifications for office.

The following persons shall be disqualified for office:

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

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

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

Sec. 9. Dual office holding.

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

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

Sec. 10. Continuation in office.

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

ARTICLE VII
LOCAL GOVERNMENT

Section 1. General Assembly to provide for local government.

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

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

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

Sec. 2. Sheriffs.

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

Sec. 3. Merged or consolidated counties.

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

ARTICLE VIII
CORPORATIONS

Section 1. Corporate charters.

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

Sec. 2. Corporations defined.

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

ARTICLE IX
EDUCATION

Section 1. Education encouraged.

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

Sec. 2. Uniform system of schools.

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

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

Sec. 3. School attendance.

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

Sec. 4. State Board of Education.

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

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

Sec. 5. Powers and duties of Board.

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

Sec. 6. State school fund.

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

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

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

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

Sec. 8. Higher education.

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

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

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

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

Sec. 10. Escheats.

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

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

ARTICLE X
HOMESTEADS AND EXEMPTIONS

Section 1. Personal property exemptions.

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

Sec. 2. Homestead exemptions.

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

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

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

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

Sec. 3. Mechanics' and laborers' liens.

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

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

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

Sec. 5. Insurance.

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

ARTICLE XI
PUNISHMENTS, CORRECTIONS, AND CHARITIES

Section 1. Punishments.

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

Sec. 2. Death punishment.

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

Sec. 3. Charitable and correctional institutions and agencies.

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

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

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

ARTICLE XII
MILITARY FORCES

Section 1. Governor is Commander in Chief.

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

ARTICLE XIII
CONVENTIONS; CONSTITUTIONAL AMENDMENT AND REVISION

Section 1. Convention of the People.

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

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

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

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

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

Sec. 4. Revision or amendment by legislative initiation.

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

ARTICLE XIV
MISCELLANEOUS

Section 1. Seat of government.

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

Sec. 2. State boundaries.

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

Sec. 3. General laws defined.

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

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

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

Sec. 5. Conservation of natural resources.

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

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

Sec. 6. Marriage.

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

SESSION LAWS

OF THE

STATE OF NORTH CAROLINA

REGULAR SESSION 2013

Session Law 2013-1 **S.B. 14**

AN ACT TO DIRECT THE STATE BOARD OF EDUCATION TO DEVELOP CAREER AND COLLEGE ENDORSEMENTS FOR HIGH SCHOOL DIPLOMAS, INCREASE ACCESS TO CAREER AND TECHNICAL EDUCATION TEACHERS IN PUBLIC SCHOOLS, AND TO WORK WITH THE STATE BOARD OF COMMUNITY COLLEGES TO INCREASE THE NUMBER OF STUDENTS ENROLLING IN CAREER AND TECHNICAL EDUCATION IN HIGH NEED EMPLOYMENT AREAS.

The General Assembly of North Carolina enacts:

SECTION 1.(a) G.S. 115C-12 is amended by adding a new subdivision to read:

"(40) To Establish High School Diploma Endorsements. – The State Board of Education shall establish, implement, and determine the impact of adding (i) college, (ii) career, and (iii) college and career endorsements to high school diplomas to encourage students to obtain requisite job skills and to reduce the need for remedial education in institutions of higher education. These endorsements shall reflect courses completed, overall grade point average, and other criteria as developed by the State Board of Education. The State Board of Education shall report annually to the Joint Legislative Education Oversight Committee on the impact of awarding these endorsements on high school graduation, college acceptance and remediation, and post-high school employment rates."

SECTION 1.(b) The State Board of Education shall make high school diploma endorsements, as provided under this section, available to students graduating high school beginning with the 2014-2015 school year. The State Board of Education shall report to the Joint Legislative Education Oversight Committee on the progress toward establishing specific college and career endorsements for high school diplomas and for awarding these endorsements by February 1, 2014. The State Board of Education shall submit the report on the impact of awarding the high school endorsements on high school graduation, college acceptance and remediation, and post-high school employment rates by September 1, 2016, and annually thereafter.

SECTION 2.(a) G.S. 115C-296.7(d) reads as rewritten:

"(d) The State Board of Education shall identify local school administrative units with unmet recruitment ~~needs~~ needs, especially for career and technical education teachers, and high needs schools and shall coordinate placement of NC Teacher Corps members in those schools."

SECTION 2.(b) The State Board of Education shall (i) revise post-secondary education and evaluation requirements for teacher licensure of career and technical education teachers to increase accessibility to the licensure process while maintaining quality of instruction and (ii) develop alternative professional development, mentoring, and curricular

models to support career and technical education teachers who may not have an extensive teaching or classroom management background.

SECTION 2.(c) The State Board of Education shall report to the Joint Legislative Education Oversight Committee by January 15, 2014, on progress made in increasing accessibility to the licensure process and in developing alternative professional development supports for career and technical education teachers who may not have an extensive teaching or classroom management background.

SECTION 3.(a) The State Board of Education, in collaboration with the State Board of Community Colleges, shall develop strategies to increase the number of high school students engaging in career and technical education, especially in the areas of engineering and industrial technologies, and in other occupations with high numbers of employment opportunities. In developing these strategies, the Boards shall consider sharing of instructors, facilities, equipment, and business internship opportunities between the public schools and community colleges to facilitate these goals.

SECTION 3.(b) The State Board of Education and the State Board of Community Colleges shall jointly report to the Joint Legislative Education Oversight Committee by October 1, 2014, on progress made on developing strategies to increase student engagement in career and technical education, especially in engineering and industrial technologies, and in other occupations with high numbers of employment opportunities.

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

In the General Assembly read three times and ratified this the 14th day of February, 2013.

Became law upon approval of the Governor at 10:16 a.m. on the 18th day of February, 2013.

Session Law 2013-2 **H.B. 4**

AN ACT TO ADDRESS THE UNEMPLOYMENT INSURANCE DEBT AND TO FOCUS NORTH CAROLINA'S UNEMPLOYMENT INSURANCE PROGRAM ON PUTTING CLAIMANTS BACK TO WORK.

The General Assembly of North Carolina enacts:

SECTION 1.(a) G.S. 96-5(c), (d), (e), (f), and (g) are repealed.

SECTION 1.(b) Article 1 of Chapter 96 of the General Statutes, as amended by subsection (a) of this section, reads as rewritten:

"Article 1.

"~~Division of Employment Security.~~Definitions and Funds.

"§ **96-1. ~~Title.~~Title and definitions.**

(a) Title. – This Chapter shall be known and may be cited as the "Employment Security Law." ~~Any reference to the Unemployment Compensation Commission shall be deemed a reference to the Department of Commerce, Division of Employment Security (DES), and all powers, duties, funds, records, etc., of the Unemployment Compensation Commission and the Employment Security Commission are transferred to the DES.~~

(b) Definitions. – The following definitions apply in this Chapter:

(1) Agricultural labor. – Defined in section 3306 of the Code.

(2) Average weekly insured wage. – The weekly rate obtained by dividing the total wages reported by all insured employers for a calendar year by the average monthly number of individuals in insured employment during that year and then dividing that quotient by 52.

(3) Base period. – The first four of the last five completed calendar quarters immediately preceding the first day of an individual's benefit year.

(4) Benefit. – Compensation payable to an individual with respect to the individual's unemployment.

(5) Benefit year. – The fifty-two-week period beginning with the first day of a week with respect to which an individual first files a valid claim for benefits and registers for work. If the individual is payroll attached, the benefit year begins on the Sunday preceding the payroll week ending date. If the individual is not payroll attached, the benefit year begins on the Sunday of the calendar week with respect to which the individual filed a valid claim for benefits and registered for work.

(6) Code. – Defined in G.S. 105-228.90.

(7) Computation date. – August 1 of each year.

(8) Department. – The North Carolina Department of Commerce.

(9) Division. – The Department's Division of Employment Security.

(10) Employee. – Defined in section 3306 of the Code.

(11) Employer or employing unit. – Any of the following:

a. An employer as defined in section 3306 of the Code.

b. A State or local governmental unit required to provide unemployment compensation coverage to its employees under section 3309 of the Code.

c. A nonprofit organization required to provide unemployment compensation coverage to its employees under section 3309 of the Code.

d. An Indian tribe required to provide unemployment compensation coverage to its employees under section 3309 of the Code.

(12) Employment. – Defined in section 3306 of the Code, with the following additions and exclusions:

a. Additions. – The term includes service to a governmental unit, a nonprofit organization, or an Indian tribe as described in 3306(c)(7) and 3306(c)(8) of the Code.

b. Exclusions. – The term excludes all of the following:

1. Service performed by an independent contractor.

2. Service performed for a governmental entity or nonprofit organization under 3309(b) and 3309(c) of the Code.

3. Service by one or more of the following individuals if the individual is authorized to exercise independent judgment and control over the performance of the work and is compensated solely by way of commission:

A. A real estate broker, as defined in G.S. 93A-2.

B. A securities salesman, as defined in G.S. 78A-2.

(13) Employment security law. – A law enacted by this State or any other state or territory or by the federal government providing for the payment of unemployment insurance benefits.

(14) Employment service company. – A person that contracts with a client or customer to supply an individual to perform employment services for the client or customer and that both under contract and in fact meets all of the following conditions:

a. Negotiates with the client or customer on such matters as time, place, and type of work, working conditions, quality, and price of the employment services.

b. Determines the assignment of an individual to the client or customer, even if the individual retains the right to refuse a specific assignment.

c. Hires and terminates an individual supplied.

d. Sets the rate of pay for the individual supplied.

e. Pays the individual supplied.

(15) Federal Unemployment Tax Act (FUTA). – Chapter 23 of the Code.
(16) Full-time student. – Defined in section 3306 of the Code.
(17) Governmental unit. – The term includes all of the following:
a. The State, a county, or a municipality, or any department, agency, or other instrumentality of one of these entities.
b. The State Board of Education, the Board of Trustees of The University of North Carolina, the board of trustees of other institutions and agencies supported and under the control of the State, a local board of education, or another entity that pays a teacher at a public school or educational institution.
c. A special district, an authority, or another entity exercising governmental authority.
d. An alcoholic beverage control board, an airport authority, a housing authority, a regional authority, or another governmental authority created pursuant to an act of the General Assembly.
(18) Immediate family. – An individual's spouse, child, grandchild, parent, and grandparent, whether the relationship is a biological, step-, half-, or in-law relationship.
(19) Independent contractor. – An individual who contracts to do work for a person and is not subject to that person's control or direction with respect to the manner in which the details of the work are to be performed or what the individual must do as the work progresses.
(20) Indian tribe. – Defined in section 3306 of the Code.
(21) Nonprofit organization. – A religious, charitable, educational, or other organization that is exempt from federal income tax and described in section 501(c)(3) of the Code.
(22) Person. – An individual, a firm, a partnership, an association, a corporation, whether foreign or domestic, a limited liability company, or any other organization or group acting as a unit.
(23) Secretary. – The Secretary of the Department of Commerce or the Secretary's designee.
(24) Taxable wages. – The amount determined under G.S. 96-9.3.
(25) Unemployed. – Defined in G.S. 96-15.01.
(26) Unemployment Trust Fund. – The federal fund established pursuant to section 904 of the Social Security Act, as amended.
(27) United States. – Defined in section 3306 of the Code.
(28) Wages. – Defined in section 3306 of the Code, except that no amount is excluded as provided under subdivision (b)(1) of that section.

…

"§ **96-4.1. Funds used in administering the unemployment compensation laws.**

Four funds are established to administer this Chapter. The State Treasurer is responsible for investing all revenue received by the funds as provided in G.S. 147-69.2 and G.S. 147-69.3. Interest and other investment income earned by a fund accrues to it. Payments from a fund may be made only upon the warrant of the Secretary of Commerce.

The four funds are:

(1) The Employment Security Administration Fund established under G.S. 96-5.
(2) The Supplemental Employment Security Administration Fund established under G.S. 96-5.1.
(3) The Unemployment Insurance Fund established under G.S. 96-6.
(4) The Unemployment Insurance Reserve Fund established under G.S. 96-6.1.

"§ **96-5. Employment Security Administration Fund.**

(a) ~~Special Fund.~~ Fund Established. – ~~There is hereby created in the State treasury a special fund to be known as the~~ The Employment Security Administration Fund is created as a

special revenue fund. ~~Fund. All moneys which are deposited or paid into this fund shall be continuously available to the Secretary for expenditure in accordance with the provisions of this Chapter, and shall not lapse at any time or be transferred to any other fund. The Employment Security Administration Fund, except as otherwise provided in this Chapter, shall be subject to the provisions of the State Budget Act (Chapter 143C of the General Statutes) and the Personnel Act (G.S. 126-1 et seq.). All moneys in this fund which are received from the federal government or any agency thereof or which are appropriated by this State for the purpose described in G.S. 96-20 shall be expended solely for the purposes and in the amounts found necessary by the Secretary of Labor for the proper and efficient administration of this Chapter.~~ The fund ~~shall consist~~consists of the following:

(1) ~~all moneys~~Moneys appropriated by this ~~State, all moneys~~State.

(2) Moneys received from the United States ~~of America, or any agency thereof, including the Secretary of Labor, and all moneys received from any other~~ or another source for ~~such purpose,~~ the administration of this Chapter.

(3) ~~and shall also include any moneys~~ Moneys received from any agency of the United States or any other state as compensation for services or facilities supplied to ~~such agency, any amounts~~ the agency or state.

(4) Moneys received pursuant to any surety bond or insurance policy or from other sources for losses sustained by the Employment Security Administration Fund or by reason of damage to equipment or supplies purchased from moneys in ~~such fund, and~~ the fund.

(5) ~~proceeds~~ Proceeds realized from the sale or disposition of ~~any such~~ equipment or supplies purchased from moneys in the fund.~~which may no longer be necessary for the proper administration of this Chapter: Provided, any interest collected on contributions and/or penalties collected pursuant to this Chapter shall be paid into the Special Employment Security Administration Fund created by subsection (c) of this section. All moneys in this fund shall be deposited, administered, and disbursed in the same manner and under the same conditions and requirements as is provided by law for other special funds in the State treasury, and shall be maintained in a separate account on the books of the State treasury. The State Treasurer shall be liable on his official bond for the faithful performance of his duties in connection with the Employment Security Administration Fund provided for under this Chapter. Such liability on the official bond shall be effective immediately upon the enactment of this provision, and such liability shall exist in addition to any liability upon any separate bond existent on the effective date of this provision, or which may be given in the future. All sums recovered on any surety bond for losses sustained by the Employment Security Administration Fund shall be deposited in said fund.~~

(b) Use of Fund. – Moneys in the Employment Security Administration Fund may be used by the Division only to administer this Chapter. Moneys received in the fund from a source other than an appropriation by the General Assembly are appropriated for the purpose of administering this Chapter. The Secretary is authorized to requisition and receive from the State's account in the Unemployment Trust Fund any moneys standing to the State's credit that are permitted by federal law to be used for administering this Chapter and to expend the moneys for this purpose, without regard to a determination of necessity by a federal agency.

~~Replacement of Funds Lost or Improperly Expended. – If any moneys received from the Secretary of Labor under Title III of the Social Security Act, or any unencumbered balances in the Employment Security Administration Fund or any moneys granted to this State pursuant to the provisions of the Wagner-Peyser Act, or any moneys made available by this State or its political subdivisions and matched by such moneys granted to this State pursuant to the provisions of the Wagner-Peyser Act, are found by the Secretary of Labor, because of any action or contingency, to have been lost or expended for purposes other than, or in amounts in~~

~~excess of those found necessary by the Secretary of Labor for the proper administration of this Chapter, it is the policy of this State that such moneys, not available from the Special Employment Security Administration Fund established by subsection (c) of this section, shall be replaced by moneys appropriated for such purpose from the general funds of this State to the Employment Security Administration Fund for expenditure as provided in subsection (a) of this section. Upon receipt of notice of such a finding by the Secretary of Labor, the Division shall promptly pay from the Special Employment Security Administration Fund such sum if available in such fund; if not available, it shall promptly report the amount required for such replacement to the Governor and the Governor shall, at the earliest opportunity, submit to the legislature a request for the appropriation of such amount.~~

"§ **96-5.1. Supplemental Employment Security Administration Fund.**

(a) Fund Established. – The Supplemental Employment Security Administration Fund is created as a special revenue fund. The fund consists of all interest paid under this Chapter by employers on overdue contributions and any appropriations made to the fund by the General Assembly.

(b) Use of Funds. – Moneys in the Supplemental Employment Security Administration Fund may be used by the Division only for one or more of the purposes listed below and may not be used in lieu of federal funds made available to the Division for the administration of this Chapter:

(1) The payment of costs and charges of administration that the Secretary of Labor determines are not eligible for payment from or were improperly paid from the Employment Security Administration Fund. The Supplemental Employment Security Administration Fund must reimburse the Employment Security Administration Fund for the amount of any improper payment. If the balance in the Supplemental Fund is insufficient, the Secretary must notify the Governor, who must request an appropriation for that purpose.

(2) The temporary stabilization of federal funds cash flow.

(3) Security for loans from the Unemployment Trust Fund.

(4) The refund of an overpayment of interest previously credited to the fund. If an employer takes credit for a previous overpayment of interest when remitting contributions, the amount of credit taken for the overpayment of interest must be reimbursed to the Unemployment Insurance Fund.

"§ **96-6. Unemployment Insurance Fund.**

(a) Establishment and ~~Control.~~ Use. – The Unemployment Insurance Fund is established as an enterprise fund. ~~There is hereby established as a special fund, separate and apart from all public moneys or funds of this State, an Unemployment Insurance Fund, which shall be administered by the Division's Employment Insurance Section~~ The Division must administer the fund exclusively for the purposes of this Chapter. No money in the fund may be used, directly or indirectly, to pay interest on an advance received from the Unemployment Trust Fund.

This fund ~~shall consist of:~~consists of the following sources of revenue:

(1) ~~All contributions~~ Contributions collected under this ~~Chapter, together with any interest earned upon any moneys in the fund;~~Chapter.

(2) ~~Any property~~ Property or securities acquired through the use of moneys belonging to the ~~fund;~~fund.

(3) ~~All~~ Interest and investment earnings ~~of such property or securities;~~ of the fund.

(4) ~~Any moneys~~ Moneys received from ~~the federal unemployment~~ this State's account in the ~~unemployment trust fund~~ Unemployment Trust Fund in accordance with Title XII of the Social Security ~~Act~~ Act, as ~~amended;~~amended.

(5) ~~All moneys~~ Moneys credited to this State's account in the Unemployment Trust Fund pursuant to section 903 of Title IX of the Social Security Act, as ~~amended, (U.S.C.A. Title 42, sec. 1103 (a));~~amended.

(6) ~~All moneys~~ Moneys paid to this State pursuant to section 204 of the Federal-State Extended Unemployment Compensation Act of ~~1970;~~1970.

(7) Reimbursement payments in lieu of contributions.

(8) Amounts transferred from the Unemployment Insurance Reserve Fund.

~~All moneys in the fund shall be commingled and undivided.~~

(b) ~~Accounts and Deposit.~~ Accounts. ~~– The State Treasurer shall be ex officio the treasurer and custodian of the fund who shall disburse such fund in accordance with the directions of the Secretary and in accordance with such regulations as the Division shall prescribe.~~ The State Treasurer ~~shall~~ must maintain within the fund three separate accounts:

(1) A clearing ~~account,~~account.

(2) An unemployment trust fund ~~account, and~~account.

(3) A benefit account.

(b1) Clearing Account. – ~~All~~ The Division must credit moneys payable to the Unemployment Insurance Fund ~~fund, upon receipt thereof by the Division, shall be forwarded immediately to the treasurer who shall immediately deposit them in~~ to the clearing account. ~~Refunds payable pursuant to G.S. 96-10 may be paid from the clearing account upon warrants issued upon the treasurer as provided in G.S. 143B-426.40G under the requisition of the Division. After clearance thereof, all other~~ The Controller must ~~moneys in the clearing account shall be~~ immediately ~~deposited~~ deposit amounts in the clearing account with the secretary of the treasury of the United States ~~of America~~ to the credit of the account of this State in the ~~unemployment trust fund, established and maintained pursuant to section 904 of the Social Security Act, as amended, any provision of law in this State relating to the deposit, administration, release, or disbursement of moneys in the possession or custody of this State to the contrary notwithstanding.~~ Unemployment Trust Fund. ~~The benefit account shall consist of all moneys requisitioned from this State's account in the unemployment trust fund. Moneys in the clearing and benefit accounts may be deposited by the treasurer, under the direction of the Secretary, in any bank or public depository in which general funds of the State may be deposited, but no public deposit insurance charge or premium shall be paid out of the fund. The State Treasurer shall be liable on his official bond for the faithful performance of his duties in connection with the unemployment insurance fund provided for under this Chapter. Such liability on the official bond shall be effective immediately upon the enactment of this provision, and such liability shall exist in addition to any liability upon any separate bond existent on the effective date of this provision, or which may be given in the future. All sums recovered on any surety bond for losses sustained by the unemployment insurance fund shall be deposited in said fund.~~

(b2) Unemployment Trust Fund Account. – The unemployment trust fund account consists of moneys requisitioned from the State's account in the Unemployment Trust Fund to make refunds of overpayments of contributions. To obtain funds needed to make refunds, the Controller must requisition the amount needed from the Unemployment Trust Fund and credit the amount received to this account.

(c) Benefit Account. – The benefit account consists of moneys requisitioned from the State's account in the Unemployment Trust Fund to pay benefits. To obtain funds to pay benefits under this Chapter, the Controller must requisition the amount needed from the State's account in the Unemployment Trust Fund and credit the amount received to this account. Warrants for the payment of benefits are payable from this account. Amounts in the benefit account that are not needed to pay the benefits for which they were requisitioned may be applied to the payment of benefits for succeeding periods or, in the discretion of the Controller, deposited to the credit of the State's account in the Unemployment Trust Fund.~~Moneys shall be requisitioned from this State's account in the unemployment trust fund solely for the payment of benefits (including extended benefits) and in accordance with regulations prescribed by the~~

~~Secretary. The Division shall, from time to time, requisition from the unemployment trust fund such amounts, not exceeding the accounts standing to its account therein, as it deems necessary for the payment of benefits for a reasonable future period. Upon receipt thereof the treasurer shall deposit such moneys in the benefit account and shall pay all warrants drawn thereon as provided in G.S. 143B-426.40G and requisitioned by the Division for the payment of benefits solely from such benefit account. Expenditures of such moneys in the benefit account and refunds from the clearing account shall not be subject to approval of the Budget Bureau or any provisions of law requiring specific appropriations or other formal release by State officers of money in their custody. All warrants issued upon the treasurer for the payment of benefits and refunds shall be issued as provided in G.S. 143B-426.40G as requisitioned by the Secretary, the Assistant Secretary, or a duly authorized agent of the Division for that purpose. Any balance of moneys requisitioned from the unemployment trust fund which remains unclaimed or unpaid in the benefit account after the expiration of the period for which such sums were requisitioned shall either be deducted from estimates for, and may be utilized for the payment of, benefits during succeeding periods, or, in the discretion of the Division, shall be redeposited with the Secretary of the Treasury of the United States of America, to the credit of this State's account in the unemployment trust fund, as provided in subsection (b) of this section.~~

(d) ~~Management of Funds upon~~ Discontinuance of Unemployment Trust Fund. – ~~The provisions of subsections (a), (b), and (c), to the extent that they relate to the unemployment trust fund, shall be operative only so long as such unemployment trust fund continues to exist, and so long as the Secretary of the Treasury of the United States of America continues to maintain for this State a separate book account of all funds deposited therein by this State for benefit purposes, together with this State's proportionate share of the earnings of such unemployment trust fund, from which no other state is permitted to make withdrawals. If and when such unemployment trust fund ceases to exist, or such separate book account is no longer maintained, all moneys, properties, or securities therein belonging to the Unemployment Insurance Fund of this State shall be transferred to the treasurer of the Unemployment Insurance Fund, who shall hold, invest, transfer, sell, deposit, and release such moneys, properties, or securities in a manner approved by the Secretary of the Department of Commerce, in accordance with the provisions of this Chapter: Provided, that such moneys shall be invested in the following readily marketable classes of securities: Bonds or other interest-bearing obligations of the United States of America or such investments as are now permitted by law for sinking funds of the State of North Carolina; and provided further, that such investment shall at all times be so made that all the assets of the fund shall always be readily convertible into cash when needed for the payment of benefits. The treasurer shall dispose of securities or other properties belonging to the Unemployment Insurance Fund only under the direction of the Secretary of the Department of Commerce.~~If the Unemployment Trust Fund or the State's account within the federal Fund ceases to exist, the credit balance of the State's account in that Fund must be transferred to the Unemployment Insurance Fund and credited to the benefit account.

~~(e) Benefits shall be deemed to be due and payable under this Chapter only to the extent provided in this Chapter and to the extent that moneys are available therefor to the credit of the Unemployment Insurance Fund, and neither the State nor the Division shall be liable for any amount in excess of such sums.~~

~~(f) Any interest required to be paid on advances under Title XII of the Social Security Actshall be paidin a timely manner and shall not be paid, directly or indirectly, from amounts in the Unemployment Insurance Fund.~~

"§ **96-6.1. Unemployment Insurance Reserve Fund.**

(a) Establishment and Use. – The Unemployment Insurance Reserve Fund is established as a special revenue fund. The Fund consists of the revenues derived from the surtax imposed under G.S. 96-9.7. Moneys in the Fund may be used only for the following purposes:

(1) Interest payments required on advances under Title XII of the Social Security Act.
(2) Principal payments on advances under Title XII of the Social Security Act.
(3) Transfers to the Unemployment Insurance Fund for payment of benefits.
(4) Administrative costs for the collection of the surtax.
(5) Refunds of the surtax.

(b) Fund Capped. – The balance in the Unemployment Insurance Reserve Fund on January 1 of any year may not exceed the greater of fifty million dollars ($50,000,000) or the amount of interest paid the previous September on advances under Title XII of the Social Security Act. Any amount in the fund that exceeds the cap must be transferred to the Unemployment Insurance Fund.

…."

SECTION 2.(a) The following statutes are repealed: G.S. 96-8, 96-9, 96-11, 96-12, 96-12.1, 96-13, and 96-14.

SECTION 2.(b) Article 2 of Chapter 96 of the General Statutes, as amended by subsection (a) of this section, reads as rewritten:

"Article 2.

"~~Unemployment Insurance Division.~~Contributions and Payments by Employers.

…

"§ **96-9.1. Purpose.**

The purpose of this Article is to provide revenue to finance the unemployment benefits allowed under this Chapter and to do so in as simple a manner as possible by imposing a State unemployment tax that is similar to the federal unemployment tax imposed under FUTA. All employers that are liable for the federal unemployment tax on wages paid for services performed in this State and all employers that are required by FUTA to be given a state reimbursement option are liable for a State unemployment tax on wages. Revenue from this tax, referred to as a contribution, is credited to the Unemployment Insurance Fund established in G.S. 96-6.

"§ **96-9.2. Required contributions to the Unemployment Insurance Fund.**

(a) Required Contribution. – An employer is required to make a contribution in each calendar year to the Unemployment Insurance Fund in an amount equal to the applicable percentage of the taxable wages the employer pays its employees during the year for services performed in this State. An employer may not deduct the contributions due in whole or in part from the remuneration of the individuals employed.

The applicable percentage for an employer is considered the employer's contribution rate and is determined by the employer's base rate and the balance in the Unemployment Insurance Fund as of the computation date. Taxable wages are determined in accordance with G.S. 96-9.3. An employer's base rate is either the standard beginning rate or an experience rating. An employer's experience rating is computed as a reserve ratio in accordance with G.S. 96-9.4. An employer's reserve ratio percentage (ERRP) is the employer's reserve ratio multiplied by sixty-eight hundredths. A positive ERRP produces a lower contribution rate, and a negative ERRP produces a higher contribution rate.

(b) Standard Beginning Rate. – The standard beginning rate applies to an employer until the employer's account has been chargeable with benefits for at least 12 calendar months ending July 31 immediately preceding the computation date. An employer's account has been chargeable with benefits for at least 12 calendar months if the employer has reported wages paid in four completed calendar quarters and these quarters are in two consecutive calendar years.

(c) Contribution Rate. – The contribution rate for an employer is determined in accordance with the table set out below and then rounded to the nearest one-hundredth percent (0.01%), subject to the minimum and maximum contribution rates. The minimum contribution rate is six-hundredths of one percent (0.06%). The maximum contribution rate is five and seventy-six hundredths percent (5.76%). "Total insured wages" are the total wages reported by

all insured employers for the 12-month period ending on July 31 preceding the computation date.

Employer's Base Rate	**UI Trust Fund Balance as Percentage of Total Insured Wages**	**Contribution Rate**
Standard Beginning Rate	All balances	1%
Experience Rating	Less than or equal to 1%	2.9% minus ERRP
	Greater than 1% but less than or equal to 1.25%	2.4% minus ERRP
	Greater than 1.25%	1.9% minus ERRP

(d) Notification of Contribution Rate. – The Division must notify an employer of the employer's contribution rate for a calendar year by January 1 of that year. The contribution rate becomes final unless the employer files an application for review and redetermination prior to May 1 following the effective date of the contribution rate. The Division may redetermine the contribution rate on its own motion within the same time period.

(e) Voluntary Contribution. – An employer that is subject to this section may make a voluntary contribution to the Unemployment Insurance Fund in addition to its required contribution. A voluntary contribution is credited to the employer's account. A voluntary contribution made by an employer within 30 days after the date on an annual notice of its contribution rate is considered to have been made as of the previous July 31.

"§ **96-9.3. Determination of taxable wages.**

(a) Determination. – The Division must determine the taxable wages for each calendar year. An employer is not liable for contributions on wages paid to an employee in excess of taxable wages. The taxable wages of an employee is an amount equal to the greater of the following:

(1) The federal taxable wages set in section 3306 of the Code.

(2) Fifty percent (50%) of the average yearly insured wage, rounded to the nearest multiple of one hundred dollars ($100.00). The average yearly insured wage is the average weekly wage on the computation date multiplied by 52.

(b) Wages Included. – The following wages are included in determining whether the amount of wages paid to an individual in a single calendar year exceeds taxable wages:

(1) Wages paid to an individual in this State by an employer that made contributions in another state upon the wages paid to the individual because the work was performed in the other state.

(2) Wages paid by a successor employer to an individual when all of the following apply:

a. The individual was an employee of the predecessor and was taken over as an employee by the successor as a part of the organization acquired.

b. The predecessor employer paid contributions on the wages paid to the individual while in the predecessor's employ during the year of acquisition.

c. The account of the predecessor is transferred to the successor.

"§ **96-9.4. Determination of employer's reserve ratio.**

(a) Account Balance. – The Division must determine the balance of an employer's account on the computation date by subtracting the total amount of all benefits charged to the employer's account for all past periods from the total of all contributions and other amounts credited to the employer for those periods. If the Division finds that an employer failed to file a report or finds that a report filed by an employer is incorrect or insufficient, the Division must determine the employer's account balance based upon the best information available to it and must notify the employer that it will use this balance to determine the employer's reserve ratio unless the employer provides additional information within 15 days of the date of the notice.

(b) Reserve Ratio. – The Division must determine an employer's reserve ratio, which is used to determine the employer's contribution rate. The employer's reserve ratio is the quotient obtained by dividing the employer's account balance on the computation date by the total taxable payroll of the employer for the 36 calendar month period ending June 30 preceding the computation date, expressed as a percentage.

"**§ 96-9.5. Performance of services in this State.**

A service is performed in this State if it meets one or more of the following descriptions:

(1) The service is localized in this State. Service is localized in this State if it meets one of the following conditions:
   a. It is performed entirely within the State.
   b. It is performed both within and without the State, but the service performed without the State is incidental to the individual's service within the State. For example, the individual's service without the State is temporary or transitory in nature or consists of isolated transactions.

(2) The service is not localized in any state but some of the service is performed in this State, and one or more of the following applies:
   a. The base of operations is in this State.
   b. There is no base of operations and the place from which the service is directed or controlled is in this State.
   c. The service is not performed in any state that has a base of operations or a place from which the service is directed or controlled and the individual who performs the service is a resident of this State.

(3) The service, wherever performed, is within the United States or Canada and both of the following apply:
   a. The service is not covered under the employment security law of any other state or Canada.
   b. The place from which the service is directed or controlled is in this State.

(4) The service is performed outside the United States or Canada by a citizen of the United States in the employ of an American employer and at least one of the following applies. For purposes of this subdivision, the term "American employer" has the same meaning as defined in section 3306 of the Code.
   a. The employer's principal place of business in the United States is located in this State.
   b. The employer has no place of business in the United States, but the employer is one of the following:
      1. An individual who is a resident of this State.
      2. A corporation that is organized under the laws of this State.
      3. A partnership or a trust and more of its partners or trustees are residents of this State than of any other state.
      4. A limited liability company and more of its members are residents of this State than of any other state.
   c. The employer has elected coverage in this State in accordance with G.S. 96-9.9.
   d. The employer has not elected coverage in any state and the employee has filed a claim for benefits under the law of this State based on the service provided to the employer.

"**§ 96-9.6. Election to reimburse Unemployment Insurance Fund in lieu of contributions.**

(a) Applicability. – This section applies to a governmental entity, a nonprofit organization, and an Indian tribe that is required by section 3309 of the Code to have a reimbursement option. Each of these employers must finance benefits under the contributions

method imposed under G.S. 96-9.2 unless the employer elects to finance benefits by making reimbursable payments to the Division for the Unemployment Insurance Fund.

(b) Election. – An employer may make an election under this section by filing a written notice of its election with the Division at least 30 days before the January 1 effective date of the election. An Indian tribe may make separate elections for itself and each subdivision, subsidiary, or business enterprise wholly owned by the tribe. A new employer may make an election under this section by filing a written notice of its election within 30 days after the employer receives notification from the Division that it is eligible to make an election under this section.

An election is valid for a minimum of four years and is binding until the employer files a notice terminating its election. An employer must file a written notice of termination with the Division at least 30 days before the January 1 effective date of the termination. The Division must notify an employer of a determination of the effective date of an election the employer makes and of any termination of the election. These determinations are subject to reconsideration, appeal, and review. An employer that makes the election allowed by this section may not deduct any amount due under this section from the remuneration of the individuals it employs.

(c) Reimbursable Amount. – An employer must reimburse the Unemployment Insurance Fund for the amount of benefits that are paid to an individual for weeks of unemployment that begin within a benefit year established during the effective period of the employer's election and are attributable to service that is covered by section 3309 of the Code and was performed in the employ of the employer. For regular benefits, the reimbursable amount is the amount of regular benefits paid. For extended benefits, the reimbursable amount is the amount not reimbursed by the federal government.

(d) Account. – The Division must establish a separate account for each reimbursing employer. The Division must credit payments made by the employer to the account. The Division must charge to the account benefits that are paid by the Unemployment Insurance Fund to individuals for weeks of unemployment that begin within a benefit year established during the effective period of the election and are attributable to service in the employ of the employer. All benefits paid must be charged to the employer's account except benefits paid through error.

The Division must furnish an employer with a statement of all credits and charges made to its account as of the computation date prior to January 1 of the succeeding year. The Division may, in its sole discretion, provide a reimbursing employer with informational bills or lists of charges on a basis more frequent than yearly if the Division finds it is in the best interest of the Division and the affected employer to do so.

(e) Annual Reconciliation. – A reimbursing employer must maintain an account balance equal to one percent (1%) of its taxable wages. The Division must determine the balance of each employer's account on the computation date. If there is a deficit in the account, the Division must bill the employer for the amount necessary to bring its account to one percent (1%) of its taxable wages for the preceding calendar year. The Division must send a bill as soon as practical. Payment is due within 30 days from the date a bill is mailed. Amounts unpaid by the due date accrue interest and penalties in the same manner as past-due contributions and are subject to the same collection remedies provided under G.S. 96-10 for past-due contributions.

(f) Quarterly Wage Reports. – A reimbursing employer must submit quarterly wage reports to the Division on or before the last day of the month following the close of the calendar quarter in which the wages are paid. During the first four quarters following an election to be a reimbursing employer, the employer must submit an advance payment with its quarterly report. The amount of the advance payment is equal to one percent (1%) of the taxable wages reported on the quarterly wage report. The Division must remit the payments to the Unemployment Insurance Fund and credit the payments to the employer's account.

(g) Change in Election. – The Division must close the account of an employer that has been paying contributions under G.S. 96-9.2 and that elects to change to a reimbursement basis

under this section. A closed account may not be used in any future computation of a contribution rate. The Division must close the account of an employer that terminates its election to reimburse the Unemployment Insurance Fund in lieu of making contributions. An employer that terminates its election under this section is subject to the standard beginning rate.

(h) Noncompliance by Indian Tribes. – An Indian tribe that makes an election under this section and then fails to comply with this section is subject to the following consequences:

(1) An employer that fails to pay an amount due within 90 days after receiving a bill and has not paid this liability as of the computation date loses the option to make reimbursable payments in lieu of contributions for the following calendar year. An employer that loses the option to make reimbursable payments in lieu of contributions for a calendar year regains that option for the following calendar year if it pays its outstanding liability and makes all contributions during the year for which the option was lost.

(2) Services performed for an employer that fails to make payments, including interest and penalties, required under this section after all collection activities considered necessary by the Division have been exhausted, are no longer treated as "employment" for the purpose of coverage under this Chapter. An employer that has lost coverage regains coverage under this Chapter for services performed if the Division determines that all contributions, payments in lieu of contributions, penalties, and interest have been paid. The Division must notify the Internal Revenue Service and the United States Department of Labor of any termination or reinstatement of coverage pursuant to this subsection.

(i) Transition. – This subsection provides a transitional adjustment period for an employer that elected to be a reimbursing employer prior to January 1, 2013, and was not required to submit an advance payment with its first four quarterly reports equal to one percent (1%) of its reported taxable wages. This subsection expires January 1, 2016.

(1) Governmental entities. – An employer that is a State or local governmental unit must reimburse the Division in the amount required by subsection (c) of this section for benefits paid on its behalf, as determined on the computation date in 2013, but it does not have to reconcile its account balance, as required under subsection (e) of this section, until 2014. If the employer's account balance on the computation date in 2014 does not equal one percent (1%) of its taxable wages reported for the 2013 calendar year, the Division will bill the employer for the deficiency.

(2) Nonprofit organization. – An employer that is a nonprofit organization may not secure its election to reimburse in lieu of paying contributions by posting a surety bond or a line of credit after July 1, 2013. An employer whose election is secured by a surety bond or line of credit is not required to begin making quarterly advance payments until the quarter following the quarter that its surety bond or line of credit expires and is not required to meet the annual reconciliation requirement until the employer has made at least four quarterly payments.

"§ **96-9.7. Surtax for the Unemployment Insurance Reserve Fund.**

(a) Surtax Imposed. – A surtax is imposed on an employer who is required to make a contribution to the Unemployment Insurance Fund equal to twenty percent (20%) of the contribution due under G.S. 96-9.2. Except as provided in this section, the surtax is collected and administered in the same manner as contributions. Surtaxes collected under this section must be credited to the Unemployment Insurance Reserve Fund established under G.S. 96-6. Interest collected on unpaid surtaxes imposed by this section must be credited to the Supplemental Employment Security Administration Fund. Penalties collected on unpaid surtaxes imposed by this section must be credited to the Civil Penalty and Forfeiture Fund established in G.S. 115C-457.1.

(b) Suspension of Tax. – The tax does not apply in a calendar year if, as of the preceding August 1 computation date, the amount in the State's account in the Unemployment Trust Fund equals or exceeds one billion dollars ($1,000,000,000).

"**§ 96-9.8. Voluntary election to pay contributions.**

(a) When Allowed. – An employer may elect to be subject to the contribution requirement imposed by G.S. 96-9.2 and thereby provide benefit coverage for its employees as follows:

(1) An employer that is not otherwise liable for contributions under G.S. 96-9.2 may elect to pay contributions to the same extent as an employer that is liable for those contributions.

(2) An employer that pays for services that are not otherwise subject to the contribution requirement may elect to pay contributions on those services performed by individuals in its employ in one or more distinct establishments or places of business.

(3) An employer that employs the services of an individual who resides within this State but performs the services entirely without the State may elect to have the individual's service constitute employment subject to contributions if no contributions are required or paid with respect to the services under an employment security law of any other state or of the federal government.

(b) Election. – To make an election under this section, an employer must file an application with the Division. An election is effective on the date stated by the Division in a letter approving the election. An election is irrevocable for the two-year period beginning on the effective date.

(c) Termination. – The Division may, on its own motion, terminate coverage of an employer who has become subject to this Chapter solely by electing coverage under this section. This termination may occur within the two-year minimum election period. The Division must give the employer 30 days written notice of a decision to terminate an election. The notice must be mailed to the employer's last known address. An employer that elects coverage under this section may, subsequent to the two-year minimum election period, terminate the election by filing a notice of termination with the Division. The notice must be given prior to the first day of March following the first day of January of the calendar year for which the employer wishes to cease coverage under this section."

SECTION 3.(a) Chapter 96 of the General Statutes is amended by inserting a new Article 2A immediately before G.S. 96-10 to read:

"Article 2A.

Administration and Collection of Contributions."

SECTION 3.(b) Article 2A of Chapter 96 of the General Statutes, as created in subsection (a) of this section, is amended by adding the following new sections to read:

"Article 2A.

"Administration and Collection of Contributions.

"**§ 96-9.15. Report and payment.**

(a) Report and Payment. – Contributions are payable to the Division when a report is due. A report is due on or before the last day of the month following the close of the calendar quarter in which the wages are paid. The Division must remit the contributions to the Unemployment Insurance Fund. If the amount of the contributions shown to be due after all credits is less than five dollars ($5.00), no payment need be made.

(b) Overpayment. – If an employer remits an amount in excess of the amount of contributions due, including any applicable penalty and interest, the excess amount remitted is considered an overpayment. The Division must refund an overpayment unless the amount of the overpayment is less than five dollars ($5.00). Overpayments of less than five dollars ($5.00) may be refunded only upon receipt of a written demand for the refund from the employer within the time allowed under G.S. 96-10(e).

(c) Method of Payment. – An employer may pay contributions by electronic funds transfer. When an electronic funds transfer cannot be completed due to insufficient funds or the nonexistence of an account of the transferor, the Division may assess a penalty equal to ten percent (10%) of the amount of the transfer, subject to a minimum of one dollar ($1.00) and a maximum of one thousand dollars ($1,000). The Division may waive this penalty for good cause shown.

The Division may allow an employer to pay contributions by credit card. An employer that pays by credit card must include an amount equal to any fee charged by the Division for the use of the card. A payment of taxes that is made by credit card and is not honored by the card issuer does not relieve the employer of the obligation to pay the taxes.

An employer that does not pay by electronic funds transfer or by credit card must pay by check or cash. A check must be drawn on a United States bank and cash must be in currency of the United States.

(d) Form of Report. – An employer must complete the tax form prescribed by the Division. An employer or an agent of an employer that reports wages for at least 25 employees must file the portion of the "Employer's Quarterly Tax and Wage Report" that contains the name, social security number, and gross wages of each employee in a format prescribed by the Division. For failure of an employer to comply with this subsection, the Division must assess a penalty of twenty-five dollars ($25.00). For failure of an agent of an employer to comply with this subsection, the Division may deny the agent the right to report wages and file reports for that employer for a period of one year following the calendar quarter in which the agent filed the improper report. The Division may reduce or waive a penalty for good cause shown.

(e) Jeopardy Assessment. – The Secretary may immediately assess and collect a contribution the Secretary finds is due from an employer if the Secretary determines that collection of the tax is in jeopardy and immediate assessment and collection are necessary in order to protect the interest of the State and the Unemployment Insurance Fund.

(f) Domestic Employer Exception. – The Division may authorize an employer of domestic service employees to file an annual report and to file that report by telephone. An annual report allowed under this subsection is due on or before the last day of the month following the close of the calendar year in which the wages are paid. A domestic service employer that files a report by telephone must contact either the tax auditor assigned to the employer's account or the Employment Insurance Section in Raleigh and report the required information to that auditor or to that section by the date the report is due.

…

"§ **96-10.1. Compromise of liability.**

(a) Authority. – The Secretary may compromise an employer's liability under this Article when the Secretary determines that the compromise is in the best interest of the State and makes one or more of the following findings:

(1) There is a reasonable doubt as to the amount of the liability of the employer under the law and the facts.

(2) The employer is insolvent and the Secretary probably could not otherwise collect an amount equal to, or in excess of, the amount offered in compromise. An employer is considered insolvent only in one of the following circumstances:

a. It is plain and indisputable that the employer is clearly insolvent and will remain so in the reasonable future.

b. The employer has been determined to be insolvent in a judicial proceeding.

(3) Collection of a greater amount than that offered in compromise is improbable, and the funds or a substantial portion of the funds offered in the settlement come from sources from which the Secretary could not otherwise collect.

(b) Written Statement. – When the Secretary compromises an employer's liability under this section and the amount of the liability is at least one thousand dollars ($1,000), the Secretary must make a written statement that sets out the amount of the liability, the amount accepted under the compromise, a summary of the facts concerning the liability, and the findings on which the compromise is based. The Secretary must sign the statement and keep a record of the statement."

SECTION 4. Chapter 96 of the General Statutes is amended by inserting a new Article 2B to read:

"Article 2B.

"Administration of Employer Accounts.

"**§ 96-11.1. Employer accounts.**

The Division must maintain a separate account for each employer. The Division must credit the employer's account with all contributions paid by the employer or on the employer's behalf and must charge the employer's account for benefits as provided in this Chapter. The Division must prepare an annual statement of all charges and credits made to the employer's account during the 12 months preceding the computation date. The Division must send the statement to the employer when the Division notifies the employer of the employer's contribution rate for the succeeding calendar year. The Division may provide a statement of charges and credits more frequently upon a request by the employer.

"**§ 96-11.2. Allocation of charges to base period employers.**

Benefits paid to an individual are charged to an employer's account when the individual's benefit year has expired. Benefits paid to an individual must be allocated to the account of each base period employer in the proportion that the base period wages paid to the individual in a calendar quarter by each base period employer bears to the total wages paid to the individual in that quarter by all base period employers. The amount allocated to an employer that pays contributions is multiplied by one hundred twenty percent (120%) and charged to that employer's account. The amount allocated to an employer that elects to reimburse the Unemployment Insurance Fund in lieu of paying contributions is the amount of benefits charged to that employer's account.

"**§ 96-11.3. Noncharging of benefits.**

(a) To Specific Employer. – Benefits paid to an individual under a claim filed for a period occurring after the date of the individual's separation from employment may not be charged to the account of the employer by whom the individual was employed at the time of the separation if the separation is due to one of the reasons listed below and the employer promptly notifies the Division, in accordance with rules adopted by the Division, of the reason:

(1) The individual left work without good cause attributable to the employer.

(2) The employer discharged the individual for misconduct in connection with the work.

(3) The employer discharged the individual solely for a bona fide inability to do the work for which the individual was hired and the individual's period of employment was 100 days or less.

(4) The separation is a disqualifying separation under G.S. 96-14.7.

(b) To Any Base Period Employer. – Benefits paid to an individual may not be charged to the account of an employer of the individual if the benefits paid meet any of the following descriptions:

(1) They were paid to an individual who is attending a vocational school or training program approved by the Division.

(2) They were paid to an individual for unemployment due directly to a major natural disaster declared by the President pursuant to the Disaster Relief Act of 1970, and the individual receiving the benefits would have been eligible for disaster unemployment assistance under this federal act if the individual had not received benefits under this Chapter.

(3) They were paid to an individual who left work for good cause under G.S. 96-14.8.

(4) They were paid as a result of a decision by the Division and the decision is ultimately reversed upon final adjudication.

(c) Current Employer. – At the request of the employer, no benefit charges may be made to the account of an employer that has furnished work to an individual who, because of the loss of employment with one or more other employers, is eligible for partial benefits while still being furnished work by the employer on substantially the same basis and substantially the same wages as had been made available to the individual during the individual's base period. This prohibition applies regardless of whether the employments were simultaneous or successive. A request made under this subsection must be filed in accordance with rules adopted by the Division.

"**§ 96-11.4. No relief for errors resulting from noncompliance.**

(a) Charges for Errors. – An employer's account may not be relieved of charges relating to benefits paid erroneously from the Unemployment Insurance Fund if the Division determines that both of the following apply:

(1) The erroneous payment was made because the employer, or the agent of the employer, was at fault for failing to respond timely or adequately to a written request from the Division for information relating to the claim for unemployment compensation. An erroneous payment is one that would not have been made but for the failure of the employer or the employer's agent to respond to the Division's request for information related to that claim.

(2) The employer or agent has a pattern of failing to respond timely or adequately to requests from the Division for information relating to claims for unemployment compensation. In determining whether the employer or agent has a pattern of failing to respond timely or adequately, the Division must consider the number of documented instances of that employer's or agent's failures to respond in relation to the total requests made to that employer or agent. An employer or agent may not be determined to have a pattern of failing to respond if the number of failures during the year prior to the request is less than two percent (2%) of the total requests made to that employer or agent.

(b) Appeals. – An employer may appeal a determination by the Division prohibiting the relief of charges under this section in the same manner as other determinations by the Division with respect to the charging of employer accounts.

(c) Applicability. – This section applies to erroneous payments established on or after October 21, 2013.

"**§ 96-11.5. Contributions credited to wrong account.**

(a) Refund of Contributions Credited to Wrong Account. – When contributions are credited to the wrong account, the erroneous credit may be adjusted only by refunding the employer who made the payment that was credited in error. This applies regardless of whether the employer to whom the payment was credited in error is a related entity of the employer to whom the payment should have been credited. An employer whose payment is credited to the wrong account may request a refund of the amount erroneously credited by filing a request for refund within five years of the last day of the calendar year in which the erroneous credit occurred.

(b) Effect on Contribution Rate. – Failure of the Division to credit the correct account for contributions does not affect the contribution rate determined under G.S. 96-9.2 for either the employer whose account should have been credited for the contributions or the employer whose account was credited, and it does not affect the liability of an employer for contributions determined under those rates. No prior contribution rate for either of the employers may be adjusted even though the contribution rates were based on incorrect amounts in their account. An employer is liable for contributions determined under those rates for the five calendar years

preceding the year in which the error is determined. This applies regardless of whether the employer acted in good faith.

"**§ 96-11.6. Interest on Unemployment Insurance Fund allocated among employers' accounts.**

The Division must determine the ratio of the credit balance in each employer's account to the total of the credit balances in all employers' accounts as of the computation date. The Division must allocate an amount equal to the interest credited to this State's account in the Unemployment Trust Fund for the four completed calendar quarters preceding the computation date on a pro rata basis to these accounts. The amount must be prorated to an employer's account in the same ratio that the credit balance in the employer's account bears to the total of the credit balances in all the accounts. Voluntary contributions made by an employer after July 31 of a year are not considered a part of the employer's account balance used in determining the allocation under this section until the computation date in the following year.

"**§ 96-11.7. Acquisition of employer and transfer of account to another employer.**

(a) Mandatory Transfer. – When an employer acquires all of the organization, trade, or business of another employer, the account of the predecessor must be transferred as of the date of the acquisition to the successor employer for use in the determination of the successor's contribution rate. This mandatory transfer does not apply when there is no common ownership between the predecessor and the successor and the successor acquired the assets of the predecessor in a sale in bankruptcy. In this circumstance, the successor's contribution rate is determined without regard to the predecessor's contribution rate.

(b) Consent. – When a distinct and severable portion of an employer's organization, trade, or business is transferred to a successor employer and the successor employer continues to operate the acquired organization, trade, or business, the portion of the account of the transferring employer that related to the transferred business may, with the approval of the Division, be transferred by mutual consent from the transferring employer to the successor employer. A successor employer that is a related entity of the transferring employer is eligible for a transfer from the transferring employer's account only to the extent permitted by rules adopted by the Division. No transfer may be made to the account of an employer that has ceased to be an employer under G.S. 96-11.9.

If a transfer of part or all of an account is allowed but is not mandatory, the successor employer requesting the transfer may make a request for transfer by filing an application for transfer with the Division within two years after the date the business was transferred or the date of notification by the Division of the right to request an account transfer, whichever is later. If the application is approved and the application was filed within 60 days after notification from the Division of the right to request a transfer, the transfer is effective as of the date the business was transferred. If the application is approved and the application was filed later than 60 days after notification from the Division, the effective date of the transfer is the first day of the calendar quarter in which the application was filed.

If the effective date of a transfer of an account under this subsection is after the computation date in a calendar year, the Division must recalculate the contribution rate for the transferring employer and the successor employer based on their account balances on the effective date of the account transfer. The recalculated contribution rate applies for the calendar year beginning after the computation date.

(c) Employer Number. – A new employer shall not be assigned a discrete employer number when there is an acquisition or change in the form or organization of an existing business enterprise, or severable portion thereof, and there is a continuity of control of the business enterprise. That new employer shall continue to be the same employer for the purposes of this Chapter as before the acquisition or change in form. The following assumptions apply in this subsection:

(1) "Control of the business enterprise" may occur by means of ownership of the organization conducting the business enterprise, ownership of assets necessary to conduct the business enterprise, security arrangements or lease

arrangements covering assets necessary to conduct the business enterprise, or a contract when the ownership, stated arrangements, or contract provide for or allow direction of the internal affairs or conduct of the business enterprise.

(2) A "continuity of control" will exist if one or more persons, entities, or other organizations controlling the business enterprise remain in control of the business enterprise after an acquisition or change in form. Evidence of continuity of control includes changes of an individual proprietorship to a corporation, partnership, limited liability company, association, or estate; a partnership to an individual proprietorship, corporation, limited liability company, association, estate, or the addition, deletion, or change of partners; a limited liability company to an individual proprietorship, partnership, corporation, association, estate, or to another limited liability company; a corporation to an individual proprietorship partnership, limited liability company, association, estate, or to another corporation or from any form to another form.

(d) Contribution Rate. – Notwithstanding the other provisions in this section, when an account is transferred in its entirety to a successor employer, the transferring employer's contribution rate is the standard beginning rate.

Notwithstanding the other provisions in this section, if a successor employer to whom an account is transferred was an employer as of the date of the business transfer, the account transfer does not affect the successor employer's contribution rate for the calendar year in which the business was transferred. If the successor employer was not an employer as of the date of the business transfer, the successor employer's contribution rate for the year in which the business transfer occurs is the standard beginning rate unless one of the following applies:

(1) The account transfer is a mandatory transfer, in which case the contribution rate of the successor employer is the contribution rate of the transferring employer.

(2) The account transfer is by consent and the successor employer filed an application within 60 days of the business transfer, in which case the contribution rate of the successor employer is the contribution rate of the transferring employer. If the business was transferred from more than one employer and the transferring employers had different contribution rates, the contribution rate of the successor employer is the rate calculated as of the effective date of the account transfers.

(e) Liability for Contributions. – An employer that, by operation of law, purchase, or otherwise is the successor to an employer liable for contributions becomes liable for contributions on the day of the succession. This provision does not affect the successor's liability as otherwise prescribed by law for unpaid contributions due from the predecessor.

(f) Deceased or Insolvent Employer. – When the organization, trade, or business of a deceased person or of an insolvent debtor is taken over and operated by an administrator, executor, receiver, or trustee in bankruptcy, the new employer automatically succeeds to the account and contribution rate of the deceased person or insolvent debtor without the necessity of filing an application for the transfer of the account.

"**§ 96-11.8. Closure of account.**

(a) Account Closed. – When an employer ceases to be an employer under G.S. 96-11.9, the employer's account must be closed and may not be used in any future computation of the employer's contribution rate. An employer has no right or claim to any amounts paid by the employer into the Unemployment Insurance Fund.

(b) Exception for Active Duty. – If the Division finds that an employer's business is closed solely because one or more of its owners, officers, or partners or its majority stockholder enters into the Armed Forces of the United States, an ally, or the United Nations, the employer's account may not be terminated. If the business resumes within two years after the

discharge or release of the affected individual from active duty in the Armed Forces of the United States, the employer's account is considered to have been chargeable with benefits throughout more than 13 consecutive calendar months ending July 31 immediately preceding the computation date. This subsection applies only to an employer that makes contributions under G.S. 96-9.2. This subsection does not apply to an employer that makes payments in lieu of contributions under G.S. 96-9.6.

"**§ 96-11.9. Termination of coverage.**

(a) By Law. – An employer that has not paid wages for two consecutive calendar years ceases to be an employer liable for contributions under this Chapter.

(b) By Application. – An employer may file an application with the Division to terminate coverage. An application for termination must be filed prior to March 1 of the calendar year for which the employer wishes to cease coverage. The Division may terminate coverage if it finds that the employer was not liable for contributions during the preceding calendar year. Termination of coverage under this subsection is effective as of January 1 of the calendar year in which the application is granted.

(c) After Reactivation. – If the Division reactivates the account of an employer that has been closed, the employer may file an application with the Division to terminate coverage. The application must be filed within 120 days after the Division notifies the employer of the reactivation of the employer's account. The Division may terminate coverage if it finds that the employer was not liable for contributions during the preceding calendar year. Termination of coverage under this subsection is effective as of January 1 of the calendar year in which the application is granted. An employer's protest of liability upon reactivation is considered an application for termination.

(d) After Discovery. – When the Division discovers that an employer is liable for contributions for a period of more than two years, the employer may file an application with the Division to terminate coverage. The application must be filed within 90 days after the Division notifies the employer of the discovered liability. The Division may terminate coverage if it finds that the employer was not liable for contributions during the preceding calendar year. An employer's protest of liability upon discovery is considered an application for termination. An employer is not eligible for termination of liability under this subsection if the employer willfully attempted to defeat or evade the payment of contributions."

SECTION 5. Article 9 of Chapter 96 of the General Statutes is amended by adding a new Article to read:

"Article 2C.

"Benefits Payable for Unemployment Compensation.

"**§ 96-14.1. Unemployment benefits.**

(a) Purpose. – The purpose of this Article is to provide temporary unemployment benefits as required by federal law to an individual who is unemployed through no fault on the part of the individual and who is able, available, and actively seeking work.

(b) Valid Claim. – To obtain benefits, an individual must file a valid claim for unemployment benefits and register for work. An individual must serve a one-week waiting period for each claim filed. A valid claim is one that meets the employment and wage standards in this subsection for the individual's base period. A valid claim for a second benefit year is one that meets the employment and wage standards in this subsection since the beginning date of the prior benefit year and before the date the new benefit claim is filed.

(1) Employment. – The individual has been paid wages in at least two quarters of the individual's base period.

(2) Wages. – The individual has been paid wages totaling at least six times the average weekly insured wage during the individual's base period. If an individual lacks sufficient base period wages, then the wage standard for that individual is determined using the last four completed calendar quarters immediately preceding the first day of the individual's benefit year. This

alternative base period may not be used by an individual in making a claim for benefits in the next benefit year.

(c) Qualification Determination. – An individual's qualification for benefits is determined based on the reason for separation from employment from the individual's bona fide employer. The individual's bona fide employer is the most recent employer for whom the individual began employment for an indefinite duration or a duration of more than 30 consecutive calendar days, regardless of whether work was performed on all of those days. An individual who is disqualified has no right to benefits.

(d) Eligibility for Benefits. – The Division must calculate a weekly benefit amount and determine the duration of benefits for an individual who files a valid claim and qualifies for benefits. To receive the weekly benefit amount, the Division must find that the individual meets the work search eligibility requirements for each week of the benefit period. An individual who fails to meet the work search requirements for a given week is ineligible to receive a benefit until the condition causing the ineligibility ceases to exist.

(e) Federal Restrictions. – Benefits are not payable for services performed by the following individuals, to the extent prohibited by section 3304 of the Code:

(1) Instructional, research, or principal administrative employees of educational institutions.

(2) Professional athletes.

(3) Aliens.

"**§ 96-14.2. Weekly benefit amount.**

(a) Weekly Benefit Amount. – The weekly benefit amount for an individual who is totally unemployed is an amount equal to the wages paid to the individual in the last two completed quarters of the individual's base period divided by 52 and rounded to the next lower whole dollar. If this amount is less than fifteen dollars ($15.00), the individual is not eligible for benefits. The weekly benefit amount may not exceed three hundred fifty dollars ($350.00).

(b) Partial Weekly Benefit Amount. – The weekly benefit amount for an individual who is partially unemployed or part-totally employed is the amount the individual would receive under subsection (a) of this section if the individual were totally unemployed, reduced by the amount of any wages the individual receives in the benefit week in excess of twenty percent (20%) of the benefit amount applicable to total unemployment. If the amount so calculated is not a whole dollar, the amount must be rounded to the next lower whole dollar. Payments received by an individual under a supplemental benefit plan do not affect the computation of the individual's partial weekly benefit.

(c) Retirement Reduction. – The amount of benefits payable to an individual must be reduced as provided in section 3304(a)(15) of the Code.

(d) Income Tax Withholding. – An individual may elect to have federal income tax deducted and withheld from the individual's unemployment benefits in the amount specified in section 3402 of the Code. An individual may elect to have State income tax deducted and withheld from the individual's unemployment benefits in an amount determined by the individual. The individual may change a previously elected withholding status. The amounts deducted and withheld from unemployment benefits remain in the Unemployment Insurance Fund until transferred to the appropriate taxing authority as a payment of income tax. The Division must advise an individual in writing at the time the individual files a claim for unemployment benefits that the benefits paid are subject to federal and State income tax, that requirements exist pertaining to estimated tax payments, and that the individual may elect to have the amounts withheld.

"**§ 96-14.3. Minimum and maximum duration of benefits.**

The minimum and maximum number of weeks an individual is allowed to receive unemployment benefits depends on the seasonal adjusted statewide unemployment rate that applies to the six-month base period in which the claim is filed. One six-month base period begins on January 1 and one six-month base period begins on July 1. For the base period that begins January 1, the seasonal adjusted unemployment rate for the State for the preceding

month of October applies. For the base period that begins July 1, the seasonal adjusted unemployment rate for the State for the preceding month of April applies. The Division must use the most recent seasonal adjusted unemployment rate determined by the U.S. Department of Labor, Bureau of Labor Statistics, and not the rate as revised in the annual benchmark. The number of weeks allowed for an individual is determined in accordance with G.S. 96-14.4.

Seasonal Adjusted Unemployment Rate	**Minimum Number of Weeks**	**Maximum Number of Weeks**
Less than or equal to 5.5%	5	12
Greater than 5.5% up to 6%	6	13
Greater than 6% up to 6.5%	7	14
Greater than 6.5% up to 7%	8	15
Greater than 7% up to 7.5%	9	16
Greater than 7.5% up to 8%	10	17
Greater than 8% up to 8.5%	11	18
Greater than 8.5% up to 9%	12	19
Greater than 9%	13	20

"**§ 96-14.4. Duration of benefits for individual claimant.**

(a) Total Benefit Amount. – The total amount of benefits paid to an individual may not exceed the individual's total benefit amount. The total benefit amount for an individual is determined as follows:

(1) Divide the individual's base-period wages by the average of the wages paid to the individual in the last two completed quarters of the base period.

(2) Multiply the quotient by eight and two-thirds.

(3) Round the product to the nearest whole number.

(4) Multiply the resulting amount by the individual's weekly benefit amount as determined under G.S. 96-14.2.

(b) Duration. – The number of weeks an individual may receive benefits varies depending on the seasonal adjusted statewide unemployment rate that applies at the time the regular unemployment claim is filed. The total benefits paid to an individual may not be less than the individual's average weekly benefit amount multiplied by the minimum number of weeks allowed in accordance with G.S. 96-14.3. The total benefits paid to an individual may not exceed the lesser of the following:

(1) The individual's average weekly benefit amount multiplied by the maximum number of weeks allowed in accordance with G.S. 96-14.3.

(2) The individual's total benefit amount, as calculated under subsection (a) of this section.

"**§ 96-14.5. Disqualification for good cause not attributable to the employer.**

(a) Determination. – The Division must determine the reason for an individual's separation from work. An individual does not have a right to benefits and is disqualified from receiving benefits if the Division determines that the individual left work for a reason other than good cause attributable to the employer. When an individual leaves work, the burden of showing good cause attributable to the employer rests on the individual and the burden may not be shifted to the employer.

(b) Reduced Work Hours. – When an individual leaves work due solely to a unilateral and permanent reduction in work hours of more than fifty percent (50%) of the customary scheduled full-time work hours in the establishment, plant, or industry in which the individual was employed, the leaving is presumed to be good cause attributable to the employer. The employer may rebut the presumption if the reduction is temporary or was occasioned by malfeasance, misfeasance, or nonfeasance on the part of the individual.

(c) Reduced Rate of Pay. – When an individual leaves work due solely to a unilateral and permanent reduction in the individual's rate of pay of more than fifteen percent (15%), the leaving is presumed to be good cause attributable to the employer. The employer may rebut the

presumption if the reduction is temporary or was occasioned by malfeasance, misfeasance, or nonfeasance on the part of the individual.

"**§ 96-14.6. Disqualification for misconduct.**

(a) Disqualification. – An individual who the Division determines is unemployed for misconduct connected with the work is disqualified for benefits. The period of disqualification begins with the first day of the first week the individual files a claim for benefits after the misconduct occurs.

(b) Misconduct. – Misconduct connected with the work is either of the following:

(1) Conduct evincing a willful or wanton disregard of the employer's interest as is found in deliberate violation or disregard of standards of behavior that the employer has the right to expect of an employee or has explained orally or in writing to an employee.

(2) Conduct evincing carelessness or negligence of such degree or recurrence as to manifest an intentional and substantial disregard of the employer's interests or of the employee's duties and obligations to the employer.

(c) Examples. – The following examples are prima facie evidence of misconduct that may be rebutted by the individual making a claim for benefits:

(1) Violation of the employer's written alcohol or illegal drug policy.

(2) Reporting to work significantly impaired by alcohol or illegal drugs.

(3) Consumption of alcohol or illegal drugs on the employer's premises.

(4) Conviction by a court of competent jurisdiction for manufacturing, selling, or distributing a controlled substance punishable under G.S. 90-95(a)(1) or G.S. 90-95(a)(2) if the offense is related to or connected with an employee's work for the employer or is in violation of a reasonable work rule or policy.

(5) Termination or suspension from employment after arrest or conviction for an offense involving violence, sex crimes, or illegal drugs if the offense is related to or connected with the employee's work for an employer or is in violation of a reasonable work rule or policy.

(6) Any physical violence whatsoever related to the employee's work for an employer, including physical violence directed at supervisors, subordinates, coworkers, vendors, customers, or the general public.

(7) Inappropriate comments or behavior toward supervisors, subordinates, coworkers, vendors, customers, or to the general public relating to any federally protected characteristic that creates a hostile work environment.

(8) Theft in connection with the employment.

(9) Forging or falsifying any document or data related to employment, including a previously submitted application for employment.

(10) Violation of an employer's written absenteeism policy.

(11) Refusal to perform reasonably assigned work tasks or failure to adequately perform employment duties as evidenced by no fewer than three written reprimands in the 12 months immediately preceding the employee's termination.

"**§ 96-14.7. Other reasons to be disqualified from receiving benefits.**

(a) Failure to Supply Necessary License. – An individual is disqualified for benefits if the Division determines that the individual is unemployed for failure to possess a license, certificate, permit, bond, or surety that is necessary for the performance of the individual's employment if it was the individual's responsibility to supply the necessary documents and the individual's inability to do so was within the individual's control. The period of disqualification begins with the first day of the first week the individual files a claim for benefits after the individual's failure occurs.

(b) Labor Dispute. – An individual is disqualified for benefits if the Division determines the individual's total or partial unemployment is caused by a labor dispute in active progress at the factory, establishment, or other premises at which the individual is or was last

employed or by a labor dispute at another place within this State that is owned or operated by the employer that owns or operates the factory, establishment, or other premises at which the individual is or was last employed and that supplies materials or services necessary to the continued and usual operation of the premises at which the individual is or was last employed. An individual disqualified under the provisions of this subsection continues to be disqualified after the labor dispute has ceased to be in active progress for the period of time that is reasonably necessary and required to physically resume operations in the method of operating in use at the plant, factory, or establishment.

"**§ 96-14.8. Military spouse relocation and domestic violence are good causes for leaving.**

An individual is not disqualified for benefits for leaving work for one of the reasons listed in this section. Benefits paid on the basis of this section are not chargeable to the employer's account.

(1) Military spouse relocation. – Leaving work to accompany the individual's spouse to a new place of residence because the spouse has been reassigned from one military assignment to another.

(2) Domestic violence. – Leaving work for reasons of domestic violence if the individual reasonably believes that the individual's continued employment would jeopardize the safety of the individual or of any member of the individual's immediate family. For purposes of this subdivision, an individual is a victim of domestic violence if one or more of the following applies:

a. The individual has been adjudged an aggrieved party as set forth by Chapter 50B of the General Statutes.

b. There is evidence of domestic violence, sexual offense, or stalking. Evidence of domestic violence, sexual offense, or stalking may include any one or more of the following:

1. Law enforcement, court, or federal agency records or files.

2. Documentation from a domestic violence or sexual assault program if the individual is alleged to be a victim of domestic violence or sexual assault.

3. Documentation from a religious, medical, or other professional from whom the individual has sought assistance in dealing with the alleged domestic violence, sexual abuse, or stalking.

c. The individual has been granted program participant status pursuant to G.S. 15C-4 as the result of domestic violence committed upon the individual or upon a minor child with or in the custody of the individual by another individual who has or has had a familial relationship with the individual or minor child.

"**§ 96-14.9. Weekly certification.**

(a) Requirements. – An individual's eligibility for a weekly benefit amount is determined on a week-to-week basis. An individual must meet all of the requirements of this section for each weekly benefit period. An individual who fails to meet one or more of the requirements is ineligible to receive benefits until the condition causing the ineligibility ceases to exist.

(1) File a claim for benefits.

(2) Report at an employment office as requested by the Division.

(3) Meet the work search requirements of subsection (b) of this section.

(b) Work Search Requirements. – The Division must find that the individual meets all of the following work search requirements:

(1) The individual is able to work.

(2) The individual is available to work.

(3) The individual is actively seeking work.

(4) The individual accepts suitable work when offered.

(c) Able to Work. – An individual is not able to work during any week that the individual is receiving or is applying for benefits under any other state or federal law based on the individual's temporary total or permanent total disability.

(d) Available to Work. – An individual is not available to work during any week that one or more of the following applies:

(1) The individual tests positive for a controlled substance. An individual tests positive for a controlled substance if all of the conditions of this subdivision apply. An employer must report an individual's positive test for a controlled substance to the Division.

a. The test is a controlled substance examination administered under Article 20 of Chapter 95 of the General Statutes.

b. The test is required as a condition of hire for a job.

c. The job would be suitable work for the individual.

(2) The individual is incarcerated or has received notice to report to or is otherwise detained in a state or federal jail or penal institution. This subdivision does not apply to an individual who is incarcerated solely on a weekend in a county jail and who is otherwise available for work.

(3) The individual is an alien and is not in satisfactory immigration status under the laws administered by the United States Department of Justice, Immigration and Naturalization Service.

(4) The individual is on disciplinary suspension for more than 30 days based on acts or omissions that constitute fault on the part of the employee and are connected with the work.

(e) Actively Seeking Work. – The Division's determination of whether an individual is actively seeking work is based upon the following:

(1) The individual is registered for employment services, as required by the Division.

(2) The individual has engaged in an active search for employment that is appropriate in light of the employment available in the labor market and the individual's skills and capabilities.

(3) The individual has sought work on at least two different days during the week and made at least two job contacts with potential employers.

(4) The individual has maintained a record of the individual's work search efforts. The record must include the potential employers contacted, the method of contact, and the date contacted. The individual must provide the record to the Division upon request.

(f) Suitable Work. – The Division's determination of whether an employment offer is suitable must vary based upon the individual's length of unemployment as follows:

(1) During the first 10 weeks of a benefit period, the Division may consider all of the following:

a. The degree of risk involved to the individual's health, safety, and morals.

b. The individual's physical fitness and prior training and experience.

c. The individual's prospects for securing local work in the individual's customary occupation.

d. The distance of the available work from the individual's residence.

e. The individual's prior earnings.

(2) During the remaining weeks of a benefit period, the Division must consider any employment offer paying one hundred twenty percent (120%) of the individual's weekly benefit amount to be suitable work.

(g) Job Attachment. – An individual who is partially unemployed and for whom the employer has filed an attached claim for benefits has satisfied the work search requirements for any given week in the benefit period associated with the attached claim if the Division determines the individual is available for work with the employer that filed the attached claim.

(h) Job Training. – An individual has satisfied the work search requirements for any given week if the Division determines for that week that one or more of the following applies:

(1) Trade Jobs for Success. – The individual is participating in the Trade Jobs for Success initiative under G.S. 143B-438.16.

(2) Reemployment services. – The individual is participating in the reemployment services as directed by the Division and is actively seeking work in a manner consistent with the planned reemployment services. The Division must refer an individual to reemployment services if the Division finds that the individual would likely exhaust regular benefits and need reemployment services to make a successful transition to new employment.

(3) Vocational school or training program. – The individual is attending a vocational school or training program approved by the Division.

(i) Federal Labor Standards. – An otherwise eligible individual may not be denied benefits for a given week if the Division determines the individual refused to accept new work for one or more of the following reasons:

(1) The position offered is vacant due directly to a strike, lockout, or other labor dispute.

(2) The remuneration, hours, or other conditions of the work offered are substantially less favorable to the individual than those prevailing for similar work in the locality.

(3) The individual would be required to join a company union or to resign from or refrain from joining any bona fide labor organization as a condition of employment.

(j) Trade Act of 1974. – An otherwise eligible individual may not be denied benefits for any week because the individual is in training approved under section 236(a)(1) of the Trade Act of 1974, nor may the individual be denied benefits by reason of leaving work to enter such training, provided the work left is not suitable employment, or because of the application to any such week in training of provisions in this law or of any applicable federal unemployment compensation law, relating to availability for work, active search for work, or refusal to accept work. For purposes of this subsection, the term "suitable employment" means with respect to an individual, work of a substantially equal or higher skill level than the individual's past adversely affected employment, as defined for purposes of the Trade Act of 1974, and wages for such work at not less than eighty percent (80%) of the individual's average weekly wage as determined for the purposes of the Trade Act of 1974.

"**§ 96-14.10. Disciplinary suspension.**

The disciplinary suspension of an employee for 30 or fewer consecutive calendar days does not constitute good cause for leaving work. An individual who is on suspension is not available for work and is not eligible for benefits for any week during any part of the disciplinary suspension. If the disciplinary suspension exceeds 30 days, the individual is considered to have been discharged from work because of the acts or omissions that caused the suspension and the issue is whether the discharge was for disqualifying reasons. During the period of suspension up to 30 days, the individual is considered to be attached to the employer's payroll, and the issue of separation from work is held in abeyance until a claim is filed for a week to which this section does not apply.

"**§ 96-14.11. Disqualification for the remaining weeks of the benefit period.**

(a) Duration. – An individual may be disqualified from receiving benefits for the remaining weeks of the claim's duration if one or more subsections of this section apply. The period of disqualification under this section begins with the first day of the first week after the disqualifying act occurs.

(b) Suitable Work. – An individual is disqualified for any remaining benefits if the Division determines that the individual has failed, without good cause, to do one or more of the following:

(1) Apply for available suitable work when so directed by the employment office of the Division.

(2) Accept suitable work when offered.

(3) Return to the individual's customary self-employment when so directed by the Division.

(c) Recall After Layoff. – An individual is disqualified for any remaining benefits if it is determined by the Division that the individual is, at the time a claim is filed, unemployed because the individual, without good cause attributable to the employer and after receiving notice from the employer, refused to return to work for an employer under one or more of the following circumstances:

(1) The individual was recalled within four weeks after a layoff. As used in this subdivision, the term "layoff" means a temporary separation from work due to no work available for the individual at the time of separation from work and the individual is retained on the employer's payroll and is a continuing employee subject to recall by the employer.

(2) The individual was recalled in a week in which the work search requirements were satisfied under G.S. 96-14.7(g) due to job attachment.

"**§ 96-14.12. Limitations on company officers and spouses.**

(a) Disqualification for Benefits. – An individual is disqualified for benefits if the Division determines either of the following:

(1) The individual is customarily self-employed and can reasonably return to self-employment.

(2) The individual or the individual's spouse is unemployed because the individual's ownership share of the employer was voluntarily sold and, at the time of the sale, one or more of the following applied:

a. The employer was a corporation and the individual held five percent (5%) or more of the outstanding shares of the voting stock of the corporation.

b. The employer was a partnership, limited or general, and the individual was a limited or general partner.

c. The employer was a limited liability company and the individual was a member.

d. The employer was a proprietorship, and the individual was the proprietor.

(b) Duration of Benefits. – This subsection applies to an individual and the spouse of an individual who is unemployed based on services performed for a corporation in which the individual held five percent (5%) or more of the outstanding shares of the voting stock of the corporation. The maximum number of weeks an individual or an individual's spouse may receive benefits is limited to the lesser of six weeks or the applicable weeks determined under G.S. 96-14.4.

"**§ 96-14.13. Limitation on benefits due to lump sum payments.**

An individual is disqualified from receiving benefits for any week for which the individual receives any sum from the employer pursuant to an order of a court, the National Labor Relations Board, or another adjudicative agency or by private agreement, consent, or arbitration for loss of pay by reason of discharge. When the employer pays a lump sum that covers a period of more than one week, the amount paid is allocated to the weeks in the period on a pro rata basis as determined by the Division. If the amount prorated to a week would, if it had been earned by the individual during that week of unemployment, have resulted in a reduced benefit payment as provided in G.S. 96-14.2, the individual is entitled to receive the reduced payment if the individual is otherwise eligible for benefits.

Benefits paid for weeks of unemployment for which back pay awards or other similar compensation are made constitutes an overpayment of benefits. The employer must deduct the overpayment from the award prior to payment to the employee and must send the overpayment to the Division within five days of the payment for application against the overpayment. Overpayments not remitted to the Division are subject to the same collection procedures as contributions. The removal of charges made against the employer's account as a result of the previously paid benefits applies to the calendar year in which the Division receives the overpayment."

SECTION 6. G.S. 96-12.01 is recodified as G.S. 96-14.14 and G.S. 96-14.14(a), as recodified by this section, reads as rewritten:

"(a) Extended benefits payable under sub-subdivision (a1)(4)a. of this section shall be paid ~~under this Chapter as provided in this section.~~as required under the Federal-State Extended Unemployment Compensation Act of 1970. Extended benefits payable under sub-subdivision (a1)(4)a. of this section are not required under federal law and may be paid only if the federal government funds one hundred percent (100%) of the costs of providing them. Extended benefits are payable in the manner prescribed by this section."

SECTION 7.(a) Chapter 96 of the General Statutes is amended by inserting a new Article 2D immediately before G.S. 96-15:

"Article 2D.

Administration of Benefits."

SECTION 7.(b) Article 2D of Chapter 96 of the General Statutes, as created in subsection (a) of this section, reads as rewritten:

"Article 2D.

"Administration of Benefits.

"§ **96-15. Claims for benefits.**

(a) ~~Filing.~~Generally. – Claims for benefits ~~shall~~ must be made in accordance with ~~such regulations as the Division may prescribe.~~rules adopted by the Division. ~~Employers may file claims for employees through the use of automation in the case of partial unemployment. Each employing unit shall post and maintain in places readily accessible to individuals performing services for it printed statements, concerning benefit rights, claims for benefits, and such other matters relating to the administration of this Chapter as the Division may direct. Each employing unit shall supply to such individuals copies of such printed statements or other materials relating to claims for benefits as the Division may direct. Such~~ An employer must provide individuals providing services for it access to information concerning the unemployment compensation program. The Division must supply an employer with any printed statements and other materials ~~shall be supplied by the Division~~that the Division requires an employer to provide to individuals ~~to each employing unit~~ without cost to the ~~employing unit.~~employer.

(a1) Attached Claims. – An employer may file claims for employees through the use of automation in the case of partial unemployment. An employer may file an attached claim for an employee only once during a calendar year, and the period of partial unemployment for which the claim is filed may not exceed six weeks. To file an attached claim, an employer must pay the Division an amount equal to the full cost of unemployment benefits payable to the employee under the attached claim at the time the attached claim is filed. The Division must credit the amounts paid to the Unemployment Insurance Fund.

An employer may file an attached claim under this subsection only if the employer has a positive credit balance in its account as determined under Article 2B of this Chapter. If an employer does not have a positive credit balance in its account, the employer must remit to the Division an amount equal to the amount necessary to bring the employer's negative credit balance to at least zero at the time the employer files the attached claim.

(b) …

(2) Adjudication. – When a protest is made by the claimant to the initial or monetary determination, or a question or issue is raised or presented as to the eligibility of a ~~claimant under G.S. 96-13,~~claimant, or whether any disqualification should be ~~imposed under G.S. 96-14,~~ imposed, or benefits denied or adjusted pursuant to G.S. 96-18, the matter shall be referred to an adjudicator. The adjudicator may consider any matter, document or statement deemed to be pertinent to the issues, including telephone conversations, and after such consideration shall render a conclusion as to the claimant's benefit entitlements. The adjudicator shall notify the claimant and all other interested parties of the conclusion reached. The conclusion of the adjudicator shall be deemed the final decision of the Division unless within 30 days after the date of notification or mailing of the conclusion, whichever is earlier, a written appeal is filed pursuant to rules adopted by the Division. The Division shall be deemed an interested party for such purposes and may remove to itself or transfer to an appeals referee the proceedings involving any claim pending before an adjudicator.

Provided, any interested employer shall be allowed 10 days from the delivery of the notice of the filing of a claim against the employer's account to protest the claim and have the claim referred to an adjudicator for a decision on the question or issue raised. A copy of the notice of the filing shall be sent contemporaneously to the employer by telefacsimile transmission if a fax number is on file. Provided further, no question or issue may be raised or presented by the Division as to the eligibility of a ~~claimant under G.S. 96-13,~~ claimant, or whether any disqualification should be ~~imposed under G.S. 96-14,~~ imposed, after 45 days from the first day of the first week after the question or issue occurs with respect to which week an individual filed a claim for benefits. None of the provisions of this subsection shall have the force and effect nor shall the same be construed or interested as repealing any other provisions of G.S. 96-18.

An employer shall receive written notice of the employer's appeal rights and any forms that are required to allow the employer to protest the claim. The forms shall include a section referencing the appropriate rules pertaining to appeals and the instructions on how to appeal.

…

"§ **96-15.01. Establishing a benefit year.**

(a) Initial Unemployment. – An individual is unemployed for the purpose of establishing a benefit year if one of the following conditions is met:

(1) Payroll attachment. – The individual has payroll attachment but because of lack of work during the payroll week for which the individual is requesting the establishment of a benefit year, the individual worked less than the equivalent of three customary scheduled full-time days in the establishment, plant, or industry in which the individual has payroll attachment as a regular employee.

(2) No payroll attachment. – The individual has no payroll attachment on the date the individual files a claim for unemployment benefits.

(b) Unemployed. – For benefit weeks within an established benefit year, a claimant is unemployed as provided in this subsection:

(1) Totally unemployed. – The claimant's earnings for the week, including payments in subsection (c) of this section, would not reduce the claimant's weekly benefit amount as calculated in G.S. 96-14.2.

(2) Partially unemployed. – The claimant is payroll attached and both of the following apply:

a. The claimant worked less than three customary scheduled full-time days in the establishment, plant, or industry in which the claimant is employed because of lack of work during the payroll week for which the claimant is requesting benefits.

b. The claimant's earnings for the payroll week for which the claimant is requesting benefits, including payments in subsection (c) of this section, would qualify the claimant for a reduced weekly benefit amount as calculated in G.S. 96-14.2.

(3) Part-totally unemployed. – The claimant has no payroll attachment during all or part of the week, and the claimant's earnings for odd jobs or subsidiary work would qualify the claimant for a reduced weekly benefit amount as calculated in G.S. 96-14.2.

(c) Separation Payments. – An individual is not unemployed if, with respect to the entire calendar week, the individual receives or will receive as a result of the individual's separation from work remuneration in one or more of the forms listed in this subsection. If the remuneration is given in a lump sum, the amount must be allocated on a weekly basis as if it had been earned by the individual during a week of employment. An individual may be unemployed, as provided in subsection (b) of this section, if the individual is receiving payment applicable to less than the entire week.

(1) Wages in lieu of notice.
(2) Accrued vacation pay.
(3) Terminal leave pay.
(4) Severance pay.
(5) Separation pay.
(6) Dismissal payments or wages by whatever name.

(d) Substitute School Personnel. – An individual that performs service in a school as a substitute is not unemployed for days or weeks when the individual is not called to work unless the individual was employed as a full-time substitute during the period of time for which the individual is requesting benefits. For purposes of this subsection, a full-time substitute is an employee that works for more than 30 hours a week for the school on a continual basis for a period of six months or more.

…

"§ **96-18.1. Attachment and garnishment of fraudulent overpayment.**

(a) Applicability. – This section applies to an individual who has been provided notice of a determination or an appeals decision finding that the individual, or another individual acting in the individual's behalf and with the individual's knowledge, has knowingly done one or more of the following to obtain or increase a benefit or other payment under this Chapter:

(1) Made a false statement or misrepresentation.
(2) Failed to disclose a material fact.

(b) Attachment and Garnishment. – Intangible property that belongs to an individual, is owed to an individual, or has been transferred by an individual under circumstances that would permit it to be levied upon if it were tangible property is subject to attachment and garnishment in payment of a fraudulent overpayment that is due from the individual and is collectible under this Article. Intangible personal property includes bank deposits, rent, salaries, wages, property held in the Escheat Fund, and any other property incapable of manual levy or delivery.

A person who is in possession of intangible property that is subject to attachment and garnishment is the garnishee and is liable for the amount the individual owes. The liability applies only to the amount of the individual's property in the garnishee's possession, reduced by any amount the individual owes the garnishee.

The Secretary may submit to a financial institution, as defined in G.S. 53B-2, information that identifies an individual who owes a fraudulent overpayment that is collectible under this section and the amount of the overpayment. The Secretary may submit the information on a quarterly basis or, with the agreement of the financial institution, on a more frequent basis. A

financial institution that receives the information must determine the amount, if any, of intangible property it holds that belongs to the individual and must inform the Secretary of its determination. The Secretary must reimburse a financial institution for its costs in providing the information, not to exceed the amount payable to the financial institution under G.S. 110-139 for providing information for use in locating a noncustodial parent.

No more than ten percent (10%) of an individual's wages or salary is subject to attachment and garnishment. The wages or salary of an employee of the United States, the State, or a political subdivision of the State are subject to attachment and garnishment.

(c) Notice. – Before the Secretary attaches and garnishes intangible property in payment of a fraudulent overpayment, the Secretary must send the garnishee a notice of garnishment. The notice must be sent either in person, by certified mail with a return receipt requested, or with the agreement of the garnishee, by electronic means. The notice must contain all of the following information:

(1) The individual's name.
(2) The individual's social security number or federal identification number.
(3) The amount of fraudulent overpaid benefits the individual owes.
(4) An explanation of the liability of a garnishee for fraudulent overpayment of unemployment insurance benefits owed by an overpaid individual.
(5) An explanation of the garnishee's responsibility concerning the notice.

(d) Action. – A garnishee must comply with a notice of garnishment or file a written response to the notice within the time set in this subsection. A garnishee that is a financial institution must comply or file a response within 20 days after receiving a notice of garnishment. All other garnishees must comply or file a response within 30 days after receiving a notice of garnishment. A written response must explain why the garnishee is not subject to garnishment and attachment.

Upon receipt of a written response, the Department must contact the garnishee and schedule a conference to discuss the response or inform the garnishee of the Department's position concerning the response. If the Department does not agree with the garnishee on the garnishee's liability, the Department may proceed to enforce the garnishee's liability for the fraudulent overpayment of unemployment benefits by civil action."

SECTION 8. G.S. 96-24 reads as rewritten:

"§ **96-24. Local offices; cooperation with United States service; financial aid from United States.**

(a) Agreement. – The ~~Employment Security Section~~ Department of Commerce is authorized to enter into agreement with the governing authorities of any municipality, county, township, or school corporation in the State for such period of time as may be deemed desirable for the purpose of establishing and maintaining local free employment offices, and for the extension of vocational guidance in cooperation with the United States Employment Service, and under and by virtue of any such agreement as aforesaid to pay, from any funds appropriated by the State for the purposes of this Article, any part or the whole of the salaries, expenses or rent, maintenance, and equipment of offices and other expenses.

(b) Location. – The Department of Commerce must take into consideration all of the following factors when determining the appropriate number and location of local offices:

(1) Location of the population served.
(2) Staff availability.
(3) Proximity of local offices to each other.
(4) Use of automation products to provide services.
(5) Services and procedural efficiencies.
(6) Any other factors the Division considers necessary in determining the appropriate number and location of local offices."

SECTION 9.(a) G.S. 58-89A-120 reads as rewritten:

"§ **58-89A-120. Unemployment taxes; payroll.**

A licensee is the employer of an assigned employee for purposes of Chapters 95, 96 and 105 of the General Statutes. Nothing in this section shall otherwise affect the levy and collection of unemployment insurance contributions or the assignment of discrete employer ~~numbers pursuant to G.S. 96-9(c)(4) and the definitions set forth in G.S. 96-8(4), 96-8(5), and 96-8(6).~~ numbers under the Employment Security Law. The Department of Commerce, Division of Employment Security (DES), shall cooperate with the Commissioner in the investigation of applicants and licensees and shall provide the Commissioner with access to all relevant records and data in the custody of the DES."

SECTION 9.(b) G.S. 96-4 reads as rewritten:

"§ **96-4. Administration; powers and duties of the Assistant Secretary; Board of Review.**

…

(b) Board of Review. – The Governor shall appoint a three-person Board of Review to determine appeals policies and procedures and to hear appeals arising from the decisions and determinations of the ~~Employment Security Section and the Employment Insurance Section.~~ Division. The Board of Review shall be comprised of one member representing employers, one member representing employees, and one member representing the general public. Members of the Board of Review are subject to confirmation by the General Assembly and shall serve four-year terms. The member appointed to represent the general public shall serve as chair of the Board of Review and shall be a licensed attorney. The annual salaries of the Board of Review shall be set by the General Assembly in the current Operations Appropriations Act. The Board of Review shall exercise its decision-making processes independent of the Governor, the General Assembly, the Department, and the Division.

…

(i) Records and Reports. –

(1) Each ~~employing unit~~ employer shall keep true and accurate employment records, containing such information as the Division may prescribe. The records shall be open to inspection and be subject to being copied by the Division or its authorized representatives at any reasonable time and as often as may be necessary. ~~Any employing unit~~ An employer doing business in North Carolina shall make available in this State to the Division, such information with respect to ~~persons, firms, or other employing units~~ persons performing services for it which the Secretary deems necessary in connection with the administration of this Chapter. The Division may require from ~~any employing unit~~an employer any sworn or unsworn reports, with respect to persons employed by it, which the Secretary deems necessary for the effective administration of this ~~Chapter.~~Chapter, including the employer's quarterly tax and wage report containing the name, social security number, and gross wages of persons employed during that quarter.

(2) If the Division finds that any employer has failed to file any report or return required by this Chapter or any regulation made pursuant hereto, or has filed a report which the Division finds incorrect or insufficient, the Division may make an estimate of the information required from such employer on the basis of the best evidence reasonably available to it at the time, and make, upon the basis of such estimate, a report or return on behalf of such employer, and the report or return so made shall be deemed to be prima facie correct, and the Division may make an assessment based upon such report and proceed to collect contributions due thereon in the manner as set forth in G.S. 96-10(b) of this Chapter: Provided, however, that no such report or return shall be made until the employer has first been given at least 10 days' notice by registered mail to the last known address of such employer: Provided further, that no such report or return shall be used as a basis in

determining whether ~~such employing unit~~a person is an employer within the meaning of this Chapter.

…

(p) Reciprocal Arrangements. –

(1) The Secretary is hereby authorized to enter into reciprocal arrangements with appropriate and duly authorized agencies of other states or of the federal government, or both, whereby:

a. Services performed by an individual for ~~a single employing unit~~ an employer for which services are customarily performed in more than one state shall be deemed to be services performed entirely within any one of the states

1. In which any part of such individual's service is performed or
2. In which such individual has his residence or
3. In which the ~~employing unit~~ employer maintains a place of business, provided there is in effect, as to such services, an election by the ~~employing unit,~~ employer, approved by the agency charged with the administration of such state's employment security law, pursuant to which the services performed by such individual for ~~such employing unit~~ the employer are deemed to be performed entirely within such state.

…

(2) Reimbursements paid from the fund pursuant to subparagraphs b and c of subdivision (1) of this subsection shall be deemed to be ~~benefits for the purpose of G.S. 96-6, 96-9, 96-12 and 96-12.01.~~ benefits. The Division is authorized to make to other states or federal agencies and to receive from such other state or federal agencies, reimbursements from or to the fund, in accordance with arrangements entered into pursuant to subdivision (1) of this subsection.

…

(q) The Division after due notice shall have the right and power to hold and conduct hearings for the purpose of determining the rights, status and liabilities of ~~any "employing unit" or "employer" as said terms are defined by G.S. 96-8(4) and 96-8(5) and subdivisions thereunder.~~ an employer. The ~~Division~~ Board of Review shall have the power and authority to determine any and all questions and issues of fact or questions of law that may arise under the Employment Security Law that may affect the rights, liabilities and status of ~~any employing unit or~~ an employer ~~as heretofore defined by the Employment Security Law~~ including the right to determine the amount of contributions, if any, which may be due the Division by any employer. Hearings may be before the Board of Review ~~or the Division~~ and shall be held in the central office of the ~~Division~~ Board of Review or at any other designated place within the State. They shall be open to the public and shall consist of a review of the evidence taken by a hearing officer designated by the Board of Review and a determination of the law applicable to that evidence. The ~~Division~~ Board of Review shall provide for the taking of evidence by a hearing ~~officer.~~ officer employed in the capacity of an attorney by the Department. Such hearing officer shall have the same power to issue subpoenas, administer oaths, conduct hearings and take evidence as is possessed by the ~~Division~~ Board of Review and such hearings shall be recorded, and he shall transmit all testimony and records of such hearings to the Board ~~of Review or Division~~ for its determination. All such hearings conducted by such hearing officer shall be scheduled and held in any county in this State in which the ~~employing unit or employer either~~employer resides, maintains a place of business, or conducts business; however, the Board of Review ~~or Division~~ may require additional testimony at any hearings held by it at its office. From all decisions or determinations made by the ~~Assistant Secretary or the~~ Board of Review, any party affected thereby shall be entitled to an appeal to the superior court. Before a

party shall be allowed to appeal, the party shall within 10 days after notice of such decision or determination, file with the Board of Review exceptions to the decision or the determination, which exceptions will state the grounds of objection to the decision or determination. If any one of the exceptions shall be overruled then the party may appeal from the order overruling the exceptions, and shall, within 10 days after the decision overruling the exceptions, give notice of his appeal. When an exception is made to the facts as found by the Board of Review, the appeal shall be to the superior court in term time but the decision or determination of the ~~Division~~ Board of Review upon such review in the superior court shall be conclusive and binding as to all questions of fact supported by any competent evidence. When an exception is made to any rulings of law, as determined by the Board of Review, the appeal shall be to the judge of the superior court at chambers. The party appealing shall, within 10 days after the notice of appeal has been served, file with the Board of Review exceptions to the decision or determination overruling the exception which statement shall assign the errors complained of and the grounds of the appeal. Upon the filing of such statement the Board of Review shall, within 30 days, transmit all the papers and evidence considered by it, together with the assignments of errors filed by the appellant to a judge of the superior court holding court or residing in some district in which such appellant either resides, maintains a place of business or conducts business, or, unless the appellant objects after being given reasonable opportunity to object, to a judge of the Superior Court of Wake County: Provided, however, the 30-day period specified herein may be extended by agreement of parties.

(r) The cause shall be entitled "State of North Carolina on Relationship of the ~~Division of Employment Security,~~ Board of Review, Department of Commerce, of North Carolina against (here insert name of appellant)," and if there are exceptions to any facts found by the Board of Review, it shall be placed on the civil issue docket of such court and shall have precedence over other civil actions except those described in G.S. 96-10(b), and such cause shall be tried under such rules and regulations as are prescribed for the trial of other civil causes. By consent of all parties the appeal may be held and determined at chambers before any judge of a district in which the appellant either resides, maintains a place of business or conducts business, or said appeal may be heard before any judge holding court therein, or in any district in which the appellant either resides, maintains a place of business or conducts business. Either party may appeal to the appellate division from the judgment of the superior court under the same rules and regulations as are prescribed by law for appeals, except that if an appeal shall be taken on behalf of the Department of Commerce, it shall not be required to give any undertaking or make any deposit to secure the cost of such appeal and such court may advance the cause on its docket so as to give the same a speedy hearing.

(s) The decision or determination of the ~~Division~~ Board of Review when docketed in the office of the clerk of the superior court of any county and when properly indexed and cross-indexed shall have the same force and effect as a judgment rendered by the superior court, and if it shall be adjudged in the decision or determination of the ~~Division~~ Board of Review that any employer is indebted to the Division for contributions, penalties and interest or either of the same, then said judgment shall constitute a lien upon any realty owned by said employer in the county only from the date of docketing of such decision or determination in the office of the clerk of the superior court and upon personalty owned by said employer in said county only from the date of levy on such personalty, and upon the execution thereon no homestead or personal property exemptions shall be allowed; provided, that nothing herein shall affect any rights accruing to the Division under G.S. 96-10. The provisions of this section, however, shall not have the effect of releasing any liens for contributions, penalties or interest, or either of the same, imposed by other law, nor shall they have the effect of postponing the payment of said contributions, penalties or interest, or depriving the Division of Employment Security of any priority in order of payment provided in any other statute under which payment of the said contributions, penalties and interest or either of the same may be required. The superior court or any appellate court shall have full power and authority to issue any and all executions, orders, decrees, or writs that may be necessary to carry out the terms of said

decision or determination of the Division or to collect any amount of contribution, penalty or interest adjudged to be due the Division by said decision or determination. In case of an appeal from any decision or determination of the Division to the superior court or from any judgment of the superior court to the appellate division all proceedings to enforce said judgment, decision, or determination shall be stayed until final determination of such appeal but no proceedings for the collection of any amount of contribution, penalty or interest due on same shall be suspended or stayed unless the employer or party adjudged to pay the same shall file with the clerk of the superior court a bond in such amount not exceeding double the amount of contribution, penalty, interest or amount due and with such sureties as the clerk of the superior court deems necessary conditioned upon the payment of the contribution, penalty, interest or amount due when the appeal shall be finally decided or terminated.

…

(u) Notices of hearing shall be issued by the Division or its authorized representative and sent by registered mail, return receipt requested, to the last known address of ~~any employing unit,~~ employer, employers, persons, or firms involved. The notice shall be sent at least 15 days prior to the hearing date and shall contain notification of the place, date, hour, and purpose of the hearing. Subpoenas for witnesses to appear at any hearing shall be issued by the Division or its authorized representative and shall order the witness to appear at the time, date and place shown thereon. Any bond or other undertaking required to be given in order to suspend or stay any execution shall be given payable to the Department of Commerce. Any such bond or other undertaking may be forfeited or sued upon as are any other undertakings payable to the State.

…

(x) Confidentiality of Records, Reports, and Information Obtained from Claimants, Employers, and Units of Government. – Disclosure and redisclosure of confidential information shall be consistent with 20 C.F.R. Part 603 and any written guidance promulgated and issued by the U.S. Department of Labor consistent with this regulation and any successor regulation. To the extent a disclosure or redisclosure of confidential information is permitted or required by this federal regulation, the Department's authority to disclose or redisclose the information includes the following:

(1) Confidentiality of Information Contained in Records and Reports. – (i) Except as hereinafter otherwise provided, it shall be unlawful for any person to obtain, disclose, or use, or to authorize or permit the use of any information which is obtained from ~~any employing unit,~~ an employer, individual, or unit of government pursuant to the administration of this Chapter or G.S. 108A-29. (ii) Any claimant or employer or their legal representatives shall be supplied with information from the records of the Division to the extent necessary for the proper presentation of claims or defenses in any proceeding under this Chapter. Notwithstanding any other provision of law, any claimant may be supplied, subject to restrictions as the Division may by regulation prescribe, with any information contained in his payment record or on his most recent monetary determination, and any individual, as well as any interested employer, may be supplied with information as to the individual's potential benefit rights from claim records. (iii) Subject to restrictions as the Secretary may by regulation provide, information from the records of the Division may be made available to any agency or public official for any purpose for which disclosure is required by statute or regulation. (iv) The Division may, in its sole discretion, permit the use of information in its possession by public officials in the performance of their public duties. (v) The Division shall release the payment and the amount of unemployment compensation benefits upon receipt of a subpoena in a proceeding involving child support. (vi) The Division shall furnish to the State Controller any information the State Controller needs to prepare

and publish a comprehensive annual financial report of the State or to track debtors of the State. (vii) The Secretary may disclose or authorize redisclosure of any confidential information to an individual, agency, or entity, public or private, consistent with the requirements enumerated in 20 C.F.R. Part 603 or any successor regulation and any written guidance promulgated and issued by the U.S. Department of Labor consistent with 20 C.F.R. Part 603.

(2) Job Service Information. – (i) Except as hereinafter otherwise provided it is unlawful for any person to disclose any information obtained by the Division from workers, employers, applicants, or other persons or groups of persons in the course of administering the State Public Employment Service Program. Provided, however, that if all interested parties waive in writing the right to hold such information confidential, the information may be disclosed and used but only for those purposes that the parties and the Division have agreed upon in writing. (ii) The Division shall make public, through the newspapers and any other suitable media, information as to job openings and available applicants for the purpose of supplying the demand for workers and employment. (iii) The Labor Market Information Unit shall collect, collate, and publish statistical and other information relating to the work under the Division's jurisdiction; investigate economic developments, and the extent and causes of unemployment and its remedies with the view of preparing for the information of the General Assembly such facts as in the Division's opinion may make further legislation desirable. (iv) Except as provided by rules adopted by the Division, any information published pursuant to this subdivision shall not be published in any manner revealing the identity of the applicant or the ~~employing unit.~~employer.

…

(6) Nothing in this subsection (t) shall operate to relieve any claimant or ~~employing unit~~ employer from disclosing any information required by this Chapter or by regulations promulgated thereunder.

…."

SECTION 9.(c) G.S. 96-16 reads as rewritten:

"§ **96-16. Seasonal pursuits.**

(a) A seasonal pursuit is one which, because of seasonal conditions making it impracticable or impossible to do otherwise, customarily carries on production operations only within a regularly recurring active period or periods of less than an aggregate of 36 weeks in a calendar year. No pursuit shall be deemed seasonal unless and until so found by the Division; except that ~~from March 27, 1953,~~ any successor under ~~G.S. 96-8(5)b~~ G.S. 96-11.6 to a seasonal pursuit shall be deemed seasonal unless such successor shall within 120 days after the acquisition request cancellation of the determination of status of such seasonal pursuit; provided further that this provision shall not be applicable to pending cases nor retroactive in effect.

…

(f) …

(3) The maximum amount of benefits which a seasonal worker shall be eligible to receive based on seasonal wages shall be an amount, adjusted to the nearest multiple of one dollar ($1.00), determined by multiplying the maximum benefits payable in his benefit year, as provided in ~~G.S. 96-12(d) of this Chapter,~~ G.S. 96-14.4, by the percentage obtained by dividing the seasonal wages in his base period by all of his base period wages.

(4) The maximum amount of benefits which a seasonal worker shall be eligible to receive based on nonseasonal wages shall be an amount, adjusted to the nearest multiple of one dollar ($1.00), determined by multiplying the

maximum benefits payable in his benefit year, as provided in ~~G.S. 96-12(d) of this Chapter,~~ G.S. 96-14.4, by the percentage obtained by dividing the nonseasonal wages in his base period by all of his base period wages.

(5) In no case shall a seasonal worker be eligible to receive a total amount of benefits in a benefit year in excess of the maximum benefits payable for such benefit year, as provided in ~~G.S. 96-12(d) of this Chapter.~~G.S. 96-14.4.

(g) (1) All benefits paid to a seasonal worker based on seasonal wages shall be ~~charged, as prescribed in G.S. 96-9(c)(2) of this Chapter,~~charged against the account of his base period employer or employers who paid him such seasonal wages, and for the purpose of this paragraph such seasonal wages shall be deemed to constitute all of his base period wages.

(2) All benefits paid to a seasonal worker based on nonseasonal wages shall be ~~charged, as prescribed in G.S. 96-9(c)(2) of this Chapter,~~ charged against the account of his base period employer or employers who paid him such nonseasonal wages, and for the purpose of this paragraph such nonseasonal wages shall be deemed to constitute all of his base period wages.

…."

SECTION 9.(d) G.S. 96-18(g) reads as rewritten:

"(g) …

(3) The Division may collect the overpayments provided for in this subsection by one or more of the following procedures as the Division may, except as provided herein, in its sole discretion choose:

…

c. Any person who has been found by the Division to have been overpaid under subparagraph ~~(1)~~ (2) above due to fraudulent nondisclosure or misrepresentation shall be liable to have ~~such~~ the sums deducted from future benefits payable to ~~him~~ the person under this Chapter. The amount deducted may be up to one hundred percent (100%) of that person's weekly benefit amount.

d. Any person who has been found by the Division to have been overpaid under subparagraph (2) above due to nonfraudulent reasons shall be liable to have ~~such~~ the sums deducted from future benefits payable to ~~him~~ the person under this Chapter ~~in such amounts as the Division may by regulation prescribe~~ but ~~no such benefit payable~~ the amount deducted for any week shall be reduced by no more than fifty percent (50%) of that person's weekly benefit amount.

…."

SECTION 9.(e) G.S. 97-29(i) reads as rewritten:

"§ **97-29. Rates and duration of compensation for total incapacity.**

(i) Notwithstanding any other provision of this Article, on July 1 of each year, a maximum weekly benefit amount shall be computed. The amount of this maximum weekly benefit shall be derived by obtaining the average weekly insured ~~wage in accordance with G.S. 96-8(22),~~ wage, as defined in G.S. 96-1, by multiplying such average weekly insured wage by 1.10, and by rounding such figure to its nearest multiple of two dollars ($2.00), and this said maximum weekly benefit shall be applicable to all injuries and claims arising on and after January 1 following such computation. Such maximum weekly benefit shall apply to all provisions of this Chapter and shall be adjusted July 1 and effective January 1 of each year as herein provided."

SECTION 10. Chapter 120 of the General Statutes is amended by adding a new Article to read:

"Article 12R.

"Joint Legislative Oversight Committee on Unemployment Insurance.

"**§ 120-70.155. Creation and membership.**

(a) The Joint Legislative Oversight Committee on Unemployment Insurance is established. The Committee consists of eight members appointed as follows:

(1) Four members of the House of Representatives appointed by the Speaker of the House of Representatives.

(2) Four members of the Senate appointed by the President Pro Tempore of the Senate.

(b) The members serve for a term of two years. Members may complete a term of service on the Committee even if they do not seek reelection or are not reelected to the General Assembly, but resignation or removal from service in the General Assembly constitutes resignation or removal from service on the Committee. A member continues to serve until a successor is appointed. A vacancy shall be filled by the officer who made the original appointment.

"**§ 120-70.156. Purpose and powers of Committee.**

(a) Purpose. – The Joint Legislative Oversight Committee on Unemployment Insurance is directed to study and review all unemployment insurance matters, workforce development programs, and reemployment assistance efforts of the State. The following duties and powers, which are enumerated by way of illustration, shall be liberally construed to provide maximum review by the Committee of these matters:

(1) Study the unemployment insurance laws of North Carolina and the administration of those laws.

(2) Review the State's unemployment insurance laws to determine which laws need clarification, technical amendment, repeal, or other change to make the laws concise, intelligible, and easy to administer.

(3) Monitor the payment of the debt owed by the Unemployment Trust Fund to the federal government.

(4) Review and determine the adequacy of the balances in the Unemployment Trust Fund and the Unemployment Insurance Reserve Fund.

(5) Study the workforce development programs and reemployment assistance efforts of the Division of Workforce Solutions of the Department of Commerce.

(6) Call upon the Department of Commerce to cooperate with it in the study of the unemployment insurance laws and the workforce development efforts of the State.

(b) The Committee may report its findings and recommendations to any regular session of the General Assembly. A report to the General Assembly may contain any legislation needed to implement a recommendation of the Committee.

"**§ 120-70.157. Organization of Committee.**

The Speaker of the House of Representatives shall designate one representative as cochair, and the President Pro Tempore of the Senate shall designate one senator as cochair. The Joint Legislative Oversight Committee on Unemployment Insurance may meet upon the joint call of the cochairs. A quorum of the Committee is five members.

The Committee may meet in the Legislative Building or the Legislative Office Building. While in the discharge of its official duties, the Committee has the powers of a joint committee under G.S. 120-19 and G.S. 120-19.1 through G.S. 120-19.4. The Legislative Services Commission, through the Legislative Services Officer, shall assign professional staff to assist the Committee in its work. The House of Representatives and the Senate's Directors of Legislative Assistants shall assign clerical staff to the Committee, and the expenses relating to the clerical employees shall be borne by the Committee. The Committee may contract for professional, clerical, or consultant services as provided by G.S. 120-32.02. Members of the

Committee shall receive subsistence and travel expenses at the rates set forth in G.S. 120-3.1, 138-5, or 138-6, as appropriate.

"**§ 120-70.158. Sunset.**

This Article expires July 1, 2023."

SECTION 11. This act becomes effective July 1, 2013. Changes made by this act to unemployment benefits apply to claims for benefits filed on or after July 1, 2013. Changes made by this act to require an account balance by an employer that is a governmental entity or a nonprofit organization and that elects to finance benefits by making reimbursable payments in lieu of contributions apply to advance payments payable for calendar quarters beginning on or after July 1, 2013. Changes made by this act to the determination and application of the contribution rate apply to contributions payable for calendar quarters beginning on or after January 1, 2014.

In the General Assembly read three times and ratified this the 14th day of February, 2013.

Became law upon approval of the Governor at 9:31 a.m. on the 19th day of February, 2013.

Session Law 2013-3 **H.B. 66**

AN ACT TO AMEND THE LAW PROVIDING FOR THE ISSUANCE OF CAPTIVITY LICENSES AND PERMITS BY THE WILDLIFE RESOURCES COMMISSION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 113-272.5(a) reads as rewritten:

"(a) In the interests of humane treatment of wild animals and wild birds that are lawfully taken, crippled, tame, or ~~otherwise~~ unfit for immediate release into their natural habitat, the Wildlife Resources Commission may license qualified individuals to hold at a specified location one or more of any particular species of wild animal or wild bird alive in ~~captivity.~~ captivity for scientific, educational, exhibition, or other purposes. Before issuing this license, the Executive Director must satisfy himself that issuance of the license is appropriate under the objectives of this Subchapter, and that the wild animal or wild bird was not acquired unlawfully or merely as a pet. Upon refusing to issue the captivity license, the Executive Director may either take possession of the wild animal or wild bird for appropriate disposition or issue a captivity permit under G.S. 113-274(c)(1b) for a limited period until the holder makes proper disposition of the wild animal or wild bird."

SECTION 2. G.S. 113-274(c) reads as rewritten:

"(c) The Wildlife Resources Commission may issue the following permits:

…

(1b) Captivity Permit. – Authorizes the possession of live wildlife that may lawfully be permitted to be retained alive, in accordance with governing rules of the Wildlife Resources Commission. This permit may not substitute for any required collection license or captivity license, but may be temporarily issued for possession of wild animals or wild birds for scientific, educational, exhibition, or other purposes pending action on a captivity license or following its denial or termination. If this permit is issued for fish to be held indefinitely, the Wildlife Resources Commission may provide for periodic renewals of the permit, at least once each three years, to insure a review of the circumstances and conditions under which fish are kept. Wild animals and wild birds kept temporarily in captivity under this permit must be humanely treated and in accordance with any stipulations in the permit, but the standards of caging and care applicable to species kept under the captivity license do not apply unless specified in the permit. Any substantial deviation from reasonable requirements imposed by rule or administratively

under the authority of this section renders the possession of the wildlife unlawful.

…."

SECTION 3. G.S. 19A-1.1 reads as rewritten:

"§ **19A-1.1. Exemptions.**

This Article shall not apply to the following:

…

(7) The taking and holding in captivity of a wild animal by a licensed sportsman for use or display in an annual, seasonal, or cultural event, so long as the animal is captured from the wild and returned to the wild at or near the area where it was captured."

SECTION 4. G.S. 19A-2 reads as rewritten:

"§ **19A-2. Purpose.**

It shall be the purpose of this Article to provide a civil remedy for the protection and humane treatment of animals in addition to any criminal remedies that are available and it shall be proper in any action to combine causes of action against one or more defendants for the protection of one or more animals. A real party in interest as plaintiff shall be held to include any person even though the person does not have a possessory or ownership right in an animal; a real party in interest as defendant shall include any person who owns or has possession of an animal. Venue for any action filed under this Chapter shall only be in the county in superior court where any violation is alleged to have occurred."

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

In the General Assembly read three times and ratified this the 25th day of February, 2013.

Became law upon approval of the Governor at 4:35 p.m. on the 6th day of March, 2013.

Session Law 2013-4 **H.B. 5**

AN ACT REQUIRING THE DEPARTMENT OF HEALTH AND HUMAN SERVICES TO PROVIDE TEMPORARY, SHORT-TERM FINANCIAL ASSISTANCE TO (1) GROUP HOMES SERVING RESIDENTS DETERMINED NOT TO BE ELIGIBLE FOR MEDICAID-COVERED PERSONAL CARE SERVICES AS A RESULT OF CHANGES TO ELIGIBILITY CRITERIA THAT BECAME EFFECTIVE ON JANUARY 1, 2013, AND (2) SPECIAL CARE UNITS SERVING RESIDENTS WHO QUALIFY FOR MEDICAID-COVERED PERSONAL CARE SERVICES ON OR AFTER JANUARY 1, 2013.

The General Assembly of North Carolina enacts:

SECTION 1.(a) As used in this act, "group home" means any facility that (i) is licensed under Chapter 122C of the General Statutes, (ii) meets the definition of a supervised living facility under 10A NCAC 27G .5601, and (iii) serves adults whose primary diagnosis is mental illness or a developmental disability but may also have other diagnoses.

SECTION 1.(b) The Department of Health and Human Services shall provide temporary, short-term financial assistance in the form of a monthly payment to a group home on behalf of a resident who was eligible for Medicaid-covered personal care services (PCS) prior to January 1, 2013, but is determined to be ineligible for PCS on or after January 1, 2013, due to Medicaid State Plan changes in PCS eligibility criteria specified in Section 10.9F of S.L. 2012-142, as amended by Section 3.7 of S.L. 2012-145 and Section 70 of S.L. 2012-194. Notwithstanding any other provision of law, the Department shall only be required to make these monthly payments from the thirty-nine million seven hundred thousand dollars ($39,700,000) appropriated for the 2012-2013 fiscal year and designated in Section 10.23A(f)

of S.L. 2012-142, as amended by Section 3.6 of S.L. 2012-145, and these monthly payments shall be subject to all of the following requirements and limitations:

(1) The amount of the monthly payments authorized by this section shall not exceed six hundred ninety-four dollars ($694.00) per month for each resident who becomes ineligible for Medicaid-covered PCS on or after January 1, 2013, due to Medicaid State Plan changes in PCS eligibility criteria specified in Section 10.9F of S.L. 2012-142, as amended by Section 3.7 of S.L. 2012-145 and Section 70 of S.L. 2012-194, for a period not to exceed three months for each resident. At the expiration of this three-month period, the monthly payment for each resident shall be reduced by twenty-five percent (25%) and shall not exceed five hundred twenty dollars and fifty cents ($520.50) per month per resident.

(2) The Department shall make monthly payments authorized by this section to a group home on behalf of a resident only for the period commencing February 1, 2013, and ending June 30, 2013.

(3) The Department shall make monthly payments authorized by this section only to the extent sufficient funds are available from the thirty-nine million seven hundred thousand dollars ($39,700,000) appropriated for the 2012-2013 fiscal year and designated in Section 10.23A(f) of S.L. 2012-142, as amended by Section 3.6 of S.L. 2012-145.

(4) The Department shall not make monthly payments authorized by this section to a group home on behalf of a resident during the pendency of an appeal by or on behalf of the resident under G.S. 108A-70.9A.

(5) The Department shall terminate all monthly payments pursuant to this section on June 30, 2013, or upon depletion of the thirty-nine million seven hundred thousand dollars ($39,700,000) appropriated for the 2012-2013 fiscal year and designated in Section 10.23A(f) of S.L. 2012-142, as amended by Section 3.6 of S.L. 2012-145, whichever is earlier.

SECTION 1.(c) The Department of Health and Human Services shall provide temporary, short-term financial assistance in the form of a supplemental monthly payment to a special care unit licensed under Chapter 131D or Chapter 131E of the General Statutes, on behalf of a resident who was eligible for PCS prior to January 1, 2013, and is determined to be eligible for PCS on or after January 1, 2013, based on the eligibility criteria specified in Section 10.9F of S.L. 2012-142, as amended by Section 3.7 of S.L. 2012-145 and Section 70 of S.L. 2012-194. Notwithstanding any other provision of law, the Department shall only be required to make these supplemental monthly payments from the thirty-nine million seven hundred thousand dollars ($39,700,000) appropriated for the 2012-2013 fiscal year and designated in Section 10.23A(f) of S.L. 2012-142, as amended by Section 3.6 of S.L. 2012-145, and these supplemental monthly payments shall be subject to all of the following requirements and limitations:

(1) The amount of the supplemental monthly payments authorized by this section shall not exceed two hundred sixty-eight dollars ($268.00) per month for each resident who qualifies for PCS on or after January 1, 2013.

(2) A special care unit receiving supplemental monthly payments authorized by this section shall not use the supplemental monthly payments to cover any portion of the cost of providing services for which the resident receives Medicaid coverage. A special care unit shall use these supplemental monthly payments only for the continued provision of special care services for which the resident does not otherwise receive Medicaid coverage.

(3) The Department shall make supplemental monthly payments authorized by this section to a special care unit on behalf of a resident only for the period commencing March 1, 2013, and ending June 30, 2013.

(4) The Department shall make supplemental monthly payments authorized by this section only to the extent sufficient funds are available from the thirty-nine million seven hundred thousand dollars ($39,700,000) appropriated for the 2012-2013 fiscal year and designated in Section 10.23A(f) of S.L. 2012-142, as amended by Section 3.6 of S.L. 2012-145.

(5) The Department shall not make supplemental monthly payments authorized by this section to a special care unit on behalf of a resident during the pendency of an appeal by or on behalf of the resident under G.S. 108A-70.9A.

(6) The Department shall terminate all supplemental monthly payments pursuant to this section on June 30, 2013, or upon depletion of the thirty-nine million seven hundred thousand dollars ($39,700,000) appropriated for the 2012-2013 fiscal year and designated in Section 10.23A(f) of S.L. 2012-142, as amended by Section 3.6 of S.L. 2012-145, whichever is earlier.

SECTION 1.(d) Notwithstanding the provision of Section 10.23A(f) of S.L. 2012-142, as amended by Section 3.6 of S.L. 2012-145, that requires residents to complete an independent assessment process prior to December 31, 2012, the Department of Health and Human Services shall provide the temporary, short-term financial assistance authorized in Section 10.23A(f) of S.L. 2012-142, as amended by Section 3.6 of S.L. 2012-145, to an adult care home on behalf of a resident who (i) was eligible for PCS prior to January 1, 2013, (ii) completed an independent assessment process, regardless of whether it was completed prior to December 31, 2012, and (iii) is determined to be ineligible for PCS on or after January 1, 2013, due to Medicaid State Plan changes in PCS eligibility criteria specified in Section 10.9F of S.L. 2012-142, as amended by Section 3.7 of S.L. 2012-145 and Section 70 of S.L. 2012-194. This section shall not be construed to waive any of the certification or other requirements imposed on adult care homes under Section 10.23A(f) of S.L. 2012-142, as amended by Section 3.6 of S.L. 2012-145.

SECTION 2. Notwithstanding any provision of this act or any other provision of law, the Department of Health and Human Services shall not be required to provide any temporary, short-term financial assistance to adult care homes, group homes, or special care units beyond June 30, 2013, or upon depletion of the thirty-nine million seven hundred thousand dollars ($39,700,000) appropriated for the 2012-2013 fiscal year and designated in Section 10.23A(f) of S.L. 2012-142, as amended by Section 3.6 of S.L. 2012-145, whichever is earlier.

SECTION 3. In order to ensure compliance with federal Medicaid comparability requirements and the settlement agreement filed on August 23, 2012, between the United States Department of Justice and the State of North Carolina, the General Assembly shall not appropriate State funds for the 2013-2014 fiscal year or the 2014-2015 fiscal year for the purposes specified in Section 10.23A(f) of S.L. 2012-142, as amended by Section 3.6 of S.L. 2012-145, or for the purposes specified in Section 1 of this act.

SECTION 4. Section 1 of this act is effective when it becomes law and expires on June 30, 2013. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 27th day of February, 2013.

Became law upon approval of the Governor at 4:38 p.m. on the 6th day of March, 2013.

Session Law 2013-5 **S.B. 4**

AN ACT (1) TO CLARIFY THE STATE'S INTENT NOT TO OPERATE A STATE-RUN OR "PARTNERSHIP" HEALTH BENEFIT EXCHANGE, (2) TO PROVIDE THAT FUTURE MEDICAID ELIGIBILITY DETERMINATIONS WILL BE MADE BY THE STATE RATHER THAN THE FEDERALLY FACILITATED EXCHANGE, AND (3) TO REJECT THE AFFORDABLE CARE ACT'S OPTIONAL MEDICAID EXPANSION.

The General Assembly of North Carolina enacts:

SECTION 1.(a) Section 23.3 of S.L. 2011-145, created by Section 49 of S.L. 2011-391, is repealed.

SECTION 1.(b) G.S. 58-2-40(10) is repealed.

SECTION 1.(c) The General Assembly reserves the authority to define the State's level of interaction, if any, with the federally facilitated Health Benefit Exchange that will operate in the State. No department, agency, or institution of this State shall enter into any contracts or commit any resources for the provision of any services related to the federally facilitated Health Benefit Exchange under a "Partnership" Exchange model, except as authorized by the General Assembly. No department, agency, or institution of this State shall take any actions not authorized by the General Assembly toward the formation of a State-run Health Benefit Exchange. It is not the intent of this section to prohibit State-federal interaction that does not pursue a State-run Exchange or "Partnership" Exchange model.

SECTION 1.(d) The Department of Insurance and Department of Health and Human Services shall cease all expenditures funded by the following Exchange-related grants from the federal government: (i) Exchange Planning Grant and (ii) Level One Cooperative Agreement Establishment Grant. The Departments shall review all grant-related expenditures that preceded the effective date of this act and shall, to the extent possible, draw down grant funds sufficient to reimburse the State for any expenditures allowed under the grants. Up to eleven million dollars ($11,000,000) of funds from an Exchange-related grant that was awarded in 2013 are hereby appropriated to the Department of Insurance for fiscal year 2012-2013 to reimburse the State for expenses that are allowed under the grant for either of the following:

(1) Technology and personnel expenses that were incurred prior to the effective date of this act.

(2) Personnel expenses, if any, that (i) are associated with ceasing the expenditures funded by the Exchange-related grants and (ii) occurred after the effective date of this act.

The Department of Insurance shall notify the Secretary of the United States Department of Health and Human Services that the State will no longer be drawing down Exchange-related grant funds. It is not the intent of this section to impact any grant funding for premium review.

SECTION 2. The Department of Health and Human Services shall ensure that the North Carolina Families Accessing Services through Technology (NC FAST) information technology system can provide Medicaid eligibility determinations for the federally facilitated Health Benefit Exchange that will operate in North Carolina and shall provide such determinations for the Exchange. If (i) funds for a State match are available from existing appropriations for NC FAST and (ii) the total amount of State matching funds does not exceed five million dollars ($5,000,000), then the Department shall seek available 90/10 Medicaid funding for NC FAST's ability to provide Medicaid eligibility determinations for the federally facilitated Health Benefit Exchange. Such Medicaid funding for NC FAST obtained during fiscal year 2012-2013 is hereby appropriated to the Department for fiscal year 2012-2013 to develop NC FAST's ability to provide Medicaid eligibility determinations for the federally facilitated Health Benefit Exchange.

SECTION 3. The State will not expand the State's Medicaid eligibility under the Medicaid expansion provided in the Affordable Care Act, P.L. 111-148, as amended, for which

the enforcement was ruled unconstitutional by the U.S. Supreme Court in *National Federation of Independent Business, et al. v. Sebelius, Secretary of Health and Human Services, et al.*, 132 S. Ct. 2566 (2012). No department, agency, or institution of this State shall attempt to expand the Medicaid eligibility standards provided in S.L. 2011-145, as amended, or elsewhere in State law, unless directed to do so by the General Assembly.

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

In the General Assembly read three times and ratified this the 27th day of February, 2013.

Became law upon approval of the Governor at 4:40 p.m. on the 6th day of March, 2013.

Session Law 2013-6 **H.B. 19**

AN ACT TO HONOR FALLEN HEROES BY STRENGTHENING THE LAW THAT PROHIBITS DISORDERLY CONDUCT AT A FUNERAL, MEMORIAL SERVICE, OR PROCESSIONAL ROUTE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 14-288.4 reads as rewritten:

"§ **14-288.4. Disorderly conduct.**

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

(1) Engages in fighting or other violent conduct or in conduct creating the threat of imminent fighting or other violence.

(2) Makes or uses any utterance, gesture, display or abusive language which is intended and plainly likely to provoke violent retaliation and thereby cause a breach of the peace.

(3) Takes possession of, exercises control over, or seizes any building or facility of any public or private educational institution without the specific authority of the chief administrative officer of the institution, or his authorized representative.

(4) Refuses to vacate any building or facility of any public or private educational institution in obedience to any of the following:

a. An order of the chief administrative officer of the institution, or the officer's representative, who shall include for colleges and universities the vice chancellor for student affairs or the vice-chancellor's equivalent for the institution, the dean of students or the dean's equivalent for the institution, the director of the law enforcement or security department for the institution, and the chief of the law enforcement or security department for the institution.

b. An order given by any fireman or public health officer acting within the scope of the fireman's or officer's authority.

c. If an emergency is occurring or is imminent within the institution, an order given by any law-enforcement officer acting within the scope of the officer's authority.

(5) Shall, after being forbidden to do so by the chief administrative officer, or the officer's authorized representative, of any public or private educational institution:

a. Engage in any sitting, kneeling, lying down, or inclining so as to obstruct the ingress or egress of any person entitled to the use of any building or facility of the institution in its normal and intended use; or

b. Congregate, assemble, form groups or formations (whether organized or not), block, or in any manner otherwise interfere with the operation or functioning of any building or facility of the institution so as to interfere with the customary or normal use of the building or facility.

(6) Disrupts, disturbs or interferes with the teaching of students at any public or private educational institution or engages in conduct which disturbs the peace, order or discipline at any public or private educational institution or on the grounds adjacent thereto.

(6a) Engages in conduct which disturbs the peace, order, or discipline on any public school bus or public school activity bus.

(7) Except as provided in subdivision (8) of this subsection, disrupts, disturbs, or interferes with a religious service or assembly or engages in conduct which disturbs the peace or order at any religious service or assembly.

(8) Engages in conduct with the intent to impede, disrupt, disturb, or interfere with the orderly administration of any funeral, memorial service, or family processional to the funeral or memorial service, including a military funeral, service, or family processional, or with the normal activities and functions occurring in the facilities or buildings where a funeral or memorial service, including a military funeral or memorial service, is taking place. Any of the following conduct that occurs within ~~one hour~~ two hours preceding, during, or within ~~one hour~~two hours after a funeral or memorial service shall constitute disorderly conduct under this subdivision:

a. Displaying, within ~~300~~500 feet of the ceremonial site, location being used for the funeral or memorial, or the family's processional route to the funeral or memorial service, any visual image that conveys fighting words or actual or imminent threats of harm directed to any person or property associated with the funeral, memorial service, or processional route.

b. Uttering, within ~~300~~500 feet of the ceremonial site, location being used for the funeral or memorial service, or the family's processional route to the funeral or memorial service, loud, threatening, or abusive language or singing, chanting, whistling, or yelling with or without noise amplification in a manner that would tend to impede, disrupt, disturb, or interfere with a funeral, memorial service, or processional route.

c. Attempting to block or blocking pedestrian or vehicular access to the ceremonial site or location being used for a funeral or memorial.

As used in this section the term "building or facility" includes the surrounding grounds and premises of any building or facility used in connection with the operation or functioning of such building or facility.

(b) Except as provided in subsection (c) of this section, any person who willfully engages in disorderly conduct is guilty of a Class 2 misdemeanor.

(c) A person who commits a violation of subdivision (8) of subsection (a) of this section is guilty of:

(1) A ~~Class 2~~ Class 1 misdemeanor for a first offense.

(2) A Class ~~1 misdemeanor~~ I felony for a second offense.

(3) A ~~Class I~~ Class H felony for a third or subsequent offense."

SECTION 2. This act becomes effective December 1, 2013, and applies to offenses committed on or after that date.

In the General Assembly read three times and ratified this the 28th day of February, 2013.

Became law upon approval of the Governor at 4:45 p.m. on the 6th day of March, 2013.

Session Law 2013-7 **H.B. 37**

AN ACT AUTHORIZING CLEVELAND COUNTY TO CONVEY CERTAIN DESCRIBED PROPERTY BY GIFT, PRIVATE SALE, OR LONG-TERM LEASE.

The General Assembly of North Carolina enacts:

SECTION 1. Notwithstanding the provisions of Article 12 of Chapter 160A of the General Statutes, Cleveland County may convey by gift, by private negotiation and sale, or by lease for a term of more than 10 years, with or without consideration, under the terms and conditions it deems proper, any or all of its right, title, and interest in the following described property to Pinnacle Classical Academy, for the purpose of operating a public school, including a charter school:

Being all of 56.381 acre tract on plat book 31, page 184 of the Cleveland County Registry and reference is hereby made to said plat for a full metes and bounds description as if fully set out therein.

SECTION 2. Cleveland County may, in its discretion, include in a document conveying all or any portion of the property described in Section 1 of this act a reversionary clause which provides that, if the property ceases to be used for public school purposes, the property shall revert back to Cleveland County.

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

In the General Assembly read three times and ratified this the 7th day of March, 2013.

Became law on the date it was ratified.

Session Law 2013-8 **S.B. 95**

AN ACT TO PROVIDE FOR AN ELECTION PROCEDURE FOR MIDTERM VACANCIES IN TABOR CITY.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 160A-63 reads as rewritten:

"§ **160A-63. Vacancies.**

A vacancy that occurs in an elective office of a city shall be filled by appointment of the city council. If the term of the office expires immediately following the next regular city election, or if the next regular city election will be held within 90 days after the vacancy occurs, the person appointed to fill the vacancy shall serve the remainder of the unexpired term. Otherwise, a successor shall be elected at the next regularly scheduled city election that is held more than 90 days after the vacancy occurs, and the person appointed to fill the vacancy shall serve only until the elected successor takes office. ~~The elected successor shall then serve the remainder of the unexpired term.~~ If, at the next regularly scheduled city election, any unexpired terms are to be filled in accordance with this section, the election for the full terms and the unexpired terms shall be conducted together and held on the same ballot. The candidates receiving the highest number of votes equal to the number of full terms shall be elected to serve those full terms, and the candidates receiving the next highest number of votes equal to the number of unexpired terms shall be elected to serve the remainder of those unexpired terms. If the number of vacancies on the council is such that a quorum of the council cannot be obtained,

the mayor shall appoint enough members to make up a quorum, and the council shall then proceed to fill the remaining vacancies. If the number of vacancies on the council is such that a quorum of the council cannot be obtained and the office of mayor is vacant, the Governor may fill the vacancies upon the request of any remaining member of the council, or upon the petition of any five registered voters of the city. Vacancies in appointive offices shall be filled by the same authority that makes the initial appointment. This section shall not apply to vacancies in cities that have not held a city election, levied any taxes, or engaged in any municipal functions for a period of five years or more.

In cities whose elections are conducted on a partisan basis, a person appointed to fill a vacancy in an elective office shall be a member of the same political party as the person whom he replaces if that person was elected as the nominee of a political party."

SECTION 2. This act applies to the Town of Tabor City only.

SECTION 3. This act is effective when it becomes law and expires on December 31, 2013.

In the General Assembly read three times and ratified this the 12th day of March, 2013.

Became law on the date it was ratified.

Session Law 2013-9 **H.B. 77**

AN ACT TO DELETE A PROVISION FOR A FIFTY-DOLLAR PAYMENT TO MEMBERS OF THE BOARD OF LAW EXAMINERS THAT HAS NOT BEEN PAID SINCE THE 1970S AND TO CLARIFY A PROVISION RELATING TO EXPENSES OF THAT BOARD, AS RECOMMENDED BY THE GENERAL STATUTES COMMISSION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 84-26 reads as rewritten:

"§ **84-26. ~~Pay~~ Expenses of Board of Law Examiners.**

~~Each~~ Notwithstanding G.S. 93B-5(b), each member of the Board of Law Examiners shall receive ~~the sum of fifty dollars ($50.00) for his services in connection with each examination and shall receive his~~ the member's actual expenses of travel and subsistence while engaged in duties assigned to ~~him, provided~~ the member; provided, however, that for transportation by the use of private automobile the expense of ~~travel~~that transportation shall be the same as paid other boards and commissions by the State."

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

In the General Assembly read three times and ratified this the 4th day of March, 2013.

Became law upon approval of the Governor at 9:39 a.m. on the 13th day of March, 2013.

Session Law 2013-10 **H.B. 82**

AN ACT TO UPDATE THE REFERENCE TO THE INTERNAL REVENUE CODE AND TO DECOUPLE FROM CERTAIN PROVISIONS OF THE FEDERAL AMERICAN TAXPAYER RELIEF ACT OF 2012.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-228.90(b)(1b) reads as rewritten:

"(1b) Code. – The Internal Revenue Code as enacted as of ~~January 1, 2012,~~ January 2, 2013, including any provisions enacted as of that date that become effective either before or after that date."

SECTION 2.(a) G.S. 105-130.5(a)(15b) reads as rewritten:

"(15b) For taxable years 2010 through ~~2012,~~2013, eighty-five percent (85%) of the amount allowed as a special accelerated depreciation deduction under section 168(k) or 168(n) of the Code for property placed in service during the taxable year. In addition, for taxable year 2010, a taxpayer who placed property in service during the 2009 taxable year and whose North Carolina taxable income for the 2009 taxable year reflected a special accelerated depreciation deduction allowed for the property under section 168(k) of the Code must add eighty-five percent (85%) of the amount of the special accelerated depreciation deduction. These adjustments do not result in a difference in basis of the affected assets for State and federal income tax purposes."

SECTION 2.(b) G.S. 105-130.5(b)(21b) reads as rewritten:

"(21b) An amount equal to twenty percent (20%) of the amount added to federal taxable income as accelerated depreciation under subdivision (a)(15b) of this section. For the amount added to taxable income in the 2010 taxable year, the deduction allowed by this subdivision applies to the first five taxable years beginning on or after January 1, 2011. For the amount added to taxable income in the 2011 taxable year, the deduction allowed by this subdivision applies to the first five taxable years beginning on or after January 1, 2012. For the amount added to taxable income in the 2012 taxable year, the deduction allowed by this subdivision applies to the first five taxable years beginning on or after January 1, 2013. For the amount added to taxable income in the 2013 taxable year, the deduction allowed by this subdivision applies to the first five taxable years beginning on or after January 1, 2014."

SECTION 2.(c) G.S. 105-134.6(c)(8b) reads as rewritten:

"(8b) For taxable years 2010 through ~~2012,~~2013, eighty-five percent (85%) of the amount allowed as a special accelerated depreciation deduction under section 168(k) or 168(n) of the Code for property placed in service during the taxable year. In addition, for taxable year 2010, a taxpayer who placed property in service during the 2009 taxable year and whose North Carolina taxable income for the 2009 taxable year reflected a special accelerated depreciation deduction allowed for the property under section 168(k) of the Code must add eighty-five percent (85%) of the amount of the special accelerated depreciation deduction. These adjustments do not result in a difference in basis of the affected assets for State and federal income tax purposes."

SECTION 2.(d) G.S. 105-134.6(b)(17b) reads as rewritten:

"(17b) An amount equal to twenty percent (20%) of the amount added to federal taxable income as accelerated depreciation under subdivision (c)(8b) of this section. For the amount added to taxable income in the 2010 taxable year, the deduction allowed by this subdivision applies to the first five taxable years beginning on or after January 1, 2011. For the amount added to taxable income in the 2011 taxable year, the deduction allowed by this subdivision applies to the first five taxable years beginning on or after January 1, 2012. For the amount added to ~~taxable~~ adjusted gross income in the 2012 taxable year, the deduction allowed by this subdivision applies to the first five taxable years beginning on or after January 1, 2013. For the amount added to adjusted gross income in the 2013 taxable year, the deduction allowed by this subdivision applies to the first five taxable years beginning on or after January 1, 2014."

SECTION 3.(a) G.S. 105-130.5(a) is amended by adding a new subdivision to read:

"(23a) For taxable years 2012 and 2013, eighty-five percent (85%) of the amount by which the taxpayer's expense deduction under section 179 of the Code for property placed in service in taxable year 2012 or 2013 exceeds the amount that would have been allowed for the respective taxable year under section 179 of the Code as of May 1, 2010. For purposes of this subdivision, the definition of section 179 property has the same meaning as under section 179 of the Code as of January 2, 2013. These adjustments do not result in a difference in basis of the affected assets for State and federal income tax purposes."

SECTION 3.(b) G.S. 105-130.5(b) is amended by adding a new subdivision to read:

"(26a) An amount equal to twenty percent (20%) of the amount added to federal taxable income under subdivision (a)(23a) of this section. For the amount added to taxable income in the 2012 taxable year, the deduction allowed by this subdivision applies to the first five taxable years beginning on or after January 1, 2013. For the amount added to taxable income in the 2013 taxable year, the deduction allowed by this subdivision applies to the first five taxable years beginning on or after January 1, 2014."

SECTION 3.(c) G.S. 105-134.6(c) is amended by adding a new subdivision to read:

"(15a) For taxable years 2012 and 2013, eighty-five percent (85%) of the amount by which the taxpayer's expense deduction under section 179 of the Code for property placed in service in taxable year 2012 or 2013 exceeds the amount that would have been allowed for the respective taxable year under section 179 of the Code as of May 1, 2010. For purposes of this subdivision, the definition of section 179 property has the same meaning as under section 179 of the Code as of January 2, 2013. These adjustments do not result in a difference in basis of the affected assets for State and federal income tax purposes."

SECTION 3.(d) G.S. 105-134.6(b) is amended by adding a new subdivision to read:

"(21a) An amount equal to twenty percent (20%) of the amount added to adjusted gross income under subdivision (c)(15a) of this section. For the amount added to adjusted gross income in the 2012 taxable year, the deduction allowed by this subdivision applies to the first five taxable years beginning on or after January 1, 2013. For the amount added to adjusted gross income in the 2013 taxable year, the deduction allowed by this subdivision applies to the first five taxable years beginning on or after January 1, 2014."

SECTION 4. G.S. 105-129.16G reads as rewritten:

"§ **105-129.16G. (Expiring for taxable years beginning on or after January 1, 2014) Work Opportunity Tax Credit.**

(a) Credit. – A taxpayer who is allowed a federal tax credit under Part IV, Subpart F of the Code for the taxable year is allowed a credit against the tax imposed by this Part. The credit is equal to ~~six percent (6%)~~ a percentage of the amount of credit allowed under the Code for wages paid during the taxable year for positions located in this State. A position is located in this State if more than fifty percent (50%) of the employee's duties are performed in the State. The percentage is as follows:

(1) For taxable year 2013, three percent (3%).

(2) For all other taxable years, six percent (6%).

…."

SECTION 5.(a) G.S. 105-134.6(c) is amended by adding a new subdivision to read:

"(16) For taxable year 2013, the amount of the taxpayer's deduction for qualified tuition and related expenses under section 222 of the Code. The purpose of this subdivision is to decouple from the extension of the federal deduction under section 207 of the American Taxpayer Relief Act of 2012."

SECTION 5.(b) G.S. 105-134.6(d)(2) reads as rewritten:

"(2) The taxpayer may deduct the amount by which the taxpayer's deductions allowed under the Code were reduced, and the amount of the taxpayer's deductions that were not allowed, because the taxpayer elected a federal tax credit in lieu of a deduction. This deduction is not allowed in the following circumstances:

a. ~~only to the extent that~~ If a similar credit is ~~not~~ allowed by this Chapter for the amount.

b. For taxable year 2013, if the taxpayer elected to claim the Hope scholarship credit, the Lifetime Learning credit, or the American Opportunity tax credit under section 25A of the Code in lieu of a deduction for qualified tuition and expenses under section 222 of the Code."

SECTION 6.(a) G.S. 105-134.6(c) is amended by adding a new subdivision to read:

"(17) For taxable year 2013, the amount excluded from the taxpayer's gross income for a qualified charitable distribution from an individual retirement plan by a person who has attained age 70 1/2 under section 408(d)(8) of the Code. The purpose of this subdivision is to decouple from the extension of the income exclusion under section 208 of the American Taxpayer Relief Act of 2012."

SECTION 6.(b) G.S. 105-134.6(d) is amended by adding a new subdivision to read:

"(23) For taxable year 2013, the taxpayer may deduct the amount that would have been allowed as a charitable deduction under section 170 of the Code had the taxpayer not elected to take the income exclusion under 408(d)(8) of the Code."

SECTION 7. G.S. 105-134.6(c) is amended by adding a new subdivision to read:

"(18) For taxable year 2013, the amount excluded from the taxpayer's gross income for the discharge of qualified principal residence indebtedness under section 108 of the Code. The purpose of this subdivision is to decouple from the extension of the income exclusion under section 202 of the American Taxpayer Relief Act of 2012."

SECTION 8. G.S. 105-134.6(c) is amended by adding a new subdivision to read:

"(19) For taxable year 2013, the amount of the taxpayer's deduction for mortgage insurance premiums as qualified residence interest under section 163 of the Code. The purpose of this subdivision is to decouple from the extension of the income exclusion under section 204 of the American Taxpayer Relief Act of 2012."

SECTION 9. G.S. 105-151.31 reads as rewritten:

"§ **105-151.31. (Repealed for taxable years beginning on or after January 1, 2014) Earned income tax credit.**

(a) Credit. – An individual who claims for the taxable year an earned income tax credit under section 32 of the Code is allowed a credit against the tax imposed by this Part equal to ~~five percent (5%)~~a percentage of the amount of credit the individual qualified for under section 32 of the Code. A nonresident or part-year resident who claims the credit allowed by this

section must reduce the amount of the credit by multiplying it by the fraction calculated under G.S. 105-134.5(b) or (c), as appropriate. The percentage is as follows:

(1) For taxable year 2013, four and one-half percent (4.5%).

(2) For all other taxable years, five percent (5%).

…."

SECTION 10. G.S. 105-151.32 reads as rewritten:

"§ **105-151.32. Credit for adoption expenses.**

(a) Credit. – An individual who is allowed a federal adoption tax credit under section ~~23~~36C of the Code for the taxable year is allowed a credit against the tax imposed by this Part. The credit is equal to ~~fifty percent (50%)~~ a percentage of the amount of credit allowed under section ~~23~~36C of the Code. The percentage is as follows:

(1) For taxable year 2013, thirty percent (30%).

(2) For all other taxable years, fifty percent (50%).

…."

SECTION 11. Except as otherwise provided, this act is effective when it becomes law and applies to the estates of decedents dying on or after January 1, 2012. Notwithstanding Section 1 of this act, any amendments to the Internal Revenue Code enacted after January 1, 2012, that increase North Carolina taxable income for the 2012 taxable year become effective for taxable years beginning on or after January 1, 2013.

In the General Assembly read three times and ratified this the 7th day of March, 2013.

Became law upon approval of the Governor at 9:39 a.m. on the 13th day of March, 2013.

Session Law 2013-11 **H.B. 23**

AN ACT DIRECTING THE STATE BOARD OF EDUCATION TO DEVELOP AND IMPLEMENT DIGITAL TEACHING AND LEARNING STANDARDS FOR TEACHERS AND SCHOOL ADMINISTRATORS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 115C-296 reads as rewritten:

"§ **115C-296. Board sets licensure requirements; reports; lateral entry and mentor programs.**

…

(b) It is the policy of the State of North Carolina to maintain the highest quality teacher education programs and school administrator programs in order to enhance the competence of professional personnel licensed in North Carolina. To the end that teacher preparation programs are upgraded to reflect a more rigorous course of study, the State Board of Education, as lead agency in coordination and cooperation with the University Board of Governors, the Board of Community Colleges and such other public and private agencies as are necessary, shall continue to refine the several licensure requirements, standards for approval of institutions of teacher education, standards for institution-based innovative and experimental programs, standards for implementing consortium-based teacher education, and standards for improved efficiencies in the administration of the approved programs.

(1) Licensure standards. –

a. The licensure program shall provide for initial licensure after completion of preservice training, continuing licensure after three years of teaching experience, and license renewal every five years thereafter, until the retirement of the teacher. The last license renewal received prior to retirement shall remain in effect for five years after retirement. The licensure program shall also provide for lifetime licensure after 50 years of teaching.

b. The State Board of Education, in consultation with the Board of Governors of The University of North Carolina, shall evaluate and develop enhanced requirements for continuing licensure. The new requirements shall reflect more rigorous standards for continuing licensure and shall be aligned with high quality professional development programs that reflect State priorities for improving student achievement.

c. The State Board of Education, in consultation with local boards of education and the Board of Governors of The University of North Carolina, shall (i) reevaluate and enhance the requirements for renewal of teacher licenses, (ii) integrate digital teaching and learning into the requirements for licensure renewal, and (iii) consider modifications in the license renewal achievement and to make it a mechanism for teachers to renew continually their knowledge and professional skills.

(2) Teacher education programs. –

a. The State Board of Education, as lead agency in coordination with the Board of Governors of The University of North Carolina, the North Carolina Independent Colleges and Universities, and any other public and private agencies as necessary, shall continue to raise standards for entry into teacher education programs.

b. The State Board of Education, in consultation with the Board of Governors of The University of North Carolina, shall require that all students preparing to teach demonstrate competencies in using digital and other instructional technologies to provide high-quality, integrated digital teaching and learning to all students.

c. To further ensure that teacher preparation programs remain current and reflect a rigorous course of study that is aligned to State and national standards, the State Board of Education, in consultation with the Board of Governors of The University of North Carolina, shall do all of the following to ensure that students ~~preparing~~are prepared to teach in elementary ~~schools~~ schools:

1. ~~(i) have~~Provide students with adequate coursework in the teaching of reading and ~~mathematics;~~mathematics.
2. ~~(ii) are assessed~~Assess students prior to ~~certification~~ licensure to determine that they possess the requisite knowledge in scientifically based reading and mathematics instruction that is aligned with the State Board's ~~expectations;~~expectations.
3. ~~(iii) continue to receive~~Continue to provide students with preparation in applying formative and summative assessments within the school and classroom setting through technology-based assessment systems available in North Carolina schools that measure and predict expected student ~~improvement; and~~improvement.
4. ~~(iv) are prepared~~Prepare students to integrate arts education across the curriculum.

d. The State Board of Education, in consultation with local boards of education and the Board of Governors of The University of North Carolina, shall evaluate and modify, as necessary, the academic requirements of teacher preparation programs for students preparing to teach science in middle and high schools to ensure that there is adequate preparation in issues related to science laboratory safety.

~~The State Board of Education, in consultation with the Board of Governors of The University of North Carolina, shall evaluate and develop enhanced requirements for continuing licensure. The new requirements shall reflect more rigorous standards for continuing licensure and to the extent possible shall be aligned with quality professional development programs that reflect State priorities for improving student achievement.~~

~~The State Board of Education, in consultation with local boards of education and the Board of Governors of The University of North Carolina, shall reevaluate and enhance the requirements for renewal of teacher licenses. The State Board shall consider modifications in the license renewal achievement and to make it a mechanism for teachers to renew continually their knowledge and professional skills. The State Board shall adopt new standards for the renewal of teacher licenses by May 15, 1998.~~

e. The standards for approval of institutions of teacher education shall require that teacher education programs for all students include demonstrated competencies in (i) the identification and education of children with disabilities and (ii) positive management of student behavior and effective communication techniques for defusing and deescalating disruptive or dangerous behavior.

f. The State Board of Education shall incorporate the criteria developed in accordance with G.S. 116-74.21 for assessing proposals under the School Administrator Training Program into its school administrator program approval standards.

g. All North Carolina institutions of higher education that offer teacher education programs, masters degree programs in education, or masters degree programs in school administration shall provide performance reports to the State Board of Education. The performance reports shall follow a common format, shall be submitted according to a plan developed by the State Board, and shall include the information required under the plan developed by the State Board.

…

(c1) The State Board of Community Colleges may provide a program of study for lateral entry teachers to complete the coursework necessary to earn a teaching license. To this end, the State Board of Education, in consultation with the State Board of Community Colleges, shall establish a competency-based program of study for lateral entry teachers to be implemented within the Community College System no later than May 1, 2006. This program must meet standards set by the State Board of Education. To ensure that programs of study for lateral entry remain current and reflect a rigorous course of study that is aligned to State and national standards, the State Board of Education shall do all of the following to ensure that lateral entry personnel are prepared to teach:

~~(i)~~(1) Provide adequate coursework in the teaching of reading and mathematics is available for lateral entry teachers seeking certification in elementary ~~education;~~ education.

~~(ii)~~(2) Assess lateral entry teachers ~~are assessed~~ prior to certification to determine that they possess the requisite knowledge in scientifically based reading and mathematics instruction that is aligned with the State Board's ~~expectations;~~ expectations.

~~(iii)~~(3) Prepare all lateral entry teachers ~~continue to receive preparation in applying~~to apply formative and summative assessments within the school and classroom setting through technology-based assessment systems available in North Carolina schools that measure and predict expected student ~~improvement;and~~improvement.

~~(iv)~~(4) ~~are prepared~~ Prepare all lateral entry teachers to integrate arts education across the curriculum.

(5) Require that lateral entry teachers demonstrate competencies in using digital and other instructional technologies to provide high-quality, integrated digital teaching and learning to all students.

…."

SECTION 2. G.S. 115C-284 is amended by adding a new subsection to read:

"(c3) The State Board of Education shall require that all students in school administrator preparation programs demonstrate competencies in (i) using digital and other instructional technologies and (ii) supporting teachers and other school personnel to use digital and other instructional technologies to ensure provision of high-quality, integrated digital teaching and learning to all students. The State Board of Education shall include continuing education in high-quality, integrated digital teaching and learning as a requirement of licensure renewal."

SECTION 3. The State Board of Education shall develop digital teaching and learning competencies to provide a framework for schools of education, school administrators, and classroom teachers on the needed skills to provide high-quality, integrated digital teaching and learning.

SECTION 4. Sections 1 and 2 of this act become effective July 1, 2017, and apply beginning with the 2017-2018 school year. Section 3 is effective when this act becomes law.

In the General Assembly read three times and ratified this the 13th day of March, 2013.

Became law upon approval of the Governor at 2:43 p.m. on the 15th day of March, 2013.

Session Law 2013-12 **H.B. 44**

AN ACT STATING THE INTENT OF THE GENERAL ASSEMBLY TO TRANSITION FROM FUNDING TEXTBOOKS TO FUNDING DIGITAL LEARNING IN THE PUBLIC SCHOOLS, AS RECOMMENDED BY THE LEGISLATIVE RESEARCH COMMISSION STUDY COMMITTEE ON DIGITAL LEARNING ENVIRONMENTS IN PUBLIC SCHOOLS.

Whereas, local school administrative units (LEAs) have used a number of approaches to provide or access digital learning devices; and

Whereas, these approaches include the diversion and restructuring of current funding, use of private grants, parental contributions, local funding, and "bring-your-own-device" policies; and

Whereas, educational materials in the form of digital textbooks and instructional resources have also become increasingly available and can benefit North Carolina students in elementary, middle, and high school grades by providing high-quality, up-to-date information that can be customized for individual students throughout their educational experience; and

Whereas, LEAs may currently use textbook funding for digital instructional materials and digital textbooks; and

Whereas, digital textbooks and instructional resources have proven to be tools that, when used effectively, can raise the level of academic performance of the State's students; and

Whereas, the use of online and blended courses can provide greater access to courses for students in subject areas that might otherwise be unavailable in many regions of the State; and

Whereas, online courses and blended instruction may also provide students with opportunities for credit recovery, earning college credit, and coursework in career and technical education; and

Whereas, LEAs should explore the competitive environment for innovative practices, including virtual learning, that blend technology, digital devices, online learning, and traditional resources in classroom instruction; and

Whereas, LEAs should implement available and appropriate high-quality virtual, digital, and instructional resources that align with the curriculum; Now, therefore,

The General Assembly of North Carolina enacts:

SECTION 1. It is the intent of the General Assembly to transition from funding for textbooks, both traditional and digital, to funding for digital materials, including textbooks and instructional resources, to provide educational resources that remain current, aligned with curriculum, and effective for all learners by 2017.

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

In the General Assembly read three times and ratified this the 11th day of March, 2013.

Became law upon approval of the Governor at 2:44 p.m. on the 15th day of March, 2013.

Session Law 2013-13 **H.B. 33**

AN ACT TO REPEAL THE LAW PROHIBITING THE SETTING OF STEEL TRAPS ON CERTAIN RENTED OR LEASED LAND IN CLEVELAND, POLK, AND RUTHERFORD COUNTIES.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 397 of the 1975 Session Laws is repealed.

SECTION 2. Chapter 765 of the 1977 Session Laws reads as rewritten:

"**Sec. 5.** This act shall apply to Alleghany, Avery, ~~Cleveland,~~ Forsyth, Mitchell, Moore, Nash, Stokes and Yadkin Counties only."

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

In the General Assembly read three times and ratified this the 19th day of March, 2013.

Became law on the date it was ratified.

Session Law 2013-14 **S.B. 72**

AN ACT TO AMEND UNIFORM COMMERCIAL CODE ARTICLE 4A, FUNDS TRANSFERS, TO CONTINUE THE APPLICABILITY OF THAT ARTICLE TO REMITTANCE TRANSFERS THAT ARE NOT ELECTRONIC FUND TRANSFERS, AS RECOMMENDED BY THE GENERAL STATUTES COMMISSION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 25-4A-108 reads as rewritten:

"§ **25-4A-108. ~~Exclusion of consumer transactions governed by federal law.~~Relationship to Electronic Fund Transfer Act.**

(a) Except as provided in subsection (b) of this section, this~~This~~ Article does not apply to a funds transfer any part of which is governed by the Electronic Fund Transfer Act of 1978 ~~(Title XX, Public Law 95-630, 92 Stat. 3728, 15 U.S.C. § 1693 et seq.)~~(Title XX, Public Law 95-630, 92 Stat. 3728, 15 U.S.C. § 1693, et seq.), as amended from time to time.

(b) This Article applies to a funds transfer that is a remittance transfer as defined in the Electronic Fund Transfer Act (15 U.S.C. § 1693o-1), as amended from time to time, unless the remittance transfer is an electronic fund transfer as defined in the Electronic Fund Transfer Act (15 U.S.C. § 1693a), as amended from time to time.

(c) In a funds transfer to which this Article applies, in the event of an inconsistency between an applicable provision of this Article and an applicable provision of the Electronic Fund Transfer Act, the provision of the Electronic Fund Transfer Act governs to the extent of the inconsistency."

SECTION 2. The Revisor of Statutes shall cause to be printed, as annotations to the published General Statutes, all relevant portions of the Official Comment to the 2012 Amendment to Section 4A-108 of the Uniform Commercial Code as the Revisor may deem appropriate.

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

In the General Assembly read three times and ratified this the 12th day of March, 2013.

Became law upon approval of the Governor at 9:25 a.m. on the 22nd day of March, 2013.

Session Law 2013-15 **S.B. 50**

AN ACT TO PREVENT IDENTITY THEFT OF DISCHARGED VETERANS BY RESTRICTING THE RELEASE OF MILITARY SERVICE DISCHARGE DOCUMENTS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 47-113.2 reads as rewritten:

"§ **47-113.2. Restricting access to military discharge documents.**

(a) All military discharge documents filed on or after January 1, 2004, shall be considered a public record, but for confidential safekeeping and restricted access to such documents, these documents will be filed with the registers of deeds in this State. These documents are exempt from public inspection and access except as allowed in ~~subsection (b)~~subsections (b) and (m) of this section.

…

(e) No copy of a military discharge document or any other information from such document filed after ~~the effective date of this section~~ January 1, 2004, shall be made available other than in accordance with subsection (b) or (m) of this section.

…

(l) The register of deeds shall, to the greatest extent possible, take appropriate protective actions in accordance with any limitations determined necessary by the register of deeds with regard to records that were filed before ~~the effective date of this section.~~January 1, 2004.

(m) Subsection (e) of this section shall not apply to images of military discharge documents that have been on file for over ~~50 years.~~80 years.

…

(q) The words "register of deeds" appearing in this section shall be interpreted to mean "register of deeds, assistant register of deeds, or deputy register of ~~deeds".~~deeds.""

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

In the General Assembly read three times and ratified this the 21st day of March, 2013.

Became law upon approval of the Governor at 10:35 a.m. on the 28th day of March, 2013.

Session Law 2013-16 **H.B. 180**

AN ACT TO MAKE VARIOUS TECHNICAL CORRECTIONS TO THE LAWS GOVERNING MECHANICS LIENS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 44A-11.1 reads as rewritten:

"§ **44A-11.1. (Effective April 1, 2013) Lien agent; designation and duties.**

(a) With regard to any improvements to real property to which this Article is applicable for which the costs of the undertaking are thirty thousand dollars ($30,000) or more, either at the time that the original building permit is ~~issued, or is thirty thousand dollars $30,000 or more,~~ issued or, in cases in which no building permit is required, at the time the contract for the improvements is entered into with the owner, the owner shall designate a lien agent no later than the time the owner first contracts with any person to improve the real property. Provided, however, that the owner is not required to designate a lien agent for improvements to an existing single-family residential dwelling unit as defined in G.S. 87-15.5(7) that is used by the owner as a residence. The owner shall deliver written notice of designation to its designated lien agent by any method authorized in ~~G.S. 44A-11.2(f),~~ G.S. 44A-11.2(g), and shall include in its notice the street address, tax map lot and block number, reference to recorded instrument, or any other description that reasonably identifies the real property for the improvements to which the lien agent has been ~~designated.~~designated, and the owner's contact information. Designation of a lien agent pursuant to this section does not make the lien agent an agent of the owner for purposes of receiving a Claim of Lien on Real Property, a Notice of Claim of Lien upon Funds or for any purpose other than the receipt of notices to the lien agent required under G.S. 44A-11.2.

(b) The lien agent shall be chosen from among the list of registered lien agents maintained by the Department of Insurance pursuant to G.S. 58-26-45.

(c) Upon receipt of written notification of designation by an owner pursuant to subsection (a) of this section, the lien agent shall have the duties as set forth in G.S. 58-26-45(b).

(d) In the event that the lien agent dies, resigns, is no longer licensed to serve as a lien agent, revokes its consent to serve as lien agent or is removed by the owner, or otherwise becomes unable or unwilling to serve before the completion of all improvements to the real property, the owner shall within three business days of notice of such event do all of the following:

(1) Designate a successor lien agent and provide written notice of designation to the successor lien agent pursuant to subsection (a) of this section.

(2) Provide the contact information for the successor lien agent to the inspection department that issued any required building permit and to any persons who requested information from the owner relating to the predecessor lien agent.

(3) Display the contact information for the successor lien agent on the building permit or attachment thereto posted on the improved property or, if no building permit was required, on a sign complying with ~~G.S. 44A-11.2(e).~~G.S. 44A-11.2(f).

(e) Until such time as the owner has fully complied with subsection (d) of this section, notice transmitted to the predecessor lien agent shall be deemed effective notice, notwithstanding the fact that the lien agent may have resigned or otherwise become unable or unwilling to serve.

(f) Any attorney who, in connection with a transaction involving improved real property subject to this section for which the attorney is serving as the closing attorney, contacts the lien agent in writing and requests copies of the notices received by the lien agent relating to the real property not more than five business days prior to the date of recordation of a deed or deed of trust on the real property, shall be deemed to have fulfilled the attorney's professional obligation as closing attorney to check such notices to lien agent and shall have no further duty to request that the lien agent provide information pertaining to notices received subsequently by the lien agent."

SECTION 2. G.S. 44A-11.2 reads as rewritten:

"§ **44A-11.2. (Effective April 1, 2013) Identification of lien agent; notice to lien agent; effect of notice.**

(a) As used in this section, the term "contact information" shall mean the name, physical and mailing address, telephone number, facsimile number, and electronic mail address of the lien agent designated by the owner pursuant to G.S. 44A-11.1.

(b) Within seven days of receiving a written request by a potential lien claimant by any delivery method specified in subsection ~~(f)~~ (g) of this section, the owner shall provide a notice to the potential lien claimant containing the contact information for the lien agent, by the same delivery method used by the potential lien claimant in making the request.

(c) A potential lien claimant making a request pursuant to ~~this~~ subsection (b) of this section who did not receive the lien agent contact information pursuant to subsection (d) of this section, and who has not furnished ~~labor~~ labor, materials, rental equipment, or professional design or surveying services at the site of the improvements, or who last furnished labor, materials, rental equipment, or professional design or surveying services at the site of the improvements ~~did so~~ prior to the posting of the contact information for the lien agent pursuant to subsection ~~(d)~~ (e) or ~~(e)~~ (f) of this section, shall have no obligation to give notice to the lien agent under this section until the potential lien claimant has received the contact information from the owner.

~~(c)~~(d) A contractor or subcontractor for improvements to real property subject to G.S. 44A-11.1 shall, within three business days of contracting with a lower-tier subcontractor who is not required to furnish labor at the site of the improvements, provide the lower-tier subcontractor with a written notice containing the contact information for the lien agent designated by the owner. This notice shall be given pursuant to subsection ~~(f)~~ (g) of this section or may be given by including the lien agent contact information in a written subcontract entered into by, or a written purchase order issued to, the lower-tier subcontractor entitled to the notice required by this subsection. Any contractor or subcontractor who has previously received notice of the lien agent contact information, whether from the building permit, the inspections office, a notice from the owner, contractor, or subcontractor, or by any other means, and who fails to provide the lien agent contact information to the lower-tier subcontractor in the time required under this subsection, shall be liable to the lower-tier subcontractor for any actual damages incurred by the lower-tier subcontractor as a result of the failure to give notice.

~~(d)~~(e) For any improvement to real property subject to G.S. 44A-11.1, any building permit issued pursuant to G.S. 160A-417(d) or G.S. 153A-357(e) shall be conspicuously and continuously posted on the property for which the permit is issued until the completion of all construction.

~~(e)~~(f) For any improvement to real property subject to G.S. 44A-11.1, a sign disclosing the contact information for the lien agent shall be conspicuously and continuously posted on the property until the completion of all construction if the contact information for the lien agent is not contained in a building permit or attachment thereto posted on the property.

~~(f)~~(g) In complying with any requirement for written notice pursuant to this section, the notice shall be addressed to the person required to be provided with the notice and shall be delivered by any of the following methods:

(1) Certified mail, return receipt requested.
(2) Signature confirmation as provided by the United States Postal Service.
(3) Physical delivery and obtaining a delivery receipt from the lien agent.
(4) Facsimile with a facsimile confirmation.
(5) Depositing with a designated delivery service authorized pursuant to 26 U.S.C. § 7502(f)(2).
(6) Electronic mail, with delivery receipt.
(7) Utilizing an Internet Web site approved for such use by the designated lien agent to transmit to the designated lien agent, with delivery receipt, all information required to notify the lien agent of its designation pursuant to G.S. 44A-11.1, to provide a notice to the designated lien agent pursuant to

this section, or to deliver a copy of a notice of claim of lien upon funds to the designated lien agent pursuant to G.S. 44A-23(a1)(3) or G.S. 44A-23(b)(5)c.

As used in this subsection, "delivery receipt" includes an electronic or facsimile confirmation. A return receipt or other receipt showing delivery of the notice to the addressee or written evidence that such notice was delivered by the postal service or other carrier to but not accepted by the addressee shall be prima facie evidence of receipt.

~~(g)~~(h) When a lien agent is identified in a contract between an owner and a contractor for improvements to real property consisting of a single-family ~~residence entered into between an owner and a contractor for the improvements to the property,~~residence, the contractor will be deemed to have met the requirement of notice under subsections ~~(l)~~ (m) and ~~(m)~~ (n) of this section on the date of the lien agent's receipt of the owner's notice of ~~designation.~~designation of the lien agent. The owner shall provide written notice to the lien agent containing the information pertaining to the contractor required in a notice to lien agent pursuant to subdivisions (1) through (3) of subsection ~~(i)~~ (j) of this section, by any method of delivery authorized in ~~G.S. 44A-11.2(f).~~ G.S. 44A-11.2(g). The lien agent shall include the ~~contractor~~contractor's name and address in its response to any persons requesting information relating to persons who have given notice to the lien agent pursuant to this section.

~~(h)~~(i) When a lien agent is not identified in a contract for improvements to real property subject to G.S. 44A-11.1 entered into between an owner and a design professional, the design professional will be deemed to have met the requirement of notice under subsections ~~(l)~~ (m) and ~~(m)~~ (n) of this section on the date of the lien agent's receipt of the owner's designation of the lien agent. The owner shall provide written notice to the lien agent containing the information pertaining to the design professional required in a notice to lien agent pursuant to subdivisions (1) through (3) of subsection ~~(i)~~ (j) of this section, by any method of delivery authorized in subsection ~~(f)~~ (g) of this section. The lien agent shall include the design ~~professional~~professional's name and address in its response to any persons requesting information relating to persons who have given notice to the lien agent pursuant to this section. For purposes of this subsection, the term "design professional" shall mean any architects, engineers, land surveyors, and landscape architects registered under Chapter 83A, 89A, or 89C of the General Statutes.

~~(i)~~(j) The form of the notice to be given under this section shall be substantially as follows:

"NOTICE TO LIEN AGENT

(1) Potential lien claimant's name, mailing address, telephone number, fax number (if available), and electronic mailing address (if available):

(2) Name of the party with whom the potential lien claimant has contracted to improve the real property described below:

(3) A description of the real property sufficient to identify the real property, such as the name of the project, if applicable, the physical address as shown on the building permit or notice received from the owner:

(4) I give notice of my right subsequently to pursue a claim of lien for improvements to the real property described in this notice.

Dated: _____

_____

Potential Lien Claimant"

~~(j)~~(k) The service of the Notice to Lien Agent does not satisfy the service or filing requirements applicable to a Notice of Claim of Lien upon Funds under Part 2 of Article 2 of this ~~Chapter.~~Chapter or a Claim of Lien on Real Property under Part 1 or Part 2 of Article 2 of this Chapter.

~~(k)~~(l) The notice to lien agent shall not be filed with the clerk of superior court. An inaccuracy in the description of the improved real property provided in the notice shall not bar a person from claiming a lien under this Article or otherwise perfecting or enforcing a claim of

lien as provided in this Article, if the improved real property can otherwise reasonably be identified from the information contained in the notice.

~~(l)~~(m) Except as otherwise provided in this section, for any improvement to real property subject to G.S. 44A-11.1, a potential lien claimant may perfect a claim of lien on real property only if ~~any~~ at least one of the following conditions is met:

(1) The lien agent identified in accordance with this section has received a Notice to Lien Agent ~~notice~~ from the potential lien claimant no later than 15 days after the first furnishing of labor or materials by the potential lien claimant.

(2) Any of the following conditions is met:

a. The lien agent identified in accordance with this section has received ~~notice~~ a Notice to Lien Agent from the potential lien claimant prior to the date of recordation of a conveyance of the property interest in the real property to a bona fide purchaser for value protected under G.S. 47-18 who is not an affiliate, relative, or insider of the owner.

b. The potential lien claimant has ~~filed a~~ perfected its claim of lien on real property pursuant to ~~G.S. 44A-12~~ G.S. 44A-11 prior to the recordation of a conveyance of the property interest in the real property to a bona fide purchaser for value protected under G.S. 47-18 who is not an affiliate, relative, or insider of the owner.

As used in this subdivision, the terms "affiliate," "relative," and "insider" shall have the meanings as set forth in G.S. 39-23.1.

~~(m)~~(n) Except as otherwise provided in this section, for any improvement to real property subject to G.S. 44A-11.1, the claim of lien on real property of a potential lien claimant that is not ~~filed~~ perfected pursuant to G.S. 44A-11 prior to the recordation of any mortgage or deed of trust for the benefit of one who is not an affiliate, relative, or insider of the owner shall be subordinate to the previously recorded mortgage or deed of trust unless ~~any~~ at least one of the following conditions is met:

(1) The lien agent identified in accordance with this section has received ~~notice~~a Notice to Lien Agent from the potential lien ~~claimant.~~ claimant ~~within~~ no later than 15 days after the first furnishing of labor or materials by the potential lien claimant.

(2) The lien agent identified in accordance with this section has received ~~notice~~ a Notice to Lien Agent from the potential lien claimant prior to the date of recordation of the mortgage or deed of ~~trust for the benefit of one who is not an affiliate, relative, or insider of the owner.~~trust.

~~(n)~~(o) ~~With regard to an~~For any improvement to real property subject to G.S. 44A-11.1, a potential lien claimant shall not be required to comply with this section if the lien agent contact information is neither contained in the building permit or attachment thereto or sign posted on the improved property pursuant to subsection ~~(d)~~ (e) or ~~(e)~~ (f) of this section at the time when the potential lien claimant was furnishing ~~labor~~ labor, materials, rental equipment, or professional design or surveying services at the site of the improvements, nor timely provided by the owner in response to a written request by the potential lien claimant made pursuant to subsection (b) of this section. The lien rights of a potential lien claimant who is given erroneous information by the owner regarding the identity of the lien agent will not be extinguished under subsection ~~(l)~~ (m) of this section nor subordinated under subsection ~~(m)~~ (n) of this section.

~~(o)~~(p) Except as provided in subsections ~~(l)~~ (m) and ~~(m)~~ (n) of this section, nothing contained in this section shall affect a claim of lien upon funds pursuant to G.S. 44A-18.

~~(p)~~(q) A potential lien claimant may provide the notice to lien agent required under this section regardless of whether the improvements for which the potential lien claimant is responsible are contracted, started, in process, or completed at the time of submitting the notice."

SECTION 3. G.S. 44A-19(e) reads as rewritten:

"§ **44A-19. Notice of claim of lien upon funds.**

…

(e) Notices of claims of lien upon funds shall not be filed with the clerk of superior court and shall not be indexed, docketed, or recorded in any way as to affect title to any real property, except a notice of a claim of lien upon funds may be filed with the clerk of superior court under either of the following circumstances:

(1) When the notice of claim of lien upon funds is attached to a claim of lien on real property filed pursuant to G.S. 44A-20(d).

(2) When the notice of claim of lien upon funds or a copy thereof is filed by the obligor for the purpose of discharging the claim of lien upon funds in accordance with G.S. 44A-20(e)."

SECTION 4. G.S. 44A-20(d) reads as rewritten:

"§ **44A-20. Duties and liability of obligor.**

…

(d) If the obligor is an owner of the property being improved, the lien claimant shall be entitled to a claim of lien upon real property upon the interest of the obligor in the real property to the extent of the owner's personal liability under subsection (b) of this section, which claim of lien on real property shall be enforced only in the manner set forth in G.S. 44A-7 through G.S. 44A-16 and which claim of lien on real property shall be entitled to the same priorities and subject to the same filing requirements and periods of limitation applicable to the contractor. The claim of lien on real property is perfected as of the time set forth in G.S. 44A-10 upon ~~the filing of the claim of lien on real property pursuant to G.S. 44A-12.~~satisfaction of those requirements set forth in G.S. 44A-11. A lien waiver signed by the contractor prior to ~~the commencement of an action to enforce a perfected claim of lien on real property granted under G.S. 44A-23~~a subcontractor's perfecting its claim of lien on real property in accordance with G.S. 44A-11 waives the subcontractor's right to enforce the contractor's claim of lien on real property, but does not affect the subcontractor's right to a claim of lien on funds or the subcontractor's right to a claim of lien on real property allowed under this subsection. The claim of lien on real property as provided under this subsection shall be in the form set out in G.S. 44A-12(c) and shall contain, in addition, a copy of the notice of claim of lien upon funds given pursuant to G.S. 44A-19 as an exhibit together with proof of service thereof by affidavit, and shall state the grounds the lien claimant has to believe that the obligor is personally liable for the debt under subsection (b) of this section."

SECTION 5. G.S. 44A-23 reads as rewritten:

"§ **44A-23. (Effective April 1, 2013) Contractor's claim of lien on real property; perfection of subrogation rights of subcontractor.**

(a) First tier subcontractor. – A first tier subcontractor may, to the extent of its claim, enforce the claim of lien on real property of the contractor created by Part 1 of this Article. The manner of such enforcement shall be as provided by G.S. 44A-7 through 44A-16. The claim of lien on real property is perfected as of the time set forth in G.S. 44A-10 upon satisfaction of those requirements set forth in G.S. 44A-11. ~~filing of the claim of lien on real property pursuant to G.S. 44A-12. When completing the claim of lien on real property form, the subcontractor may use as the date upon which labor or materials were first or last furnished on the real property either the date of the first or last furnishing of labor or materials on the real property by the subcontractor making the claim or the date of the first or last furnishing of labor or materials on the real property by the contractor through which the claim of lien on real property is being asserted.~~

(a1) No action of the contractor shall be effective to prejudice the rights of ~~the~~ a first tier subcontractor without ~~his written consent, upon the occurrence of all of the following:~~its written consent once the first tier subcontractor has perfected its claim of lien on real property in accordance with G.S. 44A-11.

~~(1) The subcontractor has given notice to the lien agent, if any, designated by the owner, pursuant to G.S. 44A-11.2.~~

~~(2) The subcontractor has served a notice of claim of lien upon funds upon the owner pursuant to G.S. 44A-19(d).~~

~~(3) The subcontractor has delivered a copy of the notice of claim of lien upon funds served upon the owner to the lien agent, if any, designated by the owner, by any method authorized in G.S. 44A-11.2(f).~~G.S. ~~44A-~~11.2(g).~~-~~

…

(b) Second or third tier subcontractor. –

…

(5) No action of the contractor shall be effective to prejudice the rights of the second or third tier subcontractor without ~~his written consent, upon the occurrence of all of the following:~~its written consent once the second or third tier subcontractor has perfected its claim of lien on real property in accordance with G.S. 44A-11.

~~a. The second or third tier subcontractor has given notice to the lien agent, if any, designated by the owner, pursuant to G.S. 44A-11.2.~~

~~b. The second or third tier subcontractor has served a notice of claim of lien upon funds upon the owner pursuant to G.S. 44A-19(d).~~

~~c. The second or third tier subcontractor has delivered a copy of the notice of claim of lien upon funds served upon the owner to the lien agent, if any, designated by the owner, by any method authorized in G.S. 44A-11.2(f).~~

…

(d) When completing the claim of lien on real property form to perfect the contractor's claim of lien on real property, a first, second, or third tier subcontractor may use as the date upon which labor or materials were first or last furnished on the real property either any date on or after the date of the first furnishing of labor or materials on the real property, or any date on or before the date of the last furnishing of labor or materials on the real property by the subcontractor making the claim, or any date on or after the date of the first furnishing of labor or materials on the real property, or any date on or before the date of the last furnishing of labor or materials on the real property by the contractor through which the claim of lien on real property is being asserted."

SECTION 6. G.S. 44A-27(b) reads as rewritten:

"§ **44A-27. Actions on payment bonds; service of notice.**

…

(b) Any claimant who has a direct contractual relationship with any subcontractor but has no contractual relationship, express or implied, with the contractor may bring an action on the payment bond only if he has given written notice of claim on payment bond to the contractor within 120 days from the date on which the claimant performed the last of the labor or furnished the last of the materials for which he claims payment, stating with substantial accuracy the amount claimed and the name of the person for whom the work was performed or to whom the material was furnished. The contractor ~~shall furnish~~ shall, in response to a written request served by any claimant in accordance with the provisions of subsection (c) of this section, send a copy of the payment bond required by this Article to the claimant making the request within seven calendar days after receipt of such request. ~~in response to a written request served by any claimant in accordance with the provisions of subsection (c) of this section.~~Subject to the exception set forth in subsection (e) of this section, unless the contractor has failed to satisfy its obligation to timely furnish a copy of the payment bond to a claimant upon proper request by the claimant, the claim of such a claimant shall not include labor or materials provided more than 75 days prior to the claimant's service, in accordance with subsections (c) and (d) of this section, of its written notice of public subcontract to the contractor."

SECTION 7. G.S. 58-26-45 reads as rewritten:

"§ **58-26-45. (Effective April 1, 2013) Registration as a lien agent.**

…

(b) Upon receipt of the notice of designation by the owner pursuant to G.S. 44A-11.1, a lien agent shall have the duty to do all of the following:

…

(2) Receive notices to lien agent delivered by potential lien claimants pursuant to ~~G.S. 44A-11.2 and copies of notices of claim of lien upon funds delivered by potential lien claimants pursuant to G.S. 44A-23(a1)(3) or G.S. 44A-23(b)(5)c.~~G.S. 44A-11.2.

…

(6) Within three business days of receipt of information relating to the contractor provided by the owner pursuant to ~~G.S. 44A-11.2(g),~~G.S. 44A-11.2(h), provide a written notice to the contractor acknowledging receipt of this information, by any method of delivery authorized in ~~G.S. 44A-11.2(f).~~G.S. 44A-11.2(g).

(6a) Within three business days of receipt of information relating to a design professional provided by the owner pursuant to G.S. 44A-11.2(i), provide a written notice to the design professional acknowledging receipt of this information by any method of delivery authorized in G.S. 44A-11.2(g).

(7) Provide written notice of the potential lien claimants having delivered notice to lien agent pursuant to G.S. 44A-11.2, including the information relating to any contractor identified by the owner pursuant to ~~G.S. 44A-11.2(g),~~G.S. 44A-11.2(h), and relating to any design professional identified by the owner pursuant to G.S. 44A-11.2(i), within one business day of receiving a request from any of the following persons or their authorized agents:

a. An owner of the improved property.
b. A title insurance company or title insurance agency issuing a policy of title insurance on the improved property.
c. A contracted purchaser of the improved property.
d. A potential lien claimant.
e. A closing attorney, lender, or settlement agent as defined in G.S. 45A-3(15) involved in a transaction involving the improved property.

In responding to a request pursuant to this subdivision, the lien agent shall include the information provided by each potential lien claimant pursuant to ~~G.S. 44A-11.2(h)(1)~~ G.S. 44A-11.2(i)(1) and ~~G.S. 44A-11.2(h)(2)~~G.S. 44A-11.2(i)(2) and, if specifically requested, a copy of each notice to lien ~~claimant~~ agent received by the lien agent.

…

(d) For services rendered pursuant to each designation as a lien agent for improvements to real property comprising one- or two-family dwellings, a lien agent ~~may~~ shall collect a fee of ~~not more than~~ twenty-five dollars ($25.00) from the owner. For services rendered pursuant to each designation as a lien agent for all other improvements to real property, the lien agent ~~may~~shall collect a fee ~~not to exceed~~of fifty dollars ($50.00) from the owner.

(e) The Department shall publish on its Web site a current list of lien agents registered pursuant to this section."

SECTION 8. This act becomes effective April 1, 2013. Sections 1, 2, 4, 5, and 7 apply to improvements to real property affected thereby for which the first furnishing of labor or materials at the site of the improvements is on or after April 1, 2013. Section 3 applies to notices of claims of lien filed on or after April 1, 2013. Section 6 applies to improvements to real property for which the first building permit is obtained on or after April 1, 2013.

In the General Assembly read three times and ratified this the 21st day of March, 2013.

Became law upon approval of the Governor at 10:37 a.m. on the 28th day of March, 2013.

Session Law 2013-17 **S.B. 84**

AN ACT TO REQUIRE THE CANCELLATION OF AN AIRCRAFT LABOR AND STORAGE LIEN WHEN A SURETY BOND IN AN AMOUNT EQUAL TO ONE AND ONE-FOURTH TIMES THE AMOUNT OF THE LIEN CLAIMED IS DEPOSITED WITH THE CLERK OF COURT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 44A-75 reads as rewritten:

"§ **44A-75. Termination of a lien on an aircraft.**

(a) Termination by Payment of Amount Owed. – Any lien under this Article shall be terminated upon receipt by the lienor of the full amount owed for the labor, skill, or materials on the aircraft, and for storage of the aircraft, which amount shall not be limited to any amount shown on the notice of lien filed under G.S. 44A-60, if a notice of lien has been filed by the lienor. Upon receipt of the amount owed, the lienor or the lienor's agent shall release the aircraft to the owner, if the aircraft is in the possession of the lienor, and shall, within 20 days following a request in writing by the aircraft owner, file with the clerk of court a notice of satisfaction of lien, if a notice of lien has been filed by the lienor. A notice of satisfaction of lien shall state that the amount owed for the lienor's expenditure of labor, skill, or materials on the aircraft, and for the storage of the aircraft, has been paid and the lien against the aircraft has been terminated. The notice of satisfaction of lien shall be sworn to or affirmed, and subscribed by the lienor or by someone on the lienor's behalf having personal knowledge of the facts. Upon the filing of a notice of satisfaction of lien, the clerk of court shall make an entry of acknowledgment of satisfaction in the index.

(b) Termination by Deposit of Surety Bond. – Any lien under this Article shall be terminated by the clerk of court whenever a surety bond in a sum equal to one and one-fourth times the amount of the lien claimed against the aircraft and conditioned upon the payment of the amount finally determined to be due in satisfaction of the lien is deposited with the clerk of court. When a deposit that satisfies this subsection is made, the lienor or the lienor's agent shall release the aircraft to the owner, if the aircraft is in the possession of the lienor."

SECTION 2. This act is effective when it becomes law and applies to liens perfected under Article 5 of Chapter 44A of the General Statutes on or after that date.

In the General Assembly read three times and ratified this the 21st day of March, 2013.

Became law upon approval of the Governor at 10:38 a.m. on the 28th day of March, 2013.

Session Law 2013-18 **S.B. 45**

AN ACT TO AMEND THE LAWS GOVERNING INCAPACITY TO PROCEED.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 15A-1002 reads as rewritten:

"§ **15A-1002. Determination of incapacity to proceed; evidence; temporary commitment; temporary orders.**

(a) The question of the capacity of the defendant to proceed may be raised at any time on motion by the prosecutor, the defendant, the defense counsel, or the court. The motion shall detail the specific conduct that leads the moving party to question the defendant's capacity to proceed.

(b) When the capacity of the defendant to proceed is questioned, the court shall hold a hearing to determine the defendant's capacity to proceed. If an examination is ordered pursuant to subdivision (1) or (2) of this subsection, the hearing shall be held after the examination. Reasonable notice shall be given to the defendant and prosecutor, and the State and the defendant may introduce evidence. ~~The court:~~

(1) ~~May~~In the case of a defendant charged with a misdemeanor or felony, the court may appoint one or more impartial medical experts, including forensic evaluators approved under rules of the Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services, to examine the defendant and return a written report describing the present state of the defendant's mental ~~health; reports~~health. Reports so prepared are admissible at the ~~hearing and the~~hearing. The court may call any expert so appointed to testify at the ~~hearing; any expert so appointed may be called to testify at the hearing by the court at~~hearing with or without the request of either ~~party; or~~party.

(2) ~~In the case of a defendant charged with a misdemeanor only after the examination pursuant to subsection (b)(1) of this section or at~~At any time in the case of a defendant charged with a felony, the court may order the defendant to a State facility for the mentally ill for observation and treatment for the period, not to exceed 60 days, necessary to determine the defendant's capacity to ~~proceed; in the case of a defendant charged with a felony, if~~proceed. If a defendant is ordered to a State facility without first having an examination pursuant to subsection (b)(1) of this section, the judge shall make a finding that an examination pursuant to this subsection would be more appropriate to determine the defendant's ~~capacity; the~~capacity. The sheriff shall return the defendant to the county when notified that the evaluation has been ~~completed; the~~completed. The director of the facility shall direct his report on defendant's condition to the defense attorney and to the clerk of superior court, who shall bring it to the attention of the ~~court; the~~court. The report is admissible at the hearing.

(3) Repealed by Session Laws 1989, c. 486, s. 1.

(4) A presiding district or superior court judge of this State who orders an examination pursuant to subdivision (1) or (2) of this subsection shall order the release of relevant confidential information to the examiner, including, but not limited to, the warrant or indictment, arrest records, the law enforcement incident report, the defendant's criminal record, jail records, any prior medical and mental health records of the defendant, and any school records of the defendant after providing the defendant with reasonable notice and an opportunity to be heard and then determining that the information is relevant and necessary to the hearing of the matter before the court and unavailable from any other source. This subdivision shall not be construed to relieve any court of its duty to conduct hearings and make findings required under relevant federal law before ordering the release of any private medical or mental health information or records related to substance abuse or HIV status or treatment. The records may be surrendered to the court for in camera review if surrender is necessary to make the required determinations. The records shall be withheld from public inspection and, except as provided in this subdivision, may be examined only by order of the court.

(b1) ~~If the report pursuant to subdivision (1) or (2) of subsection (b) of this section indicates~~ The order of the court shall contain findings of fact to support its determination of the defendant's capacity to proceed. The parties may stipulate that the defendant is capable of proceeding but shall not be allowed to stipulate that the defendant lacks capacity to proceed. If the court concludes that the defendant lacks capacity to proceed, proceedings for involuntary civil commitment under Chapter 122C of the General Statutes may be instituted on the basis of the report in either the county where the criminal proceedings are pending or, if the defendant is hospitalized, in the county in which the defendant is hospitalized.

(b2) Reports made to the court pursuant to this section shall be completed and provided to the court as follows:

(1) The report in a case of a defendant charged with a misdemeanor shall be completed and provided to the court no later than 10 days following the completion of the examination for a defendant who was in custody at the time the examination order was entered and no later than 20 days following the completion of the examination for a defendant who was not in custody at the time the examination order was entered.

(2) The report in the case of a defendant charged with a felony shall be completed and provided to the court no later than 30 days following the completion of the examination.

(3) In cases where the defendant challenges the determination made by the court-ordered examiner or the State facility and the court orders an independent psychiatric examination, that examination and report to the court must be completed within 60 days of the entry of the order by the court.

The court may, for good cause shown, extend the time for the provision of the report to the court for up to 30 additional days. The court may renew an extension of time for an additional 30 days upon request of the State or the defendant prior to the expiration of the previous extension. In no case shall the court grant extensions totaling more than 120 days beyond the time periods otherwise provided in this subsection.

(c) The court may make appropriate temporary orders for the confinement or security of the defendant pending the hearing or ruling of the court on the question of the capacity of the defendant to proceed.

(d) Any report made to the court pursuant to this section shall be forwarded to the clerk of superior court in a sealed envelope addressed to the attention of a presiding judge, with a covering statement to the clerk of the fact of the examination of the defendant and any conclusion as to whether the defendant has or lacks capacity to proceed. If the defendant is being held in the custody of the sheriff, the clerk shall send a copy of the covering statement to the sheriff. The sheriff and any persons employed by the sheriff shall maintain the copy of the covering statement as a confidential record. A copy of the full report shall be forwarded to defense counsel, or to the defendant if he is not represented by ~~counsel provided, if~~counsel. If the question of the defendant's capacity to proceed is raised at any time, a copy of the full report must be forwarded to the district ~~attorney.~~attorney, as provided in G.S. 122C-54(b). Until such report becomes a public record, the full report to the court shall be kept under such conditions as are directed by the court, and its contents shall not be revealed except as directed by the court. Any report made to the court pursuant to this section shall not be a public record unless introduced into evidence."

SECTION 2. G.S. 15A-1004(c) reads as rewritten:

"(c) If the defendant is placed in the custody of a hospital or other institution in a proceeding for involuntary civil commitment, the orders must provide for reporting to the clerk if the defendant is to be released from the custody of the hospital or institution. The original or supplemental orders may make provisions as in subsection (b) in the event that the defendant is released. The court shall also order that the defendant shall be examined to determine whether the defendant has the capacity to proceed prior to release from custody. A report of the

examination shall be provided pursuant to G.S. 15A-1002. If the defendant was charged with a violent crime, including a crime involving assault with a deadly weapon, and that charge has not been dismissed, the order must require that if the defendant is to be released from the custody of the hospital or other institution, he is to be released only to the custody of a specified law enforcement agency. If the original or supplemental orders do not specify to whom the respondent shall be released, the hospital or other institution may release the defendant to whomever it thinks appropriate."

SECTION 3. G.S. 15A-1006 reads as rewritten:

"§ **15A-1006. Return of defendant for trial upon gaining capacity.**

If a defendant who has been determined to be incapable of proceeding, and who is in the custody of an institution or an individual, ~~gains~~ has been determined by the institution or individual having custody to have gained capacity to proceed, the individual or institution ~~must notify~~shall provide written notification to the clerk in the county in which the criminal proceeding is pending. The clerk ~~must notify the sheriff to~~ shall provide written notification to the district attorney, the defendant's attorney, and the sheriff. The sheriff shall return the defendant to the county for a supplemental hearing pursuant to G.S. 15A-1007, if conducted, and ~~trial,~~trial and ~~to~~ hold ~~him~~ the defendant for a supplemental hearing and trial, subject to the orders of the court entered pursuant to G.S. 15A-1004."

SECTION 4. G.S. 15A-1007 reads as rewritten:

"§ **15A-1007. Supplemental hearings.**

(a) When it has been reported to the court that a defendant has gained capacity to proceed, or when the defendant has been determined by the individual or institution having custody of him to have gained capacity and has been returned for ~~trial, the~~trial, in accordance with G.S. 15A-1004(e) and G.S. 15A-1006, the clerk shall notify the district attorney. Upon receiving the notification, the district attorney shall calendar the matter for hearing at the next available term of court but no later than 30 days after receiving the notification. The court may hold a supplemental hearing to determine whether the defendant has capacity to proceed. The court may take any action at the supplemental hearing that it could have taken at an original hearing to determine the capacity of the defendant to proceed.

(b) The court may hold a supplemental hearing any time upon its own determination that a hearing is appropriate or necessary to inquire into the condition of the defendant.

(c) The court must hold a supplemental hearing if it appears that any of the conditions for dismissal of the charges have been met.

(d) If the court determines in a supplemental hearing that a defendant has gained the capacity to proceed, the case shall be calendared for trial at the earliest practicable time. Continuances that extend beyond 60 days after initial calendaring of the trial shall be granted only in extraordinary circumstances when necessary for the proper administration of justice, and the court shall issue a written order stating the grounds for granting the continuance."

SECTION 5. G.S. 15A-1008 reads as rewritten:

"§ **15A-1008. Dismissal of charges.**

(a) When a defendant lacks capacity to proceed, the court ~~may~~ shall dismiss the ~~charges:~~charges upon the earliest of the following occurrences:

(1) When it appears to the satisfaction of the court that the defendant will not gain capacity to ~~proceed; or~~proceed.

(2) When as a result of incarceration, involuntary commitment to an inpatient facility, or other court-ordered confinement, the defendant has been substantially deprived of his liberty for a period of time equal to or in excess of the ~~maximum permissible period of confinement for the crime or crimes charged; or~~maximum term of imprisonment permissible for prior record Level VI for felonies or prior conviction Level III for misdemeanors for the most serious offense charged.

(3) Upon the expiration of a period of five years from the date of determination of incapacity to proceed in the case of misdemeanor charges and a period of 10 years in the case of felony charges.

(b) A dismissal entered pursuant to subdivision (2) of subsection (a) of this section shall be without leave.

(c) A dismissal entered pursuant to subdivision (1) or (3) of subsection (a) of this section shall be issued without prejudice to the refiling of the charges. Upon the defendant becoming capable of proceeding, the prosecutor may reinstitute proceedings dismissed pursuant to subdivision (1) or (3) of subsection (a) of this section by filing written notice with the clerk, with the defendant, and with the defendant's attorney of record.

(d) Dismissal of criminal charges pursuant to this section shall be upon motion of the prosecutor or the defendant or upon the court's own motion."

SECTION 6. G.S. 15A-1009 is repealed.

SECTION 7. G.S. 122C-54(b) reads as rewritten:

"(b) If an individual is a defendant in a criminal case and a mental examination of the defendant has been ordered by the court as provided in G.S. 15A-1002, the facility shall send the results or the report of the mental examination to the clerk of court, to the district attorney or prosecuting officer, and to the attorney of record for the defendant as provided in G.S. 15A-1002(d). The report shall contain a treatment recommendation, if any, and an opinion as to whether there is a likelihood that the defendant will gain the capacity to proceed."

SECTION 8. Part 7 of Article 5 of Chapter 122C of the General Statutes is amended by adding a new section to read:

"**§ 122C-278. Reexamination for capacity to proceed prior to discharge.**

Whenever a respondent has been committed to either inpatient or outpatient treatment pursuant to this Chapter after having been found incapable of proceeding and referred by the court for civil commitment proceedings, the respondent shall not be discharged from the custody of the hospital or institution or the outpatient commitment case terminated until the respondent has been examined for capacity to proceed and a report filed with the clerk of court pursuant to G.S. 15A-1002."

SECTION 9. The Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services shall develop and adopt rules by December 1, 2013, to require forensic evaluators appointed pursuant to G.S. 15A-1002(b) to meet the following requirements:

(1) Complete all training requirements necessary to be credentialed as a certified forensic evaluator.

(2) Attend annual continuing education seminars that provide continuing education and training in conducting forensic evaluations and screening examinations of defendants to determine capacity to proceed and in preparing written reports required by law.

SECTION 10. The Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services shall by December 1, 2013, adopt guidelines for treatment of individuals who are involuntarily committed following a determination of incapacity to proceed and a referral pursuant to G.S. 15A-1003. The guidelines shall require a treatment plan that uses best practices in an effort to restore the individual's capacity to proceed in the criminal matter.

SECTION 11. Sections 1 through 8 of this act become effective December 1, 2013, and apply to offenses committed on or after that date. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 27th day of March, 2013.

Became law upon approval of the Governor at 4:42 p.m. on the 3rd day of April, 2013.

Session Law 2013-19 **S.B. 97**

AN ACT TO REQUIRE RELEASE OF PROPERTY TAXES IN ANY AREA THAT WAS PART OF A MUNICIPALITY FOR SIX MONTHS OR LESS AND THEN DEANNEXED.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-380 is amended by adding a new subsection to read:

"(e) The governing body of a municipality shall release any tax levied under this Subchapter, without application from the taxpayer being required, on property that was within the corporate limits of the municipality for six months or less prior to deannexation from the municipality, and for which no notice of the tax has yet been sent to the taxpayer. The release shall be made in accordance with the provisions of this Article."

SECTION 2. This act is effective when it becomes law and expires July 1, 2016.

In the General Assembly read three times and ratified this the 28th day of March, 2013.

Became law upon approval of the Governor at 4:45 p.m. on the 3rd day of April, 2013.

Session Law 2013-20 **S.B. 44**

AN ACT TO PERMIT DISCLOSURE OF CERTAIN INFORMATION PERTAINING TO WORKERS' COMPENSATION COVERAGE BY THE NORTH CAROLINA INDUSTRIAL COMMISSION, AS RECOMMENDED BY THE JOINT LEGISLATIVE COMMITTEE ON WORKERS' COMPENSATION INSURANCE COVERAGE COMPLIANCE AND FRAUD PREVENTION AND DETECTION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 58-36-17 reads as rewritten:

"§ **58-36-17. Bureau to share information with the North Carolina Industrial Commission.**

The Bureau shall provide to the North Carolina Industrial Commission information contained in the Bureau's records indicating the status of workers' compensation insurance coverage on North Carolina employers as reported to the Bureau by the Bureau's member companies. The North Carolina Industrial Commission shall take such steps, including obtaining software or software licenses, as are necessary to be able to receive and process such information from the Bureau. The records provided to the North Carolina Industrial Commission under this section shall be confidential and shall not be public records as that term is defined in G.S. 132-1. Notwithstanding the previous sentence, ~~sentence and with respect to policies becoming effective on and after January 1, 2012,~~ the North Carolina Industrial Commission may release data showing ~~workers~~ workers' compensation insurance policy information that includes ~~only~~ only employer name and address, carrier name, address, and telephone number; policy number; policy effective ~~dates,~~dates; policy cancellation ~~dates,~~dates; and policy reinstatement dates. This data shall not be confidential data and shall be a public record as that term is defined in G.S. 132-1. The North Carolina Industrial Commission shall use the information provided pursuant to this section only to carry out its statutory duties and obligations under The North Carolina Workers' Compensation Act. The Bureau shall be immune from civil liability for releasing information pursuant to this section, even if the information is erroneous, provided the Bureau acted in good faith and without malicious or willful intent to harm in releasing the information."

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

In the General Assembly read three times and ratified this the 28th day of March, 2013.

Became law upon approval of the Governor at 4:49 p.m. on the 3rd day of April, 2013.

Session Law 2013-21 **H.B. 270**

AN ACT TO PROVIDE FOR A REFERENDUM IN THE TOWN OF RONDA ON THE ISSUE OF WHETHER OR NOT VOTERS OF THAT TOWN SHOULD BE ABLE TO RECALL FROM OFFICE THE ELECTED OFFICERS OF THAT TOWN.

The General Assembly of North Carolina enacts:

SECTION 1. Section 3 of this act becomes effective only if approved by the qualified voters of the Town of Ronda in a referendum. The election shall be conducted by the Wilkes County Board of Elections on November 5, 2013, the date of the next municipal election in the Town of Ronda. The question on the ballot shall be:

"[ ] FOR [ ] AGAINST

Amendment of the Charter of the Town of Ronda to allow for recall from office of elected officials of the town upon voter petition and a vote of the registered voters of the town."

SECTION 2. If a majority of the votes cast are in favor of the question, Section 3 of this act becomes effective as provided therein. Otherwise, Section 3 of this act does not become effective.

SECTION 3. The Charter of the Town of Ronda, granted by the Municipal Board of Control on September 27, 1920, under the then provisions of Chapter 136 of the Public Laws of 1917, is amended by adding a new section to read:

"Sec. 1.1. **Recall.**

(a) The Mayor and members of the Board of Commissioners are subject to removal pursuant to this section. An officer is removed upon the filing of a sufficient recall petition and the affirmative vote of a majority of those voting on the question of removal at a recall election.

A recall petition shall be filed with the Town Clerk, who shall immediately forward the petition to the county board of elections that conducts elections for the Town of Ronda. A petition to recall the Mayor or a member of the Board of Commissioners shall bear the signatures equal in number to at least fifty percent (50%) of the registered voters of the Town of Ronda.

The county board of elections shall verify the petition signatures. If a sufficient recall petition is submitted, the county board of elections shall certify its sufficiency to the governing body, and the governing body shall adopt a resolution calling for a recall election to be held between 60 and 120 days of the date of such certification. The county board of elections shall conduct the recall election, which shall be held as provided in G.S. 163-287. Each petition submitted shall contain the name of only one officer to be recalled. Multiple qualified petitions may be filed simultaneously with the Town Clerk, in which case the name of the officer on each petition, once certified, shall be included in the recall election. The proposition submitted to the voters shall be substantially in the following form:

"[ ] FOR [ ] AGAINST

The recall of [name of officer]."

The registered voters of the Town of Ronda are eligible to vote in an election to recall the Mayor or a member of the Board of Commissioners.

If less than a majority of the votes cast on the question are for the officer's recall, the officer continues in office. If a majority of the votes cast on the question are for the officer's recall, the officer is removed on the date the board of elections certifies the results of the election. A vacancy created by removal of a member of the Board of Commissioners or the Mayor shall be filled in accordance with the provisions of G.S. 160A-63. An officer who is removed may not

be appointed or reappointed to any elective office of the town during the remainder of the unexpired term.

No petition to recall an officer may be filed during the first six months of the officer's term or during the six months before the expiration of the officer's term. No more than one election may be held to recall an officer within a single term of office of that officer.

(b) As used in this section, "Town Clerk" also includes an officer of the town exercising the function of Town Clerk."

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

In the General Assembly read three times and ratified this the 4th day of April, 2013.

Became law on the date it was ratified.

Session Law 2013-22 **S.B. 11**

AN ACT TO DESIGNATE THE MONTH OF APRIL OF EACH YEAR AS ORGAN DONATION AWARENESS/DONATE LIFE MONTH AND TO PROVIDE THAT THE ACT SHALL BE ENTITLED "DUFFY'S LAW."

Whereas, according to the United Network of Organ Sharing (UNOS), more than 116,000 people are waiting for organ transplants nationally, and more than 3,500 of those people are in North Carolina; and

Whereas, an average of 18 people awaiting transplants die each day due to the severe shortage of donated organs; and

Whereas, every 10 minutes another name is added to the national transplant waiting list; and

Whereas, one organ donor can save the lives of up to eight people and improve the lives of up to 50 people through tissue and cornea donation; and

Whereas, North Carolinians are encouraged to get the facts about donation through Donate Life NC's Web site and discuss their wishes with their families; and

Whereas, the North Carolina Division of Motor Vehicles plays a critical role in maintaining the North Carolina State donor registry, with 99% of donors having registered when receiving their North Carolina drivers license or ID card, which are identified by the symbol of a red heart; and

Whereas, the State's Donor registry is the sixth largest registry in the country with 4.3 million North Carolinians having registered with the North Carolina Division of Motor Vehicles or through Donate Life NC's online registry; and

Whereas, the State of North Carolina joins Donate Life NC, our State's organ recovery agencies, Carolina Donor Services, The North Carolina Eye Bank, LifeShare Of The Carolinas, health care professionals, volunteers, educators, government agencies, faith-based and community groups, and private organizations in an effort to boost the numbers of organ, tissue, eye, blood, bone marrow, and stem cell donors throughout North Carolina; Now, therefore,

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 103 of the General Statutes is amended by adding a new section to read:

"**§ 103-12. Organ Donation Awareness/Donate Life Month.**

The month of April of each year is designated as Organ Donation Awareness/Donate Life Month in North Carolina."

SECTION 2. This act shall be known as "Duffy's Law."

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

In the General Assembly read three times and ratified this the 1st day of April, 2013.

Became law upon approval of the Governor at 4:30 p.m. on the 9th day of April, 2013.

Session Law 2013-23 **S.B. 20**

AN ACT TO PROVIDE LIMITED IMMUNITY FROM PROSECUTION FOR (1) CERTAIN DRUG-RELATED OFFENSES COMMITTED BY AN INDIVIDUAL WHO SEEKS MEDICAL ASSISTANCE FOR A PERSON EXPERIENCING A DRUG-RELATED OVERDOSE AND (2) CERTAIN DRUG-RELATED OFFENSES COMMITTED BY AN INDIVIDUAL EXPERIENCING A DRUG-RELATED OVERDOSE AND IN NEED OF MEDICAL ASSISTANCE; TO PROVIDE IMMUNITY FROM CIVIL OR CRIMINAL LIABILITY FOR (1) PRACTITIONERS WHO PRESCRIBE AN OPIOID ANTAGONIST TO CERTAIN THIRD PARTIES AND (2) CERTAIN INDIVIDUALS WHO ADMINISTER AN OPIOID ANTAGONIST TO A PERSON EXPERIENCING A DRUG-RELATED OVERDOSE; AND TO PROVIDE LIMITED IMMUNITY FROM PROSECUTION FOR CERTAIN ALCOHOL-RELATED OFFENSES COMMITTED BY PERSONS UNDER THE AGE OF 21 WHO SEEK MEDICAL ASSISTANCE FOR ANOTHER PERSON.

The General Assembly of North Carolina enacts:

SECTION 1. Article 5 of Chapter 90 of the General Statutes is amended by adding a new section to read:

"§ **90-96.2. Drug-related overdose treatment; limited immunity.**

(a) As used in this section, "drug-related overdose" means an acute condition, including mania, hysteria, extreme physical illness, coma, or death resulting from the consumption or use of a controlled substance, or another substance with which a controlled substance was combined, and that a layperson would reasonably believe to be a drug overdose that requires medical assistance.

(b) A person acting in good faith who seeks medical assistance for an individual experiencing a drug-related overdose shall not be prosecuted for (i) a misdemeanor violation of G.S. 90-95(a)(3), (ii) a felony violation of G.S. 90-95(a)(3) for possession of less than one gram of cocaine, (iii) a felony violation of G.S. 90-95(a)(3) for possession of less than one gram of heroin, or (iv) a violation of G.S. 90-113.22 if the evidence for prosecution under those sections was obtained as a result of the person seeking medical assistance for the drug-related overdose.

(c) A person who experiences a drug-related overdose and is in need of medical assistance shall not be prosecuted for (i) a misdemeanor violation of G.S. 90-95(a)(3), (ii) a felony violation of G.S. 90-95(a)(3) for possession of less than one gram of cocaine, (iii) a felony violation of G.S. 90-95(a)(3) for possession of less than one gram of heroin, or (iv) a violation of G.S. 90-113.22 if the evidence for prosecution under those sections was obtained as a result of the drug-related overdose and need for medical assistance.

(d) Nothing in this section shall be construed to bar the admissibility of any evidence obtained in connection with the investigation and prosecution of other crimes committed by a person who otherwise qualifies for limited immunity under this section."

SECTION 2. Article 5 of Chapter 90 of the General Statutes is amended by adding a new section to read:

"§ **90-106.2. Treatment of overdose with opioid antagonist; immunity.**

(a) As used in this section, "opioid antagonist" means naloxone hydrochloride that is approved by the federal Food and Drug Administration for the treatment of a drug overdose.

(b) A practitioner acting in good faith and exercising reasonable care may directly or by standing order prescribe an opioid antagonist to (i) a person at risk of experiencing an opiate-related overdose or (ii) a family member, friend, or other person in a position to assist a person at risk of experiencing an opiate-related overdose. As an indicator of good faith, the practitioner, prior to prescribing an opioid under this subsection, may require receipt of a written communication that provides a factual basis for a reasonable conclusion as to either of the following:

(1) The person seeking the opioid antagonist is at risk of experiencing an opiate-related overdose.

(2) The person other than the person who is at risk of experiencing an opiate-related overdose, and who is seeking the opioid antagonist, is in relation to the person at risk of experiencing an opiate-related overdose:

a. A family member, friend, or other person.

b. In the position to assist a person at risk of experiencing an opiate-related overdose.

(c) A person who receives an opioid antagonist that was prescribed pursuant to subsection (b) of this section may administer an opioid antagonist to another person if (i) the person has a good faith belief that the other person is experiencing a drug-related overdose and (ii) the person exercises reasonable care in administering the drug to the other person. Evidence of the use of reasonable care in administering the drug shall include the receipt of basic instruction and information on how to administer the opioid antagonist.

(d) All of the following individuals are immune from any civil or criminal liability for actions authorized by this section:

(1) Any practitioner who prescribes an opioid antagonist pursuant to subsection (b) of this section.

(2) Any person who administers an opioid antagonist pursuant to subsection (c) of this section."

SECTION 3. Chapter 18B of the General Statutes is amended by adding a new section to read:

"**§ 18B-302.2. Medical treatment; limited immunity.**

Notwithstanding any other provision of law, a person under the age of 21 shall not be prosecuted for a violation of G.S. 18B-302 for the possession or consumption of alcoholic beverages if law enforcement, including campus safety police, became aware of the possession or consumption of alcohol by the person solely because the person was seeking medical assistance for another individual. This section shall apply if, when seeking medical assistance on behalf of another, the person did all of the following:

(1) Acted in good faith, upon a reasonable belief that he or she was the first to call for assistance.

(2) Used his or her own name when contacting authorities.

(3) Remained with the individual needing medical assistance until help arrived."

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

In the General Assembly read three times and ratified this the 4th day of April, 2013.

Became law upon approval of the Governor at 4:39 p.m. on the 9th day of April, 2013.

Session Law 2013-24 **S.B. 33**

AN ACT TO REQUIRE THAT OCCUPATIONAL LICENSING BOARDS CONSIDER CERTAIN FACTORS BEFORE DENYING LICENSES TO APPLICANTS WITH CRIMINAL RECORDS, AS RECOMMENDED BY THE JOINT LEGISLATIVE ADMINISTRATIVE PROCEDURE OVERSIGHT COMMITTEE.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 93B of the General Statutes is amended by adding a new section to read:

"**§ 93B-8.1. Use of criminal history records.**

(a) The following definitions apply in this section:

(1) Applicant. – A person who makes application for licensure from an occupational licensing board.

(2) Board. – An occupational licensing board as defined in G.S. 93B-1.

(3) Criminal history record. – A State or federal history of conviction of a crime, whether a misdemeanor or felony, that bears upon an applicant's or a licensee's fitness to be licensed or disciplined.

(4) Licensee. – A person who has obtained a license to engage in or represent himself or herself to be a member of a particular profession or occupation.

(b) Unless the law governing a particular occupational licensing board provides otherwise, a board shall not automatically deny licensure on the basis of an applicant's criminal history. If the board is authorized to deny a license to an applicant on the basis of conviction of any crime or for commission of a crime involving fraud or moral turpitude, and the applicant's verified criminal history record reveals one or more convictions of any crime, the board may deny the license if it finds that denial is warranted after consideration of the following factors:

(1) The level and seriousness of the crime.

(2) The date of the crime.

(3) The age of the person at the time of the crime.

(4) The circumstances surrounding the commission of the crime, if known.

(5) The nexus between the criminal conduct and the prospective duties of the applicant as a licensee.

(6) The prison, jail, probation, parole, rehabilitation, and employment records of the applicant since the date the crime was committed.

(7) The subsequent commission of a crime by the applicant.

(8) Any affidavits or other written documents, including character references.

(c) The board may deny licensure to an applicant who refuses to consent to a criminal history record check or use of fingerprints or other identifying information required by the State or National Repositories of Criminal Histories.

(d) This section does not apply to The North Carolina Criminal Justice Education and Training Standards Commission and the North Carolina Sheriffs' Education and Training Standards Commission."

SECTION 2. This act becomes effective July 1, 2013, and applies to applications for licensure submitted on or after that date.

In the General Assembly read three times and ratified this the 3rd day of April, 2013.

Became law upon approval of the Governor at 4:42 p.m. on the 9th day of April, 2013.

Session Law 2013-25 **S.B. 24**

AN ACT TO AMEND THE GAMELAND BUFFER REQUIREMENT APPLICABLE TO SANITARY LANDFILLS FOR THE DISPOSAL OF CONSTRUCTION AND DEMOLITION DEBRIS WASTE UNDER CERTAIN CONDITIONS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 130A-295.6 reads as rewritten:

"§ **130A-295.6. Additional requirements for sanitary landfills.**

…

(d) The Department shall not issue a permit to construct any disposal unit of a sanitary landfill if, at the earlier of (i) the acquisition by the applicant or permit holder of the land or of an option to purchase the land on which the waste disposal unit will be located, (ii) the application by the applicant or permit holder for a franchise agreement, or (iii) at the time of the application for a permit, any portion of the proposed waste disposal unit would be located within:

(1) Five miles of the outermost boundary of a National Wildlife Refuge.

(2) One mile of the outermost boundary of a State gameland owned, leased, or managed by the Wildlife Resources Commission pursuant to ~~G.S. 113-306.~~G.S. 113-306, except as provided in subdivision (2a) of this subsection.

(2a) Five hundred feet of the outermost boundary of a State gameland owned, leased, or managed by the Wildlife Resources Commission pursuant to G.S. 113-306, when all of the following conditions apply:

a. The waste disposal unit will only be permitted to accept construction and demolition debris waste.

b. The disposal unit is located within the primary corporate limits of a municipality located in a county with a population of less than 15,000.

c. All portions of the gameland within one mile of the disposal unit are separated from the disposal unit by a primary highway designated by the Federal Highway Administration as a U.S. Highway.

(3) Two miles of the outermost boundary of a component of the State Parks System.

…."

SECTION 2. This act is effective when it becomes law and applies to any application for a permit for a sanitary landfill for the disposal of construction and demolition debris waste pending on that date or submitted on or after that date.

In the General Assembly read three times and ratified this the 3rd day of April, 2013.

Became law upon approval of the Governor at 4:45 p.m. on the 9th day of April, 2013.

Session Law 2013-26 **H.B. 193**

AN ACT TO EXPAND THE PERMISSIBLE USES OF THE LOCAL MECKLENBURG COUNTY AND CITY OF CHARLOTTE LOCAL TAXES.

The General Assembly of North Carolina enacts:

SECTION 1. Section 9(a) of Part IV of Chapter 908 of the 1983 Session Laws, as amended by Chapters 821 and 922 of the 1989 Session Laws, Section 2 of S.L. 2001-402, Section 1 of S.L. 2011-160, and Section 69 of S.L. 2012-194, reads as rewritten:

"Sec. 9.(a) Distribution and Use of Proceeds. – The local administrative authority, acting on its own behalf or as agent for each taxing entity, shall distribute the proceeds of the taxes levied in this Part as provided in this subsection. The distribution shall be made by the 20th day of each month following the month in which the tax is collected.

…

(2) Distribution to Charlotte for ~~Convention Center~~ Facilities. – After deducting the amount provided above, the local administrative authority shall transfer an amount equal to three percent (3%) of the gross occupancy receipts and the entire net proceeds of the prepared food and beverage tax to the City of Charlotte. The net proceeds transferred to the City of Charlotte pursuant to this subdivision shall be applied in accordance with the following priorities. No application of any net proceeds to any class of the priorities set forth below in this subdivision shall be made until, with respect to each preceding class of priorities, either all payments for the current fiscal year have been provided for in full or no such payments are required for the current fiscal year.

…

d. To pay costs of acquiring, constructing, financing, renovating, maintaining, and controlling traffic for a professional sports facility located in the City of Charlotte. A "professional sports facility" is a stadium, ballpark, or similar public place that has a seating capacity of at least 60,000 that is used for professional sporting events and may include ancillary, associated facilities. Article 8 of Chapter 143 of the General Statutes does not apply to the expenditure of proceeds for a professional sports facility by a private entity that is the owner or primary tenant of the facility.

e. To pay costs of acquiring, constructing, financing, renovating, and maintaining amateur sports facilities, including ancillary, associated facilities, located in the City of Charlotte.

…."

SECTION 2. Article II of Chapter 5 of the Charter of the City of Charlotte is amended by adding the following new section:

"Section 5.24. **Limitation.** The Charlotte Regional Visitors Authority has no power or duties with respect to City-owned improvements or equipment in a privately owned professional sports facility. This limitation does not apply to services or activities that a private entity that is the owner or primary tenant of a professional sports facility contracts with the Authority to provide. For purposes of this section, a professional sports facility is defined in Section 9(a)(2)d. of Part IV of Chapter 908 of the 1983 Session Laws, as amended."

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

In the General Assembly read three times and ratified this the 15th day of April, 2013.

Became law on the date it was ratified.

Session Law 2013-27 **H.B. 139**

AN ACT TO ADOPT THE UNIFORM DEPLOYED PARENTS CUSTODY AND VISITATION ACT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 50-13.2 reads as rewritten:

"§ **50-13.2. Who entitled to custody; terms of custody; visitation rights of grandparents; taking child out of ~~State.~~State; consideration of parent's military service.**

(a) An order for custody of a minor child entered pursuant to this section shall award the custody of such child to such person, agency, organization or institution as will best promote the interest and welfare of the child. In making the determination, the court shall consider all relevant factors including acts of domestic violence between the parties, the safety of the child, and the safety of either party from domestic violence by the other party and shall make findings accordingly. An order for custody must include findings of fact which support the determination of what is in the best interest of the child. Between the mother and father, whether natural or adoptive, no presumption shall apply as to who will better promote the interest and welfare of the child. Joint custody to the parents shall be considered upon the request of either parent.

(b) An order for custody of a minor child may grant joint custody to the parents, exclusive custody to one person, agency, organization, or institution, or grant custody to two or more persons, agencies, organizations, or institutions. Any order for custody shall include such terms, including visitation, as will best promote the interest and welfare of the child. If the court finds that domestic violence has occurred, the court shall enter such orders that best protect the children and party who were the victims of domestic violence, in accordance with the provisions of G.S. 50B-3(a1)(1), (2), and (3). If a party is absent or relocates with or without the children because of an act of domestic violence, the absence or relocation shall not

be a factor that weighs against the party in determining custody or visitation. Absent an order of the court to the contrary, each parent shall have equal access to the records of the minor child involving the health, education, and welfare of the child.

(b1) An order for custody of a minor child may provide visitation rights for any grandparent of the child as the court, in its discretion, deems appropriate. As used in this subsection, "grandparent" includes a biological grandparent of a child adopted by a stepparent or a relative of the child where a substantial relationship exists between the grandparent and the child. Under no circumstances shall a biological grandparent of a child adopted by adoptive parents, neither of whom is related to the child and where parental rights of both biological parents have been terminated, be entitled to visitation rights.

(b2) Any order for custody, including visitation, may, as a condition of such custody or visitation, require either or both parents, or any other person seeking custody or visitation, to abstain from consuming alcohol and may require submission to a continuous alcohol monitoring system, of a type approved by the Division of Adult Correction of the Department of Public Safety, to verify compliance with this condition of custody or visitation. Any order pursuant to this subsection shall include an order to the monitoring provider to report any violation of the order to the court and each party to the action. Failure to comply with this condition shall be grounds for civil or criminal contempt.

(c) An order for custody of a minor child may provide for such child to be taken outside of the State, but if the order contemplates the return of the child to this State, the judge may require the person, agency, organization or institution having custody out of this State to give bond or other security conditioned upon the return of the child to this State in accordance with the order of the court.

(d) If, within a reasonable time, one parent fails to consent to adoption pursuant to Chapter 48 of the General Statutes or parental rights have not been terminated, the consent of the other consenting parent shall not be effective in an action for custody of the child.

(e) An order for custody of a minor child may provide for visitation rights by electronic communication. In granting visitation by electronic communication, the court shall consider the following:

(1) Whether electronic communication is in the best interest of the minor child.

(2) Whether equipment to communicate by electronic means is available, accessible, and affordable to the parents of the minor child.

(3) Any other factor the court deems appropriate in determining whether to grant visitation by electronic communication.

The court may set guidelines for electronic communication, including the hours in which the communication may be made, the allocation of costs between the parents in implementing electronic communication with the child, and the furnishing of access information between parents necessary to facilitate electronic communication. Electronic communication with a minor child may be used to supplement visitation with the child. Electronic communication may not be used as a replacement or substitution for custody or visitation. The amount of time electronic communication is used shall not be a factor in calculating child support or be used to justify or support relocation by the custodial parent out of the immediate area or the State. Electronic communication between the minor child and the parent may be subject to supervision as ordered by the court. As used in this subsection, "electronic communication" means contact, other than face-to-face contact, facilitated by electronic means, such as by telephone, electronic mail, instant messaging, video teleconferencing, wired or wireless technologies by Internet, or other medium of communication.

(f) In a proceeding for custody of a minor child of a service member, a court may not consider a parent's past deployment or possible future deployment as the only basis in determining the best interest of the child. The court may consider any significant impact on the best interest of the child regarding the parent's past or possible future deployment."

SECTION 2. G.S. 50-13.7A is repealed.

SECTION 3. Chapter 50A of the General Statutes is amended by adding the following new Article to read:

"Article 3.

"Uniform Deployed Parents Custody and Visitation Act.

"Part 1. General Provisions.

"**§ 50A-350. Short title.**

This Article may be cited as the "Uniform Deployed Parents Custody and Visitation Act."

"**§ 50A-351. Definitions.**

The following definitions apply in this Article:

(1) Adult. – An individual who is at least 18 years of age or an emancipated minor.

(2) Caretaking authority. – The right to live with and care for a child on a day-to-day basis, including physical custody, parenting time, right to access, and visitation.

(3) Child. – An (i) unemancipated individual who has not attained 18 years of age or (ii) adult son or daughter by birth or adoption who is the subject of an existing court order concerning custodial responsibility.

(4) Close and substantial relationship. – A relationship in which a significant bond exists between a child and a nonparent.

(5) Court. – An entity authorized under the laws of this State to establish, enforce, or modify a decision regarding custodial responsibility.

(6) Custodial responsibility. – A comprehensive term that includes any and all powers and duties relating to caretaking authority and decision-making authority for a child. The term includes custody, physical custody, legal custody, parenting time, right to access, visitation, and the authority to designate limited contact with a child.

(7) Decision-making authority. – The power to make important decisions regarding a child, including decisions regarding the child's education, religious training, health care, extracurricular activities, and travel. The term does not include day-to-day decisions that necessarily accompany a grant of caretaking authority.

(8) Deploying parent. – A service member, who is deployed or has been notified of impending deployment, and is (i) a parent of a child or (ii) an individual other than a parent who has custodial responsibility of a child.

(9) Deployment. – The movement or mobilization of a service member to a location for more than 90 days, but less than 18 months, pursuant to an official order that (i) is designated as unaccompanied; (ii) does not authorize dependent travel; or (iii) otherwise does not permit the movement of family members to that location.

(10) Family member. – A sibling, aunt, uncle, cousin, stepparent, or grandparent of a child, and an individual recognized to be in a familial relationship with a child.

(11) Limited contact. – The opportunity for a nonparent to visit with a child for a limited period of time. The term includes authority to take the child to a place other than the residence of the child.

(12) Nonparent. – An individual other than a deploying parent or other parent.

(13) Other parent. – An individual who, in common with a deploying parent, is (i) the parent of a child or (ii) an individual other than a parent with custodial responsibility of a child.

(14) Record. – Information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(15) Return from deployment. – The conclusion of a service member's deployment as specified in uniformed service orders.

(16) Service member. – A member of a uniformed service.

(17) State. – A state of the United States, the District of Columbia, Puerto Rico, and the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

(18) Uniformed service. – Service which includes (i) the active and reserve components of the Army, Navy, Air Force, Marine Corps, or Coast Guard of the United States; (ii) the Merchant Marine, the commissioned corps of the Public Health Service, or the commissioned corps of the National Oceanic and Atmospheric Administration of the United States; or (iii) the National Guard.

"**§ 50A-352. Remedies for noncompliance.**

In addition to other relief provided under the laws of this State, if a court finds that a party to a proceeding under this Article has acted in bad faith or intentionally failed to comply with the requirements of this Article or a court order issued under this Article, the court may assess reasonable attorneys' fees and costs against the opposing party and order other appropriate relief.

"**§ 50A-353. Jurisdiction.**

(a) A court may issue an order regarding custodial responsibility under this Article only if the court has jurisdiction pursuant to Uniform Child-Custody Jurisdiction and Enforcement Act (UCCJEA) under Article 2 of this Chapter. If the court has issued a temporary order regarding custodial responsibility pursuant to Part 3 of this Article, for purposes of the UCCJEA, the residence of the deploying parent is not changed by reason of the deployment during the deployment.

(b) If a court has issued a permanent order regarding custodial responsibility before notice of deployment and the parents modify that order temporarily by agreement pursuant to Part 2 of this Article, for purposes of the UCCJEA, the residence of the deploying parent is not changed by reason of the deployment.

(c) If a court in another state has issued a temporary order regarding custodial responsibility as a result of impending or current deployment, for purposes of the UCCJEA, the residence of the deploying parent is not changed by reason of the deployment.

(d) This section does not prohibit the exercise of temporary emergency jurisdiction by a court under the UCCJEA.

"**§ 50A-354. Notice required of deploying parent.**

(a) Except as provided in subsections (c) and (d) of this section, a deploying parent shall, in a record, notify the other parent of a pending deployment not later than seven days after receiving notice of deployment unless the deploying parent is reasonably prevented from notifying the other parent by the circumstances of service. If the circumstances of service prevent notification within seven days, the notification shall be made as soon as reasonably possible thereafter.

(b) Except as provided in subsections (c) and (d) of this section, each parent shall, in a record, provide the other parent with a plan for fulfilling that parent's share of custodial responsibility during deployment as soon as reasonably possible after receiving notice of deployment under subsection (a) of this section.

(c) If an existing court order prohibits disclosure of the address or contact information of the other parent, a notification of deployment under subsection (a) of this section, or notification of a plan for custodial responsibility during deployment under subsection (b) of this section, may be made only to the issuing court. If the address of the other parent is available to the issuing court, the court shall forward the notification to the other parent. The court shall keep confidential the address or contact information of the other parent.

(d) Notice in a record is not required if the parents are living in the same residence and there is actual notice of the deployment or plan.

(e) In a proceeding regarding custodial responsibility between parents, a court may consider the reasonableness of a parent's efforts to comply with this section.

"**§ 50A-355. Notification required for change of address.**

(a) Except as otherwise provided in subsection (b) of this section, an individual to whom custodial responsibility has been assigned or granted during deployment under Part 2 or Part 3 of this Article shall notify the deploying parent and any other individual with custodial responsibility of any change of mailing address or residence until the assignment or grant is terminated. The individual shall provide the notice to any court that has issued an existing custody or child support order concerning the child.

(b) If an existing court order prohibits disclosure of the address or contact information of an individual to whom custodial responsibility has been assigned or granted, a notification of change of mailing address or residence under subsection (a) of this section may be made only to the court that issued the order. The court shall keep confidential the mailing address or residence of the individual to whom custodial responsibility has been assigned or granted.

"Part 2. Agreement Addressing Custodial Responsibility During Deployment.

"**§ 50A-356. Form of agreement.**

(a) The parents of a child may enter into a temporary agreement granting custodial responsibility during deployment.

(b) An agreement under subsection (a) of this section shall be (i) in writing and (ii) signed by both parents or any nonparent to whom custodial responsibility is granted.

(c) An agreement under subsection (a) of this section may include the following:

(1) To the extent feasible, identify the destination, duration, and conditions of the deployment that is the basis for the agreement.

(2) Specify the allocation of caretaking authority among the deploying parent, the other parent, and any nonparent, if applicable.

(3) Specify any decision-making authority that accompanies a grant of caretaking authority.

(4) Specify any grant of limited contact to a nonparent.

(5**)** If the agreement shares custodial responsibility between the other parent and a nonparent, or between two nonparents, provide a process to resolve any dispute that may arise.

(6) Specify (i) the frequency, duration, and means, including electronic means, by which the deploying parent will have contact with the child; (ii) any role to be played by the other parent in facilitating the contact; and (iii) the allocation of any costs of communications.

(7) Specify the contact between the deploying parent and child during the time the deploying parent is on leave or is otherwise available.

(8) Acknowledge that any party's existing child-support obligation cannot be modified by the agreement, and that changing the terms of the obligation during deployment requires modification in the appropriate court.

(9) Provide that the agreement terminates following the deploying parent's return from deployment according to the procedures under Part 4 of this Article.

(10) If the agreement must be filed pursuant to G.S. 50A-360, specify which parent shall file the agreement.

"**§ 50A-357. Nature of authority created by agreement.**

(a) An agreement under this Part is temporary and terminates pursuant to Part 4 of this Article following the return from deployment of the deployed parent, unless the agreement has been terminated before that time by court order or modification of the agreement under G.S. 50A-358. The agreement derives from the parents' custodial responsibility and does not create an independent, continuing right to caretaking authority, decision-making authority, or limited contact in an individual to whom custodial responsibility is given.

(b) A nonparent given caretaking authority, decision-making authority, or limited contact by an agreement under this Part has standing to enforce the agreement until it has been modified pursuant to an agreement of the parents under G.S. 50A-358 or terminated under Part 4 of this Article or by court order.

"**§ 50A-358. Modification of agreement.**

The parents may by mutual consent modify an agreement regarding custodial responsibility made pursuant to this Part. If an agreement made under this subsection is modified before deployment of a deploying parent, the modification shall be in writing and signed by both parents and any nonparent who will exercise custodial responsibility under the modified agreement. If an agreement made under this section is modified during deployment of a deploying parent, the modification shall be agreed to, in a record, by both parents and any nonparent who will exercise custodial responsibility under the modified agreement.

"**§ 50A-359. Power of attorney.**

If no other parent possesses custodial responsibility or if an existing court order prohibits contact between the child and the other parent, a deploying parent, by power of attorney, may delegate all or part of custodial responsibility to an adult nonparent for the period of deployment. The power of attorney is revocable by the deploying parent through a revocation of the power of attorney signed by the deploying parent.

"**§ 50A-360. Filing agreement or power of attorney with court.**

An agreement or power of attorney created pursuant to this Part shall be filed within a reasonable period of time with any court that has entered an existing order on custodial responsibility or child support concerning the child. The case number and heading of the existing case concerning custodial responsibility or child support shall be provided to the court with the agreement or power of attorney.

"Part 3. Judicial Procedure for Granting Custodial Responsibility During Deployment.

"**§ 50A-361. Proceeding for temporary custody order.**

(a) After a deploying parent receives notice of deployment and during the deployment, a court may issue a temporary order granting custodial responsibility unless prohibited by the Servicemembers Civil Relief Act, 50 U.S.C. §§ 521-522. A court may not issue a permanent order granting custodial responsibility in the absence of the deploying parent without the consent of the deploying parent.

(b) At any time after a deploying parent receives notice of deployment, either parent may file a motion regarding custodial responsibility of a child during deployment. The motion shall be filed in an existing proceeding for custodial responsibility of the child with jurisdiction under Part 1 of this Article or, if there is no existing proceeding in a court with jurisdiction under Part 1 of this Article, in a new action for granting custodial responsibility during deployment.

"**§ 50A-362. Expedited hearing.**

The court shall conduct an expedited hearing if a motion to grant custodial responsibility is filed before a deploying parent deploys.

"**§ 50A-363. Testimony by electronic means.**

In a proceeding brought under this Part, a party or witness who is not reasonably available to appear personally may appear and provide testimony and present evidence by electronic means unless the court finds good cause to require a personal appearance.

"**§ 50A-364. Effect of prior judicial decree or agreement.**

In a proceeding for a grant of custodial responsibility pursuant to this Part, the following shall apply:

(1) A prior judicial order designating custodial responsibility of a child in the event of deployment is binding on the court unless the circumstances require modifying a judicial order regarding custodial responsibility.

(2) The court shall enforce a prior written agreement between the parents for designating custodial responsibility of a child in the event of deployment, including a prior written agreement executed under Part 2 of this Article, unless the court finds the agreement contrary to the best interest of the child.

"**§ 50A-365. Grant of caretaking or decision-making authority to nonparent.**

(a) In accordance with the laws of this State and on the motion of a deploying parent, a court may grant caretaking authority of a child to a nonparent who is an adult family member of the child or an adult with whom the child has a close and substantial relationship if it is in the best interest of the child.

(b) Unless the grant of caretaking authority to a nonparent under subsection (a) of this section is agreed to by the other parent, the grant is limited to an amount of time not greater than (i) the time granted to the deploying parent in an existing permanent custody order, except that the court may add unusual travel time necessary to transport the child or (ii) in the absence of an existing permanent custody order, the amount of time that the deploying parent habitually cared for the child before being notified of deployment, except that the court may add unusual travel time necessary to transport the child.

(c) A court may grant part of the deploying parent's decision-making authority for a child to a nonparent who is an adult family member of the child or an adult with whom the child has a close and substantial relationship if the deploying parent is unable to exercise that authority. When a court grants the authority to a nonparent, the court shall specify the decision-making powers that will and will not be granted, including applicable health, educational, and religious decisions.

(d) Any nonparent to whom caretaking authority or decision-making authority is granted shall be made a party to the action until the grant of caretaking authority or decision-making authority is terminated.

"**§ 50A-366. Grant of limited contact.**

(a) In accordance with laws of this State and on motion of a deploying parent, a court shall grant limited contact with a child to a nonparent who is either a family member of the child or an individual with whom the child has a close and substantial relationship, unless the court finds that the contact would be contrary to the best interest of the child.

(b) Any nonparent who is granted limited contact shall be made a party to the action until the grant of limited contact is terminated.

"**§ 50A-367. Nature of authority created by order.**

(a) A grant made pursuant to this Part is temporary and terminates pursuant to Part 4 of this Article following the return from deployment of the deployed parent, unless the grant has been terminated before that time by court order. The grant does not create an independent, continuing right to caretaking authority, decision-making authority, or limited contact in an individual to whom it is granted.

(b) A nonparent granted caretaking authority, decision-making authority, or limited contact under this Part has standing to enforce the grant until it is terminated under Part 4 of this Article or by court order.

(c) Any nonparent made a party because of a grant of caretaking authority, decision-making authority, or limited contact shall have no continuing right to party status after the grant of caretaking authority, decision-making authority, or limited contact is terminated pursuant to Part 4 of this Article or by court order.

"**§ 50A-368. Content of temporary custody order.**

(a) An order granting custodial responsibility under this Part shall (i) designate the order as temporary and (ii) identify to the extent feasible the destination, duration, and conditions of the deployment.

(b) If applicable, a temporary order for custodial responsibility shall comply with each of the following:

(1) Specify the allocation of caretaking authority, decision-making authority, or limited contact among the deploying parent, the other parent, and any nonparent.

(2) If the order divides caretaking or decision-making authority between individuals, or grants caretaking authority to one individual and limited contact to another, provide a process to resolve any significant dispute that may arise.

(3) Provide for liberal communication between the deploying parent and the child during deployment, including through electronic means, unless contrary to the best interest of the child, and allocate any costs of communications.

(4) Provide for liberal contact between the deploying parent and the child during the time the deploying parent is on leave or is otherwise available, unless contrary to the best interest of the child.

(5) Provide for reasonable contact between the deploying parent and the child following return from deployment until the temporary order is terminated, which may include more time than the deploying parent spent with the child before entry of the temporary order.

(6) Provide that the order will terminate following return from deployment according to the procedures under Part 4 of this Article.

"**§ 50A-369. Order for child support.**

If a court has issued an order providing for grant of caretaking authority under this Part, or an agreement granting caretaking authority has been executed under Part 2 of this Article, the court may enter a temporary order for child support consistent with the laws of this State regarding child support if the court has jurisdiction under the Uniform Interstate Family Support Act under Chapter 52C of the General Statutes.

"**§ 50A-370. Modifying or terminating assignment or grant of custodial responsibility to nonparent.**

(a) Except for an order in accordance with G.S. 50A-364 or as otherwise provided in subsection (b) of this section, and consistent with the Servicemembers Civil Relief Act, 50 U.S.C. §§ 521-522, on motion of a deploying or other parent or any nonparent to whom caretaking authority, decision-making authority, or limited contact has been granted, the court may modify or terminate a grant of caretaking authority, decision-making authority, or limited contact made pursuant to this Article if the modification or termination is consistent with this Part and the court finds it is in the best interest of the child. Any modification shall be temporary and terminates following the conclusion of deployment of the deployed parent according to the procedures under Part 4 of this Article, unless the grant has been terminated before that time by court order.

(b) On motion of a deploying parent, the court shall terminate a grant of limited contact.

"Part 4. Return From Deployment.

"**§ 50A-371. Procedure for terminating temporary grant of custodial responsibility established by agreement.**

(a) At any time following return from deployment, a temporary agreement granting custodial responsibility under Part 2 of this Article may be terminated by an agreement to terminate signed by the deploying parent and the other parent.

(b) The temporary agreement granting custodial responsibility terminates if (i) the agreement to terminate specifies a date for termination or (ii) the agreement to terminate does not specify a date, on the date the agreement to terminate is signed by both parents.

(c) In the absence of an agreement to terminate, the temporary agreement granting custodial responsibility terminates 60 days from the date of one of the following:

(1) The date the deploying parent gives notice to the other parent that the deploying parent has returned from deployment.

(2) The date stated in an order terminating the temporary grant of custodial responsibility.

(3) The death of the deploying parent.

(d) If the temporary agreement granting custodial responsibility was filed with a court pursuant to G.S. 50A-360**,** an agreement to terminate the temporary agreement shall also be filed with that court within a reasonable period of time after the signing of the agreement. The case number and heading of the existing custodial responsibility or child support case shall be provided to the court with the agreement to terminate.

"§ 50A-372. Consent procedure for terminating temporary grant of custodial responsibility established by court order.

At any time following return from deployment, the deploying parent and the other parent may file with the court an agreement to terminate a temporary order for custodial responsibility issued under Part 3 of this Article. After an agreement has been filed, the court shall issue an order terminating the temporary order on the date specified in the agreement. If no date is specified, the court shall issue the order immediately.

"**§ 50A-373. Visitation before termination of temporary grant of custodial responsibility.**

After a deploying parent returns from deployment and until a temporary agreement or order for custodial responsibility established under Part 2 or Part 3 of this Article is terminated, the court shall enter a temporary order granting the deploying parent reasonable contact with the child unless it is contrary to the best interest of the child. The court shall enter a temporary order granting contact under this section even if the time exceeds the time the deploying parent spent with the child before deployment.

"**§ 50A-374. Termination by operation of law of temporary grant of custodial responsibility established by court order.**

(a) A temporary order for custodial responsibility issued under Part 3 of this Article shall terminate, if no agreement between the parties to terminate a temporary order for custodial responsibility has been filed, 60 days from (i) the date the deploying parent gives notice of having returned from deployment to the other parent or any nonparent granted custodial responsibility or (ii) the death of the deploying parent.

(b) Any proceedings seeking to terminate or prevent termination of a temporary order for custodial responsibility are governed by laws of this State.

"Part 5. Miscellaneous Provisions.

"**§ 50A-375. Uniformity of application and construction.**

In applying and construing this Article, consideration shall be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

"**§ 50A-376. Relation to Electronic Signatures in Global and National Commerce Act.**

This Article modifies, limits, and supersedes the federal Electronic Signatures in Global and National Commerce Act, 15 U.S.C. § 7001, et seq., but does not modify, limit, or supersede section 101(c) of that act, 15 U.S.C. § 7001(c), or authorize electronic delivery of any of the notices described in section 103(b) of that act, 15 U.S.C. § 7003(b)."

SECTION 4. Nothing in Article 3 of Chapter 50A of the General Statutes, enacted in Section 3 of this act, shall affect the validity of a temporary court order concerning custodial responsibility during deployment entered before the effective date of this act.

SECTION 5. The Revisor of Statutes shall cause to be printed, as annotations to the published General Statutes, all relevant portions of the Official Comment to the Uniform Deployed Parents Custody and Visitation Act as the Revisor may deem appropriate.

SECTION 6. This act becomes effective October 1, 2013.

In the General Assembly read three times and ratified this the 11th day of April, 2013.

Became law upon approval of the Governor at 4:30 p.m. on the 16th day of April, 2013.

Session Law 2013-28 **S.B. 123**

AN ACT TO CLARIFY THE EXISTING LAW PERTAINING TO SEX OFFENDERS RESIDING NEAR SCHOOLS OR DAY CARE CENTERS.

Whereas, in 2006, the General Assembly enacted restrictions on registered sex offenders residing near schools and day care centers; and

Whereas, the law provided that the residential restrictions did not apply to *a person who has established a residence in accordance with the law prior to the effective date of the law* [August 16, 2006]; and

Whereas, the application portion of the law was in the session law, but not codified as part of the statute; and

Whereas, law enforcement officials mistakenly believe, based only upon the codified portion of the law which provides the conditions upon which a residence is established and not the effective date of the residency, that a registered sex offender can legally reside within 1,000 feet of a school or day care center if the offender moves in with a family member who had established residence at the location prior to the effective date of the law, even though the offender did not establish residence at that location prior to August 16, 2006; Now, therefore,

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 14-208.16(a) reads as rewritten:

"(a) A registrant under this Article shall not knowingly reside within 1,000 feet of the property on which any public or nonpublic school or child care center is located. This subsection applies to any registrant who did not establish his or her residence, in accordance with subsection (d) of this section, prior to August 16, 2006."

SECTION 2. Section 11(c) of S.L. 2006-247 reads as rewritten:

"**SECTION 11.(c)** Subsection (a) of this section becomes effective December 1, 2006, and applies to all persons registered or required to register on or after that date. Subsection (a) of this section does not apply to a person who has established a residence prior to ~~the effective date of this subsection~~ August 16, 2006, in accordance with the provisions in G.S. 14-208.16(d)(1), (2), or (3) as enacted by this act. This subsection is effective ~~when this act becomes law.~~ on August 16, 2006. The remainder of this section is effective on December 1, 2006, and applies to offenses committed on or after that date."

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

In the General Assembly read three times and ratified this the 8th day of April, 2013.

Became law upon approval of the Governor at 4:33 p.m. on the 16th day of April, 2013.

Session Law 2013-29 **S.B. 175**

AN ACT TO MAKE TECHNICAL CORRECTIONS AND CLARIFICATIONS TO CHAPTER 53C OF THE GENERAL STATUTES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 53C-1-4 reads as rewritten:

"§ **53C-1-4. Definitions and application of terms.**

Unless the context requires otherwise, the following definitions apply in this Chapter.

…

(4) Bank. – Any corporation, other than a credit union, savings institution, or trust ~~institution,~~company, that is organized under the laws of this State and is engaged in the business of receiving deposits (other than trust funds), paying monies, and making loans.

…

(20a) Consumer finance licensee. – An individual associated with a "licensee," as that term is defined in G.S. 53-165(h).

(21) Control. – The possession, directly or indirectly, of the power or right to direct or to cause the direction of the management or policies of a person by reason of an agreement, understanding, proxy, or power of attorney or through the ownership of or voting power over ten percent (10%) or more of any class of the voting securities of the person.

…

(44) Lower-tier subsidiary. – Any ~~bank operating subsidiary~~company ~~in~~ which ~~a bank subsidiary has an equity ownership interest.~~is controlled by a subsidiary.

…

(58) Public member. – A member of the Commission who is not a practical banker or a consumer finance licensee and who is not at the time of appointment to the Commission, nor was within the five years preceding the appointment, an employee of a North Carolina financial institution.

…

(68) Subsidiary. – A company over which a bank has ~~control.~~control, including a lower-tier subsidiary.

…."

SECTION 2. G.S. 53C-2-1(d) reads as rewritten:

"(d) A quorum of the Commission shall consist of a majority of its total membership. Subject to the standards of Chapter 138A of the General Statutes, a majority vote of the members qualified with respect to a matter who are present at the meeting where such matter is considered shall constitute valid action of the Commission. In accordance with ~~G.S. 138A-38,~~G.S. 138A-38(a)(6), the State Treasurer and all disqualified members who are present at a meeting shall be counted for purposes of determining whether a quorum is present."

SECTION 3. G.S. 53C-2-2(d) reads as rewritten:

"(d) The Commissioner may sue and prosecute or defend in any action or proceeding in any courts of this State or any other state and in any court of the United States for the enforcement or protection of any right or pursuit of any remedy necessary or proper in connection with the subjects committed to the Commissioner for administration or in connection with any bank or the rights, liabilities, property, or assets thereof under the Commissioner's supervision. Nothing herein shall be construed to render the Commissioner liable to be sued except as other departments and agencies of the State may be liable under the general law. The Commissioner may exercise any jurisdiction, supervise, regulate, examine, or enforce any banking law and any State consumer protection laws or federal laws with respect to which the Commissioner has enforcement jurisdiction."

SECTION 4. G.S. 53C-4-5(c) reads as rewritten:

"(c) ~~A director must do either of the following:~~

~~(1) Appoint an agent in Wake County, North Carolina, for service of process.~~

~~(2) Consent, on a form satisfactory to the Commissioner, to the following:~~

~~a. The Commissioner may serve as the director's agent for service of process.~~

~~b. The director consents to jurisdiction in Wake County, North Carolina, but only for purposes of any action or proceeding brought by the Commissioner.~~

Following a director's election or appointment as a director, the director shall, solely for purposes of any action or proceeding that may thereafter be brought by the Commissioner, and on a form satisfactory to the Commissioner, do all of the following:

(1) Consent to the jurisdiction of the Commissioner and the General Court of Justice for the State of North Carolina in any such action or proceeding.

(2) Consent to venue in Wake County, North Carolina, in any such action or proceeding.

(3) Unless the director appoints an agent pursuant to subsection (f) of this section, appoint the Commissioner as the director's agent for service of process in any such action or proceeding and authorize and instruct the Commissioner or the Commissioner's duly appointed deputy or agent to accept service of process for the director in any such action or proceeding.

(d) When service of legal process in an action or proceeding brought by the Commissioner is made on a director by service and acceptance of service of process in the manner provided in subdivision (3) of subsection (c) of this section, the Commissioner shall, within three business days thereafter, give notice to the director of such service and acceptance of service of process by depositing a copy of the process served and accepted, together with any pleading, order, or other item accompanying the process, with a "designated delivery service" as defined in 26 U.S.C. § 7502(f)(2) and directed to the director's last known address in the Commissioner's records. The Commissioner shall keep a record which shall show the day and hour of such acceptance of service of process, any pleading, order, or other item accompanying the process, and the date upon which the above notice was given. When service of process is made pursuant to subdivision (3) of subsection (c) of this section, the time within which the director may file a responsive pleading or similar response, as provided by Chapter 1A or Chapter 150B of the General Statutes, shall be extended by 12 days.

(e) The consent and appointment described in subsections (c) and (f) of this section shall be deemed irrevocable and shall not be affected by the termination of the director's service as a director.

(f) In lieu of meeting the requirements of subdivision (3) of subsection (c) of this section, a director may appoint an agent for service of such process in Wake County, North Carolina."

SECTION 5. G.S. 53C-4-11(c) reads as rewritten:

"(c) In establishing the required level of reserve fund, the Commissioner shall include the following types of liquid reserves:

(1) Cash on hand, which shall include both United States currency and exchange of any clearinghouse association or similar ~~intermediary.~~intermediary, and balances maintained at any federal reserve bank, either directly or on a pass-through basis, to meet federal reserve system reserve requirements.

(2) Balances payable on demand from designated depository institutions.

(3) Obligations of the United States Treasury, any agency of the United States government that is guaranteed by the United States government, and any general obligation of this State or any political subdivision thereof that has an investment grade rating of A or higher by a nationally recognized rating service."

SECTION 6. Article 4 of Chapter 53C of the General Statutes is amended by adding a new section to read:

"**§ 53C-4-13. Immediate report of changes in directors and certain officers.**

Each bank shall report to the Commissioner any changes in its (i) directors, (ii) president, (iii) chief executive officer, (iv) chief financial officer, (v) chief loan officer, or (vi) chief credit officer by the close of the second day on which the bank is open for business following such change."

SECTION 7. G.S. 53C-5-1(d) reads as rewritten:

"(d) Except as provided in subsection (e) of this section, a bank that proposes to engage in any new activity shall apply to the Commissioner for approval to engage in the activity before its commencement. If the new activity will be conducted in a new or existing subsidiary in which the bank intends to make an investment, the bank shall apply to the Commissioner for

approval to engage in the new activity before entering into the investment. The bank shall not engage in the new activity or make the investment unless and until the Commissioner issues a written approval of the application. An application for approval shall contain a description of the proposed activity and any other information required by the Commissioner. A copy of any notice or application the bank is required to file with any bank supervisory agency with respect to the proposed activity shall also be provided to the Commissioner. For the purpose of this section, a "new activity" is any business activity in which the bank is not currently engaged. The extension or relocation of an existing activity into a new department, division, or subsidiary of the bank shall not be considered a new activity. A bank may appeal a denial of an application by the Commissioner pursuant to G.S. 53C-2-6."

SECTION 8. G.S. 53C-5-2 reads as rewritten:

"§ **53C-5-2. Investment authority.**

…

(c) ~~An investment by a bank or a bank subsidiary pursuant to subsection (b) or (d) of this section shall receive the same accounting and regulatory treatment as is accorded to such investment by the bank's primary federal supervisor.~~ No investment shall be made by a bank or a ~~bank~~ subsidiary pursuant to subsection (b) or (d) of this section unless the following apply:

(1) The investment is approved by the board of directors of the ~~bank.~~bank or a board-authorized committee.

(2) The bank has carefully investigated the business or activity in which the subsidiary established by the investment will engage.

(3) The bank has established the risk management and financial controls necessary to engage in the business or activity in a safe and sound manner.

(4) The bank has, and following the making of the investment and the application of the provisions of this subsection, will continue to satisfy the capital requirements of this Chapter.

(d) A ~~bank operating~~ subsidiary may ~~make an investment of any size~~invest in a ~~lower tier subsidiary.~~lower-tier subsidiary, subject to the same requirements and limitations applicable to a bank's investment in a subsidiary.

(e) Except as provided in subsection (f) of this section, a bank or ~~bank operating~~ subsidiary proposing to make an investment described in subsection ~~(b), (c), or (d)~~(b) or (d) of this section shall give prior written notice to the Commissioner, providing such detail as the Commissioner may require. Unless the Commissioner, within 30 days following receipt of the notice, notifies the bank or ~~bank operating~~ subsidiary that the Commissioner objects to the proposed investment, the bank or ~~bank operating~~ subsidiary may complete the investment. However, the Commissioner may extend the period within which to object to the proposed investment if the Commissioner determines that it raises issues that require additional information or additional time for analysis. While the objection period is so extended, the bank or ~~bank operating~~ subsidiary may not proceed with respect to the proposed investment. A bank may appeal an objection by the Commissioner pursuant to G.S. 53C-2-6.

…

(j) A bank's investment in any bonds or other debt obligations of any one person, other than obligations of the United States government or an agency thereof, or other obligations guaranteed by the United States, this State, another state, or other political subdivision of this State or another state, shall at no time exceed ten percent (10%) of ~~its required capital.~~the sum of (i) the bank's "capital," as that term is defined in G.S. 53C-1-4, plus (ii) those portions of the bank's allowance for loan and lease losses, deferred tax assets, and intangible assets that are excluded from the bank's capital under 12 C.F.R. Part 325."

SECTION 9. G.S. 53C-6-1(b) reads as rewritten:

"(b) Loans and Extensions of Credit – Limitations:

(1) The total loans and extensions of credit, both direct and indirect, by a bank to a person, other than a municipal corporation for money borrowed, including in the liabilities of a company the liabilities of the several

members of the company, outstanding at one time and not fully secured, as determined in a manner consistent with subdivision (2) of this subsection, by collateral having a market value at least equal to the amount of the loan or extension of credit, shall not exceed the greater of (i) fifteen percent (15%) of the sum of the bank's capital ~~of the bank~~plus those portions of the bank's allowance for loan and lease losses, deferred tax assets, and intangible assets that are excluded from the bank's capital under 12 C.F.R. Part 325 or (ii) the ~~percentage~~amount permitted for national banks in this State by statute or regulation of the Comptroller of the Currency.

(2) The total loans and extensions of credit, both direct and indirect, by a bank to a person outstanding at one time and fully secured by readily marketable collateral having a market value, as determined by reliable and continuously available price quotations, at least equal to the amount of the loan or extension of credit outstanding, shall not exceed the greater of (i) ten percent (10%) of the sum of the bank's capital ~~of the bank~~plus those portions of the bank's allowance for loan and lease losses, deferred tax assets, and intangible assets that are excluded from the bank's capital under 12 C.F.R. Part 325 or (ii) the ~~percentage~~amount permitted for national banks by statute or regulation of the Comptroller of the Currency. This limitation shall be separate from and in addition to the limitation contained in subdivision (1) of this subsection.

…."

SECTION 10. G.S. 53C-6-1 is amended by adding a new subsection to read:

"(e) Any bank may, by resolution duly passed at a meeting of its board of directors or a board-authorized committee, request the Commissioner to suspend the limitations on loans set forth in this section as the limitations may apply to any particular loan (i) on the bank's books that then exceeds such limitations, or (ii) which the bank desires to make or modify in a manner that would not otherwise be permitted in the absence of a suspension of such limitations. Upon receipt of a duly certified copy of such resolution, the Commissioner may, in the Commissioner's discretion and subject to such requirements, limitations, and conditions as the Commissioner deems appropriate, suspend the limitations on loans set forth in this section insofar as they apply to the loan in question."

SECTION 11. G.S. 53C-6-6(j) reads as rewritten:

"(j) Any joint account created under the provisions of G.S. 53-146.1 as it existed prior to October 1, 2012, shall for all purposes be governed by the provisions of this section on and after October 1, 2012, and any reference to G.S. 53-146.1 in any ~~statement electing a right of survivorship~~document concerning the account shall be deemed a reference to this section."

SECTION 12. G.S. 53C-6-7 is amended by adding a new subsection to read:

"(e) Any Payable on Death account created under the provisions of G.S. 53-146.2, as it existed prior to October 1, 2012, shall for all purposes be governed by the provisions of this section on and after October 1, 2012, and any reference to G.S. 53-146.2 in any document concerning the account shall be deemed a reference to this section."

SECTION 13. G.S. 53C-6-8 reads as rewritten:

"§ **53C-6-8. Personal agency accounts.**

…

(d) The written contract referred to in subsection (a) of this section shall provide that the principal may elect to extend the authority of the agent set out in subsection (a) of this section to act on behalf of the principal in regard to the account, notwithstanding the subsequent incapacity or mental incompetence of the principal. If the principal is a natural person and elects to extend the authority of the agent, then upon the subsequent incapacity or mental incompetence of the principal, the agent may continue to exercise the authority, without the requirement of bond or of accounting to any court, until such time as the agent shall receive actual knowledge that the authority has been terminated. The duly qualified guardian of the

estate of the incapacitated or incompetent principal, or the duly appointed attorney-in-fact for the incapacitated or incompetent principal acting pursuant to a durable power of attorney, as defined in G.S. 32A-8, which grants to the attorney-in-fact the authority in regard to the account that is granted to the agent by the written contract executed pursuant to the provisions of this section, shall have the power, upon notifying the agent and providing written notice to the bank where the personal agency account is established, to terminate the agent's authority to act on behalf of the principal with respect to the account. Upon termination of the agent's authority, the agent shall account to the guardian or attorney-in-fact for all actions of the agent in regard to the account during the incapacity or incompetence of the principal. If the principal is a natural person and does not elect to extend the authority of the agent, then upon the subsequent incapacity or mental incompetence of the principal, the authority of the agent set out in subsection (a) of this section terminates.

…

(g) Any personal agency account created under the provisions of G.S. 53-146.3, as it existed prior to October 1, 2012, shall for all purposes be governed by the provisions of this section on and after October 1, 2012, and any reference to G.S. 53-146.3 in any ~~statement establishing~~document concerning the account shall be deemed a reference to this section."

SECTION 14. G.S. 53C-7-101 reads as rewritten:

"§ **53C-7-101. Control transactions.**

(a) Except as otherwise expressly permitted by this section, a person shall not engage in a control transaction, as defined by G.S. 53C-1-4(22), involving a bank without the prior approval of the Commissioner. A person may contract to engage in a control transaction with the consummation of such control transaction being subject to receipt of the approval of the Commissioner. ~~Each bank shall report to the Commissioner any changes in its directors, president, chief executive officer, chief financial officer, chief loan officer, or chief credit officer by the close of the second day on which the holding company is open for business following such change.~~

…

(c) The following transactions shall not constitute a control transaction requiring the prior approval of the Commissioner:

(1) The acquisition of control over voting securities in connection with securing, collecting, or satisfying a debt previously contracted for in good faith and not for the purpose of acquiring control of the bank, if the acquiring person files a notice with the Commissioner, in the form required by the Commissioner, describing such transaction at least 10 days before the acquiring person first votes or directs the voting of the voting securities.

(2) The acquisition of control over voting securities by a person who has previously engaged in a control transaction with respect to the bank after receiving the approval of the Commissioner under this Article, which approval permits the acquisition of control over additional voting securities, or any person who is an affiliate of the person previously engaging in the approved control transaction with the permission and who is identified in the application submitted for the approval, if the acquiring person files a notice with the Commissioner, in the form required by the Commissioner, describing the transaction at least 10 days before the acquiring person or affiliate thereof first votes or directs the voting of the voting securities.

(3) An acquisition of control over voting securities by operation of law, will, or intestate succession, if the acquiring person files a notice with the Commissioner, in the form required by the Commissioner, describing the acquisition or transfer at least 10 days before the acquiring person first votes or directs the voting of the voting securities.

(4) Bona fide gifts.

(5) A transaction exempted by rules, orders, or declaratory rulings of the Commissioner issued because approval of such a transaction is not necessary to achieve the objectives of this Chapter.

(5a) An acquisition of control over voting shares exempt from the prior approval requirements set forth in section 3 of the Bank Holding Company Act, as amended (12 U.S.C. § 1842), pursuant to the exceptions described in items (A), (B), or (C) of subsection (a) of that section.

(6) An acquisition of control over voting securities in a transaction subject to approval under section 3 of the Bank Holding Company Act, as amended (12 U.S.C. § 1842).

…."

SECTION 15. G.S. 53C-7-102(c) reads as rewritten:

"(c) Notwithstanding any laws to the contrary, information about the character, competence, or experience of an acquiring person or its proposed management personnel or affiliates shall be deemed a record of the Commissioner and subject to ~~G.S. 53C-2-8.~~G.S. 53C-2-7(b)."

SECTION 16. G.S. 53C-7-205 reads as rewritten:

"§ **53C-7-205. Fiduciary powers and liabilities ~~of North Carolina financial institutions combining~~in a combination or a transferring of assets and liabilities.**

Whenever any ~~North Carolina financial~~depository institution or ~~federally chartered~~any trust institution ~~doing business in this State~~ shall combine with or shall sell to and transfer its assets and liabilities to any other ~~bank,~~depository institution, trust institution, ~~savings institution,~~ or other company, as provided by the laws of this State or the United States, all the then existing fiduciary rights, powers, duties, and liabilities of the combining or transferring institution, including the rights, powers, duties, and liabilities as executor, administrator, guardian, trustee, and/or any other fiduciary capacity, whether under appointment by order of court, will, deed, or other instrument, shall, upon the effective date of the combination or sale and transfer, vest in, devolve upon, and thereafter be performed by the surviving or transferee company, and such latter institution shall be deemed substituted for and shall have all the rights and powers of the transferring institution."

SECTION 17. G.S. 53C-7-207 reads as rewritten:

"§ **53C-7-207. Combination with a subsidiary.**

(a) ~~With the approval of the Commissioner, a bank may do any one the following:~~Except as provided in subsection (c) of this section, a bank proposing to do any of the following combinations shall give prior written notice to the Commissioner that provides such detail of the proposed combination that the Commissioner may require:

(1) Combine with a subsidiary, ~~so long as a~~if the bank is the resulting entity of the combination.

(2) Combine a subsidiary with another company, if a subsidiary is the resulting entity.

(3) Combine two or more subsidiaries of two or more banks under common control of the same holding company.

~~The approval of the Commissioner is not required for a combination of a subsidiary and another company when a subsidiary is not the resulting entity, which shall be effected in accordance with organizational law applicable to each, or for a combination of two or more subsidiaries of the same bank.~~Unless the Commissioner, within 30 days of receiving the notice, notifies the bank or subsidiary that the Commissioner objects to the proposed combination, the bank or subsidiary may complete the combination. However, the Commissioner may extend the period to object to the proposed combination if the Commissioner determines that it raises issues that require additional information or additional time for analysis. While the objection period is so extended, the bank or subsidiary may not proceed with respect to the proposed combination.

(b) ~~The bank seeking approval of the combination shall file with the Commissioner an application for approval and such additional information as the Commissioner shall require by rule or as is required by the Commissioner in connection with the application in order to achieve the objectives of this Chapter. The bank shall pay to the Commissioner a fee as set forth by rule.~~A bank may, pursuant to G.S. 53C-2-6, appeal an objection by the Commissioner.

(c) ~~The Commissioner shall examine the proposed combination to determine whether the customers and communities served by the bank would be adversely affected by the combination, the combination would cause the bank to not be solvent, have inadequate capital, or not be in compliance with this Chapter or the rules of the Commissioner, or the combination would present other risks to the safe and sound operation of the bank deemed unacceptable by the Commissioner.~~ The prior written notice requirement of subsection (a) of this section is not required for (i) a combination of a subsidiary and another company when the subsidiary is not the resulting entity, (ii) a combination of two or more subsidiaries of the same bank, each of which shall be effected in accordance with applicable organizational law, or (iii) if all of the following apply:

(1) The bank is well-capitalized and well-managed as demonstrated by the supervisory rating it received during its most recent examination.

(2) The subsidiary with which the combination is to be made engages in either of the following activities:

a. One in which the bank is then engaged or has previously been engaged, directly or through a different subsidiary, and for which all necessary approvals of bank supervisory agencies and of the Commissioner have previously been obtained and remain in effect.

b. One for which no prior notice or application for approval to any federal bank supervisory authority is required.

(3) The bank notifies the Commissioner in writing of the combination within 30 days thereafter."

SECTION 18. G.S. 53C-7-208 is repealed.

SECTION 19. G.S. 53C-9-403 reads as rewritten:

"§ **53C-9-403. Authority to serve as trustee terminated.**

Whenever any bank that has been, or shall be, appointed trustee in any indenture, deed of trust, or other instrument of like character, executed to secure the payment of any bonds, notes, or other evidences of indebtedness, has been or shall be placed in receivership, a new trustee shall be appointed in the manner provided in G.S. 36C-7-704 or other applicable law, and the powers and duties of the bank as trustee in any such instrument ~~shall, upon the entry of an order of the clerk of superior court having jurisdiction under G.S. 53C-9-405 appointing a successor trustee, upon a petition as described in this Part,~~shall immediately cease."

SECTION 20. G.S. 53C-10-102(c) reads as rewritten:

"(c) The following transactions shall not constitute a control transaction under this section requiring the prior approval of the Commissioner:

(1) The acquisition of control over voting securities by a person who has previously engaged in a control transaction with respect to the holding company after receiving the approval of the Commissioner under this Article, which approval permits the acquisition of control over additional voting securities, or any person who is an affiliate of the person previously engaging in the approved control transaction with such permission and who is identified in the application submitted for the approval, if the acquiring person files a notice with the Commissioner, in the form required by the Commissioner, describing the transaction at least 10 days before the acquiring person or affiliate thereof first votes or directs the voting of the voting securities.

(2) An acquisition of control over voting securities by operation of law, will, or intestate succession, if the acquiring person files a notice with the Commissioner, in the form required by the Commissioner, describing the acquisition or transfer at least 10 days before the acquiring person first votes or directs the voting of the voting securities.

(3) Bona fide gifts.

(4) A transaction exempted by rules, orders, or declaratory rulings of the Commissioner, issued because approval of the transaction is not necessary to achieve the objectives of this Chapter.

(5) An acquisition of control over voting shares exempt from the prior approval requirements set forth in section 3 of the Bank Holding Company Act, as amended (12 U.S.C. § 1842), pursuant to the exceptions described in items (A), (B), or (C) of subsection (a) of that section.

(6) An acquisition of control over voting securities in a transaction subject to approval under section 3 of the Bank Holding Company Act, as amended (12 U.S.C. § 1842)."

SECTION 21. G.S. 53C-10-301 reads as rewritten:

"§ **53C-10-301. Cease and desist order.**

Upon a finding that any action of a holding company subject to registration under this ~~Article~~Article, or its nonbank affiliate, may be in violation of any banking laws, the Commissioner, after a reasonable notice to the holding company and an opportunity for it to be heard, shall have the authority to order it to cease and desist from such action. If the holding company fails to appeal the decision within 10 days of the date of the issuance of the order in accordance with G.S. 53C-2-6, and continues to engage in the action in violation of the Commissioner's order to cease and desist such action, it shall be subject to a civil money penalty of twenty thousand dollars ($20,000) for each day it remains in violation of the order. The penalty provision of this section shall be in addition to and not in lieu of any other provision of law applicable to a holding company's failure to comply with an order of the Commissioner. The clear proceeds of the civil money penalty shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

SECTION 22. G.S. 53-366(a) reads as rewritten:

"(a) Except as otherwise provided in this Article, the following provisions of ~~this Chapter~~this Chapter and Chapter 53C of the General Statutes shall apply to authorized trust institutions:

(1), (2) Repealed by Session Laws 2012-56, s. 31, effective October 1, 2012.

(3) G.S. 53C-7-205.

(4) through (6) Repealed by Session Laws 2012-56, s. 31, effective October 1, 2012.

(7) Article 8 of Chapter 53C of the General Statutes, except where it clearly appears from the context that a particular provision is not applicable to trust business or trust marketing, and except that the provisions of this Article shall apply in lieu of:

a. G.S. 53C-8-2.

b. G.S. 53C-8-3.

c. G.S. 53C-8-17.

(8), (9) Repealed by Session Laws 2012-56, s. 31, effective October 1, 2012.

(10) Article 14 of this Chapter.

(11) G.S. 53C-2-7(b)."

SECTION 23. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 10th day of April, 2013.

Became law upon approval of the Governor at 4:36 p.m. on the 16th day of April, 2013.

Session Law 2013-30 **H.B. 224**

AN ACT TO MAKE VARIOUS AMENDMENTS TO CHAPTER 160A OF THE GENERAL STATUTES WITH RESPECT TO THE CITY OF ASHEVILLE.

The General Assembly of North Carolina enacts:

SECTION 1.(a) G.S. 160A-360 is amended by adding a new subsection to read:

"(m) The City of Asheville shall have no authority to exercise any power under this section."

SECTION 1.(b) Relinquishment of authority by the City of Asheville shall be effective when this act becomes law. Upon relinquishment of the jurisdiction over an area that Asheville is regulating under Article 19 of Chapter 160A of the General Statutes, the city regulations and powers of enforcement shall remain in effect until (i) Buncombe County has adopted the regulation or (ii) a period of 120 days has elapsed following the effective date of this act, whichever is sooner. During this period, Buncombe County may hold hearings and take other measures that may be required in order to adopt county regulations for the area.

SECTION 2. Notwithstanding Section 1 of this act, Buncombe County shall have the authority to continue to appoint residents of the County who reside within one mile of the municipal limits of the City of Asheville, as if G.S. 160A-362 applied, with two appointees to serve on the planning board of the City of Asheville and two appointees to serve on the board of adjustment of the City of Asheville.

SECTION 3.(a) The City of Asheville shall not complete, initiate, or otherwise begin any annexation proceeding under Part 7 of Article 4A of Chapter 160A of the General Statutes.

SECTION 3.(b) This section is effective when it becomes law and expires on December 31, 2025.

SECTION 4. This act applies only to the City of Asheville.

SECTION 5. Except as otherwise provided, this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 17th day of April, 2013.

Became law on the date it was ratified.

Session Law 2013-31 **H.B. 222**

AN ACT TO ALLOW BUNCOMBE COUNTY TO USE THE DESIGN-BUILD METHOD OF CONSTRUCTION.

The General Assembly of North Carolina enacts:

SECTION 1. Notwithstanding G.S. 143-128, 143-129, 143-131, 143-132, 143-64.31, and 143-64.32, Buncombe County may use the design-build method of construction for the construction or renovation of buildings, facilities, and infrastructure owned by the County. The County shall solicit at least three design-build teams to bid the project and shall receive at least three sealed proposals from those teams for the project. The County shall interview at least three of the design-build teams that submit proposals. The County shall award the contract to the best qualified team, taking into consideration all facets of the project, including compliance with the provisions of G.S. 143-128.2.

SECTION 2. This act applies only to the demolition and construction of structures for an economic development project at 502 Sweeten Creek Industrial Park in Asheville.

SECTION 3. This act is effective when it becomes law and expires June 30, 2016.

In the General Assembly read three times and ratified this the 23rd day of April, 2013.

Became law on the date it was ratified.

Session Law 2013-32 **S.B. 56**

AN ACT AMENDING A LOCAL ACT FOR THE TOWN OF WALLACE THAT REMOVED CERTAIN RESTRICTIONS ON SATELLITE ANNEXATIONS FOR THE TOWN.

The General Assembly of North Carolina enacts:

SECTION 1. S.L. 2012-118 reads as rewritten:

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

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

(1) The nearest point on the proposed satellite corporate limits must be not more than three miles from the primary corporate limits of the annexing city.

(2) No point on the proposed satellite corporate limits may be closer to the primary corporate limits of another city than to the primary corporate limits of the annexing city, except as set forth in subsection (b2) of this section.

(3) The area must be so situated that the annexing city will be able to provide the same services within the proposed satellite corporate limits that it provides within its primary corporate limits.

(4) Repealed.

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

This subdivision does not apply to the Cities of Belmont, Claremont, Concord, Conover, Durham, Elizabeth City, Gastonia, Greenville, Hickory, Kannapolis, Locust, Marion, Mount Airy, Mount Holly, New Bern, Newton, Oxford, Randleman, Roanoke Rapids, Rockingham, Sanford, Salisbury, Southport, Statesville, and Washington and the Towns of Ahoskie, Angier, Apex, Ayden, Benson, Bladenboro, Bridgeton, Burgaw, Calabash, Catawba, Clayton, Columbia, Columbus, Cramerton, Creswell, Dallas, Dobson, Four Oaks, Fuquay-Varina, Garner, Godwin, Granite Quarry, Green Level, Grimesland, Holly Ridge, Holly Springs, Huntersville, Jamestown, Kenansville, Kenly, Knightdale, Landis, Leland, Lillington, Louisburg, Maggie Valley, Maiden, Mayodan, Middlesex, Midland, Mocksville, Morrisville, Mount Pleasant, Nashville, Oak Island, Pembroke, Pine Level, Princeton, Ranlo, Richlands, Rolesville, Rutherfordton, Shallotte, Smithfield, Spencer, Stem, Stovall, Surf City, Swansboro, Taylorsville, Troutman, Troy, Wallace, Warsaw, Watha, Waynesville, Weldon, Wendell, Windsor, Yadkinville, and Zebulon."

"~~**SECTION 2.** This act applies only to the annexation of the property on which the Vidant Family Medicine facility is located.~~

"**SECTION 3.** This act applies to the Town of Wallace only."

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

In the General Assembly read three times and ratified this the 24th day of April, 2013.

Became law on the date it was ratified.

Session Law 2013-33 **S.B. 122**

AN ACT TO ADD THE OFFENSE OF HUMAN TRAFFICKING TO THE LIST OF CRIMINAL CONVICTIONS THAT REQUIRE REGISTRATION UNDER THE SEX OFFENDER AND PUBLIC PROTECTION REGISTRATION PROGRAM.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 14-208.6(5) reads as rewritten:

"(5) "Sexually violent offense" means a violation of G.S. 14-27.2 (first degree rape), G.S. 14-27.2A (rape of a child; adult offender), G.S. 14-27.3 (second degree rape), G.S. 14-27.4 (first degree sexual offense), G.S. 14-27.4A (sex offense with a child; adult offender), G.S. 14-27.5 (second degree sexual offense), G.S. 14-27.5A (sexual battery), former G.S. 14-27.6 (attempted rape or sexual offense), G.S. 14-27.7 (intercourse and sexual offense with certain victims), G.S. 14-27.7A(a)(statutory rape or sexual offense of person who is 13-, 14-, or 15-years-old where the defendant is at least six years older), G.S. 14-43.11 (human trafficking) if (i) the offense is committed against a minor who is less than 18 years of age or (ii) the offense is committed against any person with the intent that they be held in sexual servitude, G.S. 14-43.13 (subjecting or maintaining a person for sexual servitude), G.S. 14-178 (incest between near relatives), G.S. 14-190.6 (employing or permitting minor to assist in offenses against public morality and decency), G.S. 14-190.9(a1)(felonious indecent exposure), G.S. 14-190.16 (first degree sexual exploitation of a minor), G.S. 14-190.17 (second degree sexual exploitation of a minor), G.S. 14-190.17A (third degree sexual exploitation of a minor), G.S. 14-190.18 (promoting prostitution of a minor), G.S. 14-190.19 (participating in the prostitution of a minor), G.S. 14-202.1 (taking indecent liberties with children), G.S. 14-202.3 (Solicitation of child by computer or certain other electronic devices to commit an unlawful sex act), G.S. 14-202.4(a)(taking indecent liberties with a student), G.S. 14-318.4(a1)(parent or caretaker commit or permit act of prostitution with or by a juvenile), or G.S. 14-318.4(a2)(commission or allowing of sexual act upon a juvenile by parent or guardian). The term also includes the following: a solicitation or conspiracy to commit any of these offenses; aiding and abetting any of these offenses."

SECTION 2. This act becomes effective December 1, 2013, and applies to offenses committed on or after that date.

In the General Assembly read three times and ratified this the 17th day of April, 2013.

Became law upon approval of the Governor at 4:41 p.m. on the 24th day of April, 2013.

Session Law 2013-34 **S.B. 228**

AN ACT PROVIDING THAT A UNIT OWNER IN A CONDOMINIUM AND A LOT OWNER IN A PLANNED COMMUNITY SHALL AFFORD ACCESS THROUGH THE LIMITED COMMON ELEMENT ASSIGNED OR ALLOCATED TO THE OWNER'S UNIT OR LOT TO THE ASSOCIATION AND, WHEN NECESSARY, TO OTHER UNIT OR LOT OWNERS FOR THE PURPOSE OF CONDUCTING MAINTENANCE, REPAIR, OR REPLACEMENT ACTIVITIES AND PROVIDING THAT A UNIT OR LOT OWNER IS LEGALLY RESPONSIBLE FOR DAMAGE TO A LIMITED COMMON ELEMENT CAUSED BY THE UNIT OR LOT OWNER AND CLARIFYING THE LAWS REGARDING THE POWERS AND DUTIES OF A PLANNED COMMUNITY AND AMENDING THE PROCEDURES REGARDING AMENDMENT OF A RECORDED DECLARATION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 47C-3-107 reads as rewritten:

"§ **47C-3-107. Upkeep; damages; assessments for damages, fines.**

(a) Except as provided in G.S. 47C-3-113(h), the association is responsible for causing the common elements to be maintained, repaired, and replaced when necessary and to assess the unit owners as necessary to recover the costs of such maintenance, repair, or replacement except that the cost of maintenance, repair or replacement of a limited common element shall be assessed as provided in G.S. 47C-3-115(b). Each unit owner is responsible for maintenance, repair and replacement of his unit. Each unit owner shall afford to the association and when necessary to another unit owner access through his unit or the limited common element assigned to his unit reasonably necessary for any such maintenance, repair or replacement activity.

(b) If damage, for which a unit owner is legally responsible and which is not covered by insurance provided by the association pursuant to G.S. 47C-3-113 is inflicted on any common ~~element,~~element or limited common element, the association may direct such unit owner to repair such damage or the association may itself cause the repairs to be made and recover the costs thereof from the responsible unit owner.

…."

SECTION 2. G.S. 47F-3-107 reads as rewritten:

"§ **47F-3-107. Upkeep of planned community; responsibility and assessments for damages.**

(a) Except as otherwise provided in the declaration, G.S. 47F-3-113(h) or subsection (b) of this section, the association is responsible for causing the common elements to be maintained, repaired, and replaced when necessary and to assess the lot owners as necessary to recover the costs of such maintenance, repair, or replacement except that the costs of maintenance, repair, or replacement of a limited common element shall be assessed as provided in G.S. 47F-3-115(c)(1). Except as otherwise provided in the declaration, each lot owner is responsible for the maintenance and repair of his lot and any improvements thereon. Each lot owner shall afford to the association and when necessary to another lot owner access through the lot owner's lot or the limited common element allocated to the lot owner's lot reasonably necessary for any such maintenance, repair, or replacement activity.

(b) If a lot owner is legally responsible for damage inflicted on any common ~~element,~~element or limited common element, the association may direct such lot owner to repair such damage, or the association may itself cause the repairs to be made and recover damages from the responsible lot owner.

…."

SECTION 3. G.S. 47F-1-104 reads as rewritten:

"§ **47F-1-104. Variation.**

(a) Except as specifically provided in specific sections of this Chapter, the provisions of this Chapter may not be varied by the declaration or bylaws. To the extent not inconsistent with the provisions of this Chapter, the declaration, bylaws, and articles of incorporation form the basis for the legal authority for the planned community to act as provided in the declaration, bylaws, and articles of incorporation, and the declaration, bylaws, and articles of incorporation are enforceable by their terms.

…."

SECTION 4. G.S. 47F-2-103 reads as rewritten:

"§ **47F-2-103. Construction and validity of declaration and bylaws.**

(a) To the extent not inconsistent with the provisions of this Chapter, the declaration, bylaws, and articles of incorporation form the basis for the legal authority for the planned community to act as provided in the declaration, bylaws, and articles of incorporation, and the declaration, bylaws, and articles of incorporation are enforceable by their terms. All provisions of the declaration and bylaws are severable.

…."

SECTION 5. G.S. 47F-2-117 reads as rewritten:

"§ **47F-2-117. Amendment of declaration.**

…

(d) Any amendment passed pursuant to the provisions of this section or the procedures provided for in the declaration are presumed valid and enforceable.

…."

SECTION 6. G.S. 47F-1-102 reads as rewritten:

"§ **47F-1-102. Applicability.**

…

(c) Notwithstanding the provisions of subsection (a) of this section, G.S. 47F-1-104 (Variation), G.S. 47F-2-103 (Construction and validity of declaration and bylaws), G.S. 47F-2-117 (Amendment of declaration), G.S. 47F-3-102(1) through (6) and (11) through (17)(Powers of owners' association), G.S. 47F-3-103(f)(Executive board members and officers), G.S. 47F-3-107(a), (b), and (c)(Upkeep of planned community; responsibility and assessments for damages), G.S. 47F-3-107.1 (Procedures for fines and suspension of planned community privileges or services), G.S. 47F-3-108 (Meetings), G.S. 47F-3-115 (Assessments for common expenses), G.S. 47F-3-116 (Lien for assessments), G.S. 47F-3-118 (Association records), and G.S. 47F-3-121 (American and State flags and political sign displays) apply to all planned communities created in this State before January 1, 1999, unless the articles of incorporation or the declaration expressly provides to the contrary, and G.S. 47F-3-120 (Declaration limits on attorneys' fees) applies to all planned communities created in this State before January 1, 1999. These sections apply only with respect to events and circumstances occurring on or after January 1, 1999, and do not invalidate existing provisions of the declaration, bylaws, or plats and plans of those planned communities. G.S. 47F-1-103 (Definitions) also applies to all planned communities created in this State before January 1, 1999, to the extent necessary in construing any of the preceding sections.

…."

SECTION 7. Section 5 of this act becomes effective October 1, 2013, and applies to any amendment of a planned community declaration recorded on or after that date. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 15th day of April, 2013.

Became law upon approval of the Governor at 4:42 p.m. on the 24th day of April, 2013.

Session Law 2013-35 **H.B. 75**

AN ACT TO INCREASE THE PENALTY FOR VARIOUS CRIMINAL OFFENSES OF FELONY CHILD ABUSE AND TO REQUIRE THAT THE OFFICIAL RECORD OF A DEFENDANT CONVICTED OF CHILD ABUSE OR OTHER ASSAULTS AGAINST A MINOR INDICATES THAT THE OFFENSE INVOLVED CHILD ABUSE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 14-318.4 reads as rewritten:

"§ **14-318.4. Child abuse a felony.**

(a) A parent or any other person providing care to or supervision of a child less than 16 years of age who intentionally inflicts any serious physical injury upon or to the child or who intentionally commits an assault upon the child which results in any serious physical injury to the child is guilty of a ~~Class E~~ Class D felony, except as otherwise provided in subsection (a3) of this section.

(a1) Any parent of a child less than 16 years of age, or any other person providing care to or supervision of the child, who commits, permits, or encourages any act of prostitution with or by the child is guilty of child abuse and shall be punished as a ~~Class E~~ Class D felon.

(a2) Any parent or legal guardian of a child less than 16 years of age who commits or allows the commission of any sexual act upon the child is guilty of a ~~Class E~~ Class D felony.

(a3) A parent or any other person providing care to or supervision of a child less than 16 years of age who intentionally inflicts any serious bodily injury to the child or who intentionally commits an assault upon the child which results in any serious bodily injury to the child, or which results in permanent or protracted loss or impairment of any mental or emotional function of the child, is guilty of a ~~Class C~~Class B2 felony.

(a4) A parent or any other person providing care to or supervision of a child less than 16 years of age whose willful act or grossly negligent omission in the care of the child shows a reckless disregard for human life is guilty of a Class E felony if the act or omission results in serious bodily injury to the child.

(a5) A parent or any other person providing care to or supervision of a child less than 16 years of age whose willful act or grossly negligent omission in the care of the child shows a reckless disregard for human life is guilty of a ~~Class H~~ Class G felony if the act or omission results in serious physical injury to the child.

(b) The felony of child abuse is an offense additional to other civil and criminal provisions and is not intended to repeal or preclude any other sanctions or remedies.

(c) Abandonment of an infant less than seven days of age pursuant to G.S. 14-322.3 may be treated as a mitigating factor in sentencing for a conviction under this section involving that infant.

(d) The following definitions apply in this section:

(1) Serious bodily injury. – Bodily injury that creates a substantial risk of death or that causes serious permanent disfigurement, coma, a permanent or protracted condition that causes extreme pain, or permanent or protracted loss or impairment of the function of any bodily member or organ, or that results in prolonged hospitalization.

(2) Serious physical injury. – Physical injury that causes great pain and suffering. The term includes serious mental injury."

SECTION 2. G.S. 15A-1382.1 reads as rewritten:

"§ **15A-1382.1. Reports of disposition; domestic violence; child abuse; sentencing.**

(a) When a defendant is found guilty of an offense involving assault, communicating a threat, or any of the acts as defined in G.S. 50B-1(a), the presiding judge shall determine whether the defendant and victim had a personal relationship. If the judge determines that there was a personal relationship between the defendant and the victim, then the judge shall indicate on the form reflecting the judgment that the case involved domestic violence. The clerk of court shall insure that the official record of the defendant's conviction includes the court's determination, so that any inquiry into the defendant's criminal record will reflect that the offense involved domestic violence.

(a1) When a defendant is found guilty of an offense involving child abuse or is found guilty of an offense involving assault or any of the acts as defined in G.S. 50B-1(a) and the offense was committed against a minor, then the judge shall indicate on the form reflecting the judgment that the case involved child abuse. The clerk of court shall ensure that the official record of the defendant's conviction includes the court's determination, so that any inquiry into the defendant's criminal record will reflect that the offense involved child abuse.

(b) Repealed by Session Laws 2012-39, s. 2, effective December 1, 2012, and applicable to defendants placed on probation on or after that date.

(c) The following definitions apply to this section:

(1) "An offense involving assault" includes any offense where an assault occurred, whether or not the conviction is for an offense under Article 8 of Chapter 14 of the General Statutes.

(2) "Inquiry" shall include any lawful review of the criminal records of persons convicted of an offense in this State, whether by law enforcement personnel or by private individuals.

(3) "Personal relationship" is as defined in G.S. 50B-1(b)."

SECTION 3. This act becomes effective December 1, 2013. Section 1 of this act applies to offenses committed on or after that date. Section 2 of this act applies to judgments entered on or after that date.

In the General Assembly read three times and ratified this the 18th day of April, 2013.

Became law upon approval of the Governor at 4:45 p.m. on the 24th day of April, 2013.

Session Law 2013-36 **S.B. 148**

AN ACT TO EXEMPT THE BONDING OF CORRUGATED STAINLESS STEEL TUBING (CSST) GAS PIPING SYSTEMS FROM LICENSING REQUIREMENTS UNDER THE LAWS PERTAINING TO ELECTRICAL CONTRACTORS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 87-43.1 is amended by adding the following new subdivision to read:

"§ **87-43.1. Exceptions.**

The provisions of this Article shall not apply:

…

(8) To the bonding of corrugated stainless steel tubing (CSST) gas piping systems as required under Section 310.1.1 of the 2012 N.C. Fuel Gas Code."

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

In the General Assembly read three times and ratified this the 17th day of April, 2013.

Became law upon approval of the Governor at 4:26 p.m. on the 24th day of April, 2013.

Session Law 2013-37 **S.B. 75**

AN ACT TO AUTHORIZE THE COUNTY OF ONSLOW TO ENTER INTO A PUBLIC-PRIVATE PARTNERSHIP.

Whereas, Onslow County's current owned and leased human services facilities are severely inadequate because of age, structural and environmental deficiencies, and the volume of citizens required to be served; and

Whereas, Onslow County lacks the resources or ability to construct new facilities that will adequately meet its needs absent an immediate property tax increase; and

Whereas, there are currently no existing, adequate facilities in Onslow County that the County could lease for the purpose of housing its Department of Social Services operations; and

Whereas, federal government funding does not, as currently authorized, provide sufficient funding for Onslow County to construct such a facility with federal funds; and

Whereas, a combination of government funding sources will provide Onslow County sufficient funds to lease an adequate building if such a building were available for lease; and

Whereas, private developers are not willing to construct such a building for lease unless Onslow County commits, in advance, to a long-term lease of such building; and

Whereas, the existing delivery systems set out in G.S. 143-128 are inadequate for Onslow County to obtain a facility sufficient to satisfy its human services needs; and

With the authorization provided by this act, Onslow County intends to enter into a long-term lease with a private developer to secure the space required to satisfy the County's human services needs; Now, therefore,

The General Assembly of North Carolina enacts:

SECTION 1.(a) Definitions. – For the purpose of this act, the following definitions apply:

(a) "Claimant" includes any individual, firm, partnership, association, or corporation entitled to maintain an action on a bond described in this act and shall include, but not exclusively, any contractor.

(b) "Construction contract" means any contract entered into between a private developer and a contractor for the design, construction, reconstruction, alteration, or repair of any building or other work or improvement, including highways required for a private developer to satisfy its obligations under a development contract.

(c) "Contractor" means any person who has entered into a construction contract with a private developer.

(d) "Development contract" means any contract entered into pursuant to Section 1(b) of this act.

(e) "Labor or materials" shall include all materials furnished or labor performed in the prosecution of the work called for by a construction contract regardless of whether or not the labor or materials enter into or become a component part of the improvement, and further shall include gas, power, light, heat, oil, gasoline, telephone services, and rental of equipment or the reasonable value of the use of equipment directly utilized in the performance of the work called for in a construction contract.

(f) "Private developer" means any person who has entered into a development contract with Onslow County pursuant to this act.

(g) A "public-private project" is defined as a capital project undertaken by Onslow County and a private developer and which is comprised of one or more buildings or other improvements, including, but not limited to, paving, grading, utilities, infrastructure, reconstruction, or repair and includes both public and private facilities. The public-private project may be located anywhere within the geographic boundaries of Onslow County, including within any municipality in Onslow County.

(h) "Subcontractor" means any person who has contracted to furnish labor or materials to, or who has performed labor for, a contractor or another subcontractor in connection with a development contract.

SECTION 1.(b) Authorization. – If the Board of Commissioners of Onslow County determines that the County will benefit from the County's participation in the development of a public-private project as defined in this act, then the County may acquire, construct, own, lease as lessor or lessee, and operate or participate in the acquisition, construction, ownership, leasing, and operation of a public-private project, or of specific facilities within such a project, including the making of loans and grants from moneys lawfully available therefor. The County's authorization under this section is limited to entering into one public-private project, including, without limitation, social services, public health, and human services functions. The County may enter into binding contracts with one or more municipalities within the County or one or more private-developers, or both, on or before June 30, 2017, with respect to acquiring, constructing, owning, leasing, or operating such a project. The contract shall, among other provisions, specify the following:

(1) The property interest of the County and all other participants in the development of the project.

(2) The responsibilities of the County and all other participants in the development of the project.

(3) The responsibilities of the County and all other participants with respect to financing of the project.

The contract may be entered into before or after the acquisition of any real property necessary to the public-private project and may apply to a public-private project developed on real property owned by the County prior to the Board's determination that the County will benefit from the County's participation in the public-private project.

SECTION 1.(c) Property Acquisition. – A public-private project may be constructed on property acquired by the private developer or private developers, on property acquired by the County, on property acquired by any municipality within the County, or on property acquired by the County, municipality, and private developers.

SECTION 1.(d) Property Disposition. – The County may lease or convey its interest in public-private projects, real or personal property, or other real or personal property owned by it, including air rights over public facilities, through any of the methods authorized in G.S. 153A-176 and G.S. 160A-266, including private negotiation and sale, notwithstanding the limitations of G.S. 160A-266(b) or any other provision of law as to value of the interest conveyed. Notwithstanding the provisions of G.S. 160A-272, property owned by the County may be leased for a period of 10 years or longer without being treated as a sale of the property.

SECTION 1.(e) Construction and Other Contracts. – The contract between the County and the private-developer or private-developers may provide that the private-developer or private-developers shall be responsible for (i) construction of the entire public-private project, (ii) reconstruction and/or repair of the public-private project or any part thereof subsequent to construction of such project, (iii) construction of any addition to the public-private project, (iv) renovation of the public-private project or any part thereof, and/or (v) purchase of apparatus, supplies, materials, or equipment for the public-private project (whether during the initial equipping of such project or subsequent thereto). Additionally, the contract between the County and the private-developer or private-developers may provide that the County and the private-developer or private-developers shall use the same contractor or contractors in constructing a portion of or the entire public-private project. If so, the contract shall include such provisions as the Board of Commissioners of Onslow County deems sufficient to assure that the public facility or facilities included in the public-private project or added thereto are constructed, reconstructed, repaired and/or renovated, and the apparatus, supplies, materials, and equipment purchased for the public facility or facilities included in the public-private project are purchased at a reasonable price. The provisions of Article 8 of Chapter 143 and Article 3 of Chapter 44A of the General Statutes shall not apply to any contracts related to or in furtherance of the public-private project. The County shall require a private-developer to provide a payment bond for construction work in accordance with the provisions of Section 1(f) of this act.

SECTION 1.(f) Bonding Provisions. – The following bonding provisions apply to this act;

(a) Bonds Required. – A payment bond shall be required for any development contract as follows: A payment bond in the amount of one hundred twenty-five percent (125%) of the total anticipated amount of the construction contracts to be entered into between the private developer and the contractors to construct the improvements required by the development contract. The payment bond shall be conditioned upon the prompt payment for all labor or materials for which the private developer or one or more of its contractors or their subcontractors are liable. The payment bond shall be solely for the protection of the persons furnishing materials or performing labor for which the private developer or its contractors or subcontractors are liable. The total anticipated amount of the construction contracts shall be stated in the development contract and certified by the private developer as being a good faith projection of its total costs for constructing the improvements required by the development contract. The payment bond shall be executed by one or more surety companies legally authorized to do business in the State of North Carolina and shall become effective upon the awarding of the development contract. The County, in its discretion, may require a private developer to provide a performance bond.

(b) Actions on Payment Bonds; Service of Notice. – Subject to the provision of Section 1(f)(b)(1) of this act, any claimant who has performed labor or furnished materials in the prosecution of the work required by any contract for which a payment bond has been given pursuant to the provisions of this act and who has not been paid in full therefor before the expiration of 90 days after the day on which the claimant performed the last such labor or

furnished the last such materials for which he claims payment, may bring an action on such payment bond in his own name, to recover any amount due him for such labor or materials and may prosecute such action to final judgment and have execution on the judgment.

(1) Any claimant who has a direct contractual relationship with any contractor or any subcontractor but has no contractual relationship, express or implied, with the private developer may bring an action on the payment bond only if he has given written notice of claim on payment bond to the private developer within 120 days from the date on which the claimant performed the last of the labor or furnished the last of the materials for which he claims payment, stating with substantial accuracy the amount claimed and the name of the person for whom the work was performed or to whom the material was furnished.

(2) The notice required by Section 1(f)(b)(1) of this act shall be served by certified mail, or by signature confirmation as provided by the United States Postal Service, postage prepaid, in an envelope addressed to such private developer at any place where his office is regularly maintained for the transaction of business or in any manner provided by law for the service of summons.

(c) Actions on Payment Bonds; Venue and Limitations. – Every action on a payment bond as provided in this act shall be brought in the General Court of Justice, County of Onslow, North Carolina. No action on a payment bond shall be commenced after one year from the day on which the last of the labor was performed or material was furnished by the claimant.

(c1) Limitation of Liability of a Surety. – No surety shall be liable under a payment bond for a total amount greater than the face amount of the payment bond. A judgment against any surety may be reduced or set aside upon motion by the surety and a showing that the total amount of claims paid and judgments previously rendered under such payment bond, together with the amount of the judgment to be reduced or set aside, exceeds the face amount of the bond.

(d) Variance of Liability; Contents of Bond. – No act of or agreement between the County, a private developer, or a surety shall reduce the period of time for giving notice under Section 1(f)(b)(1)-(2) of this act, or commencing action under Section 1(f)(c) of this act or otherwise reduce or limit the liability of the private developer or surety as prescribed in this act. Every bond given by a private developer pursuant to this act shall be conclusively presumed to have been given in accordance herewith, whether or not such bond be so drawn as to conform to this act. This act shall be conclusively presumed to have been written into every bond given pursuant thereto.

(e) Certified Copy of Bond and Contract. – Any person entitled to bring an action or any defendant in an action on a payment bond shall have a right to require the County or the private developer to certify and furnish a copy of the payment bond, the development contract, and the construction contract or construction contracts covered by the bond. It shall be the duty of such private developer or the County to give any such person a certified copy of the payment bond and the construction contract upon not less than 10 days' notice and request. The County or private developer may require a reasonable payment for the actual cost of furnishing the certified copy. A copy of any payment bond, the development contract, and the construction contract or construction contracts covered by the bond certified by the County or private developer shall constitute prima facie evidence of the contents, execution, and delivery of such bond, development contract, and construction contracts.

(f) Form. – A payment bond form containing the following provisions shall comply with this act: the date the bond is executed; the name of the principal; the name of the surety; Onslow County; the development contract number; and the following conditions:

"KNOW ALL MEN BY THESE PRESENTS, That we, the PRINCIPAL and SURETY above named, are held and firmly bound unto the above named Onslow County, hereinafter called Onslow County, in the penal sum of the amount stated above, for the payment of which

sum well and truly to be made, we bind ourselves, our heirs, executors, administrators, and successors, jointly and severally, firmly by these presents.

"THE CONDITION OF THIS OBLIGATION IS SUCH, that whereas the Principal entered into a certain development contract with Onslow County, numbered as shown above and hereto attached;

"NOW THEREFORE, if the Principal shall promptly make payment to all persons supplying labor and material in the prosecution of the construction work provided for in said development contract, and any and all duly authorized modifications of said contract that may hereafter be made, notice of which modifications to the Surety being hereby waived, then this obligation to be void; otherwise to remain in full force and virtue.

"IN WITNESS WHEREOF, the above bounden parties have executed this instrument under their several seals on the date indicated above, the name and corporate seal of each corporate party being hereto affixed and these presents duly signed by its undersigned representative, pursuant to authority of its governing body."

Appropriate places for execution by the surety and principal shall be provided.

(g) Attorneys' Fees. – In any suit brought or defended under the provisions of this act, the presiding judge may allow a reasonable attorneys' fee to the attorney representing the prevailing party. This attorneys' fee is to be taxed as part of the court costs and be payable by the losing party upon a finding that there was an unreasonable refusal by the losing party to fully resolve the matter which constituted the basis of the suit or the basis of the defense. For purposes of this section, "prevailing party" is a party plaintiff or third party plaintiff who obtains a judgment of at least fifty percent (50%) of the monetary amount sought in a claim or is a party defendant or third party defendant against whom a claim is asserted which results in a judgment of less than fifty percent (50%) of the amount sought in the claim defended. Notwithstanding the foregoing, in the event an offer of judgment is served in accordance with G.S. 1A-1, Rule 68, a "prevailing party" is an offeree who obtains judgment in an amount more favorable than the last offer or is an offeror against whom judgment is rendered in an amount less favorable than the last offer.

(h) Effect on Other Rights. – The rights afforded claimants by this act shall be in addition to and not in lieu of any other rights which claimants may have by law or contract, and this act shall not be construed so as to limit such rights.

SECTION 1.(g) Operation. – The County may contract for the operation of any facility or facilities included in a public-private project by any person, firm, or corporation, public or private.

SECTION 1.(h) Financing. – To assist in the financing of its share of a public-private project, the County may apply for, accept, and expend funds from the federal or State government or any other lawful source.

SECTION 1.(i) Additional Requirements. – The County shall determine its programming needs for such human services functions as may be located in the facility to be constructed under this act. The County shall advertise a notice for interested parties to submit qualifications in such form as the County may require for possible selection as the private developer or private developers in the public-private project in a newspaper having general circulation within the County. Prior to submittal of qualifications, the County shall make available, in such form as it deems appropriate, the programming requirements for the public-private project. Qualifications submitted by interested parties shall include, but not be limited to:

(1) Evidence of financial stability. Information identified in accordance with G.S. 66-152(3) and G.S. 132-1.2 shall be exempt from disclosure under Chapter 132 of the General Statutes.
(2) Experience with construction of similar projects.
(3) Licensure to undertake the actions necessary to accomplish the goals of the public-private project.

(4) Listing of licensed contractors, licensed subcontractors, and licensed design professionals whom the private developer proposes to use for the project's design and construction team.

(5) Statement of availability to undertake the public-private project and projected time line for project completion.

(6) Other information as the County, in its sole discretion, may require.

Based on the qualifications package submitted by a responder, along with any other such information as the County may require, the County may select a private developer or private developers with whom to negotiate the terms and conditions of a contract to perform the public-private project. The County shall advertise the terms of the proposed contract to be entered into by the County in a newspaper having general circulation within the County at least 10 days prior to a regularly scheduled meeting at which the contract is to be considered. The contract for the public-private partnership may only be considered at a regular meeting of the Board of Commissioners of Onslow County.

If the County enters into a contract or lease that involves the actual or effective acquisition of a capital asset, then the contract or lease must provide that no deficiency judgment may be rendered against the County for a breach of a contractual obligation thereunder. The taxing power of the County is not and may not be pledged directly or indirectly to secure any moneys due under a contract or lease that involves the actual or effective acquisition of a capital asset. A contract or lease that involves the actual or effective acquisition of a capital asset shall state that it does not constitute a pledge of the taxing power or faith and credit of the County.

SECTION 1.(j) Other Authority. – The authority granted by this section is in addition to and not in derogation of any other lawful authority granted to the County by law. The County may exercise any authority granted to it by local act or general statute or law in furtherance of a public-private project. By way of illustration, but not of limitation, the County may exercise the following authority in furtherance of a public-private project:

(a) The authority granted in G.S. 153A-176 and Article 12 of Chapter 160A of the General Statutes with respect to the public or private sale, lease, rent, exchange, or other conveyance of property.

(b) The authority of G.S. 153A-13 and G.S. 153A-449 with respect to contracts with, and appropriation of money to, persons, associations, or corporations for the accomplishment of public purposes.

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

In the General Assembly read three times and ratified this the 1st day of May, 2013.

Became law on the date it was ratified.

Session Law 2013-38 **S.B. 152**

AN ACT TO CORRECT A TECHNICAL ERROR IN THE AUTHORIZATION FOR THE TOWN OF BURGAW TO IMPOSE AN OCCUPANCY TAX.

The General Assembly of North Carolina enacts:

SECTION 1. Section 2(a) of S.L. 2006-167 reads as rewritten:

"**SECTION 2.** Tourism Development Authority. – (a) Appointment and Membership. – When the Board of Commissioners adopts a resolution levying a room occupancy tax under this act, it shall also adopt a resolution creating the Burgaw Tourism Development Authority, which shall be a public authority under the Local Government Budget and Fiscal Control Act. The resolution shall provide for the membership of the Authority, including the members' terms of office, and for the filling of vacancies on the Authority. At least one-third of the members shall be individuals who are affiliated with businesses that collect the tax in the town and at least ~~three-fourths~~one-half of the members shall be individuals who are currently active in the promotion of travel and tourism in the town. The Board of Commissioners shall designate one

member of the Authority as chair and shall determine the compensation, if any, to be paid to members of the Authority.

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

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

In the General Assembly read three times and ratified this the 1st day of May, 2013.

Became law on the date it was ratified.

Session Law 2013-39 **H.B. 506**

AN ACT AUTHORIZING THE TOWN OF WEDDINGTON TO ENTER INTO LONG-TERM AGREEMENTS WITH VOLUNTEER FIRE DEPARTMENTS TO PROVIDE FIRE PROTECTION SERVICES TO THE CITIZENS OF THE TOWN.

The General Assembly of North Carolina enacts:

SECTION 1. The Town of Weddington may enter into agreements with one or more organized volunteer fire departments, including the Providence Volunteer Fire Department, the Stallings Volunteer Fire Department, and the Wesley Chapel Volunteer Fire Department, to provide fire protection services to the citizens of the Town. The term of any individual agreement under this act shall not exceed 10 years. Any agreement under this act is a continuing agreement and is binding on and enforceable against the Town during the full term of the agreement. The Town and volunteer fire departments may modify or amend any agreement under this act on mutual written consent without the approval of the General Assembly.

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

In the General Assembly read three times and ratified this the 2nd day of May, 2013.

Became law on the date it was ratified.

Session Law 2013-40 **H.B. 555**

AN ACT TO ALLOW BUNCOMBE COUNTY TO USE THE DESIGN-BUILD METHOD OF CONSTRUCTION.

The General Assembly of North Carolina enacts:

SECTION 1. Notwithstanding G.S. 143-128, 143-129, 143-131, 143-132, 143-64.31, and 143-64.32, Buncombe County may use the design-build method of construction for the construction or renovations of buildings, facilities, and infrastructure owned by the County. The County shall solicit at least three design-build teams to bid the project and shall receive at least three sealed proposals from those teams for the project. The County shall interview at least three of the design-build teams that submit proposals. The County shall award the contract to the best qualified team, taking into consideration all facets of the project, including compliance with the provisions of G.S. 143-128.2.

SECTION 2. This act applies only to the demolition and construction of structures for an economic development project at 2154 Hendersonville Road.

SECTION 3. This act is effective when it becomes law and expires June 30, 2016.

In the General Assembly read three times and ratified this the 2nd day of May, 2013.

Became law on the date it was ratified.

Session Law 2013-41 **H.B. 388**

AN ACT TO AMEND THE LAW GOVERNING ASSIGNED COUNSEL IN CASES OF PARTIAL INDIGENCY TO AUTHORIZE JUDGMENTS FOR ATTORNEYS' FEES TO BE DOCKETED UPON THE EXPIRATION OF PROBATION AND TO CLARIFY THE REQUIREMENT FOR A SOCIAL SECURITY NUMBER.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 7A-455 reads as rewritten:

"§ **7A-455. Partial indigency; liens; acquittals.**

(a) If, in the opinion of the court, an indigent person is financially able to pay a portion, but not all, of the value of the legal services rendered for that person by assigned counsel, the public defender, or the appellate defender, and other necessary expenses of representation, the court shall order the partially indigent person to pay such portion to the clerk of superior court for transmission to the State treasury.

(b) In all cases the court shall direct that a judgment be entered in the office of the clerk of superior court for the money value of services rendered by assigned counsel, the public defender, or the appellate defender, plus any sums allowed for other necessary expenses of representing the indigent person, including any fees and expenses that may have been allowed prior to final determination of the action to assigned counsel pursuant to G.S. 7A-458, which shall constitute a lien as prescribed by the general law of the State applicable to judgments. Any reimbursement to the State as provided in subsection (a) of this section or any funds collected by reason of such judgment shall be deposited in the State treasury and credited against the judgment. The value of services shall be determined in accordance with rules adopted by the Office of Indigent Defense Services. The money value of services rendered by the public defender and the appellate defender shall be based upon the factors normally involved in fixing the fees of private attorneys, such as the nature of the case, the time, effort, and responsibility involved, and the fee usually charged in similar cases. A district court judge shall direct entry of judgment for actions or proceedings finally determined in the district court and a superior court judge shall direct entry of judgment for actions or proceedings originating in, heard on appeal in, or appealed from the superior court. Even if the trial, appeal, hearing, or other proceeding is never held, preparation therefor is nevertheless compensable.

(b1) In every case in which the State is entitled to a lien pursuant to this section, the public defender shall at the time of sentencing or other conclusion of the proceedings petition the court to enter judgment for the value of the legal services rendered by the public defender, and the appellate defender shall upon completion of the appeal petition or request the trial court to enter judgment for the value of the legal services rendered by the appellate defender.

(c) No order for partial payment under subsection (a) of this section and no judgment under subsection (b) of this section shall be entered unless the indigent person is convicted. If the indigent person is convicted, the order or judgment shall become effective and the judgment shall be docketed and indexed pursuant to G.S. 1-233 et seq., in the amount then owing, upon the later of (i) the date upon which the conviction becomes final if the indigent person is not ordered, as a condition of probation, to pay the State of North Carolina for the costs of his representation in the case or (ii) the date upon which the indigent person's probation is ~~terminated or revoked~~ terminated, is revoked, or expires if the indigent person is so ordered. No order for partial payment under subsection (a) of this section and no judgment under subsection (b) of this section shall be entered for the value of legal services rendered to perfect an appeal to the Appellate Division or in postconviction proceedings, if all of the matters that the person raised in the proceeding are vacated, reversed, or remanded for a new trial or resentencing.

(d) In all cases in which the entry of a judgment is authorized under G.S. 7A-450.1 through G.S. 7A-450.4 or under this section, the attorney, guardian ad litem, public defender, or appellate defender who rendered the services or incurred the expenses for which the judgment is to be entered shall make reasonable efforts to obtain the social security number, if

any, of each person against whom judgment is to be entered. This number, ~~or a certificate~~ a certification that the person has no social security number, or a certification that the social security number cannot be obtained with reasonable efforts shall be included in each fee application submitted by an assigned attorney, guardian ad litem, public defender, or appellate defender, and no order for payment entered upon an application which does not include the required social security number or certification shall be valid to authorize payment to the applicant from the Indigent Persons' Attorney Fee Fund. Each judgment docketed against any person under this section or under G.S. 7A-450.3 shall include the social security number, if any, of the judgment debtor."

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

In the General Assembly read three times and ratified this the 25th day of April, 2013.

Became law upon approval of the Governor at 4:09 p.m. on the 2nd day of May, 2013.

Session Law 2013-42 **S.B. 369**

AN ACT TO CLARIFY CERTAIN NAME CHANGE REQUIREMENTS AND AUTHORIZE A PARENT TO APPLY FOR A NAME CHANGE FOR A MINOR CHILD WITHOUT CONSENT OF THE OTHER PARENT IF THE OTHER PARENT HAS BEEN CONVICTED OF CERTAIN CRIMINAL OFFENSES AGAINST THE MINOR CHILD OR A SIBLING OF THE MINOR CHILD.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 101-2(d) reads as rewritten:

"(d) An application to change the name of a minor child may be filed by the child's parent or parents, ~~guardian,~~ guardian appointed under Article 6 of Chapter 35A of the General Statutes, or guardian ad ~~litem,~~ litem appointed under Rule 17 of the Rules of Civil Procedure, and this application may be joined in the application for a change of name filed by the parent or parents. ~~Nothing in this section shall be construed to permit one parent to make an application on behalf of a minor child without the consent of the other parent if both parents are living; except that a minor who has reached the age of 16 years, upon proper application to the clerk, may change his or her name with the consent of the parent who has custody of the minor and has supported the minor, without the necessity of obtaining the consent of the other parent, when the clerk of court is satisfied that the other parent has abandoned the minor.~~ A change of parentage or the addition of information relating to parentage on the birth certificate of any person is governed by G.S. 130A-118. An application to change the name of a minor child may not be filed without the consent of both parents if both parents are living, unless one of the following applies:

(1) A minor who has reached the age of 16 may file an application to change his or her name with the consent of the parent who has custody of the minor and has supported the minor, without the necessity of obtaining the consent of the other parent, when the clerk of court is satisfied that the other parent has abandoned the minor.

(2) A parent may file an application on behalf of the minor without the consent of the other parent if the other parent has abandoned the minor child.

(3) A parent may file an application on behalf of the minor without the consent of the other parent if the other parent has been convicted of any of the following offenses against the minor or a sibling of the minor:

a. Felonious or misdemeanor child abuse.

b. Taking indecent liberties with a minor in violation of G.S. 14-202.1.

c. Rape or any other sex offense in violation of Article 7A of Chapter 14 of the General Statutes.

d. Incest in violation of G.S. 14-178.

e. Assault, communicating a threat, or any other crime of violence.

For purposes of subdivisions (1) and (2) of this subsection, abandonment may be shown by filing ~~The consent of a parent who has abandoned a minor child is not required if~~ a copy of an order of a court of competent jurisdiction adjudicating that parent's abandonment of the ~~minor if filed with the clerk.~~minor. If a court of competent jurisdiction has not declared the minor to be an abandoned child, the clerk, on 10 days' written notice by registered or certified mail, directed to the last known address of the parent alleged to have abandoned the child, may determine whether the parent has abandoned the child. If the parent denies that the parent abandoned the child, this issue of fact shall be transferred and determined as provided in G.S. 1-301.2. If abandonment is determined, the consent of the parent is not required. Upon final determination of this issue of fact the proceeding shall be transferred back to the special proceedings docket for further action by the clerk. A parent who files an application on behalf of a minor pursuant to subdivision (3) of this subsection shall submit proof of the other parent's conviction to the clerk at the time of filing."

SECTION 2. G.S. 101-5 reads as rewritten:

"§ **101-5. Name change application requirements; grounds for clerk to order or deny name change; certificate and record.**

(a) A person who desires to change his or her true name may apply to the clerk of superior court of the county where the person resides and must submit all of the following information to the clerk in support of the application for a name change:

(1) The applicant's true name, county of birth, date of birth, the full name of parents as shown on birth certificate, and the name sought to be adopted.

(2) The ~~certified~~ results of ~~an official~~ a state and national criminal history record ~~check.~~check conducted within 90 days of the date of application by the State Bureau of Investigation, the Federal Bureau of Investigation, or a Channeler approved by the Federal Bureau of Investigation. The requirements of this subdivision shall not apply to an application to change the name of a minor less than 16 years of age.

(3) A sworn statement as to the following:

a. That the applicant is a bona fide resident of, and domiciled in, the county where the change of name is sought.

b. Whether or not the applicant has outstanding tax or child support obligations.

(b) The clerk shall instruct the applicant on the process for having fingerprints taken and submitted for the criminal history record check, including providing information on law enforcement agencies or acceptable service providers. The clerk may require the applicant to provide any other information that the clerk determines is reasonably necessary for the fair and complete review of the name change application.

(c) The clerk shall review all the information contained in the application and otherwise available to the clerk to determine whether there is good and sufficient reason to grant or to deny the name change.

(d) Except as prohibited by G.S. 101-6(c), if the clerk finds that good and sufficient reasons exist for the change of name, and the applicant has met the requirements of subsection (a) of this section, it is the clerk's duty to issue an order changing the name of the applicant from that person's true name to the name sought to be adopted. The order shall contain all of the following:

(1) The true name, the county of birth, the date of birth, the full name of parents as shown on birth certificate, and the name sought to be adopted.

(2) The clerk's summary of the information reviewed in connection with the application.

The clerk shall issue to the applicant a certificate under the clerk's hand and seal of office, stating the change made in the applicant's name, and shall also record the application and order on the docket of special proceedings in his court.

(e) The clerk shall forward the order granting the name change to:

(1) The State Registrar of Vital Statistics on a form provided by the Registrar. If the applicant was born in North Carolina, the State Registrar shall note the change of name of the individual or individuals specified in the order on the birth certificate of that individual or those individuals and shall notify the register of deeds in the county of birth. If the applicant was born in another state of the United States, the State Registrar shall forward the notice of change of name to the registration office of the state of birth. If the name change is not a matter of public record pursuant to G.S. 101-2(c), the clerk shall notify the State Registrar; however, the State Registrar shall not notify the register of deeds in the applicant's county of birth or the registration office of the state of birth.

(2) The Division of Criminal Information at the State Bureau of Investigation, which shall update its records to show the name change.

(f) If the clerk finds that good and sufficient reasons exist to deny the applicant's request for a name change, it is the clerk's duty not to issue an order changing the name of the applicant from that person's true name to the name sought to be adopted. The order denying the name change shall state the reasons for the denial. If the applicant desires to appeal the clerk's decision, the applicant must petition the ~~chief~~ resident superior court judge within 30 days of the date of the order denying the name change to request a reconsideration of the application. The reconsideration decision of the ~~chief~~ resident superior court judge is final and not subject to appeal. An unsuccessful applicant on reconsideration is subject to a waiting period of 12 months from the date of the adverse decision of the ~~chief~~ resident superior court judge before the applicant may submit another name change application. A successful applicant on reconsideration shall be granted the name change by the clerk in like manner as prescribed by subsection (d) of this section.

(g) Upon information obtained by the clerk of fraud or material misrepresentation in the application for a name change, the clerk on his or her own motion may set aside the order granting the name change after notice to the applicant and opportunity to be heard. If the clerk sets aside the name change order, the clerk shall notify the State Registrar of Vital Statistics and the Division of Criminal Information."

SECTION 3. This act becomes effective October 1, 2013, and applies to applications for name changes filed on or after that date.

In the General Assembly read three times and ratified this the 30th day of April, 2013.

Became law upon approval of the Governor at 4:41 p.m. on the 8th day of May, 2013.

Session Law 2013-43 **S.B. 240**

AN ACT DIRECTING THE DEPARTMENT OF HEALTH AND HUMAN SERVICES AND THE NORTH CAROLINA MEDICAL BOARD TO DEVELOP RULES GOVERNING REQUESTS FOR AND RELEASE OF PATHOLOGICAL MATERIALS, AS RECOMMENDED BY THE LEGISLATIVE RESEARCH COMMISSION ON PATHOLOGICAL MATERIALS.

The General Assembly of North Carolina enacts:

SECTION 1. The Division of Health Service Regulation, Department of Health and Human Services (Department), shall adopt rules governing the procedures regarding the request for and release of pathological materials made to clinical laboratories within the

jurisdiction of the Department. These rules shall be consistent with the North Carolina Hospital Association Best Practices Principles and the College of American Pathologists 2003 Professional Relations Manual and shall be developed in consultation with the North Carolina Medical Board to ensure consistency in procedures governing pathological materials.

SECTION 2. The North Carolina Medical Board (Board) shall adopt rules governing the procedures regarding the request for and release of pathological materials made to clinical laboratories within the jurisdiction of the Board. These rules shall be consistent with the North Carolina Hospital Association Best Practices Principles and the College of American Pathologists 2003 Professional Relations Manual and shall be developed in consultation with the Division of Health Service Regulation, Department of Health and Human Services, to ensure consistency in procedures governing pathological materials.

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

In the General Assembly read three times and ratified this the 30th day of April, 2013.

Became law upon approval of the Governor at 4:46 p.m. on the 8th day of May, 2013.

Session Law 2013-44 **S.B. 456**

AN ACT TO REQUIRE THE DEPARTMENT OF HEALTH AND HUMAN SERVICES TO DESIGNATE QUALIFIED HOSPITALS AS PRIMARY STROKE CENTERS, AS RECOMMENDED BY THE JUSTUS-WARREN HEART DISEASE AND STROKE PREVENTION TASK FORCE.

Whereas, stroke is the fourth leading cause of death and a leading cause of disability among North Carolinians; and

Whereas, North Carolina is part of the "stroke belt," an eight to 12 state region that historically has had substantially higher stroke death rates compared to the rest of the nation; and

Whereas, the rapid identification, diagnosis, and treatment of stroke can save the lives of stroke patients and in some cases reverse neurological damage such as paralysis and speech and language impairments, leaving stroke patients with few or minimal neurological deficits; and

Whereas, the designation of acute care hospitals as primary stroke centers is designed to improve the efficiency of care for stroke patients and increase the use of acute stroke therapies such as thrombolytic therapies in order to reduce stroke-related complications, reduce morbidity and mortality, improve long-term outcomes, and increase patient satisfaction; and

Whereas, 30 acute care hospitals in North Carolina have received Joint Commission certification as primary stroke centers; and

Whereas, all North Carolinians should be able to access the high quality stroke care offered by primary stroke centers and should, therefore, know which acute care hospitals in this State have been certified as primary stroke centers by the Joint Commission; Now, therefore,

The General Assembly of North Carolina enacts:

SECTION 1. Article 5 of Chapter 131E of the General Statutes is amended by adding a new section to read:

"**§ 131E-78.5. Designation as primary stroke center.**

(a) The Department shall designate as a primary stroke center any hospital licensed under this Article that demonstrates to the Department that the hospital is certified by the Joint Commission or other nationally recognized accrediting body that requires conformance to best practices for stroke care in order to be identified as a primary stroke center. A hospital that is certified by the Joint Commission or other nationally recognized accrediting body that requires conformance to best practices for stroke care in order to be identified as a primary stroke center

shall report the certification to the Department within 90 days of receiving that certification. A hospital shall inform the Department of any changes to its certification status within 30 days of any change.

(b) Each hospital designated as a primary stroke center pursuant to this section shall make efforts to coordinate the provision of appropriate acute stroke care with other hospitals licensed in this State through a formal written agreement. The agreement shall, at a minimum, address (i) transportation of acute stroke patients to hospitals designated as primary stroke centers and (ii) acceptance by hospitals designated as primary stroke centers of acute stroke patients initially treated at hospitals that are not capable of providing appropriate stroke care.

(c) The Department shall maintain within the Division of Health Service Regulation, Office of Emergency Services, a list of the hospitals designated as primary stroke centers in accordance with this section and post the list on the Department's Internet Web site. Annually on June 1, the Department shall transmit this list to the medical director of each licensed emergency medical services provider in this State.

(d) A hospital licensed under this Article shall not advertise or hold itself out to the public as a primary stroke center unless certified as a primary stroke center by the Joint Commission or other nationally recognized accrediting body that requires conformance to best practices for stroke care in order to be identified as a primary stroke center.

(e) Nothing in this section shall be construed to do any of the following:

(1) Establish a standard of medical practice for stroke patients.

(2) Restrict in any way the authority of any hospital to provide services authorized under its hospital license.

(f) The Department may adopt rules to implement the provisions of this section."

SECTION 2. This act becomes effective October 1, 2013.

In the General Assembly read three times and ratified this the 2nd day of May, 2013.

Became law upon approval of the Governor at 4:49 p.m. on the 8th day of May, 2013.

Session Law 2013-45 **S.B. 98**

AN ACT TO EXPAND THE NEWBORN SCREENING PROGRAM ESTABLISHED BY THE DEPARTMENT OF HEALTH AND HUMAN SERVICES TO INCLUDE NEWBORN SCREENING FOR CONGENITAL HEART DISEASE UTILIZING PULSE OXIMETRY, AS RECOMMENDED BY THE NORTH CAROLINA CHILD FATALITY TASK FORCE.

Whereas, in 2010, approximately 122,300 babies were born to North Carolina residents; and

Whereas, congenital heart defects account for 24% of infant deaths due to birth defects; and

Whereas, more than 1,400 babies with congenital heart defects do not live to celebrate their first birthday; and

Whereas, in the United States, approximately 4,800 babies born every year have one of seven critical congenital heart defects (CCHDs); and

Whereas, infants with one of these CCHDs are at significant risk for death or disability if not diagnosed and treated soon after birth; and

Whereas, newborn screening using pulse oximetry, which is a noninvasive test to determine the amount of oxygen in the blood and the pulse rate, can identify some CCHDs before infants even show signs of the condition; and

Whereas, once identified, infants with CCHDs can receive specialized care and treatment by a cardiologist that could prevent death or disability early in life; and

Whereas, in September 2011, the Secretary of the United States Department of Health and Human Services approved adding screening for CCHDs to the Recommended Uniform Screening Panel upon the recommendation of the Secretary's Advisory Committee on Heritable Disorders in Newborns and Children; Now, therefore,

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 130A-125 reads as rewritten:

"§ **130A-125. Screening of newborns for metabolic and other hereditary and congenital disorders.**

(a) The Department shall establish and administer a Newborn Screening Program. The program shall include, but shall not be limited to:

(1) Development and distribution of educational materials regarding the availability and benefits of newborn screening.

(2) Provision of laboratory testing.

(3) Development of follow-up protocols to assure early treatment for identified children, and the provision of genetic counseling and support services for the families of identified children.

(4) Provision of necessary dietary treatment products or medications for identified children as medically indicated and when not otherwise available.

(5) For each newborn, provision of physiological screening in each ear for the presence of permanent hearing loss.

(6) For each newborn, provision of pulse oximetry screening to detect congenital heart defects.

(b) The Commission shall adopt rules necessary to implement the Newborn Screening Program. The rules shall include, but shall not be limited to, the conditions for which screening shall be required, provided that screening shall not be required when the parents or the guardian of the infant object to such screening. If the parents or guardian object to the screening, the objection shall be presented in writing to the physician or other person responsible for administering the test, who shall place the written objection in the infant's medical record.

(b1) The Commission ~~for Public Health~~ shall adopt temporary and permanent rules to include newborn hearing screening and pulse oximetry screening in the Newborn Screening Program established under this section.

(b2) The Commission's rules for pulse oximetry screening shall address at least all of the following:

(1) Follow-up protocols to ensure early treatment for newborn infants diagnosed with a congenital heart defect, including by means of telemedicine. As used in this subsection, "telemedicine" is the use of audio and video between places of lesser and greater medical capability or expertise to provide and support health care when distance separates participants who are in different geographical locations.

(2) A system for tracking both the process and outcomes of newborn screening utilizing pulse oximetry, with linkage to the Birth Defects Monitoring Program established pursuant to G.S. 130A-131.16.

(c) A fee of nineteen dollars ($19.00) applies to a laboratory test performed by the State Laboratory of Public Health pursuant to this section. The fee for a laboratory test is a departmental receipt of the Department and shall be used to offset the cost of the Newborn Screening Program."

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

In the General Assembly read three times and ratified this the 2nd day of May, 2013.

Became law upon approval of the Governor at 4:51 p.m. on the 8th day of May, 2013.

Session Law 2013-46 **H.B. 247**

AN ACT TO ALLOW HEALTH PROVIDERS AND HEALTH INSURERS TO FREELY NEGOTIATE REIMBURSEMENT RATES BY PROHIBITING CONTRACT PROVISIONS THAT RESTRICT RATE NEGOTIATIONS.

The General Assembly of North Carolina enacts:

SECTION 1. Part 7 of Article 50 of Chapter 58 of the General Statutes is amended by adding a new section to read:

"§ **58-50-295. Prohibited contract provisions related to reimbursement rates.**

No contract with a health care provider shall do any of the following:

(1) Prohibit, or grant a health insurance carrier an option to prohibit, the provider from contracting with another health insurance carrier to provide health care services at a rate that is equal to or lower than the payment specified in the contract.

(2) Require the provider to accept a lower payment rate in the event that the provider agrees to provide health care services to any other health insurance carrier at a rate that is equal to or lower than the payment specified in the contract.

(3) Require, or grant a health insurance carrier an option to require, termination or renegotiation of an existing health care contract in the event that the provider agrees to provide health care services to any other health insurance carrier at a rate that is equal to or lower than the payment specified in the contract.

(4) Require, or grant a health insurance carrier an option to require, the provider to disclose, directly or indirectly, the provider's contractual rates with another health insurance carrier.

(5) Require, or grant a health insurance carrier an option to require, the nonnegotiated adjustment by the issuer of the provider's contractual rate to equal the lowest rate the provider has agreed to charge any other health insurance carrier.

(6) Require, or grant a health insurance carrier an option to require, the provider to charge another health insurance carrier a rate that is equal to or more than the reimbursement rate specified in the contract."

SECTION 2. This act becomes effective October 1, 2013, and applies to contracts entered into, renewed, or amended on or after that date. Neither this act nor any legislative history of its passage shall be construed to affect any litigation pending at the time this act becomes effective.

In the General Assembly read three times and ratified this the 30th day of April, 2013.

Became law upon approval of the Governor at 4:53 p.m. on the 8th day of May, 2013.

Session Law 2013-47 **S.B. 117**

AN ACT TO CODIFY THE COMMON LAW THAT IT IS MURDER WHERE A CHILD WHO IS BORN ALIVE DIES AS THE RESULT OF INJURIES INFLICTED PRIOR TO THE CHILD'S BIRTH, AND TO PROVIDE THAT THE ACT SHALL BE ENTITLED "LILY'S LAW."

The General Assembly of North Carolina enacts:

SECTION 1. This act shall be known as "Lily's Law."

SECTION 2. G.S. 14-17 reads as rewritten:

"§ **14-17. Murder in the first and second degree defined; punishment.**

(a) A murder which shall be perpetrated by means of a nuclear, biological, or chemical weapon of mass destruction as defined in G.S. 14-288.21, poison, lying in wait, imprisonment, starving, torture, or by any other kind of willful, deliberate, and premeditated killing, or which shall be committed in the perpetration or attempted perpetration of any arson, rape or a sex offense, robbery, kidnapping, burglary, or other felony committed or attempted with the use of a deadly weapon shall be deemed to be murder in the first degree, a Class A felony, and any person who commits such murder shall be punished with death or imprisonment in the State's prison for life without parole as the court shall determine pursuant to G.S. 15A-2000, except that any such person who was under 18 years of age at the time of the murder shall be punished with imprisonment in the State's prison for life without parole.

(b) A murder other than described in subsection (a) of this section or in G.S. 14-23.2 shall be deemed second degree murder. Any person who commits second degree murder shall be punished as a Class B1 felon, except that a person who commits second degree murder shall be punished as a Class B2 felon in either of the following circumstances:

(1) The malice necessary to prove second degree murder is based on an inherently dangerous act or omission, done in such a reckless and wanton manner as to manifest a mind utterly without regard for human life and social duty and deliberately bent on mischief.

(2) The murder is one that was proximately caused by the unlawful distribution of opium or any synthetic or natural salt, compound, derivative, or preparation of opium, or cocaine or other substance described in G.S. 90-90(1)d., or methamphetamine, and the ingestion of such substance caused the death of the user.

(c) For the purposes of this section, it shall constitute murder where a child is born alive but dies as a result of injuries inflicted prior to the child being born alive. The degree of murder shall be determined as described in subsections (a) and (b) of this section."

SECTION 3. This act becomes effective December 1, 2013, and applies to offenses committed on or after that date. Prosecutions for offenses committed before the effective date of this act are not abated or affected by this act, and the common law and statutes that would be applicable but for this act remain applicable to those prosecutions. The statutes, including Article 6A of Chapter 14 of the General Statutes, and the common law shall remain applicable to offenses not described in this act, whether the offense is charged due to a child being born alive and who dies or who is born alive with injuries resulting from injuries inflicted prior to being born alive. Nothing in this act shall be construed to apply to an unintentional act or omission committed by the child's birth mother during the pregnancy that culminated in the birth of the child.

In the General Assembly read three times and ratified this the 1st day of May, 2013.

Became law upon approval of the Governor at 5:03 p.m. on the 8th day of May, 2013.

Session Law 2013-48 **H.B. 314**

AN ACT EXTENDING THE TERMS OF OFFICE OF THE MAYOR AND BOARD OF COMMISSIONERS OF THE TOWN OF AYDEN FROM TWO TO FOUR YEARS AND PROVIDING THAT THE NOTICE OF CANDIDACY FOR OFFICE SHALL BE FILED WITH THE COUNTY BOARD OF ELECTIONS.

The General Assembly of North Carolina enacts:

SECTION 1. The Charter of the Town of Ayden, being Chapter 79 of the 1965 Session Laws, as amended by Chapter 590 of the 1967 Session Laws, Chapter 287 of the 1969 Session Laws, Chapter 579 of the 1969 Session Laws, and Chapter 98 of the 1971 Session Laws, reads as rewritten:

"THE CHARTER OF THE TOWN OF AYDEN

…

"ARTICLE III. MAYOR AND BOARD OF COMMISSIONERS

…

"Sec. 3.3. Terms; Qualifications; Vacancies. (a) The mayor and members of the board of commissioners shall serve for terms of ~~two~~ four years, beginning the day and hour of the organizational meeting following their election, as established by ordinance in accordance with this charter; provided, they shall serve until their successors are elected and qualify.

…

"ARTICLE IV. ELECTION PROCEDURE

"Sec. 4.1. Regular Municipal Elections. ~~The regular municipal elections shall be held on the first Tuesday after the Monday in May of each year. In each even-numbered year, there shall be elected by the qualified voters of the town voting at large a mayor and a commissioner from each even-numbered ward established in accordance with Section 4.6 of this Article, but in no case less than two. In each odd-numbered year, there shall be elected by the qualified voters of the town voting at large a commissioner from each odd-numbered ward established in accordance with Section 4.6 of this Article, but in no case less than three.~~Except as provided in this section, regular municipal elections shall be held in the Town every four years and shall be conducted in accordance with the uniform municipal elections laws of North Carolina. Beginning in 2013, there shall be elected by the qualified voters of the Town voting at-large a mayor and a commissioner from Ward No. 1 and Ward No. 2, who shall each serve for a term of two years, and a commissioner from Ward No. 3, Ward No. 4, and Ward No. 5, who shall each serve for a term of four years. In 2015, and quadrennially thereafter, a mayor and a commissioner from Ward No. 1 and Ward No. 2 shall be elected to four-year terms. In 2017, and quadrennially thereafter, a commissioner from Ward No. 3, Ward No. 4, and Ward No. 5 shall be elected to four-year terms. In addition, all offices to which appointments have been made due to vacancies shall be filled by election for the unexpired terms in the regular municipal elections. All municipal elections shall be nonpartisan elections.

…

"Sec. 4.4. Filing of Candidates. Each qualified person who would offer himself as a candidate for the office of mayor or commissioner shall file a notice of candidacy with the Pitt County Board of Elections as provided in G.S. 163-294.2.~~town manager a written statement giving notice of his candidacy. Such notice shall be filed not earlier than sixty days nor later than ten days prior to the election at which he offers his candidacy, shall be accompanied by payment of a filing fee of Five Dollars ($5.00), and shall be substantially in the following form: "I, _____, do hereby give notice that I am a candidate for election to the office of (Mayor) (Commissioner, Ward _____) to be voted on at the election to be held on _____, and I hereby request that my name be placed on the official ballot for such office. I also certify that I am a resident and qualified voter of the Town of Ayden, Ward _____, residing at _____.~~

~~Signature: _____~~

~~Date: _____~~

~~Witness: _____."~~

…."

SECTION 2. The Town Attorney of the Town of Ayden shall submit this act to the Attorney General of the United States for preclearance under section 5 of the Voting Rights Act of 1965 within 30 days of this act becoming law, as provided by G.S. 120-30.9F. If this act is not so submitted, the Attorney General of North Carolina shall submit it under G.S. 120-30.9I.

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

In the General Assembly read three times and ratified this the 9th day of May, 2013.

Became law on the date it was ratified.

Session Law 2013-49 **S.B. 83**

AN ACT TO ENCOURAGE VOLUNTEER HEALTH CARE IN FREE CLINICS BY LIMITING THE LIABILITY OF MEDICAL AND HEALTH CARE PROVIDERS IF THE FREE CLINIC PROVIDES PATIENTS WITH NOTICE OF LIMITED LIABILITY.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 90-21.16 reads as rewritten:

"§ **90-21.16. Volunteer health care professionals; liability limitation.**

(a) This section applies as follows:

(1) Any volunteer medical or health care provider at a facility of a local health department or at a nonprofit community health center,

(2) Any volunteer medical or health care provider rendering services to a patient referred by a local health department as defined in G.S. 130A-2(5), nonprofit community health center, or nonprofit community health referral service at the provider's place of employment,

(3) Any volunteer medical or health care provider serving as medical director of an emergency medical services (EMS) agency, or

(4) Repealed by Session Laws 2011-355, s. 7, effective June 27, 2011.

(5) Any volunteer medical or health care provider licensed or certified in this State who provides services within the scope of the provider's license or certification at a free clinic facility, who receives no compensation for medical services or other related services rendered at the facility, center, agency, or clinic, or who neither charges nor receives a fee for medical services rendered to the patient referred by a local health department, nonprofit community health center, or nonprofit community health referral service at the provider's place of employment shall not be liable for damages for injuries or death alleged to have occurred by reason of an act or omission in the rendering of the services unless it is established that the injuries or death were caused by gross negligence, wanton conduct, or intentional wrongdoing on the part of the person rendering the services. The free clinic, local health department facility, nonprofit community health center, nonprofit community health referral service, or agency shall use due care in the selection of volunteer medical or health care providers, and this subsection shall not excuse the free clinic, health department facility, community health center, or agency for the failure of the volunteer medical or health care provider to use ordinary care in the provision of medical services to its patients.

(b) Nothing in this section shall be deemed or construed to relieve any person from liability for damages for injury or death caused by an act or omission on the part of such person while rendering health care services in the normal and ordinary course of his or her business or profession. Services provided by a medical or health care provider who receives no compensation for his or her services and who voluntarily renders such services at the provider's place of employment, facilities of free clinics, local health departments as defined in G.S. 130A-2, nonprofit community health centers, or as a volunteer medical director of an emergency medical services (EMS) agency, are deemed not to be in the normal and ordinary course of the volunteer medical or health care provider's business or profession.

(c) As used in this section, a "free clinic" is a nonprofit, 501(c)(3) tax-exempt organization organized for the purpose of providing health care services without charge or for a minimum fee to cover administrative ~~costs~~ costs.~~and that maintains liability insurance covering the acts and omissions of the free clinic and any liability pursuant to subsection (a) of this section.~~

(c1) For a volunteer medical or health care provider who provides services at a free clinic to receive the protection from liability provided in this section, the free clinic shall provide the following notice to the patient, or person authorized to give consent for treatment, for the patient's retention prior to the delivery of health care services:

"NOTICE

Under North Carolina law, a volunteer medical or health care provider shall not be liable for damages for injuries or death alleged to have occurred by reason of an act or omission in the medical or health care provider's voluntary provision of health care services unless it is established that the injuries or death were caused by gross negligence, wanton conduct, or intentional wrongdoing on the part of the volunteer medical or health care provider."

(d) A nonprofit community health referral service that refers low-income patients to ~~physicians~~ medical or health care providers for free services is not liable for the acts or omissions of the ~~physician~~ medical or health care providers in rendering service to that patient if the nonprofit community health referral service maintains liability insurance covering the acts and omissions of the nonprofit health referral service and any liability pursuant to subsection (a) of this section.

(e) As used in this section, a "nonprofit community health referral service" is a nonprofit, 501(c)(3) tax-exempt organization organized to provide for no charge the referral of low-income, uninsured patients to volunteer health care providers who provide health care services without charge to patients."

SECTION 2. G.S. 90-21.102(2) reads as rewritten:

"(2) Free clinic. — A nonprofit, 501(c)(3) tax-exempt organization organized for the purpose of providing health care services without charge or for a minimum fee to cover administrative ~~costs~~ costs.~~and that maintains liability insurance covering the acts and omissions of the free clinic and any liability pursuant to G.S. 90-21.16(a).~~"

SECTION 3. This act becomes effective October 1, 2013, and applies to claims that arise on or after that date.

In the General Assembly read three times and ratified this the 6th day of May, 2013.

Became law upon approval of the Governor at 4:42 p.m. on the 13th day of May, 2013.

Session Law 2013-50 **H.B. 488**

AN ACT TO PROMOTE THE PROVISION OF REGIONAL WATER AND SEWER SERVICES BY TRANSFERRING OWNERSHIP AND OPERATION OF CERTAIN PUBLIC WATER AND SEWER SYSTEMS TO A METROPOLITAN WATER AND SEWERAGE DISTRICT.

Whereas, regional water and sewer systems provide reliable, cost-effective, high-quality water and sewer services to a wide range of residential and institutional customers; and

Whereas, in an effort to ensure that the citizens and businesses of North Carolina are provided with the highest quality services, the State recognizes the value of regional solutions for public water and sewer for large public systems; Now, therefore,

The General Assembly of North Carolina enacts:

SECTION 1.(a) All assets, real and personal, tangible and intangible, and all outstanding debts of any public water system meeting all of the following criteria are by operation of law transferred to the metropolitan sewerage district operating in the county where the public water system is located, to be operated as a Metropolitan Water and Sewerage District:

(1) The public water system is owned and operated by a municipality located in a county where a metropolitan sewerage district is operating.

(2) The public water system has not been issued a certificate for an interbasin transfer.

(3) The public water system serves a population greater than 120,000 people, according to data submitted pursuant to G.S. 143-355(l).

SECTION 1.(b) All assets, real and personal, tangible and intangible, and all outstanding debts of any public sewer system operated by a subdivision of the State and body politic that is interconnected with the metropolitan sewerage district receiving assets pursuant to Section 1(a) of this act are by operation of law transferred to that metropolitan sewerage district to be operated as a Metropolitan Water and Sewerage District.

SECTION 1.(c) All assets, real and personal, tangible and intangible, and all outstanding debts of any public sewer system operated by the metropolitan sewerage district receiving assets pursuant to Sections 1(a) and 1(b) of this act, are by operation of law transferred to, and be operated as, a Metropolitan Water and Sewerage District, as established pursuant to this act.

SECTION 1.(d) Until appointments are made to the Metropolitan Water and Sewerage District established pursuant to this act, the district board of the metropolitan sewerage district in the county in which the public water system, the assets of which are transferred pursuant to Section 1(a) of this act, is located shall function as the district board of the Metropolitan Water and Sewerage District. All members of the metropolitan sewerage district shall continue to serve on the district board of the Metropolitan Water and Sewerage District until the governing body with appointing authority appoints or replaces that individual on the district board of the Metropolitan Water and Sewerage District.

SECTION 1.(e) All necessary permits for operation shall also be transferred to the Metropolitan Water and Sewerage District established pursuant to this act to ensure that no current and paid customer loses services due to the regionalization of water and sewer services required by this act. The new Metropolitan Water and Sewerage District shall immediately begin assessing all permits and the process for transferring the permit or applying for any needed permits. All State agencies shall assist the new Metropolitan Water and Sewerage District in obtaining any needed permits in that entity's name.

SECTION 1.(f) For purposes of this section, the transfer of all outstanding debts by operation of law shall make the Metropolitan Water and Sewer District liable for all debts attached to and related to the assets transferred under this section, and the Metropolitan Water and Sewer District shall indemnify and hold harmless the grantor entity for any outstanding debts transferred under this section.

SECTION 2. Chapter 162A of the General Statutes is amended by adding a new Article to read:

"Article 5A.

"Metropolitan Water and Sewerage Districts.

"**§ 162A-85.1. Definitions.**

(a) Definitions. – As used in this Article, the following definitions shall apply:

(1) Board of commissioners. – The duly elected board of commissioners of the county or counties in which a metropolitan water and sewerage district shall be created under the provisions of this Article.

(2) City council or Council. – The duly elected city council of any municipality.

(3) Cost. – As defined in G.S. 162A-65.

(4) District. – A metropolitan water and sewerage district created under the provisions of this Article.

(5) District board. – A water and sewerage district board established under the provisions of this Article.

(6) General obligation bonds. – As defined in G.S. 162A-65.

(7) Governing body. – As defined in G.S. 162A-32.

(8) Person. – As defined in G.S. 162A-65.

(9) Political subdivision. – As defined in G.S. 162A-65.

(10) Revenue bonds. – Any bonds the principal of and the interest on which are payable solely from revenues of a water and sewerage system or systems.

(11) Revenues. – All moneys received by a district from, in connection with, or as a result of its ownership or operation of a water and sewerage system, including moneys received from the United States of America, or any agency thereof, pursuant to an agreement with the district board pertaining to the water and sewerage system, if deemed advisable by the district board.

(12) Sewage. – As defined in G.S. 162A-65.

(13) Sewage disposal system. – As defined in G.S. 162A-65.

(14) Sewerage system. – As defined in G.S. 162A-65.

(15) Sewers. – As defined in G.S. 162A-65.

(16) Water distribution system. – As defined in G.S. 162A-32.

(17) Water system. – As defined in G.S. 162A-32.

(18) Water treatment or purification plant. – As defined in G.S. 162A-32.

(b) Description of Boundaries. – Whenever this Article requires the boundaries of an area be described, it shall be sufficient if the boundaries are described in a manner which conveys an understanding of the location of the land and may be by any of the following:

(1) By reference to a clearly identified map recorded in the appropriate register of deeds office.

(2) By metes and bounds.

(3) By general description referring to natural boundaries, boundaries of political subdivisions, or boundaries of particular tracts or parcels of land.

(4) Any combination of the foregoing.

"§ **162A-85.2. Creation.**

(a) Except as provided by operation of law, the governing bodies of two or more political subdivisions may establish a metropolitan water and sewerage district if all of the political subdivisions adopt a resolution setting forth all of the following:

(1) The names of the appointees to the district board.

(2) The date on which the district board shall be established.

(3) The boundaries of the district board.

(b) Prior to the adoption of a resolution under subsection (a) of this section, the governing body shall hold at least two public hearings on the matter, held at least 30 days apart, after publication of the notices of public hearing in a newspaper of general circulation, published at least 10 days before each public hearing.

"§ **162A-85.3. District board.**

(a) Appointment. – The district board shall consist of members appointed as follows:

(1) Two individuals by the governing body of each county served, wholly or in part, by the district.

(2) One individual by the governing body of each municipality served by the district located in any county served by the district with a population greater than 200,000.

(3) Two individuals by the governing body of any municipality served by the district with a population greater than 75,000, in addition to any appointments under subdivision (2) of this subsection.

(4) One individual by the governing body of any county served by the district with a population greater than 200,000, in addition to any appointments under subdivision (1) of this subsection.

(5) One individual by the governing body of a county in which a watershed serving the district board is located in a municipality not served by the district, upon recommendation of that municipality. The municipality shall provide to the governing body of the county a list of three names within 30 days of written request by the county, from which the county must select an appointee if the names are provided within 30 days of written request.

(6) One individual by the governing body of any elected water and sewer district wholly contained within the boundaries of the district.

(b) Terms; Reappointment. – Terms shall be for three years. A member shall serve until a successor has been duly appointed and qualified.

(c) Vacancies; Removal. – If a vacancy shall occur on a district board, the governing body which appointed the vacating member shall appoint a new member who shall serve for the remainder of the unexpired term. Any member of a district board may be removed by the governing board that appointed that member.

(d) Oath of Office. – Each member of the district board, before entering upon the duties, shall take and subscribe an oath or affirmation to support the Constitution and laws of the United States and of this State and to discharge faithfully the duties of the office. A record of each such oath shall be filed with the clerk or clerks of the governing boards appointing the members.

(e) Chair; Officers. – The district board shall elect one of its members as chairman and another as vice-chairman. The district board shall appoint a secretary and a treasurer who may, but need not, be members of the district board. The offices of secretary and treasurer may be combined. The district board may also appoint an assistant secretary and an assistant treasurer or, if the office is combined, an assistant secretary-treasurer who may, but need not, be members of the district board. The terms of office of the chairman, vice-chairman, secretary, treasurer, assistant secretary, and assistant treasurer shall be as provided in the bylaws of the district board.

(f) Meetings; Quorum. – The district board shall meet regularly at such places and dates as are determined by the district board. All meetings shall comply with Article 33C of Chapter 143 of the General Statutes. A majority of the members of the district board shall constitute a quorum, and the affirmative vote of a majority of the members of the district board present at any meeting thereof shall be necessary for any action taken by the district board. No vacancy in the membership of the district board shall impair the right of a quorum to exercise all the rights and perform all the duties of the district board. Each member, including the chairman, shall be entitled to vote on any question.

(g) Compensation. – The members of the district board may receive compensation in an amount to be determined by the district board but not to exceed that compensation paid to members of Occupational Licensing Boards as provided in G.S. 93B-5(a) for each meeting of the district board attended and for attendance at each regularly scheduled committee meeting of the district board. The members of the district board may also be reimbursed the amount of actual expenses incurred by that member in the performance of that member's duties.

"**§ 162A-85.4. Expansion of district board after creation.**

(a) After creation pursuant to G.S. 162A-85.2, the district board may expand to include other political subdivisions if the district board and the political subdivision adopt identical resolutions indicating the political subdivision will become a participant in the district board.

(b) Prior to adopting the resolution under subsection (a) of this section, the district board and the political subdivision shall hold at least two public hearings on the matter, held at least 30 days apart, after publication of the notices of public hearing in a newspaper of general circulation, published at least 10 days before each public hearing.

(c) Upon adoption of the identical resolutions, the political subdivision shall appoint a district member in accordance with G.S. 162A-85.3(a), if that political subdivision is entitled to an appointment under that section.

"**§ 162A-85.5. Powers generally.**

(a) Each district shall be deemed to be a public body and body politic and corporate exercising public and essential governmental functions to provide for the preservation and promotion of the public health and welfare, and each district is hereby authorized and empowered to do all of the following:

(1) To exercise any power of a Metropolitan Water District under G.S. 162A-36, except subdivision (9) of that section.

(2) To exercise any power of a Metropolitan Sewer District under G.S. 162A-69, except subdivision (9) of that section.

(3) To do all acts and things necessary or convenient to carry out the powers granted by this Article.

(b) Each district shall keep its accounts on the basis of a fiscal year commencing on the first day of July and ending on the 30th day of June of the following year.

"**§ 162A-85.7. Bonds and notes authorized.**

A metropolitan water and sewerage district shall have power from time to time to issue bonds and notes under the Local Government Finance Act.

"**§ 162A-85.13. Rates and charges for services.**

(a) The district board may fix, and may revise from time to time, rents, rates, fees, and other charges for the use of and for the services furnished or to be furnished by any water system or sewerage system. Such rents, rates, fees, and charges may not apply differing treatment within and outside the corporate limits of any city or county within the jurisdiction of the district board. Such rents, rates, fees, and charges shall not be subject to supervision or regulation by any bureau, board, commission, or other agency of the State or of any political subdivision.

(b) Any such rents, rates, fees, and charges pledged to the payment of revenue bonds of the district shall be fixed and revised so that the revenues of the water system or sewerage system, together with any other available funds, shall be sufficient at all times to pay the cost of maintaining, repairing, and operating the water system or sewerage system, the revenues of which are pledged to the payment of such revenue bonds, including reserves for such purposes, and to pay the interest on and the principal of such revenue bonds as the same shall become due and payable and to provide reserves therefor. If any such rents, rates, fees, and charges are pledged to the payment of any general obligation bonds issued under this Article, such rents, rates, fees, and charges shall be fixed and revised so as to comply with the requirements of such pledge.

(c) The district board may provide methods for collection of such rents, rates, fees, and charges and measures for enforcement of collection thereof, including penalties and the denial or discontinuance of service.

"**§ 162A-85.17. Rights-of-way and easements.**

A right-of-way or easement in, along, or across any State highway system, road, or street, and along or across any city or town street within a district is hereby granted to a district in case such right-of-way is found by the district board to be necessary or convenient for carrying out any of the work of the district. Any work done in, along, or across any State highway system, road, street, or property shall be done in accordance with the rules and regulations and any reasonable requirements of the Department of Transportation, and any work done in, along, or across any municipal street or property shall be done in accordance with any reasonable requirements of the municipal governing body.

"**§ 162A-85.19. Authority of governing bodies of political subdivisions.**

(a) The governing body of any political subdivision is hereby authorized and empowered to do any of the following:

(1) Subject to the approval of the Local Government Commission regarding the disposition of any outstanding debt related to the water system or sewer system, or both, to transfer jurisdiction over and to lease, lend, sell, grant, or convey to a district, upon such terms and conditions as the governing body of such political subdivision may agree upon with the district board, the whole or any part of any existing water system or systems or sewerage system or systems or such real or personal property as may be necessary or useful in connection with the acquisition, construction, reconstruction, improvement, extension, enlargement, equipment, repair, maintenance, or

operation of any water system or sewerage system by the district, including public roads and other property already devoted to public use.

(2) To make and enter into contracts or agreements with a district, upon such terms and conditions and for such periods as such governing body and the district board may determine for any of the following:

a. For the collection, treatment, or disposal of sewage.

b. For the supply of raw or treated water on a regular retail or wholesale basis.

c. For the supply of raw or treated water on a standby wholesale basis.

d. For the construction of jointly financed facilities whose title shall be vested in the district.

e. For the collecting by such political subdivision or by the district of rents, rates, fees, or charges for the services and facilities provided to or for such political subdivision or its inhabitants by any water system or sewerage system and for the enforcement of collection of such rents, rates, fees, and charges.

f. For the imposition of penalties, including the shutting off of the supply of water furnished by any water system owned or operated by such political subdivision, in the event that the owner, tenant, or occupant of any premises utilizing such water shall fail to pay any such rents, rates, fees, or charges.

(3) To fix and revise from time to time, rents, rates, fees, and other charges for the services furnished or to be furnished by a water system or sewerage system under any contract between the district and such political subdivision and to pledge all or any part of the proceeds of such rents, rates, fees, and charges to the payment of any obligation of such political subdivision to the district under such contract.

(4) To pay any obligation of such political subdivision to the district under such contract from any available funds of the political subdivision and to levy and collect a tax ad valorem for the making of any such payment.

(5) In its discretion or if required by law, to submit to its qualified electors under the election laws applicable to such political subdivision any contract or agreement which such governing body is authorized to make and enter into with the district under the provisions of this Article.

(b) Any such election upon a contract or agreement called under subsection (a) of this section may, at the discretion of the governing body, be called and held under the election laws applicable to the issuance of bonds by such political subdivision.

"**§ 162A-85.21. Submission of preliminary plans to planning groups; cooperation with planning agencies.**

(a) Prior to the time final plans are made for the extension of any water system or sewerage system, the district board shall present preliminary plans for such improvement to the county or municipal governing board for their consideration if such facility is to be located within the jurisdiction of any such county or municipality. The district board shall make every effort to cooperate with the county or municipality in the location and construction of any new proposed facility authorized under this Article.

(b) Any district board created under the authority of this Article is hereby directed, wherever possible, to coordinate its plans for the construction of any new water system or sewerage system improvements with the overall plans for the development of the planning area if such district is located wholly or in part within a county or municipal planning area.

(c) This section shall not apply to renovations, repairs, or regular maintenance of water systems or sewer systems.

"**§ 162A-85.25. Adoption and enforcement of ordinances.**

(a) A district shall have the same power as a city under G.S. 160A-175 to assess civil fines and penalties for violation of its ordinances and may secure injunctions to further ensure compliance with its ordinances as provided by this section.

(b) An ordinance may provide that its violation shall subject the offender to a civil penalty of not more than one thousand dollars ($1,000) to be recovered by the district in a civil action in the nature of debt if the offender does not pay the penalty within a prescribed period of time after he has been cited for violation of the ordinance. Any person assessed a civil penalty by the district shall be notified of the assessment by registered or certified mail, and the notice shall specify the reasons for the assessment. If the person assessed fails to pay the amount of the assessment to the district within 30 days after receipt of notice, or such longer period, not to exceed 180 days, as the district may specify, the district may institute a civil action in the General Court of Justice of the county in which the violation occurred or, in the discretion of the district, in the General Court of Justice of the county in which the person assessed has his or its principal place of business, to recover the amount of the assessment. The validity of the district's action may be appealed directly to General Court of Justice in the county in which the violation occurred or may be raised at any time in the action to recover the assessment. Neither failure to contest the district's action directly nor failure to raise the issue of validity in the action to recover an assessment precludes the other.

(c) An ordinance may provide that it may be enforced by an appropriate equitable remedy issuing from court of competent jurisdiction. In such case, the General Court of Justice shall have jurisdiction to issue such orders as may be appropriate, and it shall not be a defense to the application of the district for equitable relief that there is an adequate remedy at law.

(d) Subject to the express terms of an ordinance, a district ordinance may be enforced by any one, all, or a combination of the remedies authorized and prescribed by this section.

(e) An ordinance may provide, when appropriate, that each day's continuing violation shall be a separate and distinct offense.

"**§ 162A-85.29. No privatization.**

The district board may not in any way privatize the provision of water or sewer to the customers of the district unless related to administrative matters only."

SECTION 3. G.S. 159-44(4) reads as rewritten:

"(4) "Unit," "unit of local government," or "local government" means counties; cities, towns, and incorporated villages; consolidated city-counties, as defined by G.S. 160B-2(1); sanitary districts; mosquito control districts; hospital districts; merged school administrative units described in G.S. 115C-513; metropolitan sewerage districts; metropolitan water districts; metropolitan water and sewerage districts; county water and sewer districts; regional public transportation authorities; and special airport districts."

SECTION 4. G.S. 159-48(e) reads as rewritten:

"(e) Each sanitary district, mosquito control district, hospital district, merged school administrative unit described in G.S. 115C-513; metropolitan sewerage district, metropolitan water district, metropolitan water and sewerage district, county water and sewer district, regional public transportation authority and special airport district is authorized to borrow money and issue its bonds under this Article in evidence thereof for the purpose of paying any capital costs of any one or more of the purposes for which it is authorized, by general laws uniformly applicable throughout the State, to raise or appropriate money, except for current expenses."

SECTION 5. G.S. 159-81(1) reads as rewritten:

"(1) "Municipality" means a county, city, town, incorporated village, sanitary district, metropolitan sewerage district, metropolitan water district, metropolitan water and sewerage district, county water and sewer district, water and sewer authority, hospital authority, hospital district, parking authority, special airport district, special district created under Article 43 of

Chapter 105 of the General Statutes, regional public transportation authority, regional transportation authority, regional natural gas district, regional sports authority, airport authority, joint agency created pursuant to Part 1 of Article 20 of Chapter 160A of the General Statutes, a joint agency authorized by agreement between two cities to operate an airport pursuant to G.S. 63-56, and the North Carolina Turnpike Authority described in Article 6H of Chapter 136 of the General Statutes and transferred to the Department of Transportation pursuant to G.S. 136-89.182(b), but not any other forms of State or local government."

SECTION 5.5. Article 5 of Chapter 162A of the General Statutes is amended by adding a new section to read:

"**§ 162A-66.5. Approval of all political subdivisions required.**

Prior to the adoption of a resolution under G.S. 162A-66 on or after April 1, 2013, the Environmental Management Commission shall receive a resolution supporting the establishment of a district board from (i) the board of commissioners of the county or counties lying wholly or partly within the boundaries of the proposed district and (ii) from the governing board of each political subdivision in the county or counties lying wholly or partly within the boundaries of the proposed district. If the Environmental Management Commission does not receive a resolution from each of those political subdivisions, the Environmental Management Commission may not adopt the resolution to create the district board."

SECTION 6. This act becomes effective May 15, 2013, and the Metropolitan Water and Sewerage District in Section 1 of this act shall be created by operation of law.

In the General Assembly read three times and ratified this the 2nd day of May, 2013.

Became law on the date it was ratified.

Session Law 2013-51 **H.B. 484**

AN ACT TO ESTABLISH A PERMITTING PROGRAM FOR THE SITING AND OPERATION OF WIND ENERGY FACILITIES.

The General Assembly of North Carolina enacts:

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

"Article 21C.

"Permitting of Wind Energy Facilities.

"**§ 143-215.115. Definitions.**

In addition to the definitions set forth in G.S. 143-212, the following definitions apply to this Article:

(1) "Major military installation" means Fort Bragg, Pope Army Airfield, Marine Corps Base Camp Lejeune, New River Marine Corps Air Station, Cherry Point Marine Corps Air Station, Military Ocean Terminal at Sunny Point, the United States Coast Guard Air Station at Elizabeth City, Naval Support Activity Northwest, Air Route Surveillance Radar (ARSR-4) at Fort Fisher, and Seymour Johnson Air Force Base, in its own right and as the responsible entity for the Dare County Bombing Range, and any facility located within the State that is subject to the installations' oversight and control.

(2) "Wind energy facility" means the turbines, accessory buildings, transmission facilities, and any other equipment necessary for the operation of the facility that cumulatively, with any other wind energy facility whose turbines are located within one-half mile of one another, have a rated capacity of one megawatt or more of energy.

(3) "Wind energy facility expansion" means any activity that (i) adds or substantially modifies turbines or transmission facilities, including increasing the height of such equipment, over that which was initially permitted or (ii) increases the footprint of the wind energy facility over that which was initially permitted.

"**§ 143-215.116. Permit to site wind energy facilities.**

No person shall undertake construction, operation, or expansion activities associated with a wind energy facility in this State without first obtaining a permit from the Department.

"**§ 143-215.117. Permit preapplication site evaluation meeting; notice; preapplication package requirements.**

(a) Permit Preapplication Site Evaluation Meeting. – No less than 180 days prior to filing an application for a permit to construct, operate, or expand a wind energy facility, a person shall request a preapplication site evaluation meeting to be held between the applicant and the Department. The preapplication site evaluation meeting shall be held no less than 120 days prior to filing an application for a permit to construct, operate, or expand a wind energy facility and may be used by the participants to:

(1) Conduct a preliminary evaluation of the site or sites for the proposed wind energy facility or wind energy facility expansion. The preliminary evaluation of the proposed wind energy facility or proposed wind energy facility expansion shall determine if the site or sites:

a. Pose serious risk to civil air navigation or military air navigation routes, air traffic control areas, military training routes, special-use air space, radar, or other potentially affected military operations.

b. Pose serious risk to natural resources and uses, including to species of concern or their habitats.

(2) Identify areas where proposed construction or expansion activities pose minimal risk of interference with civil air navigation or military air navigation routes, air traffic control areas, military training routes, special-use air space, radar, or other potentially affected military operations.

(3) Identify areas where proposed construction or expansion activities pose minimal risk to natural resources and uses, including avian, bat, and endangered and threatened species.

(b) Permit Preapplication Package. – No less than 45 days prior to the date of the permit preapplication site evaluation meeting scheduled in accordance with subsection (a) of this section, the applicant for a wind energy facility or wind energy facility expansion shall submit a preapplication package to the Department. To the extent that any documents contain trade secrets or confidential business information, those portions of the documents shall not be subject to disclosure under the North Carolina Public Records Act. The preapplication package shall include all of the following:

(1) A narrative description of the proposed wind energy facility or proposed wind energy facility expansion, including (i) the approximate number, type, and height of wind turbines to be constructed; (ii) the total planned capacity of the facility; and (iii) a description of any ancillary facilities.

(2) A map showing the approximate location of the proposed wind energy facility or proposed wind energy facility expansion.

(3) A description of any known potential impacts of the proposed wind energy project location on civil air navigation or military air navigation routes, air traffic control areas, military training routes, special-use air space, radar, or other potentially affected military operations. The applicant may use data made available by the Department pursuant to G.S. 143-215.123 to satisfy this requirement.

(4) A description of species of concern, habitats that support species of concern, critical areas of wildlife congregation, and protected lands, as those species, habitats, and critical areas are referenced in the March 23, 2012, United States Fish and Wildlife Service Land-Based Wind Energy Guidelines (OMB Control No. 1018-0148) that are or believed to be present at the site of the proposed wind energy facility or proposed wind energy facility expansion. The applicant may use data made available by the North Carolina Wildlife Resources Commission, the Department, or other governmental agency to satisfy this requirement.

(5) A list of the federal, State, and local agencies from which approvals will be obtained and the name of those approvals required in order to authorize the construction, operation, or expansion of the proposed wind energy facility.

(6) A schedule showing the anticipated dates for commencement of construction, testing, and commercial operation of the proposed wind energy facility or proposed wind energy facility expansion.

(c) Notice to Interested Parties. – No less than 21 days prior to the date of the permit preapplication site evaluation meeting scheduled in accordance with subsection (a) of this section, the Department shall provide written notice of the meeting to the United States Army Corps of Engineers, the United States Fish and Wildlife Service, the North Carolina Wildlife Resources Commission, the commanding military officer or the commanding military officer's designee of any potentially affected major military installation, and any other party that the Department deems relevant. The notice shall include an invitation to participate in the permit preapplication site evaluation meeting.

"**§ 143-215.118. Permit application scoping meeting and notice.**

(a) Scoping Meeting. – No less than 60 days prior to filing an application for a permit for a proposed wind energy facility or proposed wind energy facility expansion, the applicant shall request the scheduling of a scoping meeting between the applicant and the Department. The scoping meeting shall be held no less than 30 days prior to filing an application for a permit for a proposed wind energy facility or proposed wind energy facility expansion. The applicant and the Department shall review the permit for the proposed wind energy facility or proposed facility expansion at the scoping meeting.

(b) Notice of Scoping Meeting. – No less than 21 days prior to the scheduled permit application scoping meeting with an applicant, the Department shall provide written notice of the meeting to the commanding military officer of each major military installation, or the commanding military officer's designee, the Federal Aviation Administration, the North Carolina Wildlife Resources Commission, the United States Fish and Wildlife Service, the board of commissioners for each county and the governing body of each municipality in which the wind energy facility or proposed wind energy facility expansion is proposed to be located, and those local governments with jurisdictions over areas in which a major military installation is located. The notice shall include an invitation to participate in the scoping meeting.

"**§ 143-215.119. Permit application requirements; fees; notice of receipt of completed permit; public hearing; public comment.**

(a) Permit Requirements. – A person applying for a permit for a proposed wind energy facility or proposed wind energy facility expansion shall include all of the following in an application for the permit:

(1) A narrative description of the proposed wind energy facility or proposed wind energy facility expansion.

(2) A map showing the location of the proposed wind energy facility or proposed wind energy facility expansion that identifies the specific location of each turbine.

(3) A copy of a deed, purchase agreement, lease agreement, or other legal instrument demonstrating the right to construct, expand, or otherwise develop a wind energy facility on the property.

(4) Identification by name and address of property owners adjacent to the proposed wind energy facility or proposed wind energy facility expansion. The applicant shall notify every property owner identified pursuant to this subdivision by registered or certified mail or by any means authorized by G.S. 1A-1, Rule 4, in a form approved by the Department. The notice shall include all of the following:

a. The location of the proposed wind energy facility or proposed wind energy facility expansion and the specific location of each turbine proposed to be located within one-half mile of the boundary of the adjacent property owner.

b. A description of the proposed wind energy facility or proposed wind energy facility expansion.

(5) A description of civil air navigation or military air navigation routes, air traffic control areas, military training routes, special-use air space, radar, or other military operations that may be affected by the construction or operation of the proposed wind energy facility or proposed wind energy facility expansion.

(6) Documentation that addresses any potential adverse impact on military operations and readiness as identified by the Department of Defense Clearinghouse pursuant to Part 211 of Title 32 Code of Federal Regulations (July 1, 2012 edition) and any mitigation actions agreed to by the applicant.

(7) Documentation that the applicant has either (i) submitted Federal Aviation Administration Form 7460-1 for the turbines associated with the proposed wind energy facility or proposed wind energy facility expansion or (ii) initiated an informal review by the Department of Defense Siting Clearinghouse of the proposed wind energy facility or proposed wind energy facility expansion. If the applicant has submitted Federal Aviation Administration Form 7460-1 in order to fulfill the requirements of this subdivision, the applicant shall provide any determination reached by the Federal Aviation Administration at the time the application is submitted to the Department. If the Federal Aviation Administration has not made a determination at the time the application is submitted to the Department, the application shall include a description of the status of the applicant's engagement with the Federal Aviation Administration and the Department of Defense Siting Clearinghouse.

(8) A study of the noise impacts of the turbines to be associated with the proposed wind energy facility or proposed wind energy facility expansion.

(9) A study on shadow flicker impacts of the turbines to be associated with the proposed wind energy facility or proposed wind energy facility expansion, unless the turbines will be located in a sound or in offshore waters.

(10) A study of the impact of the proposed wind energy facility or proposed wind energy facility expansion on natural resources and uses, including avian, bat, and endangered and threatened species.

(11) An explanation of how the proposed wind energy facility or proposed wind energy facility expansion would be consistent with the criteria in subsection (a) of G.S. 143-215.120.

(12) The application fee required by subsection (b) of this section.

(13) A plan regarding the action to be taken upon the decommissioning and removal of the wind energy facility. The plan shall include an estimate of the cost to decommission and remove the wind energy facility. The plan shall also include the anticipated life of the project, an estimate of the cost to decommission and remove the wind energy facility, a description of the manner in which the facility will be decommissioned, and a description of

the expected condition of the site once the wind energy facility has been decommissioned and removed.

(14) Other data or information the Department may reasonably require.

(a1) Confidentiality of Trade Secrets and Business Information. – To the extent that any documents included in the permit application contain trade secrets or confidential business information, those portions of the documents shall not be subject to disclosure under the North Carolina Public Records Act.

(b) Fees. – An applicant for a permit for a proposed wind energy facility or proposed wind energy facility expansion under this section shall submit with the application required pursuant to subsection (a) of this section, an application fee of three thousand five hundred dollars ($3,500).

(c) Notice of Receipt of Complete Permit Application. – Within 10 days of receipt of a complete permit application for a proposed wind energy facility or proposed wind energy facility expansion submitted pursuant to subsection (a) of this section, the Department shall provide notice of the permit application to (i) the commanding military officer of all major military installations, (ii) the commanding military officer of any military installation located outside the State that is located within 50 nautical miles of the location of the proposed wind energy facility or proposed wind energy facility expansion, and (iii) the board of commissioners for each county and the governing body of each municipality in which the wind energy facility or wind energy facility expansion is proposed to be located. The notice shall include:

(1) A copy of the map showing the location of the proposed wind energy facility or proposed wind energy facility expansion that includes the specific locations of wind turbines.

(2) A written request to the commanding military officer of a major military installation or the commanding military officer's designee, for technical information related to any adverse impact on the installation's operations, training, or mission, including military air navigation routes, air traffic control areas, military training routes, special-use air space, radar or other military operations that may be affected.

(3) A written request for information related to potential adverse impacts of the proposed wind energy facility or proposed wind energy facility expansion on local governments from the board of commissioners for each county and the governing body of each municipality.

(d) Provision of Permit Application to Affected Entities. – Except as provided by G.S. 143-215.124, within 10 days of receipt of a written request from the commanding military officer of any major military installation or the commanding military officer's designee, the board of commissioners for any county in which the site is proposed to be located or the governing body of any municipality in which the site is proposed to be located, the Department shall provide a copy of a permit application filed pursuant to subsection (a) of this section, in addition to any supplements, changes, or amendments to the permit application to the requesting commanding military officer or local government.

(e) Public Hearing and Comment. – The Department shall hold a public hearing in each county in which the wind energy facility or wind energy facility expansion is proposed to be located within 75 days of receipt of a completed permit application. The Department shall provide notice including the time and location of the public hearing in a newspaper of general circulation in each applicable county. The notice of public hearing shall be published for at least two consecutive weeks beginning no less than 45 days prior to the scheduled date of the hearing. The notice shall provide that any comments on the proposed wind energy facility or proposed wind energy facility expansion should be submitted to the Department by a specified date, not less than 15 days from the date of the newspaper publication of the notice or 15 days after distribution of the mailed notice, whichever is later. No less than 30 days prior to the scheduled public hearing, the Department shall provide written notice of the hearing to:

(1) The North Carolina Utilities Commission.
(2) The Office of the Attorney General of North Carolina.
(3) The commanding military officer of any potentially affected major military installation or the commanding military officer's designee.
(4) The board of commissioners for each county and the governing body of each municipality with jurisdictions over areas in which a potentially affected major military installation is located.

"**§ 143-215.120. Criteria for permit approval; time frame; permit conditions; other approvals required.**

(a) Permit Approval. – The Department shall approve an application for a permit for a proposed wind energy facility or proposed wind energy facility expansion unless the Department finds any one or more of the following:

(1) Construction or operation of the proposed wind energy facility or proposed wind energy facility expansion would be inconsistent with or violate rules adopted by the Department or any other provision of law.
(2) Construction or operation of the proposed wind energy facility or proposed wind energy facility expansion would encroach upon or would otherwise have a significant adverse impact on the mission, training, or operations of any major military installation or branch of military in North Carolina and result in a detriment to continued military presence in the State. In its evaluation, the Department may consider whether the proposed wind energy facility or proposed wind energy facility expansion would cause interference with air navigation routes, air traffic control areas, military training routes, or radar based on information submitted by the applicant pursuant to subdivisions (5) and (6) of subsection (a) of G.S. 143-215.119, and any information received by the Department pursuant to subdivision (2) of subsection (c) of G.S. 143-215.119.
(3) Construction or operation of the proposed wind energy facility or proposed wind energy facility expansion would result in significant adverse impacts to ecological systems, natural resources, cultural sites, recreation areas, or historic sites of more than local significance; including national or State parks or forests, wilderness areas, historic sites, recreation areas, segments of the natural and scenic rivers system, wildlife refuges, preserves and management areas, areas that provide habitat for threatened or endangered species, primary nursery areas designated by the Marine Fisheries Commission and the Wildlife Resources Commission, and critical fisheries habitat identified pursuant to the Coastal Habitat Protection Plan.
(4) Construction or operation of the proposed wind energy facility or proposed wind energy facility expansion would have a significant adverse impact on fish or wildlife.
(5) Construction or operation of the proposed wind energy facility or proposed wind energy facility expansion would have a significant adverse impact on views from any State or national park, wilderness area, significant natural heritage area as compiled by the North Carolina Natural Heritage Program, or other public lands or private conservation lands designated or dedicated due to their high recreational values.
(6) Construction or operation of the proposed wind energy facility or proposed wind energy facility expansion would obstruct major navigation channels or create a significant obstacle to navigation in coastal waters, as determined by the United States Army Corps of Engineers and the United States Coast Guard.

(7) A permit for a proposed wind energy facility or proposed wind energy facility expansion would be denied under any other criteria set out in G.S. 113A-120.

(8) Construction of the proposed wind energy facility or proposed wind energy facility expansion would be prohibited under Article 14 of Chapter 113A of the General Statutes, the Mountain Ridge Protection Act of 1983.

(9) The applicant is not in compliance with all applicable federal, State, or local permit requirements, licenses, or approvals, including local zoning requirements.

(b) Permit Decision. – The Department shall make a final decision on a permit application within 90 days following receipt of a completed application, except that the Department shall not be required to make a final decision until the Department has received a written "Determination of No Hazard to Air Navigation" issued by the Federal Aviation Administration pursuant to Subpart D of Part 77 of Title 14 of the Code of Federal Regulations (January 1, 2012 edition). If the Department requests additional information following the receipt of a completed application, the Department shall make a final decision on a permit application within 30 days of receipt of the requested information. If the Department determines that an application for a wind energy facility or a wind energy facility expansion fails to meet the requirements for a permit under this section, the Department shall deny the application, and the application shall be returned to the applicant accompanied by a written statement of the reasons for the denial and any modifications to the permit application that would make the application acceptable. If the Department fails to act within the time period set forth in this subsection, the applicant may treat the failure to act as a denial of the permit and may challenge the denial as provided under Chapter 150B of the General Statutes.

(c) Permit Conditions. – The Department (i) may include as a condition of a permit for a proposed wind energy facility or proposed wind energy facility expansion a requirement that the permit holder mitigate any adverse impacts and (ii) shall include as a condition of a permit for a proposed wind energy facility or proposed wind energy facility expansion a requirement that the permit holder obtain a written "Determination of No Hazard to Air Navigation" issued by the Federal Aviation Administration pursuant to Subpart D of Part 77 of Title 14 of the Code of Federal Regulations (January 1, 2012 edition) for the facility. No permit for a wind energy facility or wind energy facility expansion shall become effective until the Department has received and reviewed the "Determination of No Hazard to Air Navigation" issued by the Federal Aviation Administration for the facility. If the specific location of a turbine authorized to be constructed pursuant to a "Determination of No Hazard to Air Navigation" or the configuration of the wind energy facility varies from the information submitted by the applicant upon which the Department has made its permit decision, the Department may reevaluate the permit application and require the applicant to submit any additional information the Department deems necessary to approve or deny a permit for the facility as reconfigured.

(d) Other Approvals Required. – The issuance of a permit under this section shall not obviate the need for the applicant to obtain any and all other applicable local, State, or federal permits, licenses, or approvals. Furthermore, nothing in this Article shall be interpreted to limit, as applicable, (i) the application of Article 7 of Chapter 113A of the General Statutes to facilities permitted under this section, including the permitting requirements of G.S. 113A-118, (ii) the ability of a city or county to plan for and regulate the siting of a wind energy facility in accordance with land-use regulations authorized under Chapter 160A and Chapter 153A of the General Statutes, or (iii) the applicable requirements of Chapter 62 of the General Statutes.

"§ **143-215.121. Financial assurance requirements.**

The applicant for a permit or a permit holder for a wind energy facility shall establish financial assurance that will ensure that sufficient funds are available for decommissioning of the facility and reclamation of the property to its condition prior to commencement of activities on the site, even if the applicant or permit holder becomes insolvent or ceases to reside in, be incorporated, do business, or maintain assets in the State. To establish sufficient availability of

funds under this section, the applicant for a permit or a permit holder for a wind energy facility may use insurance, financial tests, third-party guarantees by persons who can pass the financial test, guarantees by corporate parents who can pass the financial test, irrevocable letters of credit, trusts, surety bonds, or any other financial device, or any combination of the foregoing, shown to provide protection equivalent to the financial protection that would be provided by insurance if insurance were the only mechanism used.

"**§ 143-215.122. Monitoring and reporting.**

The applicant shall annually submit copies to the Department of any post-construction monitoring, such as reports on the impacts on wildlife in the location of and in the area proximate to the wind energy facility or wind energy facility expansion and any impacts on military operations that are required by the United States Fish and Wildlife Service, the North Carolina Wildlife Resources Commission, the North Carolina Utilities Commission, or any other government agency.

"**§ 143-215.123. Annual review of military presence.**

The Department shall consult with representatives of the major military installations to review information regarding military air navigation routes, air traffic control areas, military training routes, special-use air space, radar, or other potentially affected military operations at least once per year. The Department shall provide relevant information on civil air navigation or military air navigation routes, air traffic control areas, military training routes, special-use air space, radar, or other potentially affected military operations to permit applicants as requested.

"**§ 143-215.124. Record keeping.**

The Department shall serve as the custodian of all data, information, and records received from a permit applicant or a major military installation pursuant to this Article and shall ensure that information provided to the Department that constitutes trade secrets, as that term is defined in G.S. 66-152, and that is designated as confidential or as a trade secret under G.S. 132-1.2, is limited only to the Department, State employees, and other persons who have executed a confidentiality agreement with the owner of such information. Information designated as confidential or as a trade secret under G.S. 132-1.2 shall not be subject to disclosure pursuant to G.S. 132-6.

"**§ 143-215.125. Rule making.**

The Environmental Management Commission shall adopt any rules necessary for the implementation of this Article. In adopting rules, the Commission shall consult with the Coastal Resources Commission to ensure that the development of statewide permitting requirements is consistent with and in consideration of the characteristics unique to the coastal area of the State to the maximum extent practicable.

"**§ 143-215.126. Civil penalties.**

(a) The Secretary of Environment and Natural Resources may impose an administrative penalty on a person who constructs a wind energy facility or wind energy facility expansion without obtaining a permit under this Article or who constructs or operates a wind energy facility in violation of its permit terms and conditions. Each day of a continuing violation shall constitute a separate violation. The penalty shall not exceed ten thousand dollars ($10,000) per day.

(b) The Secretary of Environment and Natural Resources, irrespective of all other remedies at law, may institute an action for injunctive relief against a person who constructs a wind energy facility without first obtaining a permit under this Article or who constructs or operates a wind energy facility or wind energy facility expansion in violation of its permit terms and conditions."

SECTION 2. This act is effective when it becomes law and applies only to those wind energy facilities or wind energy facility expansions that have not received a written "Determination of No Hazard to Air Navigation" issued by the Federal Aviation Administration on or before that date.

In the General Assembly read three times and ratified this the 16th day of May, 2013.

Became law upon approval of the Governor at 10:11 a.m. on the 17th day of May, 2013.

Session Law 2013-52 **H.B. 149**

AN ACT TO MAKE IT A CRIMINAL OFFENSE TO FAIL TO REPORT THE DISAPPEARANCE OF A CHILD TO LAW ENFORCEMENT, TO INCREASE THE CRIMINAL PENALTY FOR CONCEALING THE DEATH OF A CHILD, TO INCREASE THE CRIMINAL PENALTY FOR MAKING A FALSE, MISLEADING, OR UNFOUNDED REPORT TO A LAW ENFORCEMENT AGENCY OR OFFICER FOR THE PURPOSE OF INTERFERING OR OBSTRUCTING AN INVESTIGATION INVOLVING A MISSING CHILD OR CHILD VICTIM OF A CLASS A, B1, B2, OR C FELONY, AND TO MAKE IT A CLASS 1 MISDEMEANOR FOR A PERSON TO FAIL TO REPORT THE ABUSE, NEGLECT, DEPENDENCY, OR DEATH DUE TO MALTREATMENT OF A JUVENILE OR TO PREVENT ANOTHER PERSON FROM MAKING SUCH REPORT.

The General Assembly of North Carolina enacts:

SECTION 1. This act may be cited as "Caylee's Law."

SECTION 2. Article 39 of Chapter 14 of the General Statutes is amended by adding a new section to read:

"**§ 14-318.5. Failure to report the disappearance of a child to law enforcement; immunity of person reporting in good faith.**

(a) The following definitions apply in this section:

(1) Child. – Any person who is less than 16 years of age.

(2) Disappearance of a child. – When the parent or other person providing supervision of a child does not know the location of the child and has not had contact with the child for a 24-hour period.

(b) A parent or any other person providing care to or supervision of a child who knowingly or wantonly fails to report the disappearance of a child to law enforcement is in violation of this subsection. Unless the conduct is covered under some other provision of law providing greater punishment, a violation of this subsection is punishable as a Class I felony.

(c) Any person who reasonably suspects the disappearance of a child and who reasonably suspects that the child may be in danger shall report those suspicions to law enforcement within a reasonable time. Unless the conduct is covered under some other provision of law providing greater punishment, a violation of this subsection is punishable as a Class 1 misdemeanor.

(d) This section does not apply if G.S. 110-102.1 is applicable.

(e) Notwithstanding subsection (b) or (c) of this section, if a child is absent from school, a teacher is not required to report the child's absence to law enforcement officers under this section, provided the teacher reports the child's absence from school pursuant to Article 26 of Chapter 115C of the General Statutes.

(f) The felony of failure to report the disappearance of a child as required by subsection (b) of this section is an offense additional to other civil and criminal provisions and is not intended to repeal or preclude any other sanctions or remedies.

(g) Any person who reports the disappearance of a child as required by this section is immune from any civil or criminal liability that might otherwise be incurred or imposed for that action, provided that the person was acting in good faith. In any proceeding involving liability, good faith is presumed."

SECTION 3. G.S. 14-318.4 reads as rewritten:

"§ **14-318.4. Child abuse a felony.**

(a) A parent or any other person providing care to or supervision of a child less than 16 years of age who intentionally inflicts any serious physical injury upon or to the child or who intentionally commits an assault upon the child which results in any serious physical injury to the child is guilty of a Class E felony, except as otherwise provided in subsection (a3) of this section.

(a1) Any parent of a child less than 16 years of age, or any other person providing care to or supervision of the child, who commits, permits, or encourages any act of prostitution with or by the child is guilty of child abuse and shall be punished as a Class E felon.

(a2) Any parent or legal guardian of a child less than 16 years of age who commits or allows the commission of any sexual act upon the child is guilty of a Class E felony.

(a3) A parent or any other person providing care to or supervision of a child less than 16 years of age who intentionally inflicts any serious bodily injury to the child or who intentionally commits an assault upon the child which results in any serious bodily injury to the child, or which results in permanent or protracted loss or impairment of any mental or emotional function of the child, is guilty of a Class C felony.

(a4) A parent or any other person providing care to or supervision of a child less than 16 years of age whose willful act or grossly negligent omission in the care of the child shows a reckless disregard for human life is guilty of a Class E felony if the act or omission results in serious bodily injury to the child.

(a5) A parent or any other person providing care to or supervision of a child less than 16 years of age whose willful act or grossly negligent omission in the care of the child shows a reckless disregard for human life is guilty of a Class H felony if the act or omission results in serious physical injury to the child.

(a6) For purposes of this section, a "grossly negligent omission" in providing care to or supervision of a child includes the failure to report a child as missing to law enforcement as provided in G.S. 14-318.5(b).

(b) The felony of child abuse is an offense additional to other civil and criminal provisions and is not intended to repeal or preclude any other sanctions or remedies.

(c) Abandonment of an infant less than seven days of age pursuant to G.S. 14-322.3 may be treated as a mitigating factor in sentencing for a conviction under this section involving that infant.

(d) The following definitions apply in this section:

(1) Serious bodily injury. – Bodily injury that creates a substantial risk of death or that causes serious permanent disfigurement, coma, a permanent or protracted condition that causes extreme pain, or permanent or protracted loss or impairment of the function of any bodily member or organ, or that results in prolonged hospitalization.

(2) Serious physical injury. – Physical injury that causes great pain and suffering. The term includes serious mental injury."

SECTION 4. G.S. 110-102.1(a) reads as rewritten:

"(a) ~~Operators –~~ Notwithstanding G.S. 14-318.5, operators and staff, as defined in G.S. 110-86(7), and G.S. 110-91(8), or any adult present with the approval of the care provider in a child care facility as defined in G.S. 110-86(3) and G.S. 110-106, upon learning that a child which has been placed in their care or presence is missing, shall immediately report the missing child to law enforcement. For purposes of this Article, a child is anyone under the age of ~~18.~~16."

SECTION 5. G.S. 14-401.22 reads as rewritten:

"§ **14-401.22. Concealment of death; disturbing human remains; dismembering human remains.**

(a) ~~Any~~ Except as provided in subsection (a1) of this section, any person who, with the intent to conceal the death of a person, fails to notify a law enforcement authority of the death or secretly buries or otherwise secretly disposes of a dead human body is guilty of a Class I felony.

(a1) Any person who, with the intent to conceal the death of a child, fails to notify a law enforcement authority of the death or secretly buries or otherwise secretly disposes of a dead child's body is guilty of a Class H felony. For purposes of this subsection, a child is any person who is less than 16 years of age.

(b) Any person who aids, counsels, or abets any other person in concealing the death of a person is guilty of a Class A1 misdemeanor.

(c) Any person who willfully (i) disturbs, vandalizes, or desecrates human remains, by any means, including any physical alteration or manipulation of the human remains, or (ii) commits or attempts to commit upon any human remains any act of sexual penetration is guilty of a Class I felony. This subsection does not apply to:

(1) Acts by a first responder or others providing medical care.

(2) Acts committed as part of scientific or medical research, treatment, or diagnosis.

(3) Acts performed by a licensed funeral director or embalmer consistent with standard practice.

(4) Acts committed for the purpose of extracting body parts in accordance with usual and customary standards of medical practice.

(5) Acts by a professional archaeologist as defined in G.S. 70-28(4) acting pursuant to the provisions of Article 3 of Chapter 70 of the General Statutes.

(6) Acts committed for any other lawful purpose.

(d) Any person who attempts to conceal evidence of the death of another by knowingly and willfully dismembering or destroying human remains, by any means, including removing body parts or otherwise obliterating any portion thereof, shall be guilty of a Class H felony.

(e) Any person who violates ~~subsection~~ subsection (a), (a1), or (d) of this section, knowing or having reason to know the body or human remains are of a person that did not die of natural causes, shall be guilty of a Class D felony.

(f) As used in this section, "human remains" means any dead human body in any condition of decay or any significant part of a dead human body, including any limb, organ, or bone."

SECTION 6. G.S. 14-225 reads as rewritten:

"§ **14-225. False reports to law enforcement agencies or officers.**

(a) ~~Any~~ Except as provided in subsection (b) of this section, any person who shall willfully make or cause to be made to a law enforcement agency or officer any false, deliberately misleading or unfounded report, for the purpose of interfering with the operation of a law enforcement agency, or to hinder or obstruct any law enforcement officer in the performance of his duty, shall be guilty of a Class 2 misdemeanor.

(b) A violation of subsection (a) of this section is punishable as a Class H felony if the false, deliberately misleading, or unfounded report relates to a law enforcement investigation involving the disappearance of a child as that term is defined in G.S. 14-318.5 or child victim of a Class A, B1, B2, or C felony offense. For purposes of this subsection, a child is any person who is less than 16 years of age."

SECTION 7. G.S. 7B-301 reads as rewritten:

"§ **7B-301. Duty to report abuse, neglect, dependency, or death due to maltreatment.**

(a) Any person or institution who has cause to suspect that any juvenile is abused, neglected, or dependent, as defined by G.S. 7B-101, or has died as the result of maltreatment, shall report the case of that juvenile to the director of the department of social services in the county where the juvenile resides or is found. The report may be made orally, by telephone, or

in writing. The report shall include information as is known to the person making it including the name and address of the juvenile; the name and address of the juvenile's parent, guardian, or caretaker; the age of the juvenile; the names and ages of other juveniles in the home; the present whereabouts of the juvenile if not at the home address; the nature and extent of any injury or condition resulting from abuse, neglect, or dependency; and any other information which the person making the report believes might be helpful in establishing the need for protective services or court intervention. If the report is made orally or by telephone, the person making the report shall give the person's name, address, and telephone number. Refusal of the person making the report to give a name shall not preclude the department's assessment of the alleged abuse, neglect, dependency, or death as a result of maltreatment.

Upon receipt of any report of sexual abuse of the juvenile in a child care facility, the director shall notify the State Bureau of Investigation within 24 hours or on the next workday. If sexual abuse in a child care facility is not alleged in the initial report, but during the course of the assessment there is reason to suspect that sexual abuse has occurred, the director shall immediately notify the State Bureau of Investigation. Upon notification that sexual abuse may have occurred in a child care facility, the State Bureau of Investigation may form a task force to investigate the report.

(b) Any person or institution who knowingly or wantonly fails to report the case of a juvenile as required by subsection (a) of this section, or who knowingly or wantonly prevents another person from making a report as required by subsection (a) of this section, is guilty of a Class 1 misdemeanor.

(c) A director of social services who receives a report of sexual abuse of a juvenile in a child care facility and who knowingly fails to notify the State Bureau of Investigation of the report pursuant to subsection (a) of this section is guilty of a Class 1 misdemeanor."

SECTION 8. This act becomes effective December 1, 2013, and applies to offenses committed on or after that date.

In the General Assembly read three times and ratified this the 8th day of May, 2013.

Became law upon approval of the Governor at 10:20 a.m. on the 17th day of May, 2013.

Session Law 2013-53 **S.B. 91**

AN ACT TO CLARIFY THE LAW PERTAINING TO ADMINISTRATIVE ACTION THAT MAY BE TAKEN BY AN OCCUPATIONAL LICENSING BOARD AS A RESULT OF EXPUNGED CHARGES OR CONVICTIONS UNDER G.S. 15A-145.4 AND G.S. 15A-145.5; TO PROHIBIT AN EMPLOYER OR EDUCATIONAL INSTITUTION FROM REQUESTING THAT AN APPLICANT PROVIDE INFORMATION REGARDING AN ARREST, CRIMINAL CHARGE, OR CRIMINAL CONVICTION OF THE APPLICANT THAT HAS BEEN EXPUNGED; AND TO REQUIRE A STATE OR LOCAL GOVERNMENT AGENCY TO ADVISE AN APPLICANT THAT THE APPLICANT IS NOT REQUIRED TO DISCLOSE INFORMATION REGARDING AN ARREST, CRIMINAL CHARGE, OR CRIMINAL CONVICTION OF THE APPLICANT THAT HAS BEEN EXPUNGED PRIOR TO REQUESTING DISCLOSURE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 15A-145.4(h) reads as rewritten:

"(h) Any other applicable State or local government agency shall expunge from its records entries made as a result of the conviction ordered expunged under this section. The agency shall also ~~reverse~~ vacate any administrative actions taken against a person whose record is expunged under this section as a result of the charges or convictions expunged. A person whose administrative action has been vacated by an occupational licensing board pursuant to an expunction under this section may then reapply for licensure and must satisfy the board's then current education and preliminary licensing requirements in order to obtain licensure. This

subsection shall not apply to the Department of Justice for DNA records and samples stored in the State DNA Database and the State DNA Databank."

SECTION 2. G.S. 15A-145.5(f) reads as rewritten:

"(f) Any other applicable State or local government agency shall expunge from its records entries made as a result of the conviction ordered expunged under this section upon receipt from the petitioner of an order entered pursuant to this section. The agency shall also ~~reverse~~ vacate any administrative actions taken against a person whose record is expunged under this section as a result of the charges or convictions expunged. A person whose administrative action has been vacated by an occupational licensing board pursuant to an expunction under this section may then reapply for licensure and must satisfy the board's then current education and preliminary licensing requirements in order to obtain licensure. This subsection shall not apply to the Department of Justice for DNA records and samples stored in the State DNA Database and the State DNA Databank or to fingerprint records."

SECTION 3. Article 5 of Chapter 15A of the General Statutes is amended by adding a new section to read:

"**§ 15A-153. Effect of expunction; prohibited practices by employers, educational institutions, agencies of State and local governments.**

(a) Purpose. – The purpose of this section is to clear the public record of any entry of any arrest, criminal charge, or criminal conviction that has been expunged so that (i) the person who is entitled to and obtains the expunction may omit reference to the charges or convictions to potential employers and others and (ii) a records check for prior arrests and convictions will not disclose the expunged entries. Nothing in this section shall be construed to prohibit an employer from asking a job applicant about criminal charges or convictions that have not been expunged and are part of the public record.

(b) No person as to whom an order of expunction has been entered pursuant to this Article shall be held thereafter under any provision of any laws to be guilty of perjury or otherwise giving a false statement by reason of that person's failure to recite or acknowledge any expunged arrest, apprehension, charge, indictment, information, trial, or conviction in response to any inquiry made of him or her for any purpose other than as provided in subsection (e) of this section.

(c) Employer or Educational Institution Inquiry Regarding Disclosure of Expunged Arrest, Criminal Charge, or Conviction. – An employer or educational institution shall not, in any application, interview, or otherwise, require an applicant for employment or admission to disclose information concerning any arrest, criminal charge, or criminal conviction of the applicant that has been expunged and shall not knowingly and willingly inquire about any arrest, charge, or conviction that they know to have been expunged. An applicant need not, in answer to any question concerning any arrest or criminal charge that has not resulted in a conviction, include a reference to or information concerning arrests, charges, or convictions that have been expunged. This subsection does not apply to State or local law enforcement agencies authorized pursuant to G.S. 15A-151 to obtain confidential information for employment purposes.

(d) State or Local Government Agency, Official, and Employee Inquiry Regarding Disclosure of Expunged Arrest, Criminal Charge, or Conviction. – Agencies, officials, and employees of the State and local governments who request disclosure of information concerning any arrest, criminal charge, or criminal conviction of the applicant shall first advise the applicant that State law allows the applicant to not refer to any arrest, charge, or conviction that has been expunged. An applicant need not, in answer to any question concerning any arrest or criminal charge that has not resulted in a conviction, include a reference to or information concerning charges or convictions that have been expunged. Such application shall not be denied solely because of the applicant's refusal or failure to disclose information concerning any arrest, criminal charge, or criminal conviction of the applicant that has been expunged.

(e) The provisions of subsection (d) of this section do not apply to any applicant or licensee seeking or holding any certification issued by the North Carolina Criminal Justice Education and Training Standards Commission pursuant to Chapter 17C of the General Statutes or the North Carolina Sheriffs Education and Training Standards Commission pursuant to Chapter 17E of the General Statutes.

(1) Convictions expunged pursuant to G.S. 15A-145.4. – Persons pursuing certification under the provisions of Chapter 17C or 17E of the General Statutes shall disclose any and all felony convictions to the certifying Commission regardless of whether or not the felony convictions were expunged pursuant to the provisions of G.S. 15A-145.4.

(2) Convictions expunged pursuant to G.S. 15A-145.5. – Persons pursuing certification under the provisions of Chapter 17C or 17E of the General Statutes shall disclose any and all convictions to the certifying Commission regardless of whether or not the convictions were expunged pursuant to the provisions of G.S. 15A-145.5.

(f) Penalty for Violation. – Upon investigation by the Commissioner of Labor or the Commissioner's authorized representative, any employer found to be in violation of subsection (c) of this section shall be issued a written warning for a first violation and shall be subject to a civil penalty of up to five hundred dollars ($500.00) for each additional violation occurring after receipt of the written warning. In determining the amount of any penalty ordered under authority of this section, the Commissioner shall give due consideration to the appropriateness of the penalty with respect to the size of the business of the person being charged, the gravity of the violation, the good faith of the person, and the record of previous violations. The determination of the amount of the penalty by the Commissioner shall be final, unless within 15 days after receipt of notice thereof by certified mail with return receipt, by signature confirmation as provided by the U.S. Postal Service, by a designated delivery service authorized pursuant to 26 U.S.C. § 7502(f)(2) with delivery receipt, or via hand delivery, the person charged with the violation takes exception to the determination in which event the final determination of the penalty shall be made in an administrative proceeding and in a judicial proceeding pursuant to Chapter 150B of the General Statutes, the Administrative Procedure Act. The Commissioner of Labor may adopt, modify, or revoke such rules as are necessary for carrying out the provisions of this subsection.

Nothing in this section shall be construed to create a private cause of action against any employer or its agents or employees, any educational institutions or their agents or employees, or any State or local government agencies, officials, or employees."

SECTION 4. Sections 1 and 2 of this act are effective when this act becomes law. The remainder of this act becomes effective December 1, 2013. G.S. 15A-153(f), as enacted by Section 3 of this act, applies only to violations of G.S. 15A-153 that occur on or after December 1, 2013.

In the General Assembly read three times and ratified this the 8th day of May, 2013.

Became law upon approval of the Governor at 10:26 a.m. on the 17th day of May, 2013.

Session Law 2013-54 **H.B. 119**

AN ACT AUTHORIZING THE UTILITIES COMMISSION TO ADOPT, IMPLEMENT, MODIFY, OR ELIMINATE A RATE ADJUSTMENT MECHANISM FOR NATURAL GAS LOCAL DISTRIBUTION COMPANY RATES.

The General Assembly of North Carolina enacts:

SECTION 1. Article 7 of Chapter 62 of the General Statutes is amended by adding a new section to read as follows:

"**§ 62-133.7A. Rate adjustment mechanism for natural gas local distribution company rates.**

In setting rates for a natural gas local distribution company in a general rate case proceeding under G.S. 62-133, the Commission may adopt, implement, modify, or eliminate a rate adjustment mechanism to enable the company to recover the prudently incurred capital investment and associated costs of complying with federal gas pipeline safety requirements, including a return based on the company's then authorized return. The Commission shall adopt, implement, modify, or eliminate a rate adjustment mechanism authorized under this section only upon a finding by the Commission that the mechanism is in the public interest."

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

In the General Assembly read three times and ratified this the 16th day of May, 2013.

Became law upon approval of the Governor at 10:27 a.m. on the 17th day of May, 2013.

Session Law 2013-55 **H.B. 706**

AN ACT TO PROVIDE THAT THE DISPOSAL OF ON-SITE DEMOLITION DEBRIS FROM THE DECOMMISSIONING OF MANUFACTURING BUILDINGS, INCLUDING ELECTRIC GENERATING STATIONS, IS EXEMPT FROM THE LANDFILL PERMITTING REQUIREMENTS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 130A-294(a) reads as rewritten:

"(a) The Department is authorized and directed to engage in research, conduct investigations and surveys, make inspections and establish a statewide solid waste management program. In establishing a program, the Department shall have authority to:

(1) Develop a comprehensive program for implementation of safe and sanitary practices for management of solid waste;

(2) Advise, consult, cooperate and contract with other State agencies, units of local government, the federal government, industries and individuals in the formulation and carrying out of a solid waste management program;

(3) Develop and adopt rules to establish standards for qualification as a "recycling, reduction or resource recovering facility" or as "recycling, reduction or resource recovering equipment" for the purpose of special tax classifications or treatment, and to certify as qualifying those applicants which meet the established standards. The standards shall be developed to qualify only those facilities and equipment exclusively used in the actual waste recycling, reduction or resource recovering process and shall exclude any incidental or supportive facilities and equipment;

(4) a. Develop a permit system governing the establishment and operation of solid waste management facilities. A landfill with a disposal area of 1/2 acre or less for the on-site disposal of land clearing and inert debris is exempt from the permit requirement of this section and shall be governed by G.S. 130A-301.1. Demolition debris from the decommissioning of manufacturing buildings, including electric generating stations, that is disposed of on the same site as the decommissioned buildings, is exempt from the permit requirement of this section and rules adopted pursuant to this section and shall be governed by G.S. 130A-301.3. The Department shall not approve an application for a new permit, the renewal of a permit, or a substantial amendment to a permit for a sanitary landfill, excluding demolition landfills as defined in the rules of the Commission, except as

provided in subdivisions (3) and (4) of subsection (b1) of this section. No permit shall be granted for a solid waste management facility having discharges that are point sources until the Department has referred the complete plans and specifications to the Environmental Management Commission and has received advice in writing that the plans and specifications are approved in accordance with the provisions of G.S. 143-215.1. If the applicant is a unit of local government, and has not submitted a solid waste management plan that has been approved by the Department pursuant to G.S. 130A-309.09A(b), the Department may deny a permit for a sanitary landfill or a facility that disposes of solid waste by incineration, unless the Commission has not adopted rules pursuant to G.S. 130A-309.29 for local solid waste management plans. In any case where the Department denies a permit for a solid waste management facility, it shall state in writing the reason for denial and shall also state its estimate of the changes in the applicant's proposed activities or plans that will be required for the applicant to obtain a permit.

…."

SECTION 2. Part 2 of Article 9 of Chapter 130A of the General Statutes is amended by adding a new section to read:

"**§ 130A-301.3. Disposal of demolition debris generated from the decommissioning of manufacturing buildings, including electric generating stations, on-site.**

(a) A person may dispose of demolition debris from the decommissioning of manufacturing buildings, including electric generating stations, on the same site as the decommissioned buildings if the demolition debris meets all of the following requirements:

(1) It is composed only of inert debris such as brick or other masonry materials, dirt, sand, gravel, rock, and concrete if the material, when characterized using the toxicity characteristic leaching procedure developed by the United States Environmental Protection Agency, is not a hazardous waste. The debris may contain small amounts of wood, paint, sealants, and metal associated with the inert debris.

(2) It does not extend beyond the footprint of the decommissioned buildings and shall be at least 50 feet from the property boundary or enclosed by the walls of the building that are left in place below grade. Walls left in place below grade are not subject to the requirements of subdivision (4) of this subsection.

(3) It is placed at least 500 feet from the nearest drinking water well.

(4) It is placed to assure at least two feet of clean soil between any coated inert debris and the seasonal high groundwater table. Uncoated inert debris may be used as fill anywhere within the footprint of the decommissioned building or as beneficial fill on the site.

(5) It complies with all other applicable federal, State, and local laws, regulations, rules, and ordinances.

(b) After the decommissioning is completed or terminated, the owner or operator shall compact the demolition debris and cover it with at least two feet of compacted earth finer than a sandy texture soil. The cover of the demolition debris shall be graded so as to minimize water infiltration, promote proper drainage, and control erosion. Erosion of the cover shall be controlled by establishing suitable vegetative cover. All site stabilization should be completed within 90 days of the completed demolition.

(c) Within 30 days of completing the final site stabilization or at least 30 days before the land, or any interest in the land, on which the demolition debris is located is transferred, whichever is earlier, the owner or owners of record of the land on which the demolition debris is located shall file each of the following with the register of deeds of the county in which the demolition debris is located:

(1) A survey plat of the property that meets the requirements of G.S. 47-30. The plat shall accurately show the location of the demolition debris in a manner that will allow the demolition debris disposal site to be accurately delineated and shall reference this section.

(2) A notice that disposal of demolition debris has been located on the land. The notice shall include a description of the land that would be sufficient as a description in an instrument of conveyance. The notice shall list the owners of record of the land at the time the notice is filed and shall reference the book and page number where the deed or other instrument by which the owners of record acquired title is located. The notice shall reference the book and page number where the survey plat required by subdivision (1) of this subsection is recorded. The notice shall reference this section, shall describe with particularity the type and size of the building or other structure that was demolished, and shall state the dates on which the demolition began and ended. The notice shall be executed by the owner or owners of record as provided in Chapter 47 of the General Statutes. The register of deeds shall record the notice and index it in the grantor index under the names of all owners of record of the land.

(d) A certified copy of both the plat and notice required by subsection (c) of this section shall also be filed with the Department. The plat and the notice shall indicate on the face of the document the book and page number where recorded.

(e) When the land, or any portion of the land, on which the demolition debris is located is sold, leased, conveyed, or transferred, the deed or other instrument of transfer shall contain a statement that the property has been used for the disposal of demolition debris. The statement shall include a reference to this section and to the book and page number where the notice required by subdivision (2) of subsection (c) of this section is recorded."

SECTION 3. G.S. 47-29 is amended by adding a new subsection to read:

"§ **47-29.1. Recordation of environmental notices.**

…

(a4) The disposal of on-site demolition debris from the decommissioning of manufacturing buildings, including electric generating stations, shall be recorded as provided in G.S. 130A-301.3.

…."

SECTION 4. This act becomes effective July 1, 2013.

In the General Assembly read three times and ratified this the 8th day of May, 2013.

Became law upon approval of the Governor at 10:27 a.m. on the 17th day of May, 2013.

Session Law 2013-56 **H.B. 980**

AN ACT TO PROVIDE ADDITIONAL FUNDING IN THE STATE MEDICAID PROGRAM FOR THE 2012-2013 FISCAL YEAR.

The General Assembly of North Carolina enacts:

SECTION 1. Notwithstanding G.S. 143C-6-4 or any other provision of law, in order to ensure that there is adequate funding in the Medicaid budget for the 2012-2013 fiscal year, the General Assembly directs the Director of the Budget, in conjunction with the State Controller and other necessary State officials, to effectuate the budget adjustments authorized

in Section 2 of this act in an amount not to exceed four hundred fifty-one million dollars ($451,000,000) to cover a projected budget shortfall of three hundred thirty-three million dollars ($333,000,000) and the repayment of Medicaid federal drug rebates in the amount of one hundred eighteen million dollars ($118,000,000).

SECTION 2. The Director of the Budget shall make the following adjustments to increase the budget of the Division of Medical Assistance. These adjustments are set forth in priority order, and no adjustment shall be made until the preceding adjustment has been completely exhausted in the permissible amount:

(1) Use the sum of seventy-four million dollars ($74,000,000) from drug rebate refunds within the Division of Medical Assistance. These funds are hereby appropriated.

(2) Transfer the sum of twenty million nine hundred thousand dollars ($20,900,000) from State appropriations not expended pursuant to Section 10.9G of S.L. 2012-142.

(3) Transfer a minimum of forty-eight million dollars ($48,000,000) from projected reversions within the Department of Health and Human Services, including any unspent or unobligated State appropriations from the Transitions to Community Living Fund. However, before these projected reversions may be expended, all payments required under Section 10.23A(f) of S.L. 2012-142 and S.L. 2013-5 must be made.

(4) Use the sum of two hundred thirteen million four hundred thirty-two thousand eight hundred seventy-eight dollars ($213,432,878) from the June 30, 2012, unreserved fund balance. These funds are hereby appropriated.

(5) Transfer of projected revenue overcollections for the 2012-2013 fiscal year in the amount of up to ninety-four million six hundred sixty-seven thousand one hundred twenty-two dollars ($94,667,122). These funds are hereby appropriated.

SECTION 3. Budget adjustments made pursuant to this act shall be used only to pay the costs of the State Medicaid Program, including drug rebates owed to the federal government, for the 2012-2013 fiscal year. Any budget adjustments pursuant to this act that are not needed to pay the costs of the Medicaid program for the 2012-2013 fiscal year shall revert to the unreserved fund balance of the General Fund.

SECTION 4. Notwithstanding any other provision of law, neither the Director of the Budget nor any other State official, officer, or agency shall authorize any adjustment, drawdown, or transfer unearned or borrowed receipts to implement this act or expend any other funds to implement this act, if doing so would impose, increase, or continue a financial obligation in the 2013-2014 fiscal year or any subsequent fiscal year.

SECTION 5. Notwithstanding the adjustments authorized by this act, the Office of State Budget and Management shall maximize 2012-2013 fiscal year General Fund reversions from all State agencies and departments in order to increase the June 30 unreserved fund balance in the General Fund.

SECTION 6. On or before October 1, 2013, the Office of State Budget and Management, the Department of Health and Human Services, and the Office of State Controller shall report jointly on the implementation of this act. The Office of State Budget and Management and the Department of Health and Human Services shall report on each measure taken and the Office of State Controller shall certify compliance with Section 3 and Section 4 of this act. This report shall be made to the Appropriations/Base Budget Committee of the Senate, the Appropriations Committee of the House of Representatives, and the Joint Legislative Commission on Governmental Operations. Reporting requirements under G.S. 143C-6-4 shall not apply to adjustments made pursuant to this act.

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

In the General Assembly read three times and ratified this the 30th day of May, 2013.

Became law upon approval of the Governor at 2:34 p.m. on the 30th day of May, 2013.

Session Law 2013-57 **S.B. 189**

AN ACT TO AMEND THE LAW DEFINING HOME SCHOOLS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 115C-563 reads as rewritten:

"§ **115C-563. Definitions.**

As used in this Part or Parts 1 and 2 of this ~~section:~~Article:

(a) "Home school" means a nonpublic school ~~in which one or more~~ consisting of the children of not more than two families or ~~households receive academic instruction from parents or legal guardians, or a member of either household.~~households, where the parents or legal guardians or members of either household determine the scope and sequence of academic instruction, provide academic instruction, and determine additional sources of academic instruction.

(b) "Duly authorized representative of the State" means the Director, Division of Nonpublic Education, or his staff."

SECTION 2. This act is effective when it becomes law and applies beginning with the 2013-2014 school year.

In the General Assembly read three times and ratified this the 24th day of May, 2013.

Became law upon approval of the Governor at 4:20 p.m. on the 30th day of May, 2013.

Session Law 2013-58 **S.B. 430**

AN ACT TO EXEMPT FROM PERMITTING REQUIREMENTS PERSONS INSTALLING ELECTRIC LOAD CONTROL SWITCHES UNDER THE LAWS REGULATING ELECTRICAL CONTRACTORS AND TO MAKE CONFORMING CHANGES UNDER THE LAWS PERTAINING TO BUILDING INSPECTION PERMITS FOR COUNTIES AND CITIES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 87-43.1 is amended by adding the following new subdivision to read:

"§ **87-43.1. Exceptions.**

The provisions of this Article shall not apply:

…

(8) To the installation, maintenance, or replacement of any load control device or equipment by an electric power supplier, as defined in G.S. 62-133.8, or an electrical contractor contracted by the electric power supplier, so long as the work is subject to supervision by an electrical contractor licensed under this Article. The electric power supplier shall provide such installation, maintenance, or replacement in accordance with (i) an activity or program ordered, authorized, or approved by the North Carolina Utilities Commission pursuant to G.S. 62-133.8 or G.S. 62-133.9 or (ii) a similar program undertaken by a municipal electric service provider, whether the installation, modification, or replacement is made before or after the point of delivery of

electric service to the customer. The exemption under this subdivision applies to all existing installations."

SECTION 2. G.S. 153A-357(a) reads as rewritten:

"(a) No person may commence or proceed with any of the following without first securing from the inspection department with jurisdiction over the site of the work each permit required by the State Building Code and any other State or local law or local ordinance or regulation applicable to the work:

(1) The construction, reconstruction, alteration, repair, movement to another site, removal, or demolition of any building.

(2) The installation, extension, or general repair of any plumbing system except that in any one- or two-family dwelling unit a permit shall not be required for the connection of a water heater that is being replaced, provided that the work is performed by a person licensed under G.S. 87-21, who personally examines the work at completion and ensures that a leak test has been performed on the gas piping, and provided the energy use rate or thermal input is not greater than that of the water heater which is being replaced, there is no change in fuel, energy source, location, capacity, or routing or sizing of venting and piping, and the replacement is installed in accordance with the current edition of the State Building Code.

(3) The installation, extension, alteration, or general repair of any heating or cooling equipment system.

(4) The installation, extension, alteration, or general repair of any electrical wiring, devices, appliances, or equipment except that in any one- or two-family dwelling unit a permit shall not be required for repair or replacement of electrical lighting fixtures or devices, such as receptacles and lighting switches, or for the connection of an existing branch circuit to an electric water heater that is being replaced, provided that all of the following requirements are met:

a. With respect to electric water heaters, the replacement water heater is placed in the same location and is of the same or less capacity and electrical rating as the original.

b. With respect to electrical lighting fixtures and devices, the replacement is with a fixture or device having the same voltage and the same or less amperage.

c. The work is performed by a person licensed under G.S. 87-43.

d. The repair or replacement installation meets the current edition of the State Building Code, including the State Electrical Code.

However, a permit is not required for the installation, maintenance, or replacement of any load control device or equipment by an electric power supplier, as defined in G.S. 62-133.8, or an electrical contractor contracted by the electric power supplier, so long as the work is subject to supervision by an electrical contractor licensed under Article 4 of Chapter 87 of the General Statutes. The electric power supplier shall provide such installation, maintenance, or replacement in accordance with (i) an activity or program ordered, authorized, or approved by the North Carolina Utilities Commission pursuant to G.S. 62-133.8 or G.S. 62-133.9 or (ii) a similar program undertaken by a municipal electric service provider, whether the installation, modification, or replacement is made before or after the point of delivery of electric service to the customer. The exemption under this subdivision applies to all existing installations.

(a1) A permit shall be in writing and shall contain a provision that the work done shall comply with the State Building Code and all other applicable State and local laws and local ordinances and regulations. Nothing in this section shall require a county to review and approve residential building plans submitted to the county pursuant to Section R-110 of Volume VII of the North Carolina State Building Code; provided that the county may review and approve such residential building plans as it deems necessary. No permit may be issued unless the plans and

specifications are identified by the name and address of the author thereof; and if the General Statutes of North Carolina require that plans for certain types of work be prepared only by a registered architect or registered engineer, no permit may be issued unless the plans and specifications bear the North Carolina seal of a registered architect or of a registered engineer. If a provision of the General Statutes of North Carolina or of any ordinance requires that work be done by a licensed specialty contractor of any kind, no permit for the work may be issued unless the work is to be performed by such a duly licensed contractor. No permit issued under Articles 9 or 9C of G.S. Chapter 143 shall be required for any construction, installation, repair, replacement, or alteration costing five thousand dollars ($5,000) or less in any single-family residence or farm building unless the work involves: the addition, repair or replacement of load bearing structures; the addition (excluding replacement of same size and capacity) or change in the design of plumbing; the addition, replacement or change in the design of heating, air conditioning, or electrical wiring, devices, appliances, or equipment; the use of materials not permitted by the North Carolina Uniform Residential Building Code; or the addition (excluding replacement of like grade of fire resistance) of roofing. Violation of this section constitutes a Class 1 misdemeanor."

SECTION 3. G.S. 160A-417(a) reads as rewritten:

"(a) No person shall commence or proceed with any of the following without first securing from the inspection department with jurisdiction over the site of the work any and all permits required by the State Building Code and any other State or local laws applicable to the work:

(1) The construction, reconstruction, alteration, repair, movement to another site, removal, or demolition of any building or structure.

(2) The installation, extension, or general repair of any plumbing system except that in any one- or two-family dwelling unit a permit shall not be required for the connection of a water heater that is being replaced, provided that the work is performed by a person licensed under G.S. 87-21, who personally examines the work at completion and ensures that a leak test has been performed on the gas piping, and provided the energy use rate or thermal input is not greater than that of the water heater which is being replaced, there is no change in fuel, energy source, location, capacity, or routing or sizing of venting and piping, and the replacement is installed in accordance with the current edition of the State Building Code.

(3) The installation, extension, alteration, or general repair of any heating or cooling equipment system.

(4) The installation, extension, alteration, or general repair of any electrical wiring, devices, appliances, or equipment except that in any one- or two-family dwelling unit a permit shall not be required for repair or replacement of electrical lighting fixtures or devices, such as receptacles and lighting switches, or for the connection of an existing branch circuit to an electric water heater that is being replaced, provided that all of the following requirements are met:

a. With respect to electric water heaters, the replacement water heater is placed in the same location and is of the same or less capacity and electrical rating as the original.

b. With respect to electrical lighting fixtures and devices, the replacement is with a fixture or device having the same voltage and the same or less amperage.

c. The work is performed by a person licensed under G.S. 87-43.

d. The repair or replacement installation meets the current edition of the State Building Code, including the State Electrical Code.

However, a permit is not required for the installation, maintenance, or replacement of any load control device or equipment by an electric power supplier, as defined in G.S. 62-133.8, or an electrical contractor contracted by the electric power supplier, so long as the work is subject to supervision by an electrical contractor licensed under Article 4 of Chapter 87 of the General Statutes. The electric power supplier shall provide such installation, maintenance, or replacement in accordance with (i) an activity or program ordered, authorized, or approved by the North Carolina Utilities Commission pursuant to G.S. 62-133.8 or G.S. 62-133.9 or (ii) a similar program undertaken by a municipal electric service provider, whether the installation, modification, or replacement is made before or after the point of delivery of electric service to the customer. The exemption under this subdivision applies to all existing installations.

(a1) A permit shall be in writing and shall contain a provision that the work done shall comply with the State Building Code and all other applicable State and local laws. Nothing in this section shall require a city to review and approve residential building plans submitted to the city pursuant to Section R-110 of Volume VII of the North Carolina State Building Code; provided that the city may review and approve such residential building plans as it deems necessary. No permits shall be issued unless the plans and specifications are identified by the name and address of the author thereof, and if the General Statutes of North Carolina require that plans for certain types of work be prepared only by a registered architect or registered engineer, no permit shall be issued unless the plans and specifications bear the North Carolina seal of a registered architect or of a registered engineer. When any provision of the General Statutes of North Carolina or of any ordinance requires that work be done by a licensed specialty contractor of any kind, no permit for the work shall be issued unless the work is to be performed by such a duly licensed contractor. No permit issued under Articles 9 or 9C of Chapter 143 shall be required for any construction, installation, repair, replacement, or alteration costing five thousand dollars ($5,000) or less in any single family residence or farm building unless the work involves: the addition, repair or replacement of load bearing structures; the addition (excluding replacement of same size and capacity) or change in the design of plumbing; the addition, replacement or change in the design of heating, air conditioning, or electrical wiring, devices, appliances, or equipment; the use of materials not permitted by the North Carolina Uniform Residential Building Code; or the addition (excluding replacement of like grade of fire resistance) of roofing. Violation of this section shall constitute a Class 1 misdemeanor."

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

In the General Assembly read three times and ratified this the 23rd day of May, 2013.

Became law upon approval of the Governor at 4:30 p.m. on the 30th day of May, 2013.

Session Law 2013-59 **H.B. 254**

AN ACT AMENDING THE REQUIREMENTS RELATED TO NOTICE OF LAND-USE PLANNING AND ZONING CHANGES TO BE GIVEN TO A MILITARY BASE BY COUNTIES OR CITIES NEAR THE MILITARY BASE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 153A-323(b) reads as rewritten:

"(b) If the adoption or modification of the ordinance would result in any of the changes ~~to the zoning map or would change or affect the permitted uses of land~~ listed in this subsection and those changes would be located five miles or less from the perimeter boundary of a military base, the board of commissioners shall provide written notice of the proposed changes by certified mail, ~~return receipt requested,~~ or by any other written means reasonably designed to provide actual notice, to the commander of the military base or the commander's designee not less than 10 days nor more than 25 days before the date fixed for the public hearing. Prior to the

date of the public hearing, the military may provide comments or analysis to the board regarding the compatibility of the proposed changes with military operations at the base. If the board does not receive a response within 30 days of the notice, the military is deemed to waive the comment period. If the military provides comments or analysis regarding the compatibility of the proposed ordinance or amendment with military operations at the base, the board of commissioners shall take the comments and analysis into consideration before making a final determination on the ordinance. The proposed changes requiring notice are:

(1) Changes to the zoning map.
(2) Changes that affect the permitted uses of land.
(3) Changes relating to telecommunications towers or windmills.
(4) Changes to proposed new major subdivision preliminary plats.
(5) An increase in the size of an approved subdivision by more than fifty percent (50%) of the subdivision's total land area including developed and undeveloped land."

SECTION 2. G.S. 160A-364(b) reads as rewritten:

"(b) If the adoption or modification of the ordinance would result in any of the changes ~~to the zoning map or would change or affect the permitted uses of land~~ listed in this subsection and those changes would be located five miles or less from the perimeter boundary of a military base, the board of commissioners shall provide written notice of the proposed changes by certified mail, ~~return receipt requested,~~ or by any other written means reasonably designed to provide actual notice, to the commander of the military base or the commander's designee not less than 10 days nor more than 25 days before the date fixed for the public hearing. Prior to the date of the public hearing, the military may provide comments or analysis to the board regarding the compatibility of the proposed changes with military operations at the base. If the board does not receive a response within 30 days of the notice, the military is deemed to waive the comment period. If the military provides comments or analysis regarding the compatibility of the proposed ordinance or amendment with military operations at the base, the board of commissioners shall take the comments and analysis into consideration before making a final determination on the ordinance. The proposed changes requiring notice are:

(1) Changes to the zoning map.
(2) Changes that affect the permitted uses of land.
(3) Changes relating to telecommunications towers or windmills.
(4) Changes to proposed new major subdivision preliminary plats.
(5) An increase in the size of an approved subdivision by more than fifty percent (50%) of the subdivision's total land area including developed and undeveloped land."

SECTION 3. This act is effective when it becomes law and applies to planning and zoning changes initiated on or after that date.

In the General Assembly read three times and ratified this the 22nd day of May, 2013.

Became law upon approval of the Governor at 04:32 p.m. on the 30th day of May, 2013.

Session Law 2013-60 **S.B. 269**

AN ACT REMOVING CERTAIN ROWAN COUNTY OWNED PARCELS IN THE VICINITY OF THE ROWAN COUNTY AIRPORT FROM THE CORPORATE LIMITS OF THE CITY OF SALISBURY.

The General Assembly of North Carolina enacts:

SECTION 1. The following described property owned by Rowan County and located in the vicinity of the Rowan County Airport, and identified by Property Identification Number (PIN), is removed from the corporate limits of the City of Salisbury:

PIN# 460 063
460 165
460 184
461 0770000001
461 1870000001
469 063
470 0010000011
470 037
470 042
471 043

SECTION 2. This act has no effect upon the validity of any liens of the City of Salisbury for ad valorem taxes or special assessments outstanding before the effective date of this act. Such liens may be collected or foreclosed upon after the effective date of this act as though the property were still within the corporate limits of the City of Salisbury.

SECTION 3. This act becomes effective June 30, 2013.

In the General Assembly read three times and ratified this the 4th day of June, 2013.

Became law on the date it was ratified.

Session Law 2013-61 **H.B. 545**

AN ACT TO MODIFY THE HENDERSON COUNTY OCCUPANCY TAX.

The General Assembly of North Carolina enacts:

SECTION 1. Sections 5 and 6 of Chapter 172 of the 1987 Session Laws, as amended by Chapter 55 of the 1991 Session Laws, Section 21(p) of S.L. 2007-527, and S.L. 2012-144, read as rewritten:

"**Sec. 5.** Occupancy Tax. (a) Authorization and Scope. – The Board of Commissioners of Henderson County may levy a room occupancy and tourism development tax of no less than three percent (3%) nor more than five percent (5%) of the gross receipts derived from the rental of any room, lodging, or similar accommodation furnished by a hotel, motel, inn, or similar place within the county that is subject to sales tax imposed by the State under G.S. 105-164.4(a)(3). This tax is in addition to any State or local sales tax. This tax does not apply to accommodations furnished by nonprofit charitable, educational, or religious organizations.

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

(b) Repealed.

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

(d) Repealed.

(e) Use of Tax Revenue. – The county shall, on a quarterly basis, remit the net proceeds of the room occupancy and tourism development tax levied under this act to the Henderson County Tourism Development Authority. The Authority shall use ~~the net proceeds as follows:~~

~~(1)~~ ~~First five percent (5%). – At~~ at least two-thirds of the net proceeds of the room occupancy tax levied under ~~subsection (a) of this section shall be used~~ this act to promote travel and tourism in Henderson County and shall use the remainder ~~shall be used~~ for tourism-related expenditures.

~~(2) Additional one percent (1%). – The net proceeds of the additional one percent room occupancy tax levied under subsection (a1) of this section shall be used for the maintenance, operation, renovation, and promotion of The Vagabond School of the Drama, Inc., including the Mainstage and the Playhouse Downtown locations.~~

(e1) Definitions. – The following definitions apply in this act:

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

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

(3) Tourism-related expenditures. – Expenditures that, in the judgment of the entity responsible for expending the net proceeds of the tax, are designed to increase the use of lodging facilities, meeting facilities, or convention facilities in a county or to attract tourists or business travelers to the county. The term includes tourism-related capital expenditures.

"**Sec. 6.** Henderson <u>County</u> Tourism Development Authority. (a) Appointment and Membership. – When the board of commissioners adopts a resolution levying a room occupancy tax under this act, it shall also adopt a resolution creating the Henderson <u>County</u> Tourism Development Authority, which shall be a public authority under the Local Government Budget and Fiscal Control Act. The resolution adopted by the Board of Commissioners shall provide for the membership of the Authority, including the members' terms of office, and for the filling of vacancies on the Authority. However, no member shall serve on the Authority for more than five consecutive years. The Committee shall consist of nine voting members as follows:

(1) Three members who are registered to vote in Henderson County, appointed by the Henderson County Board of Commissioners.

(2) Three members who are registered to vote in Henderson County, appointed by the Hendersonville City Council.

(3) One member who is registered to vote in Henderson County, appointed by the Fletcher Town Council.

(4) One member who is registered to vote in Henderson County, appointed by the Flat Rock Village Council.

(5) One member appointed by the Henderson County Board of Commissioners upon a recommendation of the Henderson County Chamber of Commerce.

Of these members, at least one-third of the members shall be individuals who are affiliated with businesses that collect the tax in the county, and at least one-half of the members shall be individuals who are currently active in the promotion of travel and tourism in the county.

The board of commissioners shall designate one member of the Authority as chair and shall determine the compensation, if any, to be paid to members of the Authority. The Authority shall meet at the call of the chair and shall adopt rules of procedure to govern its meetings. The finance officer for Henderson County shall be the ex officio finance officer of the Authority.

(b) Duties. – The Authority shall expend the net proceeds of the tax levied under subsections (a) and (a1) of Section 5 of this act for the purposes provided in Section 5 of this act. The Authority shall promote travel, tourism, and conventions in the county, sponsor tourist-related events and activities in the county, and finance tourist-related capital projects in the county.

(c) Reports. – The Authority shall report quarterly and at the close of the fiscal year to the board of commissioners on its receipts and expenditures for the preceding quarter and for the year in such detail as the board may require. The Vagabond School of the Drama, Inc., shall separately identify in its financial statements expenditures of funds that it receives pursuant to this act. The Vagabond School of the Drama, Inc., shall report annually by October 1 to the Authority expenditures of the funds received during the Authority's fiscal year pursuant to this act in such detail as required by the Authority or the Authority's Finance Officer."

SECTION 2. Section 2(b) of S.L. 2012-144 reads as rewritten:

"**SECTION 2.(b)** This section is effective when it becomes law, and the board of county commissioners shall adopt a resolution establishing the Henderson County Tourism Development Authority and make the changes to the membership as required by this section on or before September 1, 2012."

SECTION 3. Section 3 of S.L. 2012-144 is repealed.

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

In the General Assembly read three times and ratified this the 4th day of June, 2013.

Became law on the date it was ratified.

Session Law 2013-62 **H.B. 671**

AN ACT REMOVING CERTAIN DESCRIBED PROPERTY FROM THE CORPORATE LIMITS OF THE TOWN OF MILLS RIVER.

The General Assembly of North Carolina enacts:

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

Beginning at a point located in the centerline of the 30-foot wide right-of-way of Old Pole Bridge Road, said point of beginning being the southernmost corner of that .84 acre parcel or tract identified as the "Zumstein Overlap" on that plat of survey recorded in Plat Slide 4340, Henderson County Registry, and running thence from said beginning point, North 11 degrees 34 minutes 35 seconds West 24.28 feet to a 12-inch iron pin; running thence, North 11 degrees 23 minutes 30 seconds West 554.47 feet to an iron pin; running thence, North 16 degrees 24 minutes 26 seconds East 100.51 feet to a capped rebar; running thence, North 16 degrees 32 minutes 22 seconds East 300.72 feet to a 1/2-inch rebar; continuing thence, North 16 degrees 32 minutes 22 seconds East 37.06 feet to an iron pin; running thence, South 77 degrees 20 minutes 16 seconds East 33.13 feet to a 3/4-inch iron pin; running thence, North 74 degrees 37 minutes 44 seconds East 227.12 feet to a 1/2-inch rebar; running thence, North 74 degrees 38 minutes 05 seconds East 312.05 feet to a 1/2-inch rebar; running thence, North 74 degrees 33 minutes 05 seconds East 512.33 feet to a 3/4-inch iron pin; running thence, North 51 degrees 40 minutes 38 seconds East 114.38 feet to an oval 3/4-inch iron pin; running thence, North 45 degrees 29 minutes 16 seconds East 156.87 feet to a capped rebar; running thence, North 45 degrees 18 minutes 44 seconds East 201.35 feet to an iron pin set at a stump hole; running thence, North 26 degrees 35 minutes 53 seconds East 238.42 feet to a 3/4-inch iron pin in branch; running thence, North 25 degrees 52 minutes 46 seconds East 205.13 feet to a 3/4-inch iron pin in the road bed of the Old Pole Bridge Road; running thence with the road bed, North 17 degrees 27 minutes 38 seconds West 233.80 feet to an iron pin, North 23 degrees 39 minutes 22 seconds East 254.60 feet to an iron pin and North 20 degrees 44 minutes 02 seconds East 171.22 feet, running thence, South 80 degrees 05 minutes 40 seconds East 439.55 feet to a 13-inch black oak snag; running thence, South 89 degrees 40 minutes 07 seconds East (passing a capped rebar at 15.01 feet) a total distance of 190.90 feet to a point in a branch (said point in a branch being located North 89 degrees 40 minutes 07 seconds West 68.31 feet from a capped rebar); running thence, South 20 degrees 34 minutes 32 seconds East 769.53 feet to a fence corner at a 10-inch red oak on top of the ridge.

SECTION 2. Section 1 of this act shall have no effect upon the validity of any liens of the Town of Mills River for ad valorem taxes or special assessments outstanding before the effective date of this act. Such liens may be collected or foreclosed upon after the effective date of this act as though the property were still within the corporate limits of the Town of Mills River.

SECTION 3. The property area described in Section 1 of this act is located within the Etowah-Horse Shoe Fire District. The taxpayers in the property area described in Section 1 of this act shall no longer be required to pay taxes upon their property to the Town of Mills River after the effective date of this act. However, they shall continue to be required to pay taxes upon their property levied by Henderson County, including taxes levied by the County to finance, provide, or maintain the Etowah-Horse Shoe Fire District.

SECTION 4. Notwithstanding any other provisions of law, including the provisions of Article 19 of Chapter 160A of the General Statutes, the area described in Section 1 of this act shall continue to be subject to the zoning ordinances of the Town of Mills River for a maximum of 90 days after the effective date of this act to allow Henderson County an opportunity to determine and apply a County zoning designation for the property. Upon the expiration of the 90-day period, the Town of Mills River shall have no zoning or any other authority over the property area described in Section 1 of this act.

SECTION 5. This act becomes effective June 30, 2013.

In the General Assembly read three times and ratified this the 4th day of June, 2013.

Became law on the date it was ratified.

Session Law 2013-63 **S.B. 234**

AN ACT TO AMEND AND CLARIFY THE HUNTER EDUCATION REQUIREMENTS AND TO ESTABLISH A HUNTING HERITAGE APPRENTICE PERMIT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 113-270.1A reads as rewritten:

"§ **113-270.1A. Hunter safety course required.**

(a) Except as provided in subsections (a1) and (d) of this section, on or after ~~July 1, 1991,~~July 1, 2013, a person, regardless of age, may not procure a hunting license in this State without producing a hunter education certificate of competency or one of the following issued by the Wildlife Resources Commission:

(1) A North Carolina hunting heritage apprentice permit.

(2) ~~a~~A hunting license issued prior to ~~July 1, 1991, or signing a statement on a form provided by the Wildlife Resources Commission that he had such a license.~~July 1, 2013.

(a1) A person who qualifies for a ~~totally disabled resident combination hunting-fishing license under G.S. 113-270.1C(b)(4)~~ disabled license under G.S. 113-270.1C(b)(5) or (6), G.S. 113-270.1D(b)(7) or (8), or G.S. 113-351(c)(3)f. or g. need not comply with the requirements of subsection (a) of this section in order to receive that license, so long as the person does not make use of the license unless:

(1) The disabled hunter is accompanied by an adult of at least 18 years of age who is licensed to hunt; and

(2) The licensed adult maintains a proximity to the disabled hunter which enables the adult to monitor the activities ~~of, and communicate with, the disabled hunter at all times.~~ of the disabled hunter by remaining within sight and hearing distance at all times without the use of electronic devices.

(b) The Wildlife Resources Commission shall institute and coordinate a statewide course of instruction in hunter ethics, wildlife laws and regulations, and competency and safety in the handling of firearms, and in so doing, may cooperate with any political subdivision, or with any reputable ~~organization having as one of its objectives the promotion of competency~~

~~and safety in the handling of firearms, including local rod and gun clubs.~~ organization. The course of instruction shall be conducted as follows:

(1) The Wildlife Resources Commission shall designate those persons or agencies authorized to give the course of instruction, and this designation shall be valid until revoked by the Commission. Those designated persons shall submit to the Wildlife Resources Commission validated listings naming all persons who have successfully completed the course of instruction.

(2) The Wildlife Resources Commission may conduct the course in hunter ~~safety,~~ education, using Commission personnel or ~~other persons at times and in areas where other competent agencies are unable or unwilling to meet the demand for instruction.~~ Commission-approved persons.

(3) The Wildlife Resources Commission shall issue a certificate of competency and safety to each person who successfully completes the course of instruction, and the certificate shall be valid until revoked by the Commission.

(4) Any similar certificate issued outside the State by a governmental agency, shall be accepted as complying with the requirements of subsection (a) above, if the privileges are reciprocal for North Carolina residents.

(5) The Wildlife Resources Commission shall adopt rules and regulations to provide for the course of instruction and the issuance of the certificates consistent with the purpose of this section.

(c) On or after ~~July 1, 1991,~~ July 1, 2013, any person who obtains a hunting license by presenting a fictitious certificate of competency or who attempts to obtain a certificate of competency or hunting license through fraud shall have his hunting privileges revoked by the Wildlife Resources Commission for a period not to exceed one year.

(d) Notwithstanding the provisions of subsection (a) of this section, the lifetime licenses provided for in G.S. 113-270.1D(b)(1), (2), ~~and (3)~~ (3), (4), and (5), and ~~G.S. 113-270.2(c)(2)~~ 113-270.2(c)(2), and 113-351(c)(3) may be purchased by or in the name of persons who have not obtained a hunter ~~safety~~ education certificate of competency, subject to the requirements of this subsection. Pending satisfactory completion of the hunter ~~safety~~ education course, persons who possess one of the lifetime licenses specified in this subsection may exercise the privileges of the lifetime license only when accompanied by an adult of at least 18 years of age who is licensed to hunt in this State. For the purpose of this section, "accompanied" means that the licensed adult maintains a proximity that enables the adult to monitor the activities ~~of, and communicate with, the young hunter at all times.~~ of the hunter by remaining within sight and hearing distance at all times without use of electronic devices."

SECTION 2. G.S. 113-270.2A reads as rewritten:

"§ **113-270.2A. Voluntary contribution to ~~hunters safety~~ hunter education program.**

(a) A person applying for a hunting license may make a voluntary contribution ~~of fifty cents (50¢)~~ to the Wildlife Resources Commission for the purpose of funding a hunter ~~safety~~ education program.

(b) The Wildlife Resources Commission shall devise administrative procedure for the collection of all contributions donated pursuant to the provisions of this act and shall collect and use the contributions to fund and provide for a hunter ~~safety~~ education program."

SECTION 3. G.S. 113-274(c) reads as rewritten:

"(c) The Wildlife Resources Commission may issue the following permits:

…

(3c) Hunting Heritage Apprentice Permit. – Authorizes a person who does not meet the hunter education course requirements under G.S. 113-270.1A(a) to purchase a hunting license and hunt if accompanied by an adult at least 18 years of age who is licensed to hunt in this State or if accompanied by an adult landholder or spouse exempted from the hunting license requirement as

defined by G.S. 113-276(c), provided the licensee is hunting on the landholder's land. For purposes of this section, "accompanied" means that the licensed adult maintains a proximity that enables the adult to monitor the activities of the apprentice by remaining within sight and hearing distance at all times without use of electronic devices. This permit is valid only for the term of the hunting license purchased under the authority of the permit. Any person who hunts with a permit issued under this subdivision without complying with all the requirements of this subdivision is guilty of hunting without having first procured a current and valid license, in violation of G.S. 113-270.1B.

…."

SECTION 4. G.S. 113-276 reads as rewritten:

"§ **113-276. Exemptions and exceptions to license and permit requirements.**

…

(d) Except as otherwise provided in this Subchapter, individuals under 16 years of age are exempt from the hunting and trapping license requirements of G.S. 113-270.1B(a) and G.S. 113-270.3(a), except the falconry license described in G.S. 113-270.3(b)(4). Individuals under 16 may hunt under this exemption, provided that the ~~young~~ hunter is accompanied by an adult of at least 18 years of age who is licensed to hunt in this State. For purposes of this section, "accompanied" means that the licensed adult maintains a proximity that enables the adult to monitor the activities ~~of, and communicate with, the young hunter at all times.~~ of the hunter by remaining within sight and hearing distance at all times without use of electronic devices. Upon successfully obtaining the hunter ~~safety~~ education certificate of competency required by G.S. 113-270.1A(a), a ~~young~~ hunter may hunt under the license exemption until age 16 without adult accompaniment. Individuals under 16 years of age are exempt from the fishing license requirements of G.S. 113-270.1B(a), 113-272, and 113-271.

…

(l2) A resident of this State who is a member of the Armed Forces of the United States serving outside the State, or who is serving on full-time active military duty outside the State in a reserve component of the Armed Forces of the United States as defined in 10 U.S.C. 10101, is exempt from the hunting and fishing license requirements of G.S. 113-270.1B, G.S. 113-270.3(b)(1), G.S. 113-270.3(b)(3), G.S. 113-270.3(b)(5), G.S. 113-271, G.S. 113-272, G.S. 113-272.2(c)(1), and the Coastal Recreational Fishing License requirements of G.S. 113-174.2 while that person is on leave in this State for 30 days or less. In order to qualify for the exemption provided under this subsection, the person shall have on his or her person at all times during the hunting or fishing activity the person's military identification card and a copy of the official document issued by the person's service unit confirming that the person is on authorized leave from a duty station outside this State.

A person exempted from licensing requirements under this subsection is responsible for complying with any reporting requirements prescribed by rule of the Wildlife Resources Commission, complying with the hunter ~~safety~~ education requirements of G.S. 113-270.1A, purchasing any federal migratory waterfowl stamps as a result of waterfowl hunting activity, and complying with any other requirements that the holder of a North Carolina license is subject to.

…

(n) The Wildlife Resources Commission may adopt rules to exempt individuals from the hunting and fishing license requirements of G.S. 113-270.1B, 113-270.3(b)(1), 113-270.3(b)(3), 113-270.3(b)(5), 113-271, 113-272, and 113-272.2(c)(1) who participate in organized hunting and fishing events for the specified time and place of the event when the purpose of the event is consistent with the conservation objectives of the Commission. A person exempted from licensing requirements under this subsection is responsible for complying with any reporting requirements prescribed by rule of the Wildlife Resources Commission, purchasing any federal migratory waterfowl stamps as a result of waterfowl

hunting activity, and complying with any other requirements that the holder of a North Carolina license is subject to. Those exempted persons shall comply with the hunter ~~safety~~ education requirements of G.S. 113-270.1A or shall be accompanied by a properly licensed adult of at least 18 years of age who maintains a proximity ~~to the license exempt individual which~~ that enables the adult to monitor the activities ~~of, and communicate with, the individual at all times.~~of the hunter by remaining within sight and hearing distance at all times without use of electronic devices."

SECTION 5. This act becomes effective July 1, 2013.

In the General Assembly read three times and ratified this the 30th day of May, 2013.

Became law upon approval of the Governor at 4:12 p.m. on the 4th day of June, 2013.

Session Law 2013-64 **S.B. 258**

AN ACT AMENDING THE CHARTER OF THE CITY OF ASHEBORO.

The General Assembly of North Carolina enacts:

SECTION 1. Sections 4.11 through 4.19 of the Charter of the City of Asheboro, being Chapter 481 of the 1967 Session Laws, as amended by Chapter 921 of the 1989 Session Laws, are repealed.

SECTION 2. Article IV of the Charter of the City of Asheboro, being Chapter 481 of the 1967 Session Laws, as amended by Chapter 921 of the 1989 Session Laws, is amended by adding a new section to read as follows:

"Sec. 4.20. Regular Municipal Elections. Regular municipal elections shall be held in each odd-numbered year in accordance with the uniform municipal election laws of North Carolina. Elections shall be conducted on a nonpartisan basis, and the results determined using the nonpartisan primary and election method as provided in G.S. 163-294."

SECTION 3. Section 10.3 of the Charter of the City of Asheboro, being Chapter 481 of the 1967 Session Laws, as amended by Chapter 233 of the 1991 Session Laws, is repealed.

SECTION 4. Section 16.1 of the Charter of the City of Asheboro, being Chapter 481 of the 1967 Session Laws, as amended by Chapter 233 of the 1991 Session Laws, is repealed.

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

In the General Assembly read three times and ratified this the 5th day of June, 2013.

Became law on the date it was ratified.

Session Law 2013-65 **H.B. 252**

AN ACT TO PROVIDE FUNDING FOR PLANNED STREET AND SIDEWALK IMPROVEMENTS IN THE CITY OF ASHEVILLE FOR THE 2012-2013 FISCAL YEAR AND TO REPEAL S.L. 2009-114.

Whereas, the General Assembly authorized the City of Asheville to use up to five percent (5%) of utility revenues for street and sidewalk improvements associated with waterline improvements;

Whereas, the City of Asheville used $2,658,705 for fiscal years 2009-2010, 2010-2011, and 2011-2012;

Whereas, the City of Asheville used $2,658,705 to fund six projects: Dogwood Grove, Ridge Avenue, Azalea Road, Northwood Drive, S. Lexington Avenue, and Melrose Avenue;

Whereas, the City of Asheville planned to use $990,336 for fiscal year 2012-2013; and

Whereas, the City of Asheville planned to use $990,336 to fund six projects: resurfacing W.T. Weaver, resurfacing MLK Jr. Blvd, resurfacing Woodfin, sidewalk construction on Lakeshore Drive, and sidewalk construction on Sand Hill School Road; Now, therefore,

The General Assembly of North Carolina enacts:

SECTION 1.(a) S.L. 2009-114 is repealed.

SECTION 1.(b) This section is effective June 30, 2013, and applies to the 2013-2014 fiscal year and thereafter.

SECTION 2. The City of Asheville may use utility revenues that were dedicated for a specific project under the authority of S.L. 2009-114 for street and sidewalk improvements associated with waterline improvements for the project.

SECTION 3. This act applies only to the City of Asheville.

SECTION 4. Except as otherwise provided, this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 5th day of June, 2013.

Became law on the date it was ratified.

Session Law 2013-66 **H.B. 517**

AN ACT TO REGULATE HUNTING WITH ARTIFICIAL LIGHT IN ROCKINGHAM COUNTY.

The General Assembly of North Carolina enacts:

SECTION 1. Notwithstanding any other provision of law, it is unlawful for any person to shine a light intentionally upon any wild animal, including, but not limited to, deer, coyotes, or feral swine, from the right-of-way of any public road, street, or highway between the hours of one-half hour after sunset and one-half hour before sunrise.

SECTION 2. Section 1 of this act does not apply to the necessary shining lights by motorists engaged in normal travel on the highway or to landowners, campers, or others who are not attempting to attract or immobilize wildlife by the use of lights.

SECTION 3. Violation of this act is a Class 2 misdemeanor.

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

SECTION 5. This act applies only to Rockingham County.

SECTION 6. This act becomes effective October 1, 2013, and applies to offenses committed on or after that date.

In the General Assembly read three times and ratified this the 5th day of June, 2013.

Became law on the date it was ratified.

Session Law 2013-67 **S.B. 67**

AN ACT TO AUTHORIZE SURRY COMMUNITY COLLEGE TO CONVEY PROPERTY BY GIFT TO YADKIN COUNTY AND TO LEASE A PORTION OF ANY STRUCTURE SUBSEQUENTLY BUILT ON THAT PROPERTY.

The General Assembly of North Carolina enacts:

SECTION 1. Notwithstanding the provisions of G.S. 115D-15, G.S. 115D-15.1, Article 12 of Chapter 160A of the General Statutes, or any other provision of law, Surry Community College, upon approval by its Board of Trustees, may convey by gift to Yadkin

County some or all of its right, title, and interest in the 34.017441 acre parcel located in Yadkin County, North Carolina. This parcel is designated parcel number 129880 and is recorded in Yadkin County Deed Book 483, Page 527.

SECTION 2. Notwithstanding any provision of law, Surry Community College may include as a condition of conveyance a requirement that Yadkin County lease to Surry Community College for a term of up to 99 years any portion of any structure built on that portion of parcel number 129880 that is conveyed by gift from Surry Community College to Yadkin County.

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

In the General Assembly read three times and ratified this the 10th day of June, 2013.

Became law on the date it was ratified.

Session Law 2013-68 **S.B. 257**

AN ACT TO ENABLE THE TRANSITION OF PROPERTIES OF THE AREA ALONG THEIR COMMON BOUNDARY BETWEEN ALAMANCE COUNTY AND GUILFORD COUNTY BY REQUIRING A SURVEY OF THE BOUNDARY LINE BETWEEN THE COUNTIES.

The General Assembly of North Carolina enacts:

SECTION 1. The county commissioners of Alamance County and Guilford County shall request that the North Carolina Geodetic Survey (hereinafter "NCGS") perform a preliminary resurvey and present a proposed map for consideration by both counties, as the exact location of the surveyed boundary line between the two counties has become uncertain, resulting in unintentional modifications to the boundary line affecting taxation, school attendance, zoning maps, and elections.

SECTION 2. The General Assembly recognizes the difficulties in addressing these issues and authorizes Alamance County and Guilford County to maintain the current taxing, elections, education, and any other recognized government functions in place until July 1, 2014.

SECTION 3. Alamance County and Guilford County shall cause areas of the boundary line to be resurveyed in areas where property owners have met the established administrative criteria to be assigned to a specific county and in areas where for practical or other reasons the North Carolina Geodetic Survey line is not reasonable or is unduly burdensome.

SECTION 4. Upon the conclusion of the survey and petition process established in Section 3 of this act and no later than May 15, 2014, Alamance County and Guilford County shall submit to the North Carolina General Assembly for ratification a completed survey that includes both the North Carolina Geodetic Survey line and all mutually agreed upon modifications thereto.

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

In the General Assembly read three times and ratified this the 10th day of June, 2013.

Became law on the date it was ratified.

Session Law 2013-69 **S.B. 268**

AN ACT TO ALLOW THE TOWN OF SUNSET BEACH TO IMPOSE A CANAL DREDGING AND MAINTENANCE FEE.

The General Assembly of North Carolina enacts:

SECTION 1. Section 7 of S.L. 2004-104, as amended by S.L. 2005-47, S.L. 2005-90, and S.L. 2011-108, reads as rewritten:

"**SECTION 7.** This act applies only within the municipal boundaries of the Towns of Emerald Isle, Holden Beach, Ocean Isle Beach, ~~and Southern Shores.~~Southern Shores, and Sunset Beach."

SECTION 2. Section 2(a) of S.L. 2011-108 reads as rewritten:

"**SECTION 2.(a)** This section applies only to the ~~Town~~ Towns of Southern Shores and Sunset Beach."

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

In the General Assembly read three times and ratified this the 10th day of June, 2013.

Became law on the date it was ratified.

Session Law 2013-70 **H.B. 456**

AN ACT CONCERNING MEMBERSHIP ON THE DOMESTIC VIOLENCE REVIEW TEAM IN MECKLENBURG COUNTY AND ESTABLISHING A DOMESTIC VIOLENCE REVIEW TEAM IN PITT COUNTY AND ALAMANCE COUNTY.

The General Assembly of North Carolina enacts:

SECTION 1. Subsection (c) of Section 1 of S.L. 2009-52 reads as rewritten:

"**SECTION 1.(c)** Composition. – The Review Team shall consist ~~of~~ of (i) a lead ~~agency, Community Support Services of Charlotte, North Carolina,~~ agency that has experience working with victims of domestic violence and (ii) representatives of public and nonpublic agencies in the community that provide services to victims or families of domestic ~~violence, including:~~violence. No person who has been convicted of a domestic violence-related crime or who has been a participant in a batterer intervention program shall be a member of the Review Team. The board of county commissioners shall designate the lead agency for the Review Team. The members of the Review Team shall include all of the following:

(1) A representative from a domestic violence victim's service ~~group.~~group who shall be appointed by the lead agency pursuant to subdivision (7) of subsection (d) of this section.

(2) Two survivors of domestic violence who shall be appointed by the lead agency pursuant to subdivision (7) of subsection (d) of this section.

~~(2)~~(3) ~~An attorney from the local district attorney's office.~~The district attorney from the appropriate prosecutorial district or an assistant district attorney designated by the district attorney.

~~(3)~~(4) ~~Local law enforcement personnel.~~A local law enforcement officer appointed by the chief of the local police department of the largest municipality in the county and at least one law enforcement officer from the other police departments in the county appointed jointly by the chiefs of police of the other municipalities in the county.

(5) The sheriff of the county or a person designated by the sheriff.

~~(4)~~(6) ~~A representative from the local medical examiner's office.~~The medical examiner of the county or a person designated by the medical examiner.

~~(5)~~(7) ~~A representative from the local department of social services.~~The director of the department of social services or a person designated by the director.

~~(6)~~(8) ~~A representative from the local health department.~~The director of the county health department or a person designated by the director.

~~(7)~~(9) ~~A representative from an area mental health authority.~~The director of the local mental health managed care organization or a person designated by the director.

~~(8)~~(10) ~~A representative from the local public schools.~~The superintendent of the public schools or a person designated by the superintendent.

~~(9)~~(11) A representative from ~~a health care system.~~each of the primary health care systems in the county.

~~(10)~~(12) ~~Local medic or emergency services personnel~~A magistrate designated by the chief district court judge.

~~(11)~~(13) ~~A survivor of domestic violence.~~A representative of an institution of higher education appointed by the board of county commissioners.

(14) A probation and parole officer who supervises probationers convicted of domestic violence appointed by the chief probation and parole officer of the judicial district.

(15) A district court judge who presides over domestic violence cases designated by the chief district court judge.

(16) At the option of the board of county commissioners, the board may appoint not more than two additional representatives from the community who have knowledge, experience, or expertise in preventing domestic violence."

SECTION 2. Section 2 of S.L. 2009-52 is repealed.

SECTION 3. Section 3 of S.L. 2009-52 reads as rewritten:

"**SECTION 3.** Each Review Team established pursuant to this act shall ~~issue an interim~~issue a report to the local board of county commissioners, the North Carolina Domestic Violence Commission, and the Governor's Crime Commission summarizing its findings and activities ~~by June 15, 2011, and a final report with~~ and making recommendations for action by June 15, ~~2014.~~ 2014, and every three years thereafter. The reports shall not identify the specific cases or case reviews that led to the individual Review Team's findings and recommendations."

SECTION 4. Section 5 of S.L. 2009-52 reads as rewritten:

"**SECTION 5.** This act applies to ~~Mecklenburg County only.~~Alamance County, Pitt County, and Mecklenburg County."

SECTION 5. This act applies to the following counties: Alamance, Pitt, and Mecklenburg.

SECTION 6. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 11th day of June, 2013.

Became law on the date it was ratified.

Session Law 2013-71 **H.B. 146**

AN ACT TO REQUIRE THE STATE BOARD OF EDUCATION TO ENSURE INSTRUCTION IN CURSIVE WRITING AND MEMORIZATION OF MULTIPLICATION TABLES AS A PART OF THE BASIC EDUCATION PROGRAM.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 115C-81 is amended by adding new subsections to read:

"(k) Cursive Writing. – The standard course of study shall include the requirement that the public schools provide instruction in cursive writing so that students create readable documents through legible cursive handwriting by the end of fifth grade.

(l) Multiplication Tables. – The standard course of study shall include the requirement that students enrolled in public schools memorize multiplication tables to demonstrate competency in efficiently multiplying numbers."

SECTION 2. This act is effective when it becomes law and applies beginning with the 2013-2014 school year.

In the General Assembly read three times and ratified this the 3rd day of June, 2013.

Became law upon approval of the Governor at 4:08 p.m. on the 12th day of June, 2013.

Session Law 2013-72 **H.B. 903**

AN ACT TO REQUIRE ALL CONSTITUENT INSTITUTIONS OF THE UNIVERSITY OF NORTH CAROLINA TO FULLY ADHERE TO THE COMPREHENSIVE ARTICULATION AGREEMENT WITH THE NORTH CAROLINA COMMUNITY COLLEGE SYSTEM REGARDING THE TRANSFER OF COURSES AND ACADEMIC CREDITS BETWEEN THE TWO SYSTEMS AND THE ADMISSION OF TRANSFER STUDENTS AND TO DIRECT THE UNIVERSITY OF NORTH CAROLINA AND THE NORTH CAROLINA COMMUNITY COLLEGE SYSTEM TO REPORT BIANNUALLY REGARDING THE AGREEMENT TO THE JOINT LEGISLATIVE EDUCATION OVERSIGHT COMMITTEE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 116-11 is amended by adding a new subdivision to read:

"(10c) The Board of Governors shall require each constituent institution to adhere fully to the Comprehensive Articulation Agreement between The University of North Carolina and the North Carolina Community College System that addresses the transfer of courses and academic credits between the two systems and the admission of transfer students. The Board of Governors shall further ensure that the agreement is applied consistently among the constituent institutions. The University of North Carolina and the North Carolina Community College System shall conduct biannual joint reviews of the Comprehensive Articulation Agreement to ensure that the agreement is fair, current, and relevant for all students and institutions and shall report their findings to the Joint Legislative Education Oversight Committee, including all revisions to the Comprehensive Articulation Agreement and reports of noncompliance by November 1 of each year. The University of North Carolina and the North Carolina Community College System shall also jointly develop an articulation agreement advising tool for students, parents, and faculty to simplify the course transfer and admissions process."

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

In the General Assembly read three times and ratified this the 5th day of June, 2013.

Became law upon approval of the Governor at 4:12 p.m. on the 12th day of June, 2013.

Session Law 2013-73 **H.B. 449**

AN ACT PROVIDING THAT A VENDOR IS QUALIFIED FOR PURPOSES OF ANY STATE FURNITURE REQUIREMENTS CONTRACT IF THE VENDOR'S PRODUCTS ARE INCLUDED ON A UNITED STATES GENERAL SERVICES ADMINISTRATION (GSA) FURNITURE SCHEDULE, THE VENDOR IS A FEDERALLY QUALIFIED VENDOR FOR THE GSA FURNITURE SCHEDULE, AND THE VENDOR OFFERS PRODUCTS ON THE SAME PRICING AND SPECIFICATIONS AS THE GSA FURNITURE SCHEDULE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143-57.1 reads as rewritten:

"§ **143-57.1. Furniture requirements contracts.**

(a) State Furniture Requirements Contract. – To ensure agencies access to sufficient sources of furniture supply and service, to provide agencies the necessary flexibility to obtain furniture that is compatible with interior architectural design and needs, to provide small and disadvantaged businesses additional opportunities to participate on State requirements contracts, and to restore the traditional use of multiple award contracts for purchasing furniture

requirements, each State furniture requirements contract shall be awarded on a multiple award basis, subject to the following conditions:

(1) Competitive, sealed bids must be solicited for the contract in accordance with Article 3 of Chapter 143 of the General Statutes unless otherwise provided for by the State Purchasing Officer pursuant to that Article. Bids shall be solicited on a historical weighted average of specific contract items and not on a single item within a class of items. Historical weighted average shall be based on information derived from the State's electronic procurement system, when available, or other available data.

(2) Subject to the provisions of this section, bids shall be evaluated and the contract awarded in accordance with Article 3 of Chapter 143 of the General Statutes.

(3) For each category of goods under each State requirements furniture contract, awards shall be made to at least three qualified vendors unless three qualified vendors are not available. Additionally, if the State Purchasing Officer determines that there are no qualified vendors within the three best qualified vendors who offer furniture manufactured or produced in North Carolina or who are incorporated in the State, the State Purchasing Officer shall expand the number of qualified vendors awarded contracts to as many qualified vendors as is necessary to include a qualified vendor who offers furniture manufactured or produced in North Carolina or who is incorporated in the State, but the State Purchasing Officer shall not be required to expand the number of qualified vendors to more than six qualified vendors. A vendor is qualified under this ~~section~~ subsection if the vendor's products conform to the term contract specifications, the vendor is listed on the State's qualified products list, and the vendor submits a responsive bid.

~~(4) An agency may purchase from any vendor certified on the contract but shall make the most economical purchase that it determines meets its needs, based upon price, compatibility, service, delivery, freight charges, and other factors that it considers relevant.~~

(a1) GSA Furniture Schedule. – Vendors meeting the following requirements are treated as qualified vendors under any State furniture requirements contract:

(1) The vendor's products are included on a United States General Services Administration (GSA) Furniture Schedule.

(2) The vendor is a federally qualified vendor within the GSA Furniture Schedule.

(3) The vendor offers products on the same pricing and specifications as the vendor's products included on the GSA Furniture Schedule.

(4) The vendor is a resident bidder as defined in G.S. 143-59(c) or the vendor offers products manufactured or produced in North Carolina.

(b) Definition. – For purposes of this section, "furniture requirements contract" means State requirements contracts for casegoods, classroom furniture, bookcases, ergonomic chairs, office swivel and side chairs, computer furniture, mobile and folding furniture, upholstered seating, commercial dining tables, and related items.

(c) Authority to Purchase. – An agency may purchase from any vendor certified on the State furniture requirements contract, including vendors meeting the requirements of subsection (a1) of this section. An agency shall make the most economical purchase that it determines meets its needs, based upon price, compatibility, service, delivery, freight charges, contract terms, and other factors that it considers relevant."

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

In the General Assembly read three times and ratified this the 3rd day of June, 2013.

Became law upon approval of the Governor at 4:15 p.m. on the 12th day of June, 2013.

Session Law 2013-74 **H.B. 315**

AN ACT TO REQUIRE THAT DEGRADABLE PLASTIC PRODUCTS BE CLEARLY LABELED TO PREVENT CONTAMINATION OF RECYCLED PLASTIC FEEDSTOCKS.

Whereas, recycling is a growing industry in North Carolina that employs over 15,000 people and includes numerous reclaimers of plastic bottles and manufacturers who use the material to make a wide range of products; and

Whereas, these and other North Carolina companies are developing innovative and effective new technologies for plastics recycling and are continuing to expand; and

Whereas, some new plastic packaging is being labeled as "degradable" or "biodegradable" and is designed to decompose in landfills or when exposed to soil, water, and other natural elements; and

Whereas, degradable or biodegradable plastics are incompatible with traditional hydrocarbon plastic recycling and pose potential harm to the quality and integrity of recycled plastic products, many of which are designed for durable, long-term uses; and

Whereas, no technology is currently available for recyclers to cost-effectively, rapidly, and consistently identify or segregate plastics containing degradable or biodegradable additives within the plastics recycling stream; and

Whereas, without the ability to remove degradable or biodegradable plastics from their recycled plastic feedstocks, North Carolina's plastics recycling industry will suffer costs to their operations, loss of material, and serious quality concerns in their final products; and

Whereas, consumer recycling is critical to the ability of North Carolina's recycling industry to obtain a sufficient quantity of high quality recycled plastics to use as feedstock for products such as carpet, textiles, plastic bottles, automotive parts, and construction materials; and

Whereas, simple, factual information should be provided to consumers to assist in identifying plastic degradable or biodegradable products that can be harmful to the manufacture of recycled plastic goods and that can restrict the growth of the plastics recycling industry in North Carolina; Now, therefore,

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 130A-309.10 reads as rewritten:

"§ **130A-309.10. Prohibited acts relating to packaging; coded labeling of plastic containers required; disposal of certain solid wastes in landfills or by incineration prohibited.**

…

(e) No person shall distribute, sell, or offer for sale in this State any rigid plastic container, including a plastic beverage container, unless the container has a molded label indicating the plastic resin used to produce the container. The code shall consist of a number placed within three triangulated arrows and letters placed below the triangulated arrows. The three arrows shall form an equilateral triangle with the common point of each line forming each angle of the triangle at the midpoint of each arrow and rounded with a short radius. The arrowhead of each arrow shall be at the midpoint of each side of the triangle with a short gap separating the arrowhead from the base of the adjacent arrow. The triangle formed by the three arrows curved at their midpoints shall depict a clockwise path around the code number. The label shall appear on or near the bottom of the container and be clearly visible. A container having a capacity of less than eight fluid ounces or more than five gallons is exempt from the requirements of this subsection. The numbers and letters shall be as follows:

(1) For polyethylene terephthalate, the letters "PETE" and the number 1.

(2) For high density polyethylene, the letters "HDPE" and the number 2.

(3) For vinyl, the letter "V" and the number 3.

(4) For low density polyethylene, the letters "LDPE" and the number 4.
(5) For polypropylene, the letters "PP" and the number 5.
(6) For polystyrene, the letters "PS" and the number 6.
(7) For any other, the letters "OTHER" and the number 7.

(e1) No person shall distribute, sell, or offer for sale in this State any rigid plastic container, including a plastic beverage container labeled "degradable," "biodegradable," "compostable," or other words suggesting the container will biodegrade unless (i) the container complies with the requirements of subsection (e) of this section and (ii) the container includes a label with the statement "Not Recyclable, Do Not Recycle" in print of the same color, contrast, font, and size as the language suggesting the container will biodegrade.

…."

SECTION 2. This act is effective when it becomes law and applies to any plastic containers distributed, sold, or offered for sale after July 1, 2014.

In the General Assembly read three times and ratified this the 6th day of June, 2013.

Became law upon approval of the Governor at 4:16 p.m. on the 12th day of June, 2013.

Session Law 2013-75 **H.B. 774**

AN ACT TO EXEMPT CERTAIN PRIMITIVE STRUCTURES FROM THE BUILDING CODE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143-138 reads as rewritten:

"§ **143-138. North Carolina State Building Code.**

…

(b3) Except as provided by ~~subsection (c1)~~subsections (b4) and (c1) of this section, the Code may contain provisions regulating every type of building or structure, wherever it might be situated in the State.

(b4) Building rules do not apply to (i) farm buildings that are located outside the building-rules jurisdiction of any municipality, ~~or (ii)~~(ii) farm buildings that are located inside the building-rules jurisdiction of any municipality if the farm buildings are ~~greenhouses.~~greenhouses, (iii) a primitive camp, or (iv) a primitive farm building. For the purposes of this subsection:

(1) A "farm building" shall include any structure used or associated with equine activities, including, but not limited to, the care, management, boarding, or training of horses and the instruction and training of riders. Structures that are associated with equine activities include, but are not limited to, free standing or attached sheds, barns, or other structures that are utilized to store any equipment, tools, commodities, or other items that are maintained or used in conjunction with equine activities. The specific types of equine activities, structures, and uses set forth in this subdivision are for illustrative purposes, and should not be construed to limit, in any manner, the types of activities, structures, or uses that may be considered under this subsection as exempted from building rules. A farm building that might otherwise qualify for exemption from building rules shall remain subject only to an annual safety inspection by the applicable city or county building inspection department of any grandstand, bleachers, or other spectator-seating structures in the farm building. An annual safety inspection shall include an evaluation of the overall safety of spectator-seating structures as well as ensuring the spectator-seating structure's compliance with any building codes related to the construction of spectator-seating structures in effect at the time of the construction of the spectator-seating.

(2) A "greenhouse" is a structure that has a glass or plastic roof, has one or more glass or plastic walls, has an area over ninety-five percent (95%) of which is used to grow or cultivate plants, is built in accordance with the National Greenhouse Manufacturers Association Structural Design manual, and is not used for retail sales. Additional provisions addressing distinct life safety hazards shall be approved by the local building-rules jurisdiction.

(3) A "farm building" shall include any structure used for the display and sale of produce, no more than 1,000 square feet in size, open to the public for no more than 180 days per year, and certified by the Department of Agriculture and Consumer Services as a Certified Roadside Farm Market.

(4) A "primitive camp" shall include any structure primarily used or associated with outdoor camping activities, including structures used for educational, instructional, or recreational purposes for campers and for management training, that are (i) not greater than 4,000 square feet in size and (ii) are not intended to be occupied for more than 24 hours consecutively. "Structures primarily used or associated with outdoor camping activities" include, but are not limited to, shelters, tree stands, outhouses, sheds, rustic cabins, campfire shelters, picnic shelters, tents, tepees or other indigenous huts, support buildings used only for administrative functions and not for activities involving campers or program participants, and any other structures that are utilized to store any equipment, tools, commodities, or other items that are maintained or used in conjunction with outdoor camping activities such as hiking, fishing, hunting, or nature appreciation, regardless of material used for construction. The specific types of primitive camping activities, structures, and uses set forth in this subdivision are for illustrative purposes and should not be construed to limit, in any manner, the types of activities, structures, or uses that are exempted from building rules.

(5) A "primitive farm building" shall include any structure used for activities, instruction, training, or reenactment of traditional or heritage farming practices. "Primitive farm buildings" include, but are not limited to, sheds, barns, outhouses, doghouses, or other structures that are utilized to store any equipment, tools, commodities, livestock, or other items supporting farm management. These specific types of farming activities, structures, and uses set forth by this subdivision are for illustrative purposes and should not be construed to limit in any manner the types of activities, structures, or uses that are exempted from building rules.

…."

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

In the General Assembly read three times and ratified this the 6th day of June, 2013.

Became law upon approval of the Governor at 4:19 p.m. on the 12th day of June, 2013.

Session Law 2013-76 **H.B. 829**

AN ACT TO ALLOW CERTAIN ABC PERMITTEES TO SELL MALT BEVERAGES IN CERTAIN CONTAINERS FOR CONSUMPTION OFF THE PERMITTED PREMISES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 18B-1001 reads as rewritten:

"§ **18B-1001. Kinds of ABC permits; places eligible.**

When the issuance of the permit is lawful in the jurisdiction in which the premises are located, the Commission may issue the following kinds of permits:

(1) On-Premises Malt Beverage Permit. – An on-premises malt beverage permit authorizes (i) the retail sale of malt beverages for consumption on the ~~premises and~~premises, (ii) the retail sale of malt beverages in the manufacturer's original container for consumption off the ~~premises.~~premises, and (iii) the retail sale of malt beverages in a cleaned, sanitized, resealable container as defined in 4 NCAC 2T .0308(a) that is filled or refilled and sealed for consumption off the premises, complies with 4 NCAC 2T .0303, 4 NCAC 2T .0305, and 4 NCAC 2T .0308(d)-(e), and the container identifies the permittee and the date the container was filled or refilled. It also authorizes the holder of the permit to ship malt beverages in closed containers to individual purchasers inside and outside the State. The permit may be issued for any of the following:

a. Restaurants;
b. Hotels;
c. Eating establishments;
d. Food businesses;
e. Retail businesses;
f. Private clubs;
g. Convention centers;
h. Community theatres;
i. Breweries as authorized by G.S. 18B-1104(7).

(2) Off-Premises Malt Beverage Permit. – An off-premises malt beverage permit authorizes (i) the retail sale of malt beverages in the manufacturer's original container for consumption off the ~~premises and it authorizes~~premises, (ii) the retail sale of malt beverages in a cleaned, sanitized, resealable container as defined in 4 NCAC 2T .0308(a) that is filled or refilled and sealed for consumption off the premises, complies with 4 NCAC 2T .0303, 4 NCAC 2T .0305, and 4 NCAC 2T .0308(d)-(e), and the container identifies the permittee and the date the container was filled or refilled, and (iii) the holder of the permit to ship malt beverages in closed containers to individual purchasers inside and outside the State. The permit may be issued for any of the following:

a. Restaurants;
b. Hotels;
c. Eating establishments;
d. Food businesses;
e. Retail businesses.

…

(16) Wine Shop Permit. – A wine shop permit authorizes (i) the retail sale of malt beverages, unfortified wine, and fortified wine in the manufacturer's original container for consumption off the ~~premises, and authorizes~~premises, (ii) the retail sale of malt beverages in a cleaned, sanitized, resealable container as defined in 4 NCAC 2T .0308(a) that is filled or refilled and sealed for consumption off the premises, complies with 4 NCAC 2T .0303, 4 NCAC 2T .0305, and 4 NCAC 2T .0308(d)-(e), and the container identifies the permittee and the date the container was filled or refilled, and (iii) wine tastings on the premises conducted and supervised by the permittee in accordance with subdivision (15) of this section. It also authorizes the holder of the permit to ship malt beverages, unfortified wine, and fortified wine in closed containers to individual purchasers inside and outside the State. The permit may be issued for retail businesses whose primary purpose is selling malt beverages and wine for consumption off the premises and regularly and customarily educating consumers through tastings, classes, and seminars

about the selection, serving, and storing of wine. The holder of the permit is authorized to sell unfortified wine for consumption on the premises, provided that the sale of wine for consumption on the premises does not exceed forty percent (40%) of the establishment's total sales for any 30-day period. The holder of a wine-tasting permit not engaged in the preparation or sale of food on the premises is not subject to Part 6 of Article 8 of Chapter 130A of the General Statutes.

…."

SECTION 2. The ABC Commission shall adopt rules dealing with sanitation of growlers by January 1, 2014.

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

In the General Assembly read three times and ratified this the 6th day of June, 2013.

Became law upon approval of the Governor at 4:19 p.m. on the 12th day of June, 2013.

Session Law 2013-77 **H.B. 687**

AN ACT TO REQUIRE THE BUILDING CODE COUNCIL TO AMEND THE NC BUILDING CODE TO ALLOW OCCUPANTS YOUNGER THAN EIGHTEEN IN TEMPORARY OVERFLOW EMERGENCY SHELTERS FOR THE HOMELESS.

The General Assembly of North Carolina enacts:

SECTION 1. Definitions. – As used in this act, "Council" means the Building Code Council, "Code" means the 2012 NC Building Code, and "Homeless Shelter Provision" means the requirement set forth in Section 424.1.1 of the North Carolina Building Code requiring that homeless occupants of a temporary overflow shelter for the homeless be over the age of 18.

SECTION 2. New Code amendment. – Until the effective date of the Code amendment that the Council is required to adopt pursuant to Section 4 of this act, the Council and local governments enforcing the Code shall implement Section 424.1.1, as provided in Section 3 of this act.

SECTION 3. Implementation. – Notwithstanding any provision of the Code to the contrary, temporary overflow emergency shelters for the homeless may house occupants under the age of 18 when the shelter meets the following requirements:

(1) The shelter is intended to serve homeless families that include children under 18 and their parents or other legal guardians.

(2) The temporary shelter consists of a group of churches or other nonprofit religious entities that have agreed to host the shelter occupants on the premises of each church or religious entity on a rotating basis.

(3) The shelter is equipped with smoke detectors meeting applicable Code provisions for such devices in all sleeping areas.

SECTION 4. Additional rule-making authority. – Notwithstanding G.S. 150B-19(4), the Commission shall adopt amendments to the Homeless Shelter Provision to be substantively identical to the provisions of Section 3 of this act. Rules adopted pursuant to this section are not subject to G.S. 150B-21.8 through G.S. 150B-21.14. Rules adopted pursuant to this section shall become effective as provided in G.S. 150B-21.3(b1) as though 10 or more written objections had been received as provided by G.S. 150B-21.3(b2).

SECTION 5. Sunset. – Section 3 of this act expires on the date that rules adopted pursuant to Section 4 of this act become effective.

SECTION 6. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 5th day of June, 2013.

Became law upon approval of the Governor at 4:20 p.m. on the 12th day of June, 2013.

Session Law 2013-78 **S.B. 129**

AN ACT TO PROHIBIT ISSUANCE OF DEBT UNDER THE STATE CAPITAL FACILITIES FINANCE ACT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 142-83 reads as rewritten:

"§ **142-83. Authorization of special indebtedness; General Assembly approval.**

(a) General Assembly Approval. – The State may incur or issue special indebtedness subject to the terms and conditions provided in this Article for the purpose of financing the cost of capital facilities that meet one of the following conditions:

(1) The General Assembly has enacted legislation describing the capital facility and authorizing its financing by the incurrence or issuance of special indebtedness up to a specific maximum amount.

(2) The General Assembly has enacted legislation authorizing the incurrence or issuance of special indebtedness up to a specific maximum amount for a specific category of capital facilities and the capital facility meets all of the conditions set in that legislation.

(b) Limitation. – The General Assembly may enact legislation to incur or issue special indebtedness under subsection (a) of this section only if it determines at the time the legislation is enacted that the amount of special indebtedness authorized by the legislation does not exceed the limitation in this subsection. The determination of the General Assembly must be based upon reasonable estimations and once made may be relied upon as conclusive.

The sum of the special indebtedness authorized by the legislation and all other special indebtedness authorized by legislation enacted after January 1, 2013, may not exceed twenty-five percent (25%) of the bond indebtedness of the State supported by the General Fund that was authorized pursuant to legislation enacted after January 1, 2013. For purposes of this section, bond indebtedness supported by the General Fund includes both special indebtedness and general obligation bond indebtedness of the State that is supported by the General Fund."

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

In the General Assembly read three times and ratified this the 5th day of June, 2013.

Became law upon approval of the Governor at 4:23 p.m. on the 12th day of June, 2013.

Session Law 2013-79 **H.B. 410**

AN ACT TO ALLOW THE DIVISION OF MOTOR VEHICLES TO CANCEL A CERTIFICATE OF TITLE TO A MANUFACTURED HOME WHEN THE PERSON REQUESTING CANCELLATION DOES NOT HAVE THE CERTIFICATE OF TITLE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-109.2 reads as rewritten:

"§ **20-109.2. Surrender of title to manufactured home.**

(a) Surrender of Title. – If a certificate of title has been issued for a manufactured ~~home~~home, the owner listed on the title has the title, and the manufactured home qualifies as real property as defined in G.S. 105-273(13), the owner listed on the title shall submit an affidavit to the Division that the manufactured home meets this definition and surrender the certificate of title to the Division.

(a1) Surrender When Title Not Available. – If a certificate of title has been issued for a manufactured home, no issued title is available, and the manufactured home qualifies as real property as defined in G.S. 105-273(13), the owner listed on the title shall be deemed to have surrendered the title to the Division if the owner of the real property on which the manufactured home is affixed (i) submits an affidavit to the Division that the manufactured home meets the

definition of real property under G.S. 105-273(13) and in compliance with subsection (b) of this section and (ii) submits a tax record showing the manufactured home listed for ad valorem taxes as real property pursuant to Article 17 of Chapter 105 of the General Statutes in the name of the record owner of the real property on which the manufactured home is affixed.

(b) Affidavit. – The affidavit must be in a form approved by the Commissioner and shall include or provide for all of the following information:

(1) The manufacturer and, if applicable, the model name of the manufactured ~~home.~~home affixed to real property upon which cancellation is sought.

(2) The vehicle identification number and serial number of the manufactured ~~home.~~home affixed to real property upon which cancellation is sought.

(3) The legal description of the real property on which the manufactured home is ~~placed,~~affixed, stating that the owner of the manufactured home also owns the real property or that the owner of the manufactured home has entered into a lease with a primary term of at least 20 years for the real property on which the manufactured home is affixed with a copy of the lease or a memorandum thereof pursuant to G.S. 47-18 attached to the affidavit, if not previously recorded.

(4) A description of any security interests in the manufactured ~~home.~~home affixed to real property upon which cancellation is sought.

(5) A section for the Division's notation or statement that either the procedure in subsection (a) of this section for surrendering the title has been surrendered and the title has been cancelled by the ~~Division.~~Division or the affiant submits this affidavit pursuant to subsection (a1) of this section to have the title deemed surrendered by the owner listed on the certificate of title.

(6) An affirmative statement that the affiant is (i) the record owner of the real property on which the manufactured home is affixed and the lease for the manufactured home does not include a provision allowing the owner listed on the certificate of title to dispose of the manufactured home prior to the end of the primary term of the lease or (ii) is the owner of the manufactured home and either owns the real property on which the manufactured home is affixed or has entered into a lease with a primary term of at least 20 years for the real property on which the manufactured home is affixed.

(7) The affiant affirms that he or she has sent notice of this cancellation by hand delivery or by first-class mail to the last known address of the owner listed on the certificate of title prior to filing this affidavit with the Division.

(c) Cancellation. – Upon compliance ~~by the owner~~ with the ~~procedure~~procedures in subsection (a) or (a1) of this section for surrender of title, the Division shall rescind and cancel the certificate of title. If a security interest has been recorded on the certificate of title and not released by the secured party, the Division may not cancel the title without written consent from all secured parties. After canceling the title, the Division shall return the original of the affidavit to the ~~owner,~~affiant, or to the secured party having the first recorded security interest, with the Division's notation or statement that the title has been surrendered and has been cancelled by the Division. The ~~owner~~affiant or secured party shall file the affidavit returned by the Division with the office of the register of deeds of the county where the real property is located. The Division may charge five dollars ($5.00) for a cancellation of a title under this section.

…

(f) No Right of Action. – A person damaged by the cancellation of a certificate of title pursuant to subsection (a1) of this section does not have a right of action against the Division."

SECTION 2. This act becomes effective July 1, 2013.

In the General Assembly read three times and ratified this the 5th day of June, 2013.

Became law upon approval of the Governor at 4:24 p.m. on the 12th day of June, 2013.

Session Law 2013-80 **H.B. 591**

AN ACT TO SPECIFY THE TERM OF OFFICE FOR APPOINTED MEMBERS OF THE NORTH CAROLINA LONGITUDINAL DATA SYSTEM BOARD, TO MAKE THE STATE INFORMATION OFFICER CHAIR OF THE NORTH CAROLINA LONGITUDINAL DATA SYSTEM BOARD, TO SPECIFY THE TIMES FOR MEETING OF THE NORTH CAROLINA LONGITUDINAL DATA SYSTEM BOARD, AND TO REQUIRE QUARTERLY REPORTING OF PROGRESS ON THE NORTH CAROLINA LONGITUDINAL DATA SYSTEM.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 116E-3(a)(10) reads as rewritten:

"(10) The State Chief Information ~~Officer, or the Officer's designee.~~Officer."

SECTION 2. G.S. 116E-3(b) reads as rewritten:

"(b) Appointed members of the Board shall serve terms of four years. Terms of appointed members shall begin May 1, 2013, and every four years thereafter. Appointed members may be reappointed but shall not serve more than two consecutive terms. Vacancies among appointed members shall be filled by the appointing entity and shall be for the remainder of the vacant term."

SECTION 3. G.S. 116E-3(c) reads as rewritten:

"(c) The chair of the Board shall be the State Chief Information Officer. The Board shall elect from the appointed members ~~a chair and~~ a vice-chair for a term of two years.~~A chair may serve no more than two consecutive terms.~~"

SECTION 4. G.S. 116E-3 is amended by adding a new subsection to read:

"(e) The Board shall hold an initial meeting upon appointment of a majority of the appointed members. The Board shall meet at least quarterly, but may meet more frequently upon the call of the chair."

SECTION 5. G.S. 116E-4(c) reads as rewritten:

"(c) The Board shall report ~~annually~~ quarterly to the Joint Legislative Education Oversight Committee, the Joint Legislative Commission on Governmental Operations, and the Joint Legislative Committee on Information Technology beginning September 30, 2013.~~by December 15.~~ The report shall include the following:

(1) An update on the implementation of the System's activities.

(2) Any proposed or planned expansion of System data.

(3) Any other recommendations made by the Board, including the most effective and efficient configuration for the System."

SECTION 6. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 6th day of June, 2013.

Became law upon approval of the Governor at 4:25 p.m. on the 12th day of June, 2013.

Session Law 2013-81 **H.B. 32**

AN ACT TO INCREASE THE AMOUNT OF THE YEAR'S ALLOWANCE FOR A SURVIVING SPOUSE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 30-15 reads as rewritten:

"§ **30-15. When spouse entitled to allowance.**

Every surviving spouse of an intestate or of a testator, whether or not the surviving spouse has petitioned for an elective share, shall, unless the surviving spouse has forfeited the surviving spouse's right thereto, as provided by law, be entitled, out of the personal property of the deceased spouse, to an allowance of the value of ~~twenty thousand dollars ($20,000)~~thirty

thousand dollars ($30,000) for the surviving spouse's support for one year after the death of the deceased spouse. Such allowance shall be exempt from any lien, by judgment or execution, acquired against the property of the deceased spouse, and shall, in cases of testacy, be charged against the share of the surviving spouse."

SECTION 2. G.S. 30-29 reads as rewritten:

"§ **30-29. What petition must show.**

In the petition the petitioner shall set forth, besides the facts entitling petitioner to a year's support and the value of the support claimed, the further facts that the personal estate of which the decedent died possessed exceeded ~~twenty thousand dollars ($20,000),~~thirty thousand dollars ($30,000), and also whether or not an allowance has been made to petitioner and the nature and value thereof."

SECTION 3. This act becomes effective January 1, 2014, and applies to estates of persons dying on or after that date.

In the General Assembly read three times and ratified this the 5th day of June, 2013.

Became law upon approval of the Governor at 4:26 p.m. on the 12th day of June, 2013.

Session Law 2013-82 **H.B. 480**

AN ACT TO PROVIDE REGULATORY CERTAINTY FOR NORTH CAROLINA BY REQUIRING THE DEVELOPMENT OF MINIMUM DESIGN CRITERIA FOR STORMWATER PERMITS TO GUIDE THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES IN PERMIT ISSUANCE AND TO REFORM THE PERMITTING PROCESS TO ALLOW A FAST-TRACK PERMITTING PROCESS FOR APPLICATIONS CERTIFIED BY A QUALIFIED PROFESSIONAL TO BE IN COMPLIANCE WITH THE MINIMUM DESIGN CRITERIA.

The General Assembly of North Carolina enacts:

SECTION 1. The Department of Environment and Natural Resources shall develop Minimum Design Criteria for permits issued by the stormwater runoff permitting programs authorized by G.S. 143-214.7. The Minimum Design Criteria shall include all requirements for siting, site preparation, design and construction, and post-construction monitoring and evaluation necessary for the Department to issue stormwater permits that comply with State water quality standards adopted pursuant to G.S. 143-214.1, 143-214.7, and 143-215.3(a)(1). In developing and updating the Minimum Design Criteria, the Department shall consult with a technical working group that consists of industry experts, engineers, environmental consultants, relevant faculty from The University of North Carolina, and other interested stakeholders. The Department shall submit its recommendations to the Environmental Review Commission no later than September 1, 2014.

SECTION 2. Article 21 of Chapter 143 of the General Statutes is amended by adding a new section to read:

"**§ 143-214.7B. Fast-track permitting for stormwater management systems.**

The Commission shall adopt rules to establish a fast-track permitting process that allows for the issuance of stormwater management system permits without a technical review when the permit applicant (i) complies with the Minimum Design Criteria for stormwater management developed by the Department and (ii) submits a permit application prepared by a qualified professional. In developing the rules, the Commission shall consult with a technical working group that consists of industry experts, engineers, environmental consultants, relevant faculty from The University of North Carolina, and other interested stakeholders. The rules shall, at a minimum, provide for all of the following:

(1) A process for permit application, review, and determination.
(2) The types of professionals that are qualified to prepare a permit application submitted pursuant to this section and the types of qualifications such professionals must have.
(3) A process for ensuring compliance with the Minimum Design Criteria.
(4) That permits issued pursuant to the fast-track permitting process comply with State water quality standards adopted pursuant to G.S. 143-214.1, 143-214.7, and 143-215.3(a)(1).
(5) A process for establishing the liability of a qualified professional who prepares a permit application for a stormwater management system that fails to comply with the Minimum Design Criteria."

SECTION 3. The Environmental Management Commission shall adopt rules implementing Section 2 of this act no later than July 1, 2016.

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

In the General Assembly read three times and ratified this the 6th day of June, 2013.

Became law upon approval of the Governor at 4:26 p.m. on the 12th day of June, 2013.

Session Law 2013-83 **H.B. 610**

AN ACT TO REDUCE THE SEATING CAPACITY REQUIREMENT AND ELIMINATE THE POPULATION REQUIREMENT FOR IN-STAND SALES OF MALT BEVERAGES AND TO DIRECT THE ABC COMMISSION TO ADOPT RULES FOR THE SUSPENSION OF THE SALE OF ALCOHOLIC BEVERAGES DURING PROFESSIONAL SPORTING EVENTS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 18B-1009 reads as rewritten:

"§ **18B-1009. In-stand sales.**

Nothing in this Chapter shall be construed to prohibit a retail permittee from selling for consumption, malt beverages in the seating areas of stadiums, ballparks, and other similar public places with a seating capacity of ~~60,000~~3,000 or more during professional sporting events, ~~in municipalities with a population greater than 450,000, according to the most recent estimate of population made by the Office of State Budget and Management,~~ provided that:

(1) The seating areas are designated as part of the retail permittee's licensed premises;
(2) The retail permittee has notified the Commission, in writing, of its intent to sell malt beverages in the seating areas at sporting events;
(3) Service of food and nonalcoholic beverages is available in the seating areas;
(4) The retail permittee has certified to the Commission that it has trained its employees:
    a. To identify underage persons and intoxicated persons; and
    b. To refuse to sell malt beverages to those persons as required by G.S. 18B-305; and
(5) The employees do not verbally shout or hawk the sale of malt beverages."

SECTION 2. The North Carolina Alcoholic Beverage Control Commission shall adopt rules for the suspension of alcohol sales in the latter portion of professional sporting events in order to protect public safety at these events.

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

In the General Assembly read three times and ratified this the 6th day of June, 2013.

Became law upon approval of the Governor at 4:26 p.m. on the 12th day of June, 2013.

Session Law 2013-84 **H.B. 821**

AN ACT TO NAME THE PIEDMONT TRIAD FARMERS MARKET IN MEMORY OF SENATOR ROBERT G. SHAW.

Whereas, Robert G. Shaw served in the United States Army Air Corps from 1943 to 1946; and

Whereas, Robert G. Shaw was a member of the Guilford County Board of County Commissioners from 1968 to 1976, during which time he served as chair and vice-chair; and

Whereas, Senator Robert G. Shaw of Greensboro, North Carolina, was a member of the North Carolina Senate for nine terms, from 1985 until 2002; and

Whereas, during his nine terms as a member of the General Assembly, Senator Shaw served as Minority Leader and as vice-chair on a number of committees, including the Banks and Thrift Institutions, Finance, and Redistricting Committees; and a member of the Agriculture/Marine Resources and Wildlife, Commerce, Insurance and Consumer Protection, Pensions & Retirement, Aging, and Transportation Committees; and

Whereas, in 1990, Senator Shaw was awarded the Order of the Longleaf Pine in recognition of his extraordinary service to the State and during that same year received the Legislator of the Year Award from the North Carolina Wildlife Federation; and

Whereas, the Piedmont Triad Farmers Market, located at Colfax in Guilford County, is part of the North Carolina Department of Agriculture and Consumer Services; and

Whereas, Senator Shaw was a strong supporter of the Piedmont Triad Farmers Market; Now, therefore,

The General Assembly of North Carolina enacts:

SECTION 1. The Piedmont Triad Farmers Market is hereby designated the Robert G. Shaw Piedmont Triad Farmers Market in recognition of Robert G. Shaw's dedicated leadership in the North Carolina General Assembly and his commitment to the citizens of this State, the Piedmont Triad region, and Guilford County.

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

In the General Assembly read three times and ratified this the 6th day of June, 2013.

Became law upon approval of the Governor at 4:26 p.m. on the 12th day of June, 2013.

Session Law 2013-85 **S.B. 208**

AN ACT TO ENSURE EFFECTIVE STATEWIDE OPERATION OF THE 1915 (B)/(C) MEDICAID WAIVER.

Whereas, S.L. 2011-264, as amended by Section 13 of S.L. 2012-151, required the Department of Health and Human Services (Department) to restructure the statewide management of the delivery of services for individuals with mental illness, intellectual and developmental disabilities, and substance abuse disorders through the statewide expansion of the 1915(b)/(c) Medicaid Waiver; and

Whereas, a local management entity/managed care organization (LME/MCO) that is awarded a contract to operate the 1915(b)/(c) Medicaid Waiver was required to maintain fidelity to the Piedmont Behavioral Health (PBH) demonstration model; and

Whereas, LME/MCOs are acting as Medicaid vendors and the Department must ensure that they are compliant with the provisions of S.L. 2011-264, as amended by Section 13 of S.L. 2012-151, as well as all applicable federal, State, and contractual requirements; Now, therefore,

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 122C-3 is amended by adding a new subdivision to read:

"(20c) "Local management entity/managed care organization" or "LME/MCO" means a local management entity that is under contract with the Department to operate the combined Medicaid Waiver program authorized under Section 1915(b) and Section 1915(c) of the Social Security Act."

SECTION 2. Article 4 of Chapter 122C of the General Statutes is amended by adding a new section to read:

"**§ 122C-124.2. Actions by the Secretary to ensure effective management of behavioral health services under the 1915(b)/(c) Medicaid Waiver.**

(a) For all local management entity/managed care organizations, the Secretary shall certify whether the LME/MCO is in compliance or is not in compliance with all requirements of subdivisions (1) through (3) of subsection (b) of this section. The Secretary's certification shall be made every six months beginning August 1, 2013. In order to ensure accurate evaluation of administrative, operational, actuarial and financial components, and overall performance of the LME/MCO, the Secretary's certification shall be based upon an internal and external assessment made by an independent external review agency in accordance with applicable federal and State laws and regulations. Beginning on February 1, 2014, and for all subsequent assessments for certification, the independent review will be made by an External Quality Review Organization approved by the Centers for Medicare and Medicaid Services and in accordance with applicable federal and State laws and regulations.

(b) The Secretary's certification under subsection (a) of this section shall be in writing and signed by the Secretary and shall contain a clear and unequivocal statement that the Secretary has determined the local management entity/managed care organization to be in compliance with all of the following requirements:

(1) The LME/MCO has made adequate provision against the risk of insolvency with respect to capitation payments for Medicaid enrollees. "Adequate provision" includes all of the following:

a. The LME/MCO has submitted to the Department all the financial records and reports required to be submitted to the Department under the Contract, including monthly balance sheets.

b. There are no consecutive three-month periods during which the LME/MCO's ratio of current assets to current liabilities is less than 1.0, based on a monthly review of the LME/MCO's balance sheets for each month of the three-month period, as determined by the Secretary.

c. An intradepartmental monitoring team, as designated by the Secretary and consisting of the Secretary or a designee, representatives of the Division of Medical Assistance, and representatives of the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, utilizing the monitoring team's solvency measures, determines that the LME/MCO has made adequate provisions against the risk of insolvency based on a quarterly review of the financial reports submitted to the Department by the LME/MCO.

(2) The LME/MCO is making timely provider payments. The Secretary shall certify that an LME/MCO is making timely provider payments if there are no consecutive three-month periods during which the LME/MCO paid less than ninety percent (90%) of clean claims for covered services within the 30-day period following the LME/MCO's receipt of these claims during that three-month period. As used in this subdivision, a "clean claim" is a claim that can be processed without obtaining additional information from the provider of the service or from a third party. The term includes a claim with errors originating in the LME/MCO's claims system. The term does not include a claim from a provider who is under investigation by a

governmental agency for fraud or abuse or a claim under review for medical necessity.

(3) The LME/MCO is exchanging billing, payment, and transaction information with the Department and providers in a manner that complies with all applicable federal standards, including all of the following:

a. Standards for information transactions and data elements specified in 42 U.S.C. § 1302d-2 of the Healthcare Insurance Portability and Accountability Act (HIPAA), as from time to time amended.

b. Standards for health care claims or equivalent encounter information transactions specified in HIPAA regulations in 45 C.F.R. § 162.1102, as from time to time amended.

c. Implementation specifications for Electronic Data Interchange standards published and maintained by the Accredited Standards Committee (ASC X12) and referenced in HIPAA regulations in 45 C.F.R. § 162.920, as from time to time amended.

(c) If the Secretary does not provide a local management entity/managed care organization with the certification of compliance required by this section based upon the LME/MCO's failure to comply with any of the requirements specified in subdivisions (1) through (3) of subsection (b) of this section, the Secretary shall do the following:

(1) Prepare a written notice informing the LME/MCO of the provisions of subdivision (1), (2), or (3) of subsection (c) of this section with which the LME/MCO is deemed not to be in compliance and the reasons for the determination of noncompliance.

(2) Cause the notice of the noncompliance to be delivered to the LME/MCO.

(3) Not later than 10 days after the Secretary's notice of noncompliance is provided to the LME/MCO, assign the Contract of the noncompliant LME/MCO to a compliant LME/MCO.

(4) Oversee the transfer of the operations and contracts from the noncompliant LME/MCO to the compliant LME/MCO in accordance with the provisions in subsection (e) of this section.

(d) If, at any time, in the Secretary's determination, a local management entity/managed care organization is not in compliance with a requirement of the Contract other than those specified in subdivisions (1) through (3) of subsection (b) of this section, then the Secretary shall do all of the following:

(1) Prepare a written notice informing the LME/MCO of the provisions of the Contract with which the LME/MCO is deemed not to be in compliance and the reasons therefor.

(2) Cause the notice of the noncompliance to be delivered to the LME/MCO.

(3) Allow the noncompliant LME/MCO 30 calendar days from the date of receipt of the notice to respond to the notice of noncompliance and to demonstrate compliance to the satisfaction of the Secretary.

(4) Upon the expiration of the period allowed under subdivision (3) of this subsection, make a final determination on the issue of compliance and promptly notify the LME/MCO of the determination.

(5) Upon a final determination that an LME/MCO is noncompliant, allow no more than 30 days following the date of notification of the final determination of noncompliance for the noncompliant LME/MCO to complete negotiations for a merger or realignment with a compliant LME/MCO that is satisfactory to the Secretary.

(6) If the noncompliant LME/MCO does not successfully complete negotiations with a compliant LME/MCO as described in subdivision (5) of this subsection, assign the Contract of the noncompliant LME/MCO to a compliant LME/MCO.

(7) Oversee the transfer of the operations and contracts from the noncompliant LME/MCO to the compliant LME/MCO in accordance with the provisions in subsection (e) of this section.

(e) If the Secretary assigns the Contract of a noncompliant local management entity/managed care organization to a compliant LME/MCO under subdivision (3) of subsection (c) of this section, or under subdivision (6) of subsection (d) of this section, the Secretary shall oversee the orderly transfer of all management responsibilities, operations, and contracts of the noncompliant LME/MCO to the compliant LME/MCO. The noncompliant LME/MCO shall cooperate with the Secretary in order to ensure the uninterrupted provision of services to Medicaid recipients. In making this transfer, the Secretary shall do all of the following:

(1) Arrange for the providers of services to be reimbursed from the remaining fund balance or risk reserve of the noncompliant LME/MCO, or from other funds of the Department if necessary, for proper, authorized, and valid claims for services rendered that were not previously paid by the noncompliant LME/MCO.

(2) Effectuate an orderly transfer of management responsibilities from the noncompliant LME/MCO to the compliant LME/MCO, including the responsibility of paying providers for covered services that are subsequently rendered.

(3) Oversee the dissolution of the noncompliant LME/MCO, including transferring to the compliant LME/MCO all assets of the noncompliant LME/MCO, including any balance remaining in its risk reserve after payments have been made under subdivision (1) of this subsection. Risk reserve funds of the noncompliant LME/MCO may be used only to pay authorized and approved provider claims. Any funds remaining in the risk reserve transferred under this subdivision shall become part of the compliant LME/MCO's risk reserve and subject to the same restrictions on the use of the risk reserve applicable to the compliant LME/MCO. If the risk reserves transferred from the noncompliant LME/MCO are insufficient, the Secretary shall guarantee any needed risk reserves for the compliant LME/MCO arising from the additional risks being assumed by the compliant LME/MCO until the compliant LME/MCO has established fifteen percent (15%) risk reserves. All other assets shall be used to satisfy the liabilities of the noncompliant LME/MCO. In the event there are insufficient assets to satisfy the liabilities of the noncompliant LME/MCO, it shall be the responsibility of the Secretary to satisfy the liabilities of the noncompliant LME/MCO.

(4) Following completion of the actions specified in subdivisions (1) through (3) of this subsection, direct the dissolution of the noncompliant LME/MCO and deliver a notice of dissolution to the board of county commissioners of each of the counties in the dissolved LME/MCO. An LME/MCO that is dissolved by the Secretary in accordance with the provisions of this section may be dissolved at any time during the fiscal year.

(f) The Secretary shall provide a copy of each written, signed certification of compliance or noncompliance completed in accordance with this section to the Senate Appropriations Committee on Health and Human Services, the House Appropriations Subcommittee on Health and Human Services, the Legislative Oversight Committee on Health and Human Services, and the Fiscal Research Division.

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

(1) Contract. – The contract between the Department of Health and Human Services and a local management entity for the operation of the 1915(b)/(c) Medicaid Waiver.

(2) Compliant local management entity/managed care organization. – An LME/MCO that has undergone an independent external assessment and been determined by the Secretary to be operating successfully and to have the capability of expanding."

SECTION 3. G.S. 122C-112.1(a) is amended by adding a new subdivision to read:

"(39) Develop and use a standard contract for all local management entity/managed care organizations for operation of the 1915(b)/(c) Medicaid Waiver that requires compliance by each LME/MCO with all provisions of the contract to operate the 1915(b)/(c) Medicaid Waiver and with all applicable provisions of State and federal law."

SECTION 4.(a) G.S. 122C-115(a) reads as rewritten:

"(a) A county shall provide mental health, developmental disabilities, and substance abuse services in accordance with rules, policies, and guidelines adopted pursuant to statewide restructuring of the management responsibilities for the delivery of services for individuals with mental illness, intellectual or other developmental disabilities, and substance abuse disorders under a 1915(b)/(c) Medicaid Waiver through an area ~~authority or through a county program established pursuant to G.S. 122C-115.1.~~ authority. Beginning July 1, 2012, the catchment area of an area authority ~~or a county program~~ shall contain a minimum population of at least 300,000. Beginning July 1, 2013, the catchment area of an area authority ~~or a county program~~ shall contain a minimum population of at least 500,000. To the extent this section conflicts with ~~G.S. 153A-77(a),~~ G.S. 153A-77(a) or G.S. 122C-115.1, the provisions of ~~G.S. 153A-77(a)~~this section control."

SECTION 4.(b) G.S. 122C-115(a3) reads as rewritten:

"(a3) A county that wishes to disengage from a local management entity/managed care organization and realign with another multicounty area authority operating under the 1915(b)/(c) Medicaid Waiver may do so with the approval of the Secretary. The Secretary shall adopt rules to establish a process for county disengagement that shall ensure, at a minimum, the following:

(1) Provision of services is not disrupted by the disengagement.

(2) The disengaging county either is in compliance or plans to merge with an area authority that is in compliance with population requirements provided in G.S. 122C-115(a) of this section.

(3) The timing of the disengagement is accounted for and does not conflict with setting capitation rates.

(4) Adequate notice is provided to the affected counties, the Department of Health and Human Services, and the General Assembly.

(5) Provision for distribution of any real property no longer within the catchment area of the area authority."

SECTION 4.(c) G.S. 122C-115(c1) reads as rewritten:

"(c1) Area authorities may add one or more additional counties to their existing catchment area ~~by agreement of a majority of the existing member counties.~~upon the adoption of a resolution to that effect by a majority of the members of the area board and the approval of the Secretary."

SECTION 5.(a) G.S. 122C-115.3(a), (c), (d), (f), and (g) are repealed.

SECTION 5.(b) G.S. 122C-115.3(b) reads as rewritten:

"(b) ~~Notwithstanding the provisions of subsection (a) of this section, no~~ No county shall withdraw from an area authority nor shall an area authority be dissolved ~~without first demonstrating that continuity of services will be assured and~~ without prior approval of the Secretary."

SECTION 5.(c) G.S. 122C-115.3(e) reads as rewritten:

"(e) Any fund balance available to an area authority at the time of its dissolution ~~shall be distributed to those counties comprising the area authority on the same pro rata basis that the counties appropriated and contributed funds to the area authority's budget during the current~~

~~fiscal year. Distribution to the counties shall be determined on the basis of an audit of the financial record of the area authority. The area authority board shall select a certified public accountant or an accountant who is subsequently certified by the Local Government Commission to conduct the audit. The audit shall be performed in accordance with G.S. 159-34. The same method of distribution of funds described in this subsection shall apply when one or more counties of an area authority withdraw from the area authority.~~that is not utilized to pay liabilities shall be transferred to the area authority contracted to operate the 1915(b)/(c) Medicaid Waiver in the catchment area of the dissolved area authority. If the fund balance transferred from the dissolved area authority is insufficient to constitute fifteen percent (15%) of the anticipated operational expenses arising from assumption of responsibilities from the dissolved area authority, the Secretary shall guarantee the operational reserves for the area authority assuming the responsibilities under the 1915(b)/(c) Medicaid Waiver until the assuming area authority has reestablished fifteen percent (15%) operational reserves."

SECTION 6. G.S. 122C-118.1(a) reads as rewritten:

"(a) An area board shall have no fewer than 11 and no more than 21 voting members. The board of county commissioners, or the boards of county commissioners within the area, shall appoint members consistent with the requirements provided in subsection (b) of this section. The process for appointing members shall ensure participation from each of the constituent counties of a multicounty area authority. If the board or boards fail to comply with the requirements of subsection (b) of this section, the Secretary shall appoint the unrepresented category. The boards of county commissioners within a multicounty area with a catchment population of at least 1,250,000 shall have the option to appoint members of the area board in a manner or with a composition other than as required by this section by each county ~~unanimously~~ adopting a resolution to that effect and receiving written approval from the ~~Secretary by January 1, 2013.~~Secretary. A member of the board may be removed with or without cause by the initial appointing authority. The area board may declare vacant the office of an appointed member who does not attend three consecutive scheduled meetings without justifiable excuse. The chair of the area board shall notify the appropriate appointing authority of any vacancy. Vacancies on the board shall be filled by the initial appointing authority before the end of the term of the vacated seat or within 90 days of the vacancy, whichever occurs first, and the appointments shall be for the remainder of the unexpired term."

SECTION 7. G.S. 122C-118.1 is amended by adding the following new subsection to read:

"(f) An area authority that adds one or more counties to its existing catchment area under G.S. 122C-115(c1) shall ensure that the expanded catchment area is represented through membership on the area board, with or without adding area board members under this section, as provided in G.S. 122C-118.1(a)."

SECTION 8. Article 4 of Chapter 122C of the General Statutes is amended by adding a new section to read:

"**§ 122C-118.2. Establishment of county commissioner advisory board.**

(a) There is established a county commissioner advisory board for each catchment area, consisting of one county commissioner from each county in the catchment area, designated by the board of commissioners of each county. The county commissioner advisory board shall meet on a regular basis, and its duties shall include serving as the chief advisory board to the area authority and to the director of the area authority on matters pertaining to the delivery of services for individuals with mental illness, intellectual or other developmental disabilities, and substance abuse disorders in the catchment area. The county commissioner advisory board serves in an advisory capacity only to the area authority, and its duties do not include authority over budgeting, personnel matters, governance, or policymaking of the area authority.

(b) Each board of commissioners within the catchment area shall designate from its members the commissioner to serve on the county commissioner advisory board. Each board of commissioners may determine the manner of designation, the term of service, and the conditions under which its designee will serve on the county commissioner advisory board."

SECTION 9. G.S. 122C-142(a) is rewritten to read:

"(a) When the area authority contracts with persons for the provision of services, it shall use the standard contract adopted by the Secretary and shall assure that these contracted services meet the requirements of applicable State statutes and the rules of the Commission and the Secretary. However, an area authority ~~or county program~~ may amend the contract to comply with any court-imposed duty or responsibility. An area authority ~~or county program~~ that is operating under a Medicaid waiver may amend the contract subject to the approval of the Secretary. Terms of the standard contract shall require the area authority to monitor the contract to assure that rules and State statutes are met. It shall also place an obligation upon the entity providing services to provide to the area authority timely data regarding the clients being served, the services provided, and the client outcomes. The Secretary may also monitor contracted services to assure that rules and State statutes are met."

SECTION 10. G.S. 150B-1(e) is amended by adding a new subdivision to read:

"(21) The Department of Health and Human Services for actions taken under G.S. 122C-124.2."

SECTION 11. By no later than August 1, 2013, the Secretary of the Department of Health and Human Services shall complete an initial certification of compliance, in accordance with G.S. 122C-124.2(a), for each local management entity/managed care organization that has been approved by the Department to operate the 1915(b)/(c) Medicaid Waiver and provide a copy of the certification to the Senate Appropriations Committee on Health and Human Services, the House Appropriations Subcommittee on Health and Human Services, the Legislative Oversight Committee on Health and Human Services, and the Fiscal Research Division.

SECTION 12. Section 4(a) of this act becomes effective January 1, 2014. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 6th day of June, 2013.

Became law upon approval of the Governor at 4:27 p.m. on the 12th day of June, 2013.

Session Law 2013-86 **S.B. 460**

AN ACT TO PROVIDE THAT THE CITY OF BELMONT MAY LEASE FROM THE DEPARTMENT OF TRANSPORTATION THE DEPARTMENT'S INTEREST IN A PORTION OF THE PIEDMONT AND NORTHERN RAIL CORRIDOR WITHIN THE LIMITS OF THE TOWN OF BELMONT.

The General Assembly of North Carolina enacts:

SECTION 1. The City of Belmont and the North Carolina Department of Transportation are authorized to enter into a lease agreement for interim public recreation use of that portion of the Department's interest in the portion of the right-of-way of the former Belmont Branch of the Piedmont and Northern railroad from its intersection with State Road 2093 (Railroad Milepost SFF 1.56) to its intersection with Glenway Street (Railroad Milepost SFF 3.13) provided that all of the following conditions are met:

(1) The City of Belmont has examined title to the real property comprising the above described portion of rail corridor and has identified all persons owning an interest in the real property comprising the rail corridor portion to be leased.

(2) All persons owning an interest in the real property comprising the rail corridor portion to be leased will be parties to the lease.

(3) Before requesting trail use, the City of Belmont (i) holds a public hearing in accordance with G.S. 143-318.12; (ii) notifies the owners of all parcels of land abutting the corridor as shown on the county tax listing of the hearing date, place, and time by first-class mail at the last addresses listed for such

owners on the county tax abstracts; and (iii) sends a transcript of all public comments presented at the hearing to the Department of Transportation at the time of requesting use of the corridor.

(4) The City of Belmont has requested use of the portion of the rail corridor described in this act for interim public recreational trail use and agrees in writing to assume all development costs as well as management, security, and liability responsibilities as defined by the Department of Environment and Natural Resources and the Department of Transportation.

(5) Adjacent property owners are offered broad voting representation by membership in the organization, if any, that is delegated most immediate responsibility for development and management of the rail-trail by the City of Belmont.

(6) The Department of Transportation determines that there will not likely be a need to resume active rail service in the leased portion of the rail corridor for at least 10 years.

(7) The lease agreement allowing trail use includes terms for resumption of active rail use that will assure unbroken continuation of the corridor's perpetual use for railroad purposes and interim compatible uses.

(8) Use of the rail corridor or portions thereof as a recreational trail does not interfere with the ultimate transportation purposes of the corridor as determined by the Department of Transportation.

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

In the General Assembly read three times and ratified this the 6th day of June, 2013.

Became law upon approval of the Governor at 4:27 p.m. on the 12th day of June, 2013.

Session Law 2013-87 **S.B. 603**

AN ACT TO CLARIFY THAT REGISTRATION PLATES, REGISTRATION CERTIFICATES, AND CERTIFICATES OF TITLES CAN BE ISSUED DIRECTLY BY THE DIVISION OF MOTOR VEHICLES OFFICES LOCATED IN THE COUNTIES OF WAKE, CUMBERLAND, AND MECKLENBURG.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-63(h) reads as rewritten:

"(h) Commission Contracts for Issuance of Plates and Certificates. – All registration plates, registration certificates, and certificates of title issued by the Division, outside of those issued from the ~~Charlotte, Fort Bragg and Raleigh offices~~office of the Division located in Wake, Cumberland, or Mecklenburg Counties and those issued and handled through the United States mail, shall be issued insofar as practicable and possible through commission contracts entered into by the Division for the issuance of the plates and certificates in localities throughout North Carolina, including military installations within this State, with persons, firms, corporations or governmental subdivisions of the State of North Carolina. The Division shall make a reasonable effort in every locality, except as noted above, to enter into a commission contract for the issuance of the plates and certificates and a record of these efforts shall be maintained in the Division. In the event the Division is unsuccessful in making commission contracts, it shall issue the plates and certificates through the regular employees of the Division. Whenever registration plates, registration certificates, and certificates of title are issued by the Division through commission contract arrangements, the Division shall provide proper supervision of the distribution. Nothing contained in this subsection will allow or permit the operation of fewer outlets in any county in this State than are now being operated.

Commission contracts entered into by the Division under this subsection shall provide for the payment of compensation on a per transaction basis. The collection of the highway use tax

shall be considered a separate transaction for which one dollar and twenty-seven cents ($1.27) compensation shall be paid. The performance at the same time of one or more of the remaining transactions listed in this subsection shall be considered a single transaction for which one dollar and forty-three cents ($1.43) compensation shall be paid.

A transaction is any of the following activities:

(1) Issuance of a registration plate, a registration card issued without collection of property taxes or fees under G.S. 105-330.5, a registration renewal sticker, or a certificate of title.
(2) Issuance of a handicapped placard or handicapped identification card.
(3) Acceptance of an application for a personalized registration plate.
(4) Acceptance of a surrendered registration plate, registration card, or registration renewal sticker, or acceptance of an affidavit stating why a person cannot surrender a registration plate, registration card, or registration renewal sticker.
(5) Cancellation of a title because the vehicle has been junked.
(6) Acceptance of an application for, or issuance of, a refund for a fee or a tax, other than the highway use tax.
(7) Receipt of the civil penalty imposed by G.S. 20-311 for a lapse in financial responsibility or receipt of the restoration fee imposed by that statute.
(8) Acceptance of a notice of failure to maintain financial responsibility for a motor vehicle.
(8a) Collection of civil penalties imposed for violations of G.S. 20-183.8A.
(8b) Sale of one or more inspection stickers in a single transaction to a licensed inspection station.
(9) Collection of the highway use tax.
(10) Acceptance of a temporary lien filing."

SECTION 2. This act becomes effective July 1, 2013.

In the General Assembly read three times and ratified this the 6th day of June, 2013.

Became law upon approval of the Governor at 4:27 p.m. on the 12th day of June, 2013.

Session Law 2013-88 **S.B. 634**

AN ACT TO INCREASE THE CRIMINAL PENALTIES FOR INTERFERENCE WITH GAS, WATER, OR ELECTRIC LINES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 14-151 reads as rewritten:

"§ **14-151. Interfering with gas, electric and steam ~~appliances.~~appliances or meters; penalties.**

(a) ~~If~~ It shall be unlawful for any person ~~shall~~ to willfully, with intent to injure or defraud, commit any of the following ~~acts~~ acts:~~set forth in the following subdivisions, he shall be guilty of a Class 2 misdemeanor:~~

(1) Connect a tube, pipe, wire or other instrument or contrivance with a pipe or wire used for conducting or supplying illuminating gas, fuel, natural gas or electricity in such a manner as to supply such gas or electricity to any burner, orifice, lamp or motor where the same is or can be burned or used without passing through the meter or other instrument provided for registering the quantity ~~consumed; or,~~consumed.
(2) Obstruct, alter, bypass, tamper with, injure or prevent the action of a meter or other instrument used to measure or register the quantity of illuminating fuel, natural ~~gas~~ gas, water, or electricity passing through such meter ~~consumed in a house or apartment, or at an orifice or burner, lamp or motor,~~

~~or by a consumer or~~ by a ~~other~~ person other than an employee of the company owning or supplying any ~~gas~~ gas, water, or electric meter, who willfully shall detach or disconnect such meter, or make or report any test of, or examine for the purpose of testing any meter so detached or ~~disconnected; or,~~disconnected.

(3) In any manner whatever change, extend or alter any service or other pipe, wire or attachment of any kind, connecting with or through which natural or artificial gas or electricity is furnished from the gas mains or pipes of any person, without first procuring from said person written permission to make such change, extension or ~~alterations; or,~~alterations.

(4) Make any connection or reconnection with the gas mains, water pipes, service pipes or wires of any person, furnishing to consumers natural or artificial ~~gas~~ gas, water, or electricity, or turn on or off or in any manner interfere with any valve or stopcock or other appliance belonging to such person, and connected with his service or other pipes or wires, or enlarge the orifices of mixers, or use natural gas for heating purposes except through mixers, or electricity for any purpose without first procuring from such person a written permit to turn on or off such stopcock or valve, or to make such connection or reconnections, or to enlarge the orifice of mixers, or to use for heating purposes without mixers, or to interfere with the valves, stopcocks, wires or other appliances of such, as the case may ~~be; or,~~be.

(5) Retain possession of or refuse to deliver any mixer, meter, lamp or other appliance which may be leased or rented by any person, for the purpose of furnishing gas, water, electricity or power through the same, or sell, lend or in any other manner dispose of the same to any person other than such person entitled to the possession of the ~~same; or,~~same.

(6) Set on fire any gas escaping from wells, broken or leaking mains, pipes, valves or other appliances used by any person in conveying gas to consumers, or interfere in any manner with the wells, pipes, mains, gateboxes, valves, stopcocks, wires, cables, conduits or any other appliances, machinery or property of any person engaged in furnishing gas to consumers unless employed by or acting under the authority and direction of such ~~person; or,~~person.

(7) Open or cause to be opened, or reconnect or cause to be reconnected any valve lawfully closed or disconnected by a district steam ~~corporation; or~~corporation.

(8) Turn on steam or cause it to be turned on or to reenter any premises when the same has been lawfully stopped from entering such premises.

(9) Reconnect electricity, gas, or water connections or otherwise turn back on one or more of those utilities when they have been lawfully disconnected or turned off by the provider of the utility.

(10) Alter, bypass, interfere with, or cut off any load management device, equipment, or system which has been installed by the electricity supplier for the purpose of limiting the use of electricity at peak-load periods, provided, however, if there has been a written request to remove the load management device, equipment, or system to the electric supplier and the electric supplier has not removed the device within two working days, there shall be no violation of this section.

(b) Any meter or service entrance facility found to have been altered, tampered with, or bypassed in a manner that would cause such meter to inaccurately measure and register the electricity, gas, or water consumed or which would cause the electricity, gas, or water to be diverted from the recording apparatus of the meter shall be prima facie evidence of intent to violate and of the violation of this section by the person in whose name such meter is installed

or the person or persons so using or receiving the benefits of such unmetered, unregistered, or diverted electricity, gas, or water.

(c) For the purposes of this section, the term "gas" shall mean all types and forms of gas, including, but not limited to, natural gas.

(d) Criminal violations of this section shall be punishable as follows:

(1) A violation of this section is a Class 1 misdemeanor.

(2) A second or subsequent violation of this section is a Class H felony.

(3) A violation of this section that results in significant property damage or public endangerment is a Class F felony.

(4) Unless the conduct is covered under some other provision of law providing greater punishment, a violation that results in the death of another is a Class D felony.

(e) Whoever is found in a civil action to have violated any provision ~~hereof~~ of this section shall be liable to the electric, gas or water supplier in triple the amount of losses and damages sustained or five ~~hundred~~ thousand dollars ~~($500.00),~~($5,000), whichever is greater.

(f) Nothing in this section shall be construed to apply to licensed contractors while performing usual and ordinary services in accordance with recognized customs and standards."

SECTION 2. G.S. 14-151.1 is repealed.

SECTION 3. This act becomes effective December 1, 2013, and applies to offenses committed on or after that date.

In the General Assembly read three times and ratified this the 6th day of June, 2013.

Became law upon approval of the Governor at 4:27 p.m. on the 12th day of June, 2013.

Session Law 2013-89 **S.B. 210**

AN ACT TO PROVIDE FOR THE APPOINTMENT OF CHIEF MAGISTRATES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 7A-146 reads as rewritten:

"§ **7A-146. Administrative authority and duties of chief district judge.**

The chief district judge, subject to the general supervision of the Chief Justice of the Supreme Court, has administrative supervision and authority over the operation of the district courts and magistrates in his district. These powers and duties include, but are not limited to, the following:

…

(4) Assigning matters to magistrates, and consistent with the salaries set by the Administrative Officer of the Courts, prescribing times and places at which magistrates shall be available for the performance of their duties; however, the chief district judge may in writing delegate his authority to prescribe times and places at which magistrates in a particular county shall be available for the performance of their duties to another district court judge or the clerk of the superior court, or the judge may appoint a chief magistrate to fulfill some or all of the duties under subdivision (12) of this section, and the person to whom such authority is delegated shall make monthly reports to the chief district judge of the times and places actually served by each magistrate.

…

(12) Designating a full-time magistrate in a county to serve as chief magistrate for that county for an indefinite term and at the judge's pleasure. The chief magistrate shall have the derivative administrative authority assigned by the chief district court judge under subdivision (4) of this section. This subdivision applies only to counties in which the chief district court judge

determines that designating a chief magistrate would be in the interest of justice."

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

In the General Assembly read three times and ratified this the 5th day of June, 2013.

Became law upon approval of the Governor at 4:28 p.m. on the 12th day of June, 2013.

Session Law 2013-90 **S.B. 252**

AN ACT TO INCREASE THE CRIMINAL PENALTY FOR CERTAIN VIOLATIONS OF THE CONTROLLED SUBSTANCES ACT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 90-108(b) reads as rewritten:

"(b) Any person who violates this section shall be guilty of a Class 1 misdemeanor. Provided, that if the criminal pleading alleges that the violation was committed intentionally, and upon trial it is specifically found that the violation was committed intentionally, such violations shall be a Class I ~~felony.~~felony unless one of the following applies:

(1) A person who violates subdivision (7) of subsection (a) of this section and also fortifies the structure, with the intent to impede law enforcement entry, (by barricading windows and doors) shall be punished as a Class I felon.

(2) A person who violates subdivision (14) of subsection (a) of this section shall be punished as a Class G felon."

SECTION 2. This act becomes effective December 1, 2013, and applies to offenses committed on or after that date.

In the General Assembly read three times and ratified this the 5th day of June, 2013.

Became law upon approval of the Governor at 4:28 p.m. on the 12th day of June, 2013.

Session Law 2013-91 **S.B. 279**

AN ACT TO UPDATE AND CLARIFY PROVISIONS OF THE LAWS GOVERNING ESTATES, TRUSTS, GUARDIANSHIPS, POWERS OF ATTORNEY, AND OTHER FIDUCIARIES.

The General Assembly of North Carolina enacts:

PART I. UPDATE AND CLARIFY LAWS GOVERNING WILLS AND ESTATES

CLARIFY WRONGFUL DEATH STATUTE

SECTION 1.(a) G.S. 28A-18-2(a) reads as rewritten:

"§ **28A-18-2. Death by wrongful act of another; recovery not assets.**

(a) When the death of a person is caused by a wrongful act, neglect or default of another, such as would, if the injured person had lived, have entitled the injured person to an action for damages therefor, the person or corporation that would have been so liable, and ~~or her~~ the personal representatives or collectors of the person or corporation that would have been so liable, shall be liable to an action for damages, to be brought by the personal representative or collector of the decedent; and this notwithstanding the death, and although the wrongful act, neglect or default, causing the death, amounts in law to a felony. The personal representative or collector of the decedent who pursues an action under this section may pay from the assets of the estate the reasonable and necessary expenses, not including attorneys' fees, incurred in pursuing the action. At the termination of the action, any amount recovered shall be applied first to the reimbursement of the estate for the expenses incurred in pursuing the action, then to

the payment of attorneys' fees, and shall then be distributed as provided in this section. The amount recovered in such action is not liable to be applied as assets, in the payment of debts or devises, except as to burial expenses of the deceased, and reasonable hospital and medical expenses not exceeding four thousand five hundred dollars ($4,500) incident to the injury resulting in death, except that the amount applied for hospital and medical expenses shall not exceed fifty percent (50%) of the amount of damages recovered after deducting attorneys' fees, but shall be disposed of as provided in the Intestate Succession Act. The limitations on recovery for hospital and medical expenses under this subsection do not apply to subrogation rights exercised pursuant to ~~G.S. 135-45.1.~~G.S. 135-48.37. All claims filed for ~~such services shall be approved by~~ burial expenses of the decedent and reasonable hospital and medical expenses shall be subject to the approval of the clerk of the superior court and any party adversely affected by any decision of said clerk as to said claim may appeal to the superior court in term time."

CLARIFY NOTICE TO CREDITORS/LIMITED PERSONAL REPRESENTATIVES

SECTION 1.(b) G.S. 28A-29-1 reads as rewritten:

"§ **28A-29-1. Notice to creditors without estate administration.**

When (i) a decedent dies testate or intestate leaving no personal property subject to ~~probate,~~ probate and no real property devised to the personal representative; (ii) a decedent's estate is being administered by collection by affidavit pursuant to Article 25 of this Chapter; (iii) a decedent's estate is being administered under the summary administration provisions of Article 28 of this Chapter; (iv) a decedent's estate consists solely of a motor vehicle that can be transferred by the procedure authorized by G.S. 20-77(b); or (v) a decedent has left assets that may be treated as assets of an estate for limited purposes as described in G.S. 28A-15-10, and no application or petition for appointment of a personal representative is pending or has been granted in this State, any person otherwise qualified to serve as personal representative of the estate pursuant to Article 4 of this Chapter or the trustee then serving under the terms of a revocable trust created by the decedent may file a petition to be appointed as a limited personal representative to provide notice to creditors without administration of an estate before the clerk of superior court of the county where the decedent was domiciled at the time of death. This procedure is not available if the decedent's will provides that it is not available. A limited personal representative shall have the rights and obligations provided for in this Article."

SECTION 1.(c) G.S. 28A-29-2(a) reads as rewritten:

"(a) The application for appointment as limited personal representative shall be in the form of an affidavit sworn to before an officer authorized to administer oaths, signed by the applicant or the applicant's attorney, which may be supported by other proof under oath in writing, all of which shall be recorded and filed by the clerk of superior court, and shall allege all of the following facts:

(1) The name and domicile of the decedent at the time of death.

(2) The date and place of death of the decedent.

(3) That, so far as is known or can with reasonable diligence be ascertained, ~~the decedent's property is not subject to probate.~~ (i) the decedent left no personal property subject to probate and no real property devised to the personal representative; (ii) the decedent's estate is being administered by collection by affidavit pursuant to Article 25 of this Chapter; (iii) the decedent's estate is being administered under the summary administration provisions of Article 28 of this Chapter; (iv) the decedent's estate consists solely of a motor vehicle that can be transferred by the procedure authorized by G.S. 20-77(b); or (v) the decedent left assets that may be treated as assets of an estate for limited purposes as described in G.S. 28A-15-10.

(4) That no application or petition for appointment of a personal representative is pending or has been granted in this State."

ELECTIVE SHARE CHANGE

SECTION 1.(d) G.S. 30-3.1 reads as rewritten:

"§ **30-3.1. Right of elective share.**

(a) Elective Share. – The surviving spouse of a decedent who dies domiciled in this State has a right to claim an "elective share", which means an amount equal to (i) the applicable share of the Total Net Assets, as defined in G.S. 30-3.2(4), less (ii) the value of Net Property Passing to Surviving Spouse, as defined in G.S. 30-3.2(2c). The applicable share of the Total Net Assets is as follows:

(1) If the surviving spouse was married to the decedent ~~is not survived by any lineal descendants, one-half~~ for less than five years, fifteen percent (15%) of the Total Net Assets.

(2) If the surviving spouse was married to the decedent ~~is survived by one child, or lineal descendants of one deceased child, one-half~~ for at least five years but less than 10 years, twenty-five percent (25%) of the Total Net Assets.

(3) If the surviving spouse was married to the decedent ~~is survived by two or more children, or by one or more children and the lineal descendants of one or more deceased children, or by the lineal descendants of two or more deceased children, one-third~~ for at least 10 years but less than 15 years, thirty-three percent (33%) of the Total Net Assets.

(4) If the surviving spouse was married to the decedent for 15 years or more, fifty percent (50%) of the Total Net Assets.

~~(b) Reduction of Applicable Share. – In those cases in which the surviving spouse is a second or successive spouse, and the decedent has one or more lineal descendants surviving who are not lineal descendants of the decedent's marriage to the surviving spouse but there are no lineal descendants surviving by the surviving spouse, the applicable share as determined in subsection (a) of this section shall be reduced by one-half.~~"

ATTORNEYS' FEES ON YEAR'S ALLOWANCE

SECTION 1.(e) G.S. 30-31 reads as rewritten:

"§ **30-31. Amount of allowance.**

The clerk of superior court may assign to the petitioner a value sufficient for the support of petitioner according to the estate and condition of the decedent and without regard to the limitations set forth in this Chapter; but the value allowed shall be fixed with due consideration for other persons entitled to allowances for year's support from the decedent's estate; and the total value of all allowances shall not in any case exceed the one half of the average annual net income of the deceased for three years next preceding the deceased's death. Attorneys' fees and costs awarded the petitioner under G.S. 6-21 shall be paid as an administrative expense of the estate."

OUT-OF-STATE WILL PROBATE AND MILITARY WILLS

SECTION 1.(f) G.S. 31-11.6 reads as rewritten:

"§ **31-11.6. How attested wills may be made self-proved.**

(a) Any will may be simultaneously executed, attested, and made self-proved, by acknowledgment thereof by the testator and affidavits of the witnesses, each made before an officer authorized to administer oaths under the laws of the state where execution occurs and evidenced by the officer's certificate, under official seal, in ~~substantially~~ the following ~~form:~~ form, or in a similar form showing the same intent:

"I, _____, the testator, sign my name to this instrument this ____ day of _____, ____ and being first duly sworn, do hereby declare to the undersigned authority that I sign and execute this instrument as my last will and that I sign it willingly (or willingly direct another to

sign for me), that I execute it as my free and voluntary act for the purposes therein expressed, and that I am eighteen years of age or older, of sound mind, and under no constraint or undue influence.

_____
Testator

We _____, _____, the witnesses, sign our names to this instrument, being first duly sworn, and do hereby declare to the undersigned authority that the testator signs and executes this instrument as his last will and that he signs it willingly (or willingly directs another to sign for him), and that each of us, in the presence and hearing of the testator, hereby signs this will as witness to the testator's signing, and to the best of our knowledge the testator is eighteen years of age or older, of sound mind, and under no constraint or undue influence.

_____
Witness

_____
Witness

THE STATE OF _____.
COUNTY OF _____.

Subscribed, sworn to and acknowledged before me by _____. the testator and subscribed and sworn to before me by _____ and _____, witnesses, this ____ day of _____

(SEAL)

(SIGNED) _____
(OFFICIAL CAPACITY OF OFFICER)"

(b) An attested written will executed as provided by G.S. 31-3.3 may at any time subsequent to its execution be made self-proved, by the acknowledgment thereof by the testator and the affidavits of the attesting witnesses, each made before an officer authorized to administer oaths under the laws of this State, and evidenced by the officer's certificate, under official seal, attached or annexed to the will in form and content substantially as follows:

"STATE OF NORTH CAROLINA
"COUNTY/CITY OF _____

"Before me, the undersigned authority, on this day personally appeared _____, and _____, known to me to be the testator and the witnesses, respectively, whose names are signed to the attached or foregoing instrument and, all of these persons being by me first duly sworn. The testator, declared to me and to the witnesses in my presence: That said instrument is his last will; that he had willingly signed or directed another to sign the same for him, and executed it in the presence of said witnesses as his free and voluntary act for the purposes therein expressed; or, that the testator signified that the instrument was his instrument by acknowledging to them his signature previously affixed thereto.

The said witnesses stated before me that the foregoing will was executed and acknowledged by the testator as his last will in the presence of said witnesses who, in his presence and at his request, subscribed their names thereto as attesting witnesses and that the testator, at the time of the execution of said will, was over the age of 18 years and of sound and disposing mind and memory.

_____
Testator

_____
Witness

_____
Witness

_____
Witness

Subscribed, sworn and acknowledged before me by _____, the testator, subscribed and sworn before me by _____, _____ and _____ witnesses, this ____ day of _____, A.D. ____
(SEAL)

(SIGNED) _____

(OFFICIAL CAPACITY OF OFFICER)"

(c) The sworn statement of any such witnesses taken as herein provided shall be accepted by the court as if it had been taken before such court.

(d) Any will executed in another state and shown by the propounder to have been made self-proved under the laws of that state shall be considered as self-proved.

(e) A military testamentary instrument executed in accordance with the provisions of 10 U.S.C. § 1044d(d) or any successor or replacement statute shall be considered as self-proved."

SECTION 1.(g) G.S. 31-46 reads as rewritten:

"§ **31-46. Validity of will; which laws govern.**

A will is valid if it meets the requirements of the applicable provisions of law in effect in this State either at the time of its execution or at the time of the death of the ~~testator.~~testator, or if (i) its execution complies with the law of the place where it is executed at the time of execution; (ii) its execution complies with the law of the place where the testator is domiciled at the time of execution or at the time of death; or (iii) it is a military testamentary instrument executed in accordance with the provisions of 10 U.S.C. § 1044d or any successor or replacement statute."

SECTION 1.(h) G.S. 28A-2A-17 reads as rewritten:

"§ **28A-2A-17. Certified copy of will of nonresident recorded.**

(a) Subject to the provisions of subsection (b) of this section, if the will of a citizen or subject of another state or country is probated in accordance with the laws of that jurisdiction and a duly certified copy of the will and the probate proceedings are produced before a clerk of superior court of any county wherein the testator had property, the copy of the will shall be probated as if it were the original. If the jurisdiction is within the United States, the copy of the will and the probate proceedings shall be certified by the clerk of the court wherein the will was probated. If the jurisdiction is outside the United States, the copy of the will and probate proceedings shall be certified by any ambassador, minister, consul or commercial agent of the United States under his official seal.

(b) For a copy of a will probated under the provisions of subsection (a) of this section to be valid to pass title to or otherwise dispose of real estate in this State, the execution of said will according to the laws of this State either at the time of its execution or at the time of the death of the testator, or as otherwise recognized as valid under the provisions of G.S. 31-46, must appear affirmatively, to the satisfaction of the clerk of the superior court of the county in which such will is offered for probate, from the testimony of a witness or witnesses to such will, or from findings of fact or recitals in the order of probate, or otherwise in such certified copy of the will and probate proceedings.

(c) If the execution of the will in accordance with the laws of this State either at the time of its execution or at the time of the death of the testator, or as otherwise recognized as valid under the provisions of G.S. 31-46, does not appear as required by subsection (b) of this section, the clerk before whom the copy is exhibited shall have power to take proof as prescribed in G.S. 28A-2A-16, and the will may be adjudged duly proved, and if so proved, the will shall be recorded as herein provided.

(d) Any copy of a will of a nonresident heretofore allowed, filed and recorded in this State in compliance with the foregoing shall be valid to pass title to or otherwise dispose of real estate in this State."

PART II. UPDATE TO AND CLARIFICATIONS OF LAWS GOVERNING TRUSTS

INSURABLE INTEREST OF TRUSTEE

SECTION 2.(a) Article 1 of Chapter 36C of the General Statutes is amended by adding a new section to read:

"§ **36C-1-114. Insurable interest of trustee.**

(a) As used in this section, the term "settlor" means a person that executes a trust instrument. The term includes a person for whom a fiduciary or agent is acting.

(b) A trustee of a trust has an insurable interest in the life of an individual insured under a life insurance policy that is trust property if, as of the date the policy is issued:

(1) The insured is either of the following:

a. A settlor of the trust.

b. An individual in whom a settlor of the trust has, or would have had if living at the time the policy was issued, an insurable interest.

(2) The life insurance proceeds are primarily for the benefit of one or more trust beneficiaries that have an insurable interest in the life of the insured.

(c) This section does not limit or abridge any insurable interest or right to insure now existing at common law or by statute and shall be construed liberally to sustain insurable interests, whether as a declaration of existing law or as an extension of or addition to existing law."

UNIFORM TRUST CODE CLARIFICATION AS TO SETTLOR'S SPOUSE

SECTION 2.(b) G.S. 36C-5-505(c) reads as rewritten:

"(c) Subject to Article 3A of Chapter 39 of the General Statutes, for purposes of this section, if the settlor is a beneficiary of the following trusts after the death of the settlor's spouse, the property of the trusts shall, after the death of the settlor's spouse, be deemed to have been contributed by the settlor's spouse and not by the settlor:

(1) An irrevocable intervivos marital trust that is treated as a general power of appointment trust described in section 2523(e) of the Internal Revenue Code.

(2) An irrevocable intervivos marital trust that is treated as qualified terminable interest property under section 2523(f) of the Internal Revenue Code.

(3) An irrevocable intervivos trust of which the settlor's spouse is the sole beneficiary during the lifetime of the settlor's spouse but which does not qualify for the federal gift tax marital deduction.

(4) Another trust, to the extent that the property of the other trust is attributable to property passing from a trust described in subdivision (1), (2), or (3) of this subsection.

For purposes of this subsection, the settlor is a beneficiary whether so named under the initial trust instrument or through the exercise of a limited or general power of ~~appointment.~~appointment, and the "settlor's spouse" refers to the person to whom the settlor was married at the time the irrevocable intervivos trust was created, notwithstanding a subsequent dissolution of the marriage."

TRUSTEE POWERS CLARIFICATION

SECTION 2.(c) G.S. 36C-8-816(16) reads as rewritten:

"§ **36C-8-816. Specific powers of trustee.**

Without limiting the authority conferred by G.S. 36C-8-815, a trustee may:

…

(16) Exercise elections with respect to federal, state, and local ~~taxes;~~taxes including, but not limited to, considering discretionary distributions to a beneficiary as being made from capital gains realized during the year;

…."

DECANTING STATUTE IMPROVEMENTS

SECTION 2.(d) G.S. 36C-8-816.1(c) and (e) read as rewritten:

"§ **36C-8-816.1. Trustee's special power to appoint to a second trust.**

…

(c) The terms of the second trust shall be subject to all of the following:

…

(3) The terms of the second trust may not reduce any fixed income, annuity, or unitrust interest of a beneficiary in the assets of the original ~~trust.~~trust if that interest has come into effect with respect to the beneficiary.

…

(8) The second trust may confer a power of appointment upon a beneficiary of the original trust to whom or for the benefit of whom the trustee has the power to distribute principal or income of the original trust. The permissible appointees of the power of appointment conferred upon a beneficiary may include persons who are not beneficiaries of the original or second trust. The power of appointment conferred upon a beneficiary shall be subject to the provisions of G.S. 41-23 ~~covering the time at which the permissible period of the rule against perpetuities and suspension of power of alienation begins and the law that determines the permissible period of the rule against perpetuities and suspension of power of alienation of the original trust.~~specifying the permissible period allowed for the suspension of the power of alienation of the original trust and the time from which that permissible period is computed.

…

(e) The exercise of the power to appoint principal or income under subsection (b) of this section:

(1) Shall be considered the exercise of a power of appointment, other than a power to appoint to the trustee, the trustee's creditors, the trustee's estate, or the creditors of the trustee's estate; and

(2) Shall be subject to the provisions of G.S. 41-23 ~~covering the time at which the permissible period of the rule against perpetuities and suspension of power of alienation begins and the law that determines the permissible period of the rule against perpetuities and suspension of power of alienation of the original trust;~~specifying the permissible period allowed for the suspension of the power of alienation of the original trust and the time from which that permissible period is computed; and

(3) Is not prohibited by a spendthrift provision or by a provision in the original trust instrument that prohibits amendment or revocation of the trust."

PART III. MISCELLANEOUS UPDATES AND CLARIFICATIONS

CLARIFY INHERITED IRA CREDITOR EXEMPTION

SECTION 3.(a) G.S. 1C-1601(a) reads as rewritten:

"(a) Exempt property. – Each individual, resident of this State, who is a debtor is entitled to retain free of the enforcement of the claims of creditors:

…

(9) Individual retirement plans as defined in the Internal Revenue Code and any plan treated in the same manner as an individual retirement plan under the Internal Revenue Code, including individual retirement accounts and Roth retirement accounts as described in section 408(a) and section 408A of the Internal Revenue Code, individual retirement annuities as described in section 408(b) of the Internal Revenue Code, and accounts established as part of a trust described in section 408(c) of the Internal Revenue Code. Any

money or other assets or any interest in any such plan remains exempt after an individual's death if held by one or more subsequent beneficiaries by reason of a direct transfer or eligible rollover that is excluded from gross income under the Internal Revenue Code, including, but not limited to, a direct transfer or eligible rollover to an inherited individual retirement account as defined in section 408(d)(3) of the Internal Revenue Code.

…."

CLARIFICATION AS TO DIRECTED FIDUCIARIES

SECTION 3.(b) G.S. 32-72(d) reads as rewritten:

"(d) The following provisions apply to an instrument creating a fiduciary relationship other than a trust instrument to which Chapter 36C of the General Statutes applies and to a fiduciary other than a trustee:

(1) The terms of the instrument may confer upon a person~~the power to direct or consent to certain actions of the fiduciary with respect to~~ certain powers with respect to the actions of a fiduciary, including, but not limited to, the following:

a. Investments, including retention, purchase, sale, exchange, or other transaction affecting the ownership of investments with respect to all or any one or more assets.

b. Any other~~ administrative~~ matter.

(2) When the terms of the instrument confer upon a person ~~the power to direct or consent to certain actions of the fiduciary,~~ any power with respect to the actions of a fiduciary, the duty and liability of the fiduciary are as follows:

a. If the terms of the instrument confer upon the person the power to direct certain actions of the fiduciary, the fiduciary must act in accordance with the direction and is not liable, individually or as a fiduciary, for any loss resulting directly or indirectly from compliance with the direction unless compliance with the direction constitutes intentional misconduct on the part of the fiduciary.

b. If the terms of the instrument confer upon a person the power to consent to certain actions of the fiduciary, and the power holder does not provide consent within a reasonable time after the fiduciary has made a timely request for the power holder's consent, the fiduciary is not liable, individually or as a fiduciary, for any loss resulting directly or indirectly from the fiduciary's failure to take any action that required the power holder's consent.

b1. If the terms of the instrument confer upon a person a power other than the power to direct or consent to actions of the fiduciary, the fiduciary is not liable, individually or as a fiduciary, for any loss resulting directly or indirectly from the exercise or nonexercise of the power.

c. The fiduciary has no duty to monitor the conduct of the power holder, provide advice to the power holder, or consult with the power holder. The fiduciary is not required to give notice to any beneficiary of any action taken or not taken by the power holder whether or not the fiduciary agrees with the result. Administrative actions taken by the fiduciary for the purpose of implementing directions of the power holder, including confirming that the directions of the power holder have been carried out, do not constitute monitoring of the power holder or other participation in decisions within the scope of the power holder's authority.

(3) A person who holds a power ~~to direct or consent~~ with respect to the actions of a fiduciary is a fiduciary who, as such, is required to act in good faith with regard to the purposes of the estate, or other relationship between the fiduciary and beneficiaries, and the interests of the beneficiaries, except that if a beneficiary is a person with such a power~~to direct or consent,~~ with respect to the actions of a fiduciary, the beneficiary is not a fiduciary with respect to the following:

a. A power that constitutes a power of ~~appointment.~~appointment held by a beneficiary under the instrument.

b. A power the exercise or nonexercise of which affects only the interests of the beneficiary holding the power and no other beneficiary.

c. A power to remove and appoint a fiduciary.

The holder of the power ~~to direct or consent~~with respect to the actions of a fiduciary is liable for any loss that results from breach of a fiduciary duty occurring as a result of the exercise or nonexercise of the power."

GUARDIANSHIP GIFTING

SECTION 3.(c) G.S. 35A-1336.1 reads as rewritten:

"§ **35A-1336.1. Prerequisites to approval by judge of gifts to individuals.**

The judge shall not approve gifts from income to individuals unless it appears to the judge's satisfaction that both the following requirements are met:

(1) After making the gifts and paying federal and State income taxes, the remaining income of the incompetent will be reasonable and adequate to provide for the support, maintenance, comfort, and welfare of the incompetent and those legally entitled to support from the incompetent in order to maintain the incompetent and those dependents in the manner to which the incompetent and those dependents are accustomed and in keeping with their station in life;

(2) The judge determines that either:

a. The incompetent, prior to being declared incompetent, executed a paper-writing with the formalities required by the laws of North Carolina for the execution of a valid will, including a paper-writing naming as beneficiary a revocable trust created by the incompetent, and each donee is entitled to one or more specific devises, or distributions of specific amounts of money, income, or property under the paper-writing or the revocable trust or both or is a residuary devisee or beneficiary designated in the paper-writing or revocable trust or both; or

b. That so far as is known the incompetent has not, prior to being declared incompetent, executed a will which could be probated upon the death of the incompetent, and each donee is a person who would share in the incompetent's estate, if the incompetent died contemporaneously with the signing of the order of the approval of the gifts; or

c. The donee is the spouse, parent, descendent of the incompetent, or descendant of the incompetent's parent, and ~~the amount of the gift does not exceed the federal annual gift tax exclusion.~~the gift qualifies either for the federal annual gift tax exclusion under section 2503(b) of the Internal Revenue Code or is a qualified transfer for tuition or medical expenses under section 2503(e) of the Internal Revenue Code.

The judge may order that the gifts be made in cash or in specific assets and may order that the gifts be made outright, in trust, under the North Carolina Uniform Transfers to Minors Act, under the North Carolina Uniform Custodial Trust Act, or otherwise. The judge may also order that the gifts be treated as an advancement of some or all of the amount the donee would otherwise receive at the incompetent's death."

SECTION 3.(d) G.S. 35A-1341.1 reads as rewritten:

"§ **35A-1341.1. Prerequisites to approval by judge of gifts to individuals.**

The judge shall not approve gifts from principal to individuals unless it appears to the judge's satisfaction that all of the following requirements have been met:

(1) Making the gifts will not leave the incompetent's remaining principal estate insufficient to provide reasonable and adequate income for the support, maintenance, comfort, and welfare of the incompetent in order to maintain the incompetent and any dependents legally entitled to support from the incompetent in the manner to which the incompetent and those dependents are accustomed and in keeping with their station in life.

(2) The making of the gifts will not jeopardize the rights of any existing creditor of the incompetent.

(3) It is improbable that the incompetent will recover competency during his or her lifetime.

(4) The judge determines that either a., b., c., or d. applies.

a. All of the following apply:

1. The incompetent, prior to being declared incompetent, executed a paper-writing with the formalities required by the laws of North Carolina for the execution of a valid will, including a paper-writing naming as beneficiary a revocable trust created by the incompetent.

2. Each donee is entitled to one or more specific devises, or distributions of specific amounts of money, income, or property under either the paper-writing or revocable trust or both or is a residuary devisee or beneficiary designated in the paper-writing or revocable trust or both.

3. The making of the gifts will not jeopardize any specific devise, or distribution of specific amounts of money, income, or property.

b. That so far as is known the incompetent has not, prior to being declared incompetent, executed a will which could be probated upon the death of the incompetent, and each donee is a person who would share in the incompetent's intestate estate, if the incompetent died contemporaneously with the signing of the order of approval of the gifts.

c. The donee is a person who would share in the incompetent's nonprobate estate, if the incompetent died contemporaneously with the signing of the order of approval.

d. The donee is the spouse, parent, descendant of the incompetent, or descendant of the incompetent's parent, and ~~the amount of the gift does not exceed the federal annual gift tax exclusion.~~the gift qualifies either for the federal annual gift tax exclusion under section 2503(b) of the Internal Revenue Code or is a qualified transfer for tuition or medical expenses under section 2503(e) of the Internal Revenue Code.

(5) If the incompetent, prior to being declared incompetent, executed a paper-writing with the formalities required by the laws of North Carolina for the execution of a valid will, including a paper-writing naming as

beneficiary a revocable trust created by the incompetent; then all residuary devisees and beneficiaries designated in the paper-writing or revocable trust or both, who would take under the paper-writing or revocable trust or both if the incompetent died contemporaneously with the signing of the order of approval of the gifts and the paper-writing was probated as the incompetent's will, the spouse, if any, of the incompetent and all persons identified in G.S. 35A-1341.1(7) have been given at least 10 days' written notice that approval for the gifts will be sought and that objection may be filed with the clerk of superior court of the county in which the guardian was appointed, within the 10-day period.

(6) If so far as is known, the incompetent has not, prior to being declared incompetent, executed a will which could be probated upon the death of the incompetent, all persons who would share in the incompetent's estate, if the incompetent died contemporaneously with the signing of the order of approval, have been given at least 10 days' written notice that approval for the gifts will be sought and that objection may be filed with the clerk of the superior court of the county in which the guardian was appointed, within the 10-day period.

(7) If the gift for which approval is sought is of a nonprobate asset, all persons who would share in that nonprobate asset if the incompetent died contemporaneously with the signing of the order of approval have been given at least 10 days' written notice that approval for the gifts will be sought and that objection may be filed with the clerk of the superior court of the county in which the guardian was appointed within the 10-day period. This notice requirement shall be in addition to the notice requirements contained in G.S. 35A-1341.1(5) and (6) above.

The judge may order that the gifts be made in cash or in specific assets and may order that the gifts be made outright, in trust, under the North Carolina Uniform Transfers to Minors Act, under the North Carolina Uniform Custodial Trust Act, or otherwise. The judge may also order that the gifts be treated as an advancement of some or all of the amount the donee would otherwise receive at the incompetent's death."

SECTION 3.(e) G.S. 35A-1251 reads as rewritten:

"§ **35A-1251. Guardian's powers in administering incompetent ward's estate.**

In the case of an incompetent ward, a general guardian or guardian of the estate has the power to perform in a reasonable and prudent manner every act that a reasonable and prudent person would perform incident to the collection, preservation, management, and use of the ward's estate to accomplish the desired result of administering the ward's estate legally and in the ward's best interest, including but not limited to the following specific powers:

…

(24) To petition the court for approval of the exercise of any of the following powers with respect to a revocable trust that the ward, if competent, could exercise as settlor of the revocable trust:

a. Revocation of the trust.
b. Amendment of the trust.
c. Additions to the trust.
d. Direction to dispose of property of the trust.
e. The creation of the trust, notwithstanding the provisions of G.S. 36C-4-402(a)(1) and (2).

The exercise of the powers described in this subdivision (i) shall not alter the designation of beneficiaries to receive property on the ward's death under that ward's existing estate ~~plan;~~ plan but may incorporate tax planning or public benefits planning into the ward's existing estate plan, which may include leaving beneficial interests in trust rather than outright, and (ii) shall

be subject to the provisions of Articles 17, 18, and 19 of this Chapter concerning gifts."

UPDATE NORTH CAROLINA INVESTMENT ADVISERS ACT

SECTION 3.(f) G.S. 78C-2(1)k. reads as rewritten:

"§ **78C-2. Definitions.**

When used in this Chapter, the definitions of G.S. 78A-2 shall apply along with the following, unless the context otherwise requires:

(1) "Investment adviser" means any person who, for compensation, engages in the business of advising others, either directly or through publications or writings, as to the value of securities or as to the advisability of investing in, purchasing, or selling securities, or who, for compensation and as part of a regular business, issues or promulgates analyses or reports concerning securities. "Investment adviser" also includes financial planners and other persons who, as an integral component of other financially related services, provide the foregoing investment advisory services to others for compensation and as a part of a business or who hold themselves out as providing the foregoing investment advisory services to others for compensation. "Investment adviser" does not include:

…

k. Any person excepted from the definition of investment adviser under the Investment Advisers Act of 1940 or any rule or regulation promulgated under that act.~~Repealed by Session Laws 2003-413, s. 16, effective August 14, 2003.~~"

SECTION 3.(g) G.S. 78C-8(d) reads as rewritten:

"§ **78C-8. Advisory activities.**

…

(c) Except as may be permitted by rule or order of the Administrator, it is unlawful for any investment adviser to enter into, extend, or renew any investment advisory contract unless it provides in writing:

(1) That the investment adviser shall not be compensated on the basis of a share of capital gains upon or capital appreciation of the funds or any portion of the funds of the client (unless otherwise provided by subsection (d) or (f) below);

…

(d) Subdivision (c)(1) does not apply to any person who is exempt from registration under ~~the Investment Advisers Act of 1940 by operation of Section 203(b)(3) of said act or by operation of any rule or regulation promulgated by the United States Securities and Exchange Commission under or related to said Section 203(b)(3) provided that any reference in this subsection (d) to any statute, rule or regulation shall be deemed to incorporate said statute, rule or regulation (and any statute, rule or regulation referenced therein) as in effect on June 1, 1988.~~ G.S. 78C-16(a)(4) or to the performance, renewal, or extension of any advisory contract entered into by an investment advisor at a time when such investment advisor was exempt from registration under G.S. 78C-16(a)(4). Subdivision (c)(1) does not prohibit an investment advisory contract which provides for compensation based upon the total value of a fund averaged over a definite period, or as of definite dates or taken as of a definite date. "Assignment," as used in subdivision (c)(2), includes any direct or indirect transfer or hypothecation of an investment advisory contract by the assignor or of a controlling block of the assignor's outstanding voting securities by a security holder of the assignor; but, if the investment adviser is a partnership, no assignment of an investment advisory contract is considered to result from the death or withdrawal of a minority of the members of the investment adviser having only a minority interest in the business of the investment adviser, or

from the admission to the investment adviser of one or more members who, after admission, will be only a minority of the members and will have only a minority interest in the business."

SECTION 3.(h) G.S. 78C-16(a)(4) reads as rewritten:

"§ **78C-16. Registration and notice filing requirement.**

(a) It is unlawful for any person to transact business in this State as an investment adviser unless:

…

(4) The person, during the course of the preceding 12 months, has had fewer than 15 clients, and neither holds himself or herself out generally to the public as an investment adviser nor acts as an investment adviser to any investment company registered under the Investment Company Act of 1940, or a company that has elected to be a business development company pursuant to section 54 of the Investment Company Act of 1940.~~The person is exempt from registration under the Investment Advisers Act of 1940 by operation of section 203(b)(3) of that act or by operation of any rule or regulation promulgated by the United States Securities and Exchange Commission under or related to section 203(b)(3) provided that any reference in this subsection to any statute, rule, or regulation shall be deemed to incorporate the statute, rule, or regulation (and any statute, rule, or regulation referenced therein) as in effect June 1, 1988.~~"

PART IV. DIRECTIVES TO REVISOR OF STATUTES

SECTION 4. The Revisor of Statutes shall cause to be printed, as annotations to the published General Statutes, all relevant portions of the Official Comments to the North Carolina Uniform Trust Code and all explanatory comments of the drafters of this act, as the Revisor may deem appropriate.

PART V. EFFECTIVE DATE

SECTION 5. Section 1(d) of this act becomes effective October 1, 2013, and applies to estates of decedents dying on or after that date. The remainder of this act is effective when it becomes law. Section 3(a) of this act applies to all inherited individual retirement accounts without regard to the date an account was created.

In the General Assembly read three times and ratified this the 5th day of June, 2013.

Became law upon approval of the Governor at 4:28 p.m. on the 12th day of June, 2013.

Session Law 2013-92 **S.B. 433**

AN ACT TO PREVENT CERTAIN PROPERTY-CARRYING VEHICLES FROM PAYING FOR A DECLARED WEIGHT THAT EXCEEDS THE STATUTORY ALLOWANCE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-88(m) reads as rewritten:

"(m) Any vehicle weighing greater than the gross weight limits found in ~~G.S. 20-118(b),~~G.S. 20-118(b)(3), as authorized by G.S. 20-118(c)(12), (c)(14), and (c)(15), must be registered for the maximum weight allowed for the vehicle configuration as listed in G.S. 20-118(b). A vehicle driven in violation of this subsection is subject to the axle group penalties set out in G.S. 20-118(e). The penalties apply to the amount by which the vehicle's maximum gross weight as listed in G.S. 20-118(b) exceeds its declared weight."

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

In the General Assembly read three times and ratified this the 6th day of June, 2013.

Became law upon approval of the Governor at 4:28 p.m. on the 12th day of June, 2013.

Session Law 2013-93 **H.B. 114**

AN ACT TO NO LONGER REQUIRE THAT A COMPLAINT OR JUDGMENT FOR ABSOLUTE DIVORCE CONTAIN THE SOCIAL SECURITY NUMBER OF A PARTY.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 50-8 reads as rewritten:

"§ **50-8. Contents of complaint; verification; venue and service in action by nonresident; certain divorces validated.**

In all actions for divorce the complaint shall be verified in accordance with the provisions of Rule 11 of the Rules of Civil Procedure and G.S. 1-148. The plaintiff shall set forth in his or her complaint that the complainant or defendant has been a resident of the State of North Carolina for at least six months next preceding the filing of the complaint, and that the facts set forth therein as grounds for divorce, except in actions for divorce from bed and board, have existed to his or her knowledge for at least six months prior to the filing of the complaint: Provided, however, that if the cause for divorce is one-year separation, then it shall not be necessary to allege in the complaint that the grounds for divorce have existed for at least six months prior to the filing of the complaint; it being the purpose of this proviso to permit a divorce after such separation of one year without awaiting an additional six months for filing the complaint: Provided, further, that if the complainant is a nonresident of the State action shall be brought in the county of the defendant's residence, and summons served upon the defendant personally or service of summons accepted by the defendant personally in the manner provided in G.S. 1A-1, Rule 4(j)(1). Notwithstanding any other provision of this section, any suit or action for divorce heretofore instituted by a nonresident of this State in which the defendant was personally served with summons or in which the defendant personally accepted service of the summons and the case was tried and final judgment entered in a court of this State in a county other than the county of the defendant's residence, is hereby validated and declared to be legal and proper, the same as if the suit or action for divorce had been brought in the county of the defendant's residence.

In all divorce actions the complaint shall set forth the name and age of any minor child or children of the marriage, and in the event there are no minor children of the marriage, the complaint shall so state. ~~In addition, when there are minor children of the marriage, the complaint shall state the social security number of the plaintiff and, if known, the social security number of the defendant.~~

In all prior suits and actions for divorce heretofore instituted and tried in the courts of this State where the averments of fact required to be contained in the affidavit heretofore required by this section are or have been alleged and set forth in the complaint in said suits or actions and said complaints have been duly verified as required by Rule 11 of the Rules of Civil Procedure, said allegations so contained in said complaints shall be deemed to be, and are hereby made, a substantial compliance as to the allegations heretofore required by this section to be set forth in any affidavit; and all such suits or actions for divorce, as well as the judgments or decrees issued and entered as a result thereof, are hereby validated and declared to be legal and proper judgments and decrees of divorce.

In all suits and actions for divorce heretofore instituted and tried in this State on and subsequent to the 5th day of April, 1951, wherein the statements, averments, or allegations in the verification to the complaint in said suits or actions are not in accordance with the provisions of Rule 11 of the Rules of Civil Procedure and G.S. 1-148 or the requirements of this section as to verification of complaint or the allegations, statements or averments in the verification contain the language that the facts set forth in the complaint are true "to the best of affiant's knowledge and belief" instead of the language "that the same is true to his (or her) own knowledge" or similar variation in language, said allegations, statements and averments in said verifications as contained in or attached to said complaint shall be deemed to be, and are hereby made, a substantial compliance as to the allegations, averments or statements required by this

section to be set forth in any such verifications; and all such suits or actions for divorce, as well as the judgments or decrees issued and entered as a result thereof, are hereby validated and declared to be legal and proper judgments and decrees of divorce. ~~The judgment of divorce shall include, where there are minor children of the parties, the social security numbers of the parties.~~"

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

In the General Assembly read three times and ratified this the 5th day of June, 2013.

Became law upon approval of the Governor at 4:28 p.m. on the 12th day of June, 2013.

Session Law 2013-94 **H.B. 10**

AN ACT TO REMOVE THE RESTRICTION ON THE TURNPIKE AUTHORITY'S SELECTION OF A CORRIDOR LOCATION FOR THE SOUTHEAST EXTENSION PROJECT OF N.C. 540.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 136-89.183(a)(2)a. reads as rewritten:

"(2) To study, plan, develop, and undertake preliminary design work on up to eight Turnpike Projects. At the conclusion of these activities, the Turnpike Authority is authorized to design, establish, purchase, construct, operate, and maintain the following projects:

a. Triangle Expressway, including segments also known as N.C. 540, Triangle Parkway, and the Western Wake Freeway in Wake and Durham ~~Counties, and Southeast Extension in Wake and Johnston Counties, except that no portion of the Southeast Extension shall be located north of an existing protected corridor established by the Department of Transportation circa 1995, except in the area of Interstate 40 East.~~ Counties. The described segments constitute three projects."

SECTION 2. The Department of Transportation shall strive to expedite the federal environmental impact statement process to define the route for the Southeast Extension of the Triangle Expressway Turnpike Project by promptly garnering input from local officials and other stakeholders, accelerating any required State studies, promptly submitting permit applications to the federal government, working closely with the federal government during the permitting process, and taking any other appropriate actions to accelerate the environmental permitting process.

SECTION 3. As part of its oversight of the Department of Transportation, the Joint Legislative Transportation Oversight Committee shall closely monitor the progress of the Southeast Extension of the Triangle Expressway Turnpike Project.

SECTION 3.1. This act is effective only if House Bill 817, 2013 Regular Session, becomes law.

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

In the General Assembly read three times and ratified this the 4th day of June, 2013.

Became law upon approval of the Governor at 4:29 p.m. on the 12th day of June, 2013.

Session Law 2013-95 **H.B. 25**

AN ACT TO AMEND THE FELONY OFFENSE OF BREAKING OR ENTERING.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 14-54 reads as rewritten:

"§ **14-54. Breaking or entering buildings generally.**

(a) Any person who breaks or enters any building with intent to commit any felony or larceny therein shall be punished as a Class H felon.

(a1) Any person who breaks or enters any building with intent to terrorize or injure an occupant of the building is guilty of a Class H felony.

(b) Any person who wrongfully breaks or enters any building is guilty of a Class 1 misdemeanor.

(c) As used in this section, "building" shall be construed to include any dwelling, dwelling house, uninhabited house, building under construction, building within the curtilage of a dwelling house, and any other structure designed to house or secure within it any activity or property."

SECTION 2. This act becomes effective December 1, 2013, and applies to offenses committed on or after that date.

In the General Assembly read three times and ratified this the 6th day of June, 2013.

Became law upon approval of the Governor at 4:29 p.m. on the 12th day of June, 2013.

Session Law 2013-96 **H.B. 125**

AN ACT TO CLARIFY THAT CERTAIN TYPES OF PROPRIETARY COMPUTER CODE ARE NOT A PUBLIC RECORD.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 132-1.1 is amended by adding a new subsection to read:

"(g) Public Agency Proprietary Computer Code. – Proprietary computer code written by and for use by an agency of North Carolina government or its subdivisions is not a public record as defined in G.S. 132-1."

SECTION 2. This act is effective when it becomes law and applies to public records existing before, on, or after that date.

In the General Assembly read three times and ratified this the 6th day of June, 2013.

Became law upon approval of the Governor at 4:29 p.m. on the 12th day of June, 2013.

Session Law 2013-97 **H.B. 142**

AN ACT TO PROVIDE PUBLIC ACCESS TO CERTAIN INFORMATION MAINTAINED BY CAMPUS POLICE AGENCIES AFFILIATED WITH PRIVATE, NONPROFIT INSTITUTIONS OF HIGHER EDUCATION.

The General Assembly of North Carolina enacts:

SECTION 1. The catch line of G.S. 74G-5 reads as rewritten:

"§ **74G-5. ~~Records.~~Campus police program records.**"

SECTION 2. Chapter 74G of the General Statutes is amended by adding a new section to read:

"**§ 74G-5.1. Campus police agency records.**

(a) Each campus police agency is the legal custodian of all books, papers, documents, records of criminal investigations or of criminal intelligence information, or other records and property maintained by the campus police agency. Books, papers, documents, records of criminal investigations or of criminal intelligence information, or other records maintained by a campus police agency that is affiliated with a private, nonprofit institution of higher education shall not be public records as that term is defined in G.S. 132-1.

(b) As used in this section:

(1) "Violation of the law" means crimes and offenses that are prosecutable as misdemeanors or felonies in the criminal courts in this State or the United States.

(2) "Complaining witness" means an alleged victim or other person who reports a violation or apparent violation of the law to a campus police agency.

(c) Notwithstanding the provisions of subsection (a) of this section, as a condition of certification, a campus police agency affiliated with a private, nonprofit institution of higher education shall, upon request by any person and subject to the provisions and implementing regulations of the federal Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act, 20 U.S.C. § 1092(f), and the federal Family Educational Rights and Privacy Act, 20 U.S.C. § 1232g, permit the following information maintained by the campus police agency to be inspected at reasonable times and under reasonable supervision:

(1) The time, date, location, and nature of a violation or apparent violation of the law reported to the campus police agency.

(2) The name, sex, age, address, employment, and alleged violation of law of a person arrested or formally charged or indicted for an alleged violation of law in a court of competent jurisdiction.

(3) The circumstances surrounding an arrest, including the time and place of the arrest, whether the arrest involved resistance, possession or use of weapons, or pursuit, and a description of any items seized in connection with the arrest.

(4) The contents of emergency telephone calls received by or on behalf of the campus police agency, except for such contents that reveal the natural voice, name, address, telephone number, or other information that may identify the caller, victim, or witness. In order to protect the identity of the complaining witness, the contents of emergency telephone calls may be released pursuant to this section in the form of a written transcript or altered voice reproduction; provided that the original shall be provided under process to be used as evidence in any relevant civil or criminal proceeding.

(5) The contents of communications between or among employees of the campus police agency pertaining to the information described in subdivisions (1) through (4) of this subsection that are broadcast over the public airways.

(6) The name, sex, age, and address of a complaining witness.

(7) The daily log of crimes reported to the campus police agency that is maintained pursuant to the federal Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act and implementing regulations.

(d) The campus police agency shall furnish copies of the information requested in subsection (c) of this section upon payment of the actual cost of reproducing the information. Any person denied access to or copies of the information listed in subsection (c) of this section may apply to a court of competent jurisdiction for an order compelling disclosure of the information.

(e) A campus police agency shall temporarily withhold the name or address of a complaining witness if release of the information is reasonably likely to pose a threat to the mental health, physical health, or personal safety of the complaining witness or materially compromise an ongoing or future criminal investigation or criminal intelligence operation. Information temporarily withheld under this subsection shall be made available for inspection or copying as soon as the circumstances that justify withholding it cease to exist. Any person denied access to information withheld under this subsection may apply to a court of competent jurisdiction for an order compelling disclosure of the information. In such action, the court shall

balance the interests of the requesting individual in disclosure against the interests of the campus police agency and the alleged victim in withholding the information.

(f) If a campus police agency believes that the release of information listed in subsection (c) of this section will jeopardize the right of the State to prosecute a defendant or the right of a defendant to receive a fair trial, will undermine an ongoing or future investigation, or will violate the provisions and implementing regulations of the federal Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act or the federal Family Educational Rights and Privacy Act, it may seek an order from a court of competent jurisdiction to prevent disclosure of the information.

(g) Actions brought pursuant to subsection (d), (e), or (f) of this section shall be set down for immediate hearing, and subsequent proceedings in such actions shall be accorded priority by the trial and appellate courts.

(h) Nothing in this section shall be construed as requiring campus police agencies to disclose the following:

(1) Information that would not be required to be disclosed under Chapter 15A of the General Statutes.

(2) Information that is reasonably likely to identify a confidential informant.

(i) Campus police agencies shall not be required to maintain any recordings of emergency telephone calls for more than 30 days from the time of the call, unless a court of competent jurisdiction orders a portion sealed."

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

In the General Assembly read three times and ratified this the 5th day of June, 2013.

Became law upon approval of the Governor at 4:29 p.m. on the 12th day of June, 2013.

Session Law 2013-98 **H.B. 301**

AN ACT TO MAKE CLARIFYING CHANGES TO THE LAWS REGULATING ENGINEERS AND LAND SURVEYORS AND TO WAIVE THE EXAMINATION REQUIREMENT FOR GIS PRACTITIONERS WITH CERTAIN EXPERIENCE UNTIL JULY 1, 2014.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 89C-3 reads as rewritten:

"§ **89C-3. Definitions.**

The following definitions apply in this Chapter:

(1) Board. – The North Carolina State Board of Examiners for Engineers and Surveyors provided for by this Chapter.

(1a) Business firm. – A partnership, firm, association, or another organization or group that is not a corporation and is acting as a unit.

(2) Engineer. – A person who, by reason of special knowledge and use of the mathematical, physical and engineering sciences and the principles and methods of engineering analysis and design, acquired by engineering education and engineering experience, is qualified to practice engineering.

(3) ~~Engineering~~ Engineer intern. – A person who complies with the requirements for education, experience and character, and has passed an examination ~~in the fundamental engineering subjects,~~on the fundamentals of engineering as provided in this Chapter.

(3a) Inactive licensee. – ~~Licensees~~ A licensee who ~~are~~ is not engaged in the practice of engineering or land surveying in this ~~State.~~State, but renews his or her license as "inactive" as provided in this Chapter.

(4) Land surveyor intern. – A person who ~~has qualified for, taken,~~complies with the requirements for education, experience, and character and has passed an examination on the ~~basic disciplines~~fundamentals of land surveying as provided in this Chapter.

…."

SECTION 2. G.S. 89C-13 reads as rewritten:

"§ **89C-13. General requirements for licensure.**

(a) Engineer Applicant. – ~~To be eligible for licensure as a professional engineer, an applicant must be of good character and reputation. An applicant desiring to take the examination in the fundamentals of engineering must submit three character references, one of whom shall be a professional engineer. An applicant desiring to take the examination in the principles and practice of engineering must submit five references, two of whom shall be professional engineers having personal knowledge of the applicant's engineering experiences.~~ The following shall be considered as minimum evidence satisfactory to the Board that the applicant is qualified for ~~licensure:~~licensure as a professional engineer:

(1) ~~As a professional engineer (shall meet one):~~To be certified as an engineer intern, an applicant shall (i) pass the fundamentals of engineering examination and make application to the Board, (ii) be of good character and reputation, (iii) submit three character references to the Board, one of whom is a professional engineer, (iv) comply with the requirements of this Chapter, and (v) meet one of the following requirements:

a. Education. – Be a graduate of an engineering curriculum or related science curriculum of four years or more, approved by the Board as being of satisfactory standing.

b. Education and experience. – Be a graduate of an engineering curriculum or related science curriculum of four years or more, other than curriculums approved by the Board as being of satisfactory standing, or possess equivalent education and engineering experience satisfactory to the Board with a specific record of four or more years of progressive experience on engineering projects of a grade and character satisfactory to the Board.

(1a) To be licensed as a professional engineer, an applicant shall (i) be of good character and reputation, (ii) submit five character references to the Board, three of whom are professional engineers or individuals acceptable to the Board with personal knowledge of the applicant's engineering experience, (iii) comply with the requirements of this Chapter, and (iv) meet one of the following requirements:

…

b. E.I. Certificate, Experience, and Examination. – A holder of a certificate of ~~engineering~~ engineer intern ~~issued by the Board,~~and with a specific record of an additional four years or more of progressive experience on engineering projects of a grade and character which indicates to the Board that the applicant may be competent to practice engineering, shall be admitted to the principles and practice of engineering examination. Upon passing the examination, the applicant shall be granted a certificate of licensure to practice professional engineering in this State, provided the applicant is otherwise qualified.

…

At its discretion the Board may require an applicant to submit exhibits, drawings, designs, or other tangible evidence of engineering work which the applicant personally accomplished or supervised.

~~The following shall be considered as minimum evidence that the applicant is qualified for certification:~~

~~(2)~~ ~~As an engineering intern (shall meet one):~~

~~a.~~ ~~Graduation and Examination. – A graduate of an engineering curriculum or related science curriculum of four years or more, approved by the Board as being of satisfactory standing, or a student who is graduating within two semesters, or the equivalent, of the semester in which the fundamentals of engineering examination is administered, shall be admitted to the fundamentals of engineering examination. The applicant shall be notified if the examination was passed or not passed and if passed he shall be certified as an engineering intern if the applicant is otherwise qualified.~~

~~b.~~ ~~Graduation, Experience, and Examination. – A graduate of an engineering or related science curriculum of four years or more, other than the ones approved by the Board as being of satisfactory standing, or with equivalent education and engineering experience satisfactory to the Board and with a specific record of four or more years of progressive experience on engineering projects of a grade and character satisfactory to the Board, shall be admitted to the fundamentals of engineering examination. The applicant shall be notified if the examination was passed or not passed and if passed, the applicant shall be certified as an engineering intern if the applicant is otherwise qualified.~~

(b) Land Surveyor Applicant. – ~~To be eligible for admission to examination for land surveyor intern or professional land surveyor, an applicant must be of good character and reputation and shall submit five references with the application for licensure as a land surveyor, two of which references shall be professional land surveyors having personal knowledge of the applicant's land surveying experience, or in the case of an application for certification as a land surveyor intern by three references, one of which shall be a licensed land surveyor having personal knowledge of the applicant's land surveying experience.~~

The evaluation of a land surveyor applicant's qualifications shall involve a consideration of the applicant's education, ~~technical~~ technical, and land surveying experience, exhibits of land surveying projects with which the applicant has been associated, and recommendations by references. The land surveyor applicant's qualifications may be reviewed at an interview if the Board determines it necessary. Educational credit for institute courses, correspondence courses, or other courses shall be determined by the Board.

The following shall be considered ~~a~~ as minimum evidence satisfactory to the Board that the applicant is qualified for licensure as a professional land ~~surveyor or for certification as a land surveyor intern respectively:~~surveyor:

(1) ~~As a professional land surveyor (shall meet one):~~To be certified as a land surveyor intern, an applicant shall (i) pass the fundamentals of land surveying examination and make application to the Board, (ii) be of good character and reputation, (iii) submit three character references to the Board, one of whom is a professional land surveyor, (iv) comply with the requirements of this Chapter, and (v) satisfy one of the following requirements related to education and experience:

a. Be a graduate of a surveying curriculum of four years or more or other equivalent curriculum in surveying approved by the Board.

b. Have rightful possession of an associate degree in surveying technology approved by the Board, a record satisfactory to the Board of four years of progressive practical experience, two years of which shall have been under a practicing professional land surveyor, and have satisfactorily passed a written and oral examination as required by the Board.

c. Have graduated from high school or completed a high school equivalency certificate with a record satisfactory to the Board of 10 years of progressive, practical experience, six years of which shall have been under a practicing licensed land surveyor, and have satisfactorily passed any oral and written examinations required by the Board.

(1a) To be licensed as a professional land surveyor, an applicant shall (i) be of good character and reputation, (ii) submit five character references to the Board, three of whom are professional land surveyors or individuals acceptable to the Board, with personal knowledge of the applicant's land surveying experience, (iii) comply with the requirements of this Chapter, and (iv) meet one of the following requirements:

…

j. Any person performing activities described in G.S. 89C-3(7)a.2. and 7. with at least seven years of experience in performing mapping science surveys, two or more of which have been in responsible charge of mapping science projects that meet the requirements of 21 NCAC 56 .1608, shall, upon application, be licensed to practice surveying in their area of competence (mapping science) provided all of the following requirements are met:

1. The applicant submits certified proof of graduation from high school, high school equivalency, or higher degree.

2. The applicant submits proof of employment in responsible charge of mapping science projects within the State of North Carolina, including itemized reports detailing methods, procedures, amount of applicant's personal involvement, and the name, address, and telephone numbers of the client for five projects completed by the applicant within the State. The applicant shall also submit a final map, report, or digital product for one of the five projects.

3. Five references as to the applicant's character and quality of work, three of which shall be from professional land surveyors, are submitted to the Board.

4. The application is submitted to the Board by July 1, 2014. After July 1, 2014, no individual performing surveys described in 21 NCAC 56 .1608 shall be licensed without meeting the same requirements as to education, length of experience, and testing required of all land surveying applications.

~~(2) As a land surveyor intern (shall meet one):~~

~~a. Rightful possession of an associate degree in surveying technology approved by the Board, a record satisfactory to the Board of four years of progressive practical experience, two years of which shall have been under a practicing professional land surveyor, and satisfactorily passing a written and oral examination as required by the Board.~~

~~b. Repealed by Session Laws 2005-296, s. 1.~~

~~c. Graduation from high school or the completion of a high school equivalency certificate and a record satisfactory to the Board of 10 years of progressive, practical experience, six years of which shall have been under a practicing licensed land surveyor and satisfactorily passing any oral and written examinations required by the Board.~~

~~d. Graduation and examination. – A graduate of a surveying curriculum or other equivalent curriculum in surveying approved by the Board or a student who is graduating within two semesters, or the equivalent, of the semester in which the fundamentals of surveying examination is administered, in an accredited surveying program of four years or more shall be admitted to the fundamentals of surveying examination. The applicant shall be notified if the examination was passed or not passed, and if passed the applicant shall be certified as a surveying intern if the applicant is otherwise qualified.~~

The Board shall require an applicant to submit exhibits, drawings, plats, or other tangible evidence of land surveying work executed by the applicant under proper supervision and which the applicant has personally accomplished or supervised.

Land surveying encompasses a number of disciplines including geodetic surveying, hydrographic surveying, cadastral surveying, engineering surveying, route surveying, photogrammetric (aerial) surveying, and topographic surveying. A professional land surveyor shall practice only within the surveyor's area of expertise."

SECTION 3. G.S. 89C-15(b) reads as rewritten:

"(b) ~~Written examinations~~Examinations will be given ~~in sections and may be taken only after the applicant has met the other minimum requirements as given in G.S. 89C-13 and has been approved by the Board for admission to the examination~~as follows:

(1) ~~Engineering Fundamentals.~~Fundamentals of Engineering. – Consists of an ~~eight-hour~~ examination on the fundamentals of engineering. Passing this examination qualifies the applicant for an ~~engineering~~ engineer intern certificate, provided the applicant has met all other requirements for licensure required by this Chapter.

(2) Principles and Practice of Engineering. – Consists of an ~~eight-hour~~ examination on applied engineering. Passing this examination qualifies the applicant for licensure as a professional engineer, provided the applicant has met the other requirements for ~~registration~~ licensure required by this Chapter.

(3) ~~Surveying Fundamentals.~~Fundamentals of Land Surveying. – Consists of an ~~eight-hour~~ examination on the ~~elementary disciplines~~fundamentals of land surveying. Passing this examination qualifies the applicant for a land surveyor intern certificate provided the applicant has met all other requirements for certification required by this Chapter.

(4) Principles and ~~Practices~~ Practice of Land Surveying. – Consists of ~~a six-hour~~an examination on the ~~basic and~~applied disciplines of land surveying and ~~a two-hour~~an examination on requirements specific to the practice of land surveying in North Carolina. Passing each of these examinations qualifies the applicant for a professional land surveyor certificate provided the applicant has met all other requirements for certification required by this Chapter."

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

In the General Assembly read three times and ratified this the 5th day of June, 2013.

Became law upon approval of the Governor at 4:29 p.m. on the 12th day of June, 2013.

Session Law 2013-99 **H.B. 368**

AN ACT TO PROVIDE REPRESENTATION OF FORESTRY AND NURSERY INTERESTS ON THE BOARD OF AGRICULTURE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 106-2 reads as rewritten:

"§ **106-2. Department of Agriculture and Consumer Services established; Board of Agriculture, membership, terms of office, etc.**

(a) Department and Board Established. – The Department of Agriculture and Consumer Services is created and established and shall be under the control of the Commissioner of Agriculture, with the consent and advice of a board to be ~~styled~~ established and named "The Board of Agriculture."

(b) Membership; Qualifications. – The Board of Agriculture shall consist of the Commissioner of Agriculture, who shall be an ex officio ~~a~~ member and chairman thereof and shall preside at all meetings, and of 10 other members from the ~~State at large,~~ State, so distributed as to reasonably represent the different sections and agriculture of the State. The Commissioner of Agriculture and the members of the Board of Agriculture shall be practicing farmers engaged in their profession. The members of the Board shall be appointed by the Governor by and with the consent of the Senate. In the appointment of the members of the Board the Governor shall also take into consideration the different agricultural interests of the State, and shall appoint members with the following qualifications:

(1) ~~one~~ One member who shall be a ~~practical~~ practicing tobacco farmer to represent the tobacco farming ~~interest,~~interest.

(2) ~~one~~One member who shall be a ~~practical~~ practicing cotton grower to represent the cotton ~~interest,~~interest.

(3) ~~one~~One member who shall be a ~~practical~~ practicing ~~truck~~fruit or vegetable farmer ~~or general farmer~~ to represent the ~~truck and general~~ fruit and vegetable farming ~~interest,~~interest.

(4) ~~one~~ One member who shall be a ~~practical~~ practicing dairy farmer to represent the dairy and livestock interest of the ~~State,~~State.

(5) ~~one~~One member who shall be a ~~practical~~ practicing poultryman to represent the poultry interest of the ~~State,~~State.

(6) ~~one~~One member who shall be a ~~practical~~ practicing peanut grower to represent the peanut ~~interests,~~interests of the State.

(7) ~~one~~One member who shall be experienced in marketing to represent the marketing of products of the State.

(8) One member who shall be actively involved in forestry to represent the forestry interests of the State.

(9) One member who shall be actively involved in the nursery business to represent the nursery industry of the State.

(10) One member who shall be a practicing general farmer to represent the general farming interest.

(c) Terms. – ~~The members of such Board shall be appointed by the Governor by and with the consent of the Senate, when the terms of the incumbents respectively expire.~~ The term of office of ~~such~~ members of the Board shall be six years and until their successors are duly appointed and qualified. ~~The terms of office of the five members constituting the present Board of Agriculture shall continue for the time for which they were appointed. In making appointments for the enlarged Board of Agriculture, the Governor shall make the appointments so that the term of three members will be for two years, three for four and four for six years. Thereafter the appointments shall be made for six years.~~

(d) Vacancies. – Vacancies in ~~such~~ the Board shall be filled by the Governor for the unexpired term. ~~The Commissioner of Agriculture and the members of the Board of Agriculture shall be practical farmers engaged in their profession.~~"

SECTION 2. This act becomes effective July 1, 2013, and applies to appointments to the Board of Agriculture made on or after that date.

In the General Assembly read three times and ratified this the 5th day of June, 2013.

Became law upon approval of the Governor at 4:29 p.m. on the 12th day of June, 2013.

Session Law 2013-100 **H.B. 581**

AN ACT TO DIRECT THE WILDLIFE RESOURCES COMMISSION TO ADOPT RULES TO IMPLEMENT THE TROPHY WILDLIFE SALE PERMIT.

The General Assembly of North Carolina enacts:

SECTION 1. The Wildlife Resources Commission shall adopt rules to implement the Trophy Wildlife Sale Permit issued pursuant to G.S. 113-274(c)(3a).

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

In the General Assembly read three times and ratified this the 6th day of June, 2013.

Became law upon approval of the Governor at 4:29 p.m. on the 12th day of June, 2013.

Session Law 2013-101 **H.B. 361**

AN ACT TO MAKE TECHNICAL AND CLARIFYING CHANGES TO THE JUSTICE REINVESTMENT ACT OF 2011.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 15A-1343(b) reads as rewritten:

"(b) Regular Conditions. – As regular conditions of probation, a defendant must:

…

(3a) Not ~~to abscond,~~ abscond by willfully avoiding supervision or by willfully making the defendant's whereabouts unknown to the supervising probation ~~officer.~~ officer, if the defendant is placed on supervised probation.

…."

SECTION 2. G.S. 15A-1368.4(e)(14) is repealed.

SECTION 3. G.S. 15-205 reads as rewritten:

"§ **15-205. Duties and powers of the probation officers.**

A probation officer shall investigate all cases referred to him for investigation by the judges of the courts or by the Secretary of Public Safety. Such officer shall keep informed concerning the conduct and condition of each person on probation under his supervision by visiting, requiring reports, and in other ways, and shall report thereon in writing as often as the court or the Secretary of Public Safety may require. Such officer shall use all practicable and suitable methods, not inconsistent with the conditions imposed by the court or the Secretary of Public Safety, to aid and encourage persons on probation to bring about improvement in their conduct and ~~condition, and shall within the first 30 days of a person's probation take such person to a prison unit maintained by the Division of Adult Correction of the Department of Public Safety for a tour thereof so that he may better appreciate the consequences of probation revocation.~~condition. Such officer shall keep detailed records of his work; shall make such reports in writing to the Secretary of Public Safety as he may require; and shall perform such other duties as the Secretary of Public Safety may require. A probation officer shall have, in the execution of his duties, the powers of arrest and, to the extent necessary for the performance of

his duties, the same right to execute process as is now given, or that may hereafter be given by law, to the sheriffs of this State."

SECTION 4. G.S. 15A-1344(d2) reads as rewritten:

"(d2) Confinement in Response to Violation. – When a defendant under supervision for a felony conviction has violated a condition of probation other than G.S. 15A-1343(b)(1) or G.S. 15A-1343(b)(3a), the court may impose a ~~90-day period of confinement.~~ period of confinement of 90 consecutive days. The court may not revoke probation unless the defendant has previously received a total of two periods of confinement under this subsection. A defendant may receive only two periods of confinement under this subsection. If the time remaining on the maximum imposed sentence on a defendant under supervision for a felony conviction is 90 days or less, then the term of confinement is for the remaining period of the sentence. Confinement under this section shall be credited pursuant to G.S. 15-196.1.

When a defendant under supervision for a misdemeanor conviction has violated a condition of probation other than G.S. 15A-1343(b)(1) or G.S. 15A-1343(b)(3a), the court may impose a period of confinement of up to 90 consecutive days. The court may not revoke probation unless the defendant has previously received a total of two periods of confinement under this subsection. A defendant may receive only two periods of confinement under this subsection. Confinement under this section shall be credited pursuant to G.S. 15-196.1.

If a defendant is arrested for violation of a condition of probation and is lawfully confined to await a hearing for the violation, then the judge shall first credit any confinement time spent awaiting the hearing to any confinement imposed under this subsection; any excess time shall be credited to the activated sentence. The period of confinement imposed under this subsection on a defendant who is on probation for multiple offenses shall run concurrently on all cases related to the violation. Confinement shall be immediate unless otherwise specified by the court.

A defendant shall serve any confinement imposed under this subsection in the correctional facility where the defendant would have served an active sentence."

SECTION 5. G.S. 143B-1159 is repealed.

SECTION 6. G.S. 15A-1340.17(e) reads as rewritten:

"(e) Maximum Sentences Specified for Class B1 through Class E Felonies for Minimum Terms up to 339 Months. — Unless provided otherwise in a statute establishing a punishment for a specific crime, for each minimum term of imprisonment in the chart in subsection (c) of this section, expressed in months, the corresponding maximum term of imprisonment, also expressed in months, is as specified in the table below for Class B1 through Class E felonies. The first figure in each cell of the table is the minimum term and the second is the maximum term.

15-30	16-32	17-33	18-34	19-35	20-36	21-38	22-39
23-40	24-41	25-42	26-44	27-45	28-46	29-47	30-48
31-50	32-51	33-52	34-53	35-54	36-56	37-57	38-58
39-59	40-60	41-62	42-63	43-64	44-65	45-66	46-68
47-69	48-70	49-71	50-72	51-74	52-75	53-76	54-77
55-78	56-80	57-81	58-82	59-83	60-84	61-86	62-87
63-88	64-89	65-90	66-~~91~~92	67-93	68-94	69-95	70-96
71-98	72-99	73-100	74-101	75-102	76-104	77-105	78-106
79-107	80-108	81-110	82-111	83-112	84-113	85-114	86-~~115~~116
87-117	88-118	89-119	90-120	91-122	92-123	93-124	94-125
95-126	96-128	97-129	98-130	99-131	100-132	101-134	102-135
103-136	104-137	105-138	106-140	107-141	108-142	109-143	110-144
111-146	112-147	113-148	114-149	115-150	116-152	117-153	118-154
119-155	120-156	121-158	122-159	123-160	124-161	125-162	126-164
127-165	128-166	129-167	130-168	131-170	132-171	133-172	134-173
135-174	136-176	137-177	138-178	139-179	140-180	141-182	142-183

143-184	144-185	145-186	146-188	147-189	148-190	149-191	150-192
151-194	152-195	153-196	154-197	155-198	156-200	157-201	158-202
159-203	160-204	161-206	162-207	163-208	164-209	165-210	166-212
167-213	168-214	169-215	170-216	171-218	172-219	173-220	174-221
175-222	176-224	177-225	178-226	179-227	180-228	181-230	182-231
183-232	184-233	185-234	186-236	187-237	188-238	189-239	190-240
191-242	192-243	193-244	194-245	195-246	196-248	197-249	198-250
199-251	200-252	201-254	202-255	203-256	204-257	205-258	206-260
207-261	208-262	209-263	210-264	211-266	212-267	213-268	214-269
215-270	216-~~271~~272	217-273	218-274	219-275	220-276	221-278	222-279
223-280	224-281	225-282	226-284	227-285	228-286	229-287	230-288
231-290	232-291	233-292	234-293	235-294	236-296	237-297	238-298
239-299	240-300	241-302	242-303	243-304	244-305	245-306	246-308
247-309	248-310	249-311	250-312	251-314	252-315	253-316	254-317
255-318	256-320	257-321	258-322	259-323	260-324	261-326	262-327
263-328	264-329	265-330	266-332	267-333	268-334	269-335	270-336
271-338	272-339	273-340	274-341	275-342	276-344	277-345	278-346
279-347	280-348	281-350	282-351	283-352	284-353	285-354	286-356
287-357	288-358	289-359	290-360	291-362	292-363	293-364	294-365
295-366	296-368	297-369	298-370	299-371	300-372	301-374	302-375
303-376	304-377	305-378	306-380	307-381	308-382	309-383	310-384
311-386	312-387	313-388	314-389	315-390	316-392	317-393	318-394
319-395	320-396	321-398	322-399	323-400	324-401	325-402	326-404
327-405	328-406	329-407	330-408	331-410	332-411	333-412	334-413
335-414	336-416	337-417	338-418	339-419."			

SECTION 7. Section 6 of this act becomes effective October 1, 2013, and applies to offenses committed on or after that date. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 6th day of June, 2013.

Became law upon approval of the Governor at 4:30 p.m. on the 12th day of June, 2013.

Session Law 2013-102 **H.B. 383**

AN ACT TO AMEND THE GRAIN DEALER LICENSING ACT TO INCREASE THE BONDING AMOUNT THAT MUST ACCOMPANY LICENSE APPLICATIONS AND TO SPECIFY ADDITIONAL GROUNDS FOR LICENSE REFUSAL OR REVOCATION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 106-604 reads as rewritten:

"§ **106-604. License fee; bond required; exemption.**

All applications shall be accompanied by an initial or renewal license fee of fifty dollars ($50.00) plus thirty dollars ($30.00) per certificate or decal for each separate buying station or truck and a good and sufficient bond in the amount of ~~ten thousand dollars ($10,000)~~ one hundred thousand dollars ($100,000) to satisfy the initial license application. A fee of five dollars ($5.00) shall be charged for each duplicate license, certificate or decal. "Cash buyers" upon written request to the Commissioner showing proof satisfactory to the Commissioner that the person is a "cash buyer" under this Article shall be exempted from the bonding requirements ~~hereunder.~~of this section. The exemption shall be granted within 20 days of the receipt of the exemption request or unless the Commissioner requests the dealer to provide additional necessary information or unless the request is denied."

SECTION 2. G.S. 106-610 reads as rewritten:

"§ **106-610. Grounds for refusal, suspension or revocation of license.**

The Commissioner may refuse to grant or renew any license, may suspend or may revoke any license upon a showing by substantial and competent evidence ~~that:~~of any of the following:

(1) The dealer has suffered a final money judgment to be entered against him and such judgment remains ~~unsatisfied; or~~unsatisfied.

(2) The dealer has failed to promptly and properly account and pay for ~~grain; or~~grain.

(3) The dealer has failed to keep and maintain business records of his grain transactions as required ~~herein; or~~by this Article.

(4) The dealer has engaged in fraudulent or deceptive practices in the transaction of his business as a ~~dealer; or~~dealer.

(5) The dealer has failed to collect from a producer and remit to the Commissioner of Agriculture such assessments as have been approved by the producers and are required to be collected under the provisions of Article 50 of Chapter 106 of the General ~~Statutes; or~~Statutes.

(6) The dealer or applicant has been convicted, pled guilty or nolo contendere within three years in any state or federal court of a crime involving moral ~~turpitude;~~turpitude.

(7) The dealer has failed either to file the required bond or to keep such bond in force.

(8) The applicant has acted or held himself or herself out as a grain dealer without first having obtained a license under the provisions of this Article.

(9) The dealer has hired a person who has been convicted of a crime involving fraud, deceit, or misrepresentation in any capacity involving the buying or selling of grain, or the handling of payments for grain.

(10) The dealer or applicant has violated any provision of this Article or rules adopted pursuant to this Article."

SECTION 3. This act becomes effective October 1, 2013.

In the General Assembly read three times and ratified this the 5th day of June, 2013.

Became law upon approval of the Governor at 4:30 p.m. on the 12th day of June, 2013.

Session Law 2013-103 **H.B. 384**

AN ACT AMENDING THE DEFINITION OF MARITAL PROPERTY TO PROVIDE THAT ENTIRETIES PROPERTY IS SUBJECT TO THE SAME BURDEN OF PROOF IN REBUTTING THE PRESUMPTION AS ALL PROPERTY CLASSIFIED AS MARITAL PROPERTY AND AMENDING THE DEFINITION OF DIVISIBLE PROPERTY TO CLARIFY THAT INCREASES AND DECREASES IN MARITAL DEBT MEANS PASSIVE INCREASES AND PASSIVE DECREASES IN MARITAL DEBT UNDER THE LAWS PERTAINING TO EQUITABLE DISTRIBUTION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 50-20(b) reads as rewritten:

"(b) For purposes of this section:

(1) "Marital property" means all real and personal property acquired by either spouse or both spouses during the course of the marriage and before the date of the separation of the parties, and presently owned, except property determined to be separate property or divisible property in accordance with subdivision (2) or (4) of this subsection. Marital property includes all vested and nonvested pension, retirement, and other deferred compensation rights, and vested and nonvested military pensions eligible under the federal Uniformed Services Former Spouses' Protection Act. It is presumed that all

property acquired after the date of marriage and before the date of separation is marital property except property which is separate property under subdivision (2) of this subsection. It is presumed that all real property creating a tenancy by the entirety acquired after the date of marriage and before the date of separation is marital property. ~~This~~ Either presumption may be rebutted by the greater weight of the evidence.

(2) "Separate property" means all real and personal property acquired by a spouse before marriage or acquired by a spouse by devise, descent, or gift during the course of the marriage. However, property acquired by gift from the other spouse during the course of the marriage shall be considered separate property only if such an intention is stated in the conveyance. Property acquired in exchange for separate property shall remain separate property regardless of whether the title is in the name of the husband or wife or both and shall not be considered to be marital property unless a contrary intention is expressly stated in the conveyance. The increase in value of separate property and the income derived from separate property shall be considered separate property. All professional licenses and business licenses which would terminate on transfer shall be considered separate property.

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

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

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

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

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

d. ~~Increases~~ Passive increases and passive decreases in marital debt and financing charges and interest related to marital debt."

SECTION 2. This act becomes effective October 1, 2013.

In the General Assembly read three times and ratified this the 6th day of June, 2013.

Became law upon approval of the Governor at 4:30 p.m. on the 12th day of June, 2013.

Session Law 2013-104 **H.B. 407**

AN ACT TO AUTHORIZE CLERKS OF SUPERIOR COURT TO DETERMINE THE REASONABLENESS OF COUNSEL FEES PAID TO AN ATTORNEY SERVING AS A TRUSTEE IN A POWER OF SALE FORECLOSURE PROCEEDING.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 45-21.31 reads as rewritten:

"§ **45-21.31. Disposition of proceeds of sale; payment of surplus to clerk.**

(a) The proceeds of any sale shall be applied by the person making the sale, in the following order, to the payment of –

(1) Costs and expenses of the sale, including the trustee's commission, if any, and a reasonable auctioneer's fee if such expense has been ~~incurred;~~incurred, and reasonable counsel fees for an attorney serving as a trustee if allowed pursuant to subsection (a1) of this section;

(2) Taxes due and unpaid on the property sold, as provided by G.S. 105-385, unless the notice of sale provided that the property be sold subject to taxes thereon and the property was so sold;

(3) Special assessments, or any installments thereof, against the property sold, which are due and unpaid, as provided by G.S. 105-385, unless the notice of sale provided that the property be sold subject to special assessments thereon and the property was so sold;

(4) The obligation secured by the mortgage, deed of trust or conditional sale contract.

(a1) The clerk of the superior court of the county where the sale was had may exercise discretion to allow reasonable counsel fees to an attorney serving as a trustee (in addition to the compensation allowed to the attorney as a trustee) where the attorney, on behalf of the trustee, renders professional services as an attorney that are different from the services normally performed by a trustee and of a type which would reasonably justify the retention of legal counsel by a trustee who is not licensed to practice law. Counsel fees are presumed reasonable if in compliance with G.S. 6-21.2(1) and (2). Nothing in this section, however, shall preclude the clerk of superior court from deeming a higher fee reasonable.

(b) Any surplus remaining after the application of the proceeds of the sale as set out in subsection (a) shall be paid to the person or persons entitled thereto, if the person who made the sale knows who is entitled thereto. Otherwise, the surplus shall be paid to the clerk of the superior court of the county where the sale was had–

(1) In all cases when the owner of the property sold is dead and there is no qualified and acting personal representative of his estate, and

(2) In all cases when he is unable to locate the persons entitled thereto, and

(3) In all cases when the mortgagee, trustee or vendor is, for any cause, in doubt as to who is entitled to such surplus money, and

(4) In all cases when adverse claims thereto are asserted.

(c) Such payment to the clerk discharges the mortgagee, trustee or vendor from liability to the extent of the amount so paid.

(d) The clerk shall receive such money from the mortgagee, trustee or vendor and shall execute a receipt therefor.

(e) The clerk is liable on his official bond for the safekeeping of money so received until it is paid to the party or parties entitled thereto, or until it is paid out under the order of a court of competent jurisdiction."

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

In the General Assembly read three times and ratified this the 6th day of June, 2013.

Became law upon approval of the Governor at 4:30 p.m. on the 12th day of June, 2013.

Session Law 2013-105 **H.B. 532**

AN ACT TO MAKE IT A CRIME TO OPERATE AN AMBULANCE, EMS VEHICLE, FIREFIGHTING VEHICLE, OR LAW ENFORCEMENT VEHICLE UPON ANY HIGHWAY, STREET, OR PUBLIC VEHICULAR AREA WITHIN THE STATE WHILE CONSUMING ALCOHOL OR WHILE ALCOHOL REMAINS IN THE PERSON'S BODY.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-138.2B(a) reads as rewritten:

"§ **20-138.2B. Operating a school bus, school activity bus, ~~or~~ child care ~~vehicle~~ vehicle, ambulance, other EMS vehicle, firefighting vehicle, or law enforcement vehicle after consuming alcohol.**

(a) Offense. – A person commits the offense of operating a school bus, school activity bus, ~~or~~ child care ~~vehicle~~ vehicle, ambulance, other emergency medical services vehicle, firefighting vehicle, or law enforcement vehicle after consuming alcohol if the person drives a school bus, school activity bus, ~~or~~ child care ~~vehicle~~ vehicle, ambulance, other emergency medical services vehicle, firefighting vehicle, or law enforcement vehicle upon any highway, any street, or any public vehicular area within the State while consuming alcohol or while alcohol remains in the person's body. This section does not apply to law enforcement officers acting in the course of, and within the scope of, their official duties."

SECTION 2. This act becomes effective December 1, 2013, and applies to offenses committed on or after that date.

In the General Assembly read three times and ratified this the 5th day of June, 2013.

Became law upon approval of the Governor at 4:30 p.m. on the 12th day of June, 2013.

Session Law 2013-106 **H.B. 710**

AN ACT TO PERMIT WATER UTILITIES TO ADJUST RATES FOR CHANGES IN COSTS BASED ON THIRD-PARTY RATES AND TO AUTHORIZE THE UTILITIES COMMISSION TO APPROVE A RATE ADJUSTMENT MECHANISM FOR WATER AND SEWER UTILITIES TO RECOVER COSTS FOR WATER AND SEWER SYSTEM IMPROVEMENTS.

The General Assembly of North Carolina enacts:

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

"**§ 62-133.11. Rate adjustment for changes in costs based on third-party rates.**

(a) The Commission shall permit a water or sewer public utility to adjust its rates approved pursuant to G.S. 62-133 to reflect changes in costs based solely upon changes in the rates imposed by third-party suppliers of purchased water or sewer service, including applicable taxes and fees.

(b) Any water or sewer public utility seeking to adjust its rates pursuant to this section shall file a verified petition in such form and detail as the Commission may require.

(c) The Commission shall issue an order approving, denying, or approving with modifications a rate adjustment requested pursuant to this section within 60 days of the date of filing of a completed petition, unless that time is for good cause extended up to a maximum of 90 days."

SECTION 2. Chapter 62 of the General Statutes is amended by adding a new section to read:

"**§ 62-133.12. Rate adjustment mechanism based on investment in repair, improvement, and replacement of water and sewer facilities.**

(a) The Commission may approve a rate adjustment mechanism in a general rate proceeding pursuant to G.S. 62-133 to allow a water or sewer public utility to recover through a system improvement charge the incremental depreciation expense and capital costs associated with the utility's reasonable and prudently incurred investment in eligible water and sewer system improvements. The Commission shall approve a rate adjustment mechanism authorized by this section only upon a finding that the mechanism is in the public interest. The frequency and manner of rate adjustments under the mechanism shall be as prescribed by the Commission.

(b) For purposes of this section, "eligible water system improvements" or "eligible sewer system improvements" shall include only those improvements found necessary by the Commission to enable the water or sewer utility to provide safe, reliable, and efficient service in accordance with applicable water quality and effluent standards.

(c) For purposes of this section, "eligible water system improvements" means:

(1) Distribution system mains, valves, utility service lines (including meter boxes and appurtenances), meters, and hydrants installed as in-kind replacements.

(2) Main extensions installed to eliminate dead ends and to implement solutions to regional water supply in order to comply with primary and, upon specific Commission approval, secondary drinking water standards.

(3) Equipment and infrastructure installed to comply with primary drinking water standards.

(4) Equipment and infrastructure installed at the direction of the Commission to comply with secondary drinking water standards.

(5) Unreimbursed costs of relocating facilities due to highway projects.

(d) For the purposes of this section, "eligible sewer system improvements" means:

(1) Collection main extensions installed to implement solutions to wastewater problems.

(2) Improvements necessary to reduce inflow and infiltration to the collection system to comply with applicable State and federal law and regulations.

(3) Unreimbursed costs of relocating facilities due to highway construction or relocation projects.

(4) Pumps, motors, blowers, and other mechanical equipment installed as in-kind replacements for customers.

(e) The Commission shall provide for audit and reconciliation procedures, including measures for refunds of any over-collections under the system improvement charge with interest pursuant to G.S. 62-130(e).

(f) The Commission may eliminate or modify any rate adjustment mechanism authorized pursuant to this section upon a finding that it is not in the public interest.

(g) Cumulative system improvement charges for a water or sewer utility pursuant to a rate adjustment mechanism approved by the Commission under this section may not exceed five percent (5%) of the total annual service revenues approved by the Commission in the water or sewer utility's last general rate case."

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

In the General Assembly read three times and ratified this the 5th day of June, 2013.

Became law upon approval of the Governor at 4:30 p.m. on the 12th day of June, 2013.

Session Law 2013-107 **H.B. 788**

AN ACT TO AMEND THE STATUTE GOVERNING THE POWERS OF WATER AND SEWER AUTHORITIES TO ALLOW THE AUTHORITY TO SET RATES FOR WATER RESOURCES STORAGE OR PROTECTION PROGRAMS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 162A-6 reads as rewritten:

"§ **162A-6. Powers of authority generally.**

(a) Each authority created hereunder shall be deemed to be a public instrumentality exercising public and essential governmental functions to provide for the public health and welfare, and each authority is authorized and empowered:

…

(9) To fix and revise from time to time and to collect rates, fees and other charges for the use of or for the services and facilities furnished by any system operated by the ~~authority;~~authority, including rates for water stored by the authority through programs to store and protect water resources in the region served by the authority. Schedules of rates, fees, and other charges may vary according to classes of service for programs to store and protect water resources. For purposes of this subdivision, "programs to store and protect water resources" includes aquifer or surficial storage.

…."

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

In the General Assembly read three times and ratified this the 5th day of June, 2013.

Became law upon approval of the Governor at 4:30 p.m. on the 12th day of June, 2013.

Session Law 2013-108 **H.B. 789**

AN ACT TO CLARIFY THAT THE PRESENCE OF A SUBSTANCE RELEASED FROM AN UNDERGROUND STORAGE TANK DOES NOT DISQUALIFY A PROPERTY FROM PARTICIPATION IN THE NORTH CAROLINA BROWNFIELDS PROGRAM.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 130A-310.31 reads as rewritten:

"§ **130A-310.31. Definitions.**

(a) Unless a different meaning is required by the context or unless a different meaning is set out in subsection (b) of this section, the definitions in G.S. 130A-2 and G.S. 130A-310 apply throughout this Part.

(b) Unless a different meaning is required by the context:

…

(3) "Brownfields property" or "brownfields site" means abandoned, idled, or underused property at which expansion or redevelopment is hindered by actual environmental contamination or the possibility of environmental contamination and that is or may be subject to remediation under any State remedial program ~~other than Part 2A of Article 21A of Chapter 143 of the General Statutes~~ or that is or may be subject to remediation under the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (42 U.S.C. § 9601, et seq.) except for a site listed on the National Priorities List pursuant to 42 U.S.C. § 9605.

…

(11) "Regulated substance" means a hazardous waste, as defined in G.S 130A-290; a hazardous substance, as defined in G.S. 143-215.77A; oil, as defined in G.S. 143-215.77; or other substance regulated under any remedial program implemented by the ~~Department other than Part 2A of Article 21A of Chapter 143 of the General Statutes.~~Department.

…."

SECTION 2. The Department of Environment and Natural Resources shall report to the Environmental Review Commission no later than April 1, 2014, regarding the impact of this act on the Brownfields Property Reuse program and the Leaking Petroleum Underground Storage Tank Cleanup program.

SECTION 3. This act becomes effective July 1, 2013.

In the General Assembly read three times and ratified this the 6th day of June, 2013.

Became law upon approval of the Governor at 4:30 p.m. on the 12th day of June, 2013.

Session Law 2013-109 **H.B. 813**

AN ACT TO MAKE THE MANUFACTURE, POSSESSION, SALE, USE, AND DELIVERY OF ALL SYNTHETIC CANNABINOIDS UNLAWFUL.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 90-94 reads as rewritten:

"§ **90-94. Schedule VI controlled substances.**

This schedule includes the controlled substances listed or to be listed by whatever official name, common or usual name, chemical name, or trade name designated. In determining that such substance comes within this schedule, the Commission shall find: no currently accepted medical use in the United States, or a relatively low potential for abuse in terms of risk to public health and potential to produce psychic or physiological dependence liability based upon present medical knowledge, or a need for further and continuing study to develop scientific evidence of its pharmacological effects.

The following controlled substances are included in this schedule:

(1) Marijuana.

(2) Tetrahydrocannabinols.

(3) Synthetic cannabinoids. – Any quantity of any synthetic chemical compound that (i) is a cannabinoid receptor agonist and mimics the pharmacological effect of naturally occurring substances or (ii) has a stimulant, depressant, or hallucinogenic effect on the central nervous system ~~Any material, compound, mixture, or preparation~~ that is not listed as a controlled substance in Schedule I through V, and is not an FDA-approved ~~drug,~~ drug. Synthetic cannabinoids include, but are not limited to, the substances listed in sub-subdivisions a. through j. of this subdivision and any substance that contains any quantity of ~~the following substances,~~ their salts, isomers (whether optical, positional, or geometric), homologues, and salts of isomers and homologues, unless specifically excepted, whenever the existence of these salts, isomers, homologues, and salts of isomers and homologues is possible within the specific chemical ~~designation:~~designation. The following substances are examples of synthetic cannabinoids and are not intended to be inclusive of the substances included in this Schedule:

…

j. Tetramethylcyclopropanoylindoles. Any compound containing a 3-tetramethylcyclopropanoylindole structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, cyanoalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, 2-(4-morpholinyl)ethyl, 1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3- morpholinyl)methyl, or tetrahydropyranylmethyl group, whether or not further substituted in the indole ring to any extent and whether or not substituted in the tetramethylcyclopropyl ring to any extent. Some trade name or other names: "XLR-11.""

SECTION 2. This act becomes effective July 1, 2013, and applies to offenses committed on or after that date. Prosecutions for offenses committed before the effective date of this act are not abated or affected by this act, and the statutes that would be applicable but for this act remain applicable to those prosecutions.

In the General Assembly read three times and ratified this the 5th day of June, 2013.

Became law upon approval of the Governor at 4:30 p.m. on the 12th day of June, 2013.

Session Law 2013-110 **S.B. 325**

AN ACT TO PROVIDE THAT MEMBERS OF THE WAKE COUNTY BOARD OF EDUCATION SHALL BE ELECTED FROM DISTRICTS.

The General Assembly of North Carolina enacts:

SECTION 1. An election shall be held in 2013 for the Wake County Board of Education for Districts 1, 2, 7, and 9, but those persons elected shall serve terms to expire on the first Monday in December of 2016. The districts for such election are those established in 2011 by the Wake County Board of Education under G.S. 115C-37(i). The terms of members of the Wake County Board of Education elected in 2011 are extended to expire on the first Monday in December of 2016. No election for members of the Wake County Board of Education shall take place in 2015.

SECTION 2. Effective January 1, 2016, Section 7 of Chapter 717, Session Laws of 1975, as amended by Sections 2 and 3 of Chapter 321, Session Laws of 1977, and as rewritten by Section 3 of Chapter 742 of the 1981 Session Laws, reads as rewritten:

"Sec. 7. (a) ~~In 1981, and biennially thereafter,~~ Beginning in 2016, nine members of the Wake County Board of Education shall be elected by the nonpartisan ~~election and runoff~~ plurality election method in accordance with ~~G.S. 163-279(a)(4), G.S. 163-293.~~ G.S. 163-292 and G.S. 163-294.2. ~~and G.S. 163-294.2, except that only~~ Only persons who are registered to vote in the district shall be permitted to file a notice of candidacy for election in that district. Notwithstanding G.S. 163-294.2(c) and G.S. 163-106, candidates seeking office shall file their notices of candidacy with the board of elections no earlier than 12:00 noon on the second Monday in June and no later than 12:00 noon on the first Friday in July (except if that is the 4th day of July then at 12:00 noon on the next business day) preceding the election. Such election shall be governed by the provisions of Chapter 163 of the General ~~Statutes.~~Statutes and shall be held to coincide with the general election for county officers in even-numbered years.

(b) Beginning in 2016, and quadrennially thereafter, seven members of the board shall be elected from numbered single-member districts to serve a term of four years. The qualified voters of each district shall elect a person who resides in that district for the seat apportioned to that district. Only the qualified voters of the district may vote in that election.

(c) In 2016, two members shall be elected from lettered single-member districts to serve a term of two years. In 2018, and quadrennially thereafter, two members shall be elected from lettered single-member districts. The qualified voters of each district shall elect a person who resides in that district for the seat apportioned to that district. Only the qualified voters of the district may vote in that election."

SECTION 3. Effective January 1, 2014, Section 6 of Chapter 717, Session Laws of 1975, as amended by Section 1 of Chapter 321, Session Laws of 1977, and as rewritten by Section 2 of Chapter 742 of the 1981 Session Laws, reads as rewritten:

"Sec. 6. All terms of office of members of the Wake County Board of Education shall begin on the first Monday in December following their election. ~~Districts 1, 2, 7, and 9 shall elect a member in 1981 and quadrennially thereafter for a four-year term. Districts 3, 4, 5, 6, and 8 shall elect a member in 1981 for a two-year term and in 1983 and quadrennially thereafter for a four-year term.~~"

SECTION 4. Effective January 1, 2016, Section 5 of Chapter 717, Session Laws of 1975, as rewritten by Section 1 of Chapter 742 of the 1981 Session Laws, is repealed.

SECTION 5. Effective January 1, 2016, Chapter 717 of the 1975 Session Laws is amended by adding a new section to read:

"Sec. 5.1.(a) The General Assembly establishes the single-member districts for elections under this act beginning in 2016 as follows:

(1) Numbered districts:

District 1: Wake County: VTD: 02-02, VTD: 02-03, VTD: 02-05, VTD: 08-04, VTD: 08-08, VTD: 09-01, VTD: 09-02, VTD: 09-03, VTD: 10-01, VTD: 10-02, VTD: 10-03, VTD: 10-04, VTD: 14-01, VTD: 14-02, VTD: 15-01, VTD: 16-01: Block(s) 1830528071000, 1830528071001, 1830528071002, 1830528071003, 1830528071009, 1830528071010, 1830528071011, 1830528071012, 1830528071013, 1830528071014, 1830528071015, 1830528071016, 1830528071017, 1830528071018, 1830528071019, 1830528071020, 1830528071021, 1830528071022, 1830528071023, 1830528071024, 1830528071025, 1830528071026, 1830528071027, 1830528071028, 1830528071029, 1830528072087, 1830528072088, 1830528072089, 1830528072090, 1830528072091, 1830528072092, 1830528084000, 1830528084001, 1830528084002, 1830528084003, 1830528084004, 1830528084005, 1830528084006, 1830528084007, 1830528084008, 1830528084009, 1830528084010, 1830528084011, 1830528084012, 1830528084013, 1830528084014, 1830528084015, 1830528084016, 1830528084017, 1830528084018, 1830528084019, 1830528084020, 1830528084021, 1830528084022, 1830528084023, 1830528084024, 1830528084044, 1830528092000, 1830528092001, 1830528092002, 1830528092003, 1830528092004, 1830528092005, 1830528092006, 1830528092007, 1830528092008, 1830528092009, 1830528092010, 1830528092011, 1830528092012, 1830528092013, 1830528092014, 1830528092015, 1830528092016, 1830528092017, 1830528092018, 1830528092019, 1830528092020, 1830528092021, 1830528092022, 1830528092023, 1830528092024, 1830528092025, 1830528092026, 1830528092027, 1830528092028, 1830528092029, 1830528092030, 1830528092031, 1830528092032, 1830528092033, 1830528092034, 1830528092035, 1830528092036, 1830528092037, 1830528092038, 1830528092039, 1830528092040, 1830528092041, 1830528092042, 1830528092043, 1830528092044, 1830528092045, 1830528092046; VTD: 16-03: 1830528021020, 1830528022000, 1830528023000, 1830528023001, 1830528023002, 1830528023003, 1830528023004, 1830528023005, 1830528023022, 1830528023023, 1830528023024, 1830528023027, 1830528023028, 1830528023029, 1830528024000, 1830528024001, 1830528024002, 1830528024003, 1830528024004, 1830528024005, 1830528024006, 1830528024020, 1830545002074, 1830545002091, 1830545002092; VTD: 16-04: 1830528081017, 1830528081018, 1830528081019, 1830528081020, 1830528081021, 1830528081022, 1830528081026, 1830528081027, 1830528083002, 1830528083003, 1830528083004, 1830528083005, 1830528083006, 1830528083011, 1830528083012, 1830528083013, 1830528083014, 1830528083015, 1830528083016, 1830528083017, 1830528083018, 1830528083020, 1830528083021, 1830528083024, 1830528083028, 1830528083029, 1830528083033, 1830528083034, 1830528083035, 1830528083036, 1830528083037, 1830528083038, 1830528083039, 1830528083040, 1830528083041, 1830528083044, 1830528083045, 1830528083046, 1830528083047, 1830528083048, 1830528083049, 1830528084054; VTD: 16-06: 1830528014000, 1830528014001, 1830528014002, 1830528014003, 1830528014004, 1830528014005, 1830528014006, 1830528014007, 1830528014008, 1830528014009, 1830528014010, 1830528014011, 1830528014012, 1830528014013, 1830528014014, 1830528014015, 1830528014016, 1830528015004, 1830528081002, 1830528081003, 1830528081005, 1830528081006, 1830528081007, 1830528081008, 1830528081009, 1830528081010, 1830528081011, 1830528081012, 1830528081013, 1830528081014, 1830528081015, 1830528081016, 1830528081025; VTD: 16-07, VTD: 16-08: Block(s) 1830528064039, 1830528064040, 1830528064041, 1830528064042, 1830528064043, 1830528064044, 1830528071004, 1830528072093, 1830528072094; VTD: 16-09: 1830528082000, 1830528082019, 1830528082020, 1830528082021, 1830528082031, 1830528082032, 1830528082033, 1830528082035, 1830528082041, 1830528082042, 1830528082043, 1830528082044, 1830528082045, 1830528082046, 1830528082047, 1830528082048, 1830528082049, 1830528082050, 1830528082051, 1830528082052, 1830528082053, 1830528082054, 1830528082055, 1830528082056, 1830528082057, 1830528082058, 1830528082059, 1830528084025, 1830528084026, 1830528084027, 1830528084028, 1830528084029,

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District 2: Wake County: VTD: 01-03, VTD: 01-04, VTD: 01-05, VTD: 01-11, VTD: 01-15, VTD: 01-17, VTD: 01-36, VTD: 01-37, VTD: 01-42, VTD: 01-45, VTD: 01-47, VTD: 01-51, VTD: 02-01, VTD: 02-04, VTD: 02-06, VTD: 05-05, VTD: 07-03, VTD: 07-05, VTD: 07-06, VTD: 07-07, VTD: 07-11, VTD: 08-02, VTD: 08-03, VTD: 08-05, VTD: 08-07, VTD: 08-10, VTD: 13-02, VTD: 13-06, VTD: 13-10, VTD: 13-11, VTD: 19-06, VTD: 19-10, VTD: 19-12.

District 3: Wake County: VTD: 01-01, VTD: 01-02, VTD: 01-06, VTD: 01-07, VTD: 01-09, VTD: 01-10, VTD: 01-12, VTD: 01-13, VTD: 01-14, VTD: 01-18, VTD: 01-21, VTD: 01-23, VTD: 01-27, VTD: 01-28, VTD: 01-31, VTD: 01-32, VTD: 01-41, VTD: 01-43, VTD: 01-44, VTD: 01-48, VTD: 13-01, VTD: 13-05, VTD: 13-07, VTD: 13-08, VTD: 13-09, VTD: 18-01, VTD: 18-06, VTD: 19-17.

District 4: Wake County: VTD: 01-19, VTD: 01-20, VTD: 01-22, VTD: 01-25, VTD: 01-26, VTD: 01-34, VTD: 01-35, VTD: 01-38, VTD: 01-40, VTD: 01-46, VTD: 01-50, VTD: 16-01: Block(s) 1830528032014, 1830528032015, 1830528032020, 1830528032021, 1830528032052, 1830528072044, 1830528072048, 1830528072049, 1830528072050, 1830528072051, 1830528072052, 1830528072053, 1830528072084, 1830528072085, 1830528072086, 1830528072095, 1830528072096; VTD: 16-02, VTD: 16-03: Block(s) 1830528022001, 1830528022002, 1830528022003, 1830528022004, 1830528022005, 1830528022006, 1830528022007, 1830528022008, 1830528022009, 1830528022010, 1830528032029; VTD: 16-04: 1830528081023, 1830528081024, 1830528081028, 1830528081029, 1830528083000, 1830528083001, 1830528083007, 1830528083008, 1830528083009, 1830528083010; VTD: 16-06: 1830528015000, 1830528015001, 1830528015002, 1830528015003, 1830528081000, 1830528081001, 1830528081004, 1830528082003, 1830528082004, 1830528082005, 1830528082006, 1830528082007, 1830528082008, 1830528082009, 1830528082010, 1830528082011, 1830528082012, 1830528082013, 1830528082014, 1830528082015, 1830528082016, 1830528082030; VTD: 16-08: 1830528032008, 1830528032009, 1830528032010, 1830528032011, 1830528032016, 1830528032051, 1830528032053, 1830528032054, 1830528032057, 1830528032058, 1830528032059, 1830528032060, 1830528061000, 1830528061001,

1830528061002, 1830528061003, 1830528061004, 1830528061005, 1830528061006, 1830528061007, 1830528061008, 1830528061009, 1830528061010, 1830528061011, 1830528061012, 1830528061013, 1830528061014, 1830528061015, 1830528061016, 1830528061017, 1830528061018, 1830528061030, 1830528061031, 1830528061032, 1830528061033, 1830528064000, 1830528064001, 1830528064002, 1830528064003, 1830528064004, 1830528064005, 1830528064006, 1830528064007, 1830528064008, 1830528064009, 1830528064010, 1830528064011, 1830528064012, 1830528064013, 1830528064014, 1830528064015, 1830528064016, 1830528064017, 1830528064018, 1830528064019, 1830528064020, 1830528064021, 1830528064022, 1830528064023, 1830528064024, 1830528064025, 1830528064026, 1830528064027, 1830528064028, 1830528064029, 1830528064030, 1830528064031, 1830528064032, 1830528064033, 1830528064034, 1830528064035, 1830528064036, 1830528064037, 1830528064038, 1830528064045, 1830528064046, 1830528064047, 1830528064048, 1830528064049, 1830528064050, 1830528064051, 1830528064052, 1830528064053, 1830528064054, 1830528064055, 1830528064056, 1830528064057, 1830528064058, 1830528064059, 1830528064060, 1830528064061, 1830528071005, 1830528071006, 1830528071007, 1830528071008, 1830528072000, 1830528072001, 1830528072002, 1830528072003, 1830528072004, 1830528072005, 1830528072006, 1830528072007, 1830528072008, 1830528072009, 1830528072010, 1830528072011, 1830528072012, 1830528072013, 1830528072014, 1830528072015, 1830528072016, 1830528072017, 1830528072018, 1830528072019, 1830528072020, 1830528072021, 1830528072022, 1830528072023, 1830528072024, 1830528072025, 1830528072026, 1830528072027, 1830528072028, 1830528072029, 1830528072030, 1830528072031, 1830528072032, 1830528072033, 1830528072034, 1830528072035, 1830528072036, 1830528072037, 1830528072038, 1830528072039, 1830528072040, 1830528072041, 1830528072042, 1830528072043, 1830528072045, 1830528072046, 1830528072047, 1830528072054, 1830528072055, 1830528072056, 1830528072057, 1830528072058, 1830528072059, 1830528072060, 1830528072061, 1830528072062, 1830528072063, 1830528072064, 1830528072065, 1830528072066, 1830528072067, 1830528072068, 1830528072069, 1830528072070, 1830528072071, 1830528072072, 1830528072073, 1830528072074, 1830528072075, 1830528072076, 1830528072077, 1830528072078, 1830528072079, 1830528072080, 1830528072081, 1830528072082, 1830528072083, 1830528072097; VTD: 16-09: 1830528082001, 1830528082002, 1830528082017, 1830528082018, 1830528082022, 1830528082023, 1830528082024, 1830528082025, 1830528082026, 1830528082027, 1830528082028, 1830528082029, 1830528082034, 1830528082036, 1830528082037, 1830528082038, 1830528082039, 1830528082040; VTD: 17-01, VTD: 17-02: Block(s) 1830541082001, 1830541082002, 1830541082004, 1830541083000, 1830541083001, 1830541083002, 1830541083003, 1830541083004, 1830541083005, 1830541083006, 1830541083007, 1830541083008, 1830541083009, 1830541083010, 1830541083011, 1830541083012, 1830541083013, 1830541083014, 1830541083015, 1830541083016, 1830541083017, 1830541083018, 1830541083019, 1830541083020, 1830541083021, 1830541083025, 1830541083026, 1830541083027, 1830541083028, 1830541083029, 1830541083030, 1830541083031, 1830541083032, 1830541083033, 1830541083034, 1830541083035, 1830541083036, 1830541083037, 1830541083038, 1830541083039, 1830541083040, 1830541083041, 1830541083042, 1830541083043, 1830541083045, 1830541083046, 1830541083051, 1830541083052, 1830541121039, 1830541121040, 1830541121046, 1830541121047, 1830541121048, 1830541154000, 1830541154001, 1830541154002; VTD: 17-03: 1830541051000, 1830541051001, 1830541051002, 1830541051003, 1830541051004, 1830541051005, 1830541051006, 1830541051007, 1830541051008, 1830541051009, 1830541051010, 1830541051011, 1830541051012, 1830541051013, 1830541051014, 1830541051015, 1830541051016, 1830541051017, 1830541051018, 1830541051019, 1830541051020, 1830541051021, 1830541051022, 1830541051023, 1830541051024, 1830541051025, 1830541051026, 1830541051027,

1830541051028, 1830541051029, 1830541051030, 1830541051031, 1830541051032, 1830541051033, 1830541051034, 1830541051035, 1830541051036, 1830541051037, 1830541051039, 1830541051040, 1830541051041, 1830541051043, 1830541051046, 1830541052000, 1830541052001, 1830541052002, 1830541052003, 1830541052004, 1830541052005, 1830541052006, 1830541052007, 1830541052008, 1830541052009, 1830541052010, 1830541052011, 1830541052012, 1830541052013, 1830541052014, 1830541052016, 1830541052017, 1830541052018, 1830541052019, 1830541052020, 1830541052021, 1830541052022, 1830541052023, 1830541052024, 1830541052025, 1830541052026, 1830541052027, 1830541052028, 1830541052029, 1830541052030, 1830541052031, 1830541052032, 1830541052034, 1830541052035, 1830541052036, 1830541053002, 1830541053005, 1830541053006, 1830541053007, 1830541053008, 1830541053009, 1830541053010, 1830541053011, 1830541053012, 1830541053013, 1830541053014, 1830541053015, 1830541053016, 1830541053017, 1830541053018, 1830541053019, 1830541053020, 1830541053021, 1830541053022, 1830541053023, 1830541053024, 1830541053025, 1830541053026, 1830541053027; VTD: 17-04: 1830541111011, 1830541111014, 1830541121000, 1830541121001, 1830541121002, 1830541121003, 1830541121004, 1830541121005, 1830541121006, 1830541121007, 1830541121008, 1830541121009, 1830541121010, 1830541121011, 1830541121012, 1830541121013, 1830541121014, 1830541121015, 1830541121016, 1830541121017, 1830541121018, 1830541121019, 1830541121020, 1830541121021, 1830541121022, 1830541121023, 1830541121024, 1830541121025, 1830541121026, 1830541121027, 1830541121028, 1830541121029, 1830541121030, 1830541121031, 1830541121032, 1830541121033, 1830541121034, 1830541121035, 1830541121036, 1830541121037, 1830541121038, 1830541121041, 1830541121042, 1830541121043, 1830541121044, 1830541121045, 1830541131008, 1830541131009, 1830541131010, 1830541131011, 1830541131012, 1830541131013, 1830541131014, 1830541131015, 1830541131016, 1830541131017, 1830541131018, 1830541131019, 1830541131020, 1830541131021, 1830541132000, 1830541132001, 1830541132002, 1830541132003, 1830541132004, 1830541132005, 1830541132006, 1830541132007, 1830541132008, 1830541132009, 1830541132010, 1830541132011, 1830541132012, 1830541132013, 1830541132014, 1830541132015, 1830541132016, 1830541132017, 1830541132018, 1830541132019, 1830541132020, 1830541132021, 1830541132022, 1830541132023, 1830541132026, 1830541132028, 1830541132029, 1830541132030, 1830541132031, 1830541132032, 1830541132033, 1830541132036, 1830541132037, 1830541132038, 1830541132039, 1830541132040, 1830541132041, 1830541132042, 1830541132043, 1830541132044; VTD: 17-05, VTD: 17-07, VTD: 17-08: Block(s) 1830541132024, 1830541132025, 1830541132027, 1830541132034, 1830541132035, 1830541141000, 1830541141001, 1830541141002, 1830541141003, 1830541141004, 1830541141005, 1830541141006, 1830541141007, 1830541141008, 1830541141009, 1830541141010, 1830541141011, 1830541141012, 1830541141013, 1830541141014, 1830541141015, 1830541141016, 1830541141017, 1830541141018, 1830541141019, 1830541141020, 1830541141021, 1830541141022, 1830541141023, 1830541141024, 1830541141025, 1830541141026, 1830541141027, 1830541141028, 1830541141029, 1830541141030, 1830541141031, 1830541141032, 1830541141033, 1830541141034, 1830541141035, 1830541141036, 1830541141037, 1830541141038, 1830541141039, 1830541141040, 1830541141041, 1830541141042, 1830541141043, 1830541141044, 1830541141045, 1830541141046, 1830541141047, 1830541141048, 1830541141049, 1830541141050, 1830541141051, 1830541141052, 1830541141053, 1830541141054, 1830541141055, 1830541141056, 1830541142000, 1830541142001, 1830541142002, 1830541142003, 1830541142004, 1830541142005, 1830541142006, 1830541142007, 1830541142008, 1830541142009, 1830541142010, 1830541142015, 1830541142016, 1830541142017, 1830541142019, 1830541142020, 1830541142021, 1830541142022, 1830541142023, 1830541142024, 1830541142025, 1830541142026, 1830541142027, 1830541142028, 1830541142029,

1830541142030, 1830541142046, 1830541151000, 1830541151001, 1830541151002, 1830541151003, 1830541151004, 1830541151005, 1830541151006, 1830541151007, 1830541151008, 1830541151009, 1830541151010, 1830541151011, 1830541151012, 1830541151013, 1830541151014, 1830541152000, 1830541152001, 1830541152002, 1830541152003, 1830541152004, 1830541152005, 1830541152006, 1830541152007, 1830541152008, 1830541152009, 1830541152010, 1830541152011, 1830541152012, 1830541152013, 1830541152014, 1830541152015, 1830541152016, 1830541152017, 1830541152018, 1830541152019, 1830541152020, 1830541152021, 1830541152022, 1830541152023, 1830541152024, 1830541152025, 1830541152026, 1830541152027, 1830541152028, 1830541152029, 1830541152030, 1830541152031, 1830541152032, 1830541153000, 1830541153001, 1830541153002, 1830541153003, 1830541153004, 1830541153005, 1830541153006, 1830541153007, 1830541153008, 1830541153009, 1830541153010, 1830541153013, 1830541153014, 1830541153015, 1830541153016, 1830541153017, 1830541153018, 1830541153019, 1830541153020, 1830541153021, 1830541153022, 1830541153023; VTD: 17-09, VTD: 17-10, VTD: 17-11.

District 5: Wake County: VTD: 01-16, VTD: 01-29, VTD: 01-30, VTD: 01-33, VTD: 01-39, VTD: 01-49, VTD: 04-03, VTD: 04-05, VTD: 04-08, VTD: 04-09, VTD: 04-11, VTD: 04-17, VTD: 04-18, VTD: 04-20, VTD: 04-21, VTD: 05-01, VTD: 05-03, VTD: 05-04, VTD: 07-01, VTD: 07-02, VTD: 07-04, VTD: 07-09, VTD: 07-10, VTD: 07-12, VTD: 07-13, VTD: 08-06, VTD: 08-09, VTD: 08-11, VTD: 11-01, VTD: 11-02.

District 6: Wake County: VTD: 04-01, VTD: 04-02, VTD: 04-04, VTD: 04-06, VTD: 04-07, VTD: 04-10, VTD: 04-12, VTD: 04-13, VTD: 04-14, VTD: 04-15, VTD: 04-16, VTD: 04-19, VTD: 06-05, VTD: 06-06, VTD: 06-07, VTD: 12-01, VTD: 12-05, VTD: 12-09, VTD: 16-05, VTD: 18-02, VTD: 18-03, VTD: 18-04, VTD: 18-05, VTD: 18-07, VTD: 18-08, VTD: 20-01, VTD: 20-03, VTD: 20-05, VTD: 20-09.

District 7: Wake County: VTD: 03-00, VTD: 05-06, VTD: 06-01, VTD: 06-04, VTD: 12-02, VTD: 12-04, VTD: 12-06, VTD: 12-07, VTD: 12-08, VTD: 15-02, VTD: 15-03, VTD: 15-04, VTD: 20-02, VTD: 20-04, VTD: 20-06, VTD: 20-08, VTD: 20-10, VTD: 20-11, VTD: 20-12.

(2) Lettered districts:

District A: Wake County: VTD: 01-01, VTD: 01-02, VTD: 01-03, VTD: 01-04, VTD: 01-05, VTD: 01-06, VTD: 01-07, VTD: 01-09, VTD: 01-10, VTD: 01-12, VTD: 01-13, VTD: 01-14, VTD: 01-16, VTD: 01-18: Block(s) 1830527011020, 1830527011021, 1830527012009, 1830527012010, 1830527012012, 1830527012013, 1830527012014, 1830527012016, 1830527012017, 1830527012021, 1830527012025, 1830527012026, 1830527012027, 1830527012028, 1830527012029, 1830527012030, 1830527012031, 1830527012032, 1830527012033, 1830527012034, 1830527012035, 1830527012036, 1830527012037, 1830527012038, 1830527012039, 1830527013000, 1830527013005, 1830527013006, 1830527013007, 1830527013008; VTD: 01-19, VTD: 01-20, VTD: 01-21, VTD: 01-22, VTD: 01-23, VTD: 01-25, VTD: 01-26, VTD: 01-27, VTD: 01-28, VTD: 01-29, VTD: 01-31, VTD: 01-32, VTD: 01-33, VTD: 01-34, VTD: 01-35, VTD: 01-38, VTD: 01-40, VTD: 01-41, VTD: 01-43: Block(s) 1830540011000, 1830540011001, 1830540011002, 1830540011003, 1830540013000, 1830540013001, 1830540013002, 1830540013003, 1830540013004, 1830540013005, 1830540013006, 1830540013007; VTD: 01-44, VTD: 01-45, VTD: 01-46, VTD: 01-48, VTD: 01-49, VTD: 01-50, VTD: 04-01, VTD: 04-02, VTD: 04-03, VTD: 04-04, VTD: 04-05, VTD: 04-06, VTD: 04-08, VTD: 04-09, VTD: 04-10, VTD: 04-11, VTD: 04-12, VTD: 04-13, VTD: 04-14, VTD: 04-15, VTD: 04-16, VTD: 04-17, VTD: 04-18, VTD: 04-19, VTD: 04-20, VTD: 04-21, VTD: 05-01, VTD: 05-03, VTD: 06-06, VTD: 07-01, VTD: 07-02, VTD: 07-03, VTD: 07-05, VTD: 07-07, VTD: 07-09, VTD: 07-10, VTD: 07-11, VTD: 07-12, VTD: 08-02, VTD: 08-05, VTD: 08-06, VTD: 08-09, VTD: 08-10, VTD: 08-11, VTD: 09-01: Block(s) 1830543011005, 1830543011006, 1830543011007, 1830543011008, 1830543011010, 1830543011011, 1830543011012, 1830543011013, 1830543011014, 1830543011015,

1830543011016, 1830543011022; VTD: 10-02: 1830544031000, 1830544031001, 1830544031002, 1830544031003, 1830544031004, 1830544031005, 1830544031006, 1830544031007, 1830544031008, 1830544031009, 1830544031010, 1830544031015, 1830544042009, 1830544042010, 1830544042011, 1830544042012, 1830544042013, 1830544042014, 1830544042015, 1830544042016, 1830544042017, 1830544042018, 1830544042021, 1830544042022, 1830544042023, 1830544042024, 1830544042025, 1830544042026, 1830544043000, 1830544043001, 1830544043002, 1830544043003, 1830544043005, 1830544043006, 1830544043013, 1830544043014, 1830544043015, 1830544043016, 1830544043017, 1830544043018, 1830544043019, 1830544043020, 1830544043021, 1830544043022, 1830544043023, 1830544043024, 1830544043025, 1830544043026, 1830544043029, 1830544043031, 1830544043032, 1830544043033, 1830544043034, 1830544043035, 1830544043036, 1830544043075, 1830544043076, 1830544043077, 1830544043078, 1830544043079, 1830544043090; VTD: 10-03: 1830544022008, 1830544043004, 1830544043007, 1830544043008, 1830544043009, 1830544043010, 1830544043012, 1830544043030, 1830544043066, 1830544043071, 1830544043073, 1830544043074, 1830544043080, 1830544043081, 1830544043082, 1830544043087; VTD: 10-04: 1830541081000, 1830541081001, 1830541081002, 1830541081003, 1830541081004, 1830541081005, 1830541081006, 1830541081007, 1830541081008, 1830541081009, 1830541081010, 1830541081011, 1830541081012, 1830541081013, 1830541081014, 1830541081015, 1830541081016, 1830541081017, 1830541081018, 1830541081019, 1830541082000, 1830541082005, 1830541082006, 1830541082007, 1830541082008, 1830541082009, 1830541082010, 1830541082011, 1830541082012, 1830541082013, 1830541082014, 1830541082015, 1830541082016, 1830541082017, 1830541082018, 1830541082019, 1830541082020, 1830541082021, 1830541082022, 1830541082023, 1830541082024, 1830541082025, 1830541091001, 1830541091002, 1830541091003, 1830541091004, 1830541091005, 1830541091006, 1830541091007, 1830541091008, 1830541091009, 1830541091010, 1830541091011, 1830544022009, 1830544022010, 1830544023004, 1830544023005, 1830544023006, 1830544023007, 1830544023009, 1830544023010, 1830544023011, 1830544023012, 1830544023013, 1830544023014, 1830544023015, 1830544023016, 1830544023017, 1830544023018, 1830544023021, 1830544023022, 1830544023023, 1830544023025, 1830544023026, 1830544023027, 1830544023028, 1830544023029, 1830544023032, 1830544023035, 1830544023036, 1830544023041, 1830544023042, 1830544023043, 1830544023044, 1830544043011, 1830544043037, 1830544043072; VTD: 11-01, VTD: 11-02, VTD: 13-01, VTD: 13-05: Block(s) 1830540171000, 1830540171001, 1830540171002, 1830540171003, 1830540171004, 1830540171005, 1830540171019, 1830540171021, 1830540171022, 1830540171023, 1830540171024, 1830540171025, 1830540171026, 1830540171027, 1830540171028, 1830540171029, 1830540171030, 1830540171031, 1830540171032, 1830540171033, 1830540171034, 1830540171035, 1830540171036, 1830540171037, 1830540171038, 1830540171039, 1830540171040, 1830540171041, 1830540171042, 1830540171043, 1830540171044, 1830540171045, 1830540171046, 1830540171047, 1830540171048, 1830540171049, 1830540171050, 1830540171052, 1830540171053, 1830540171054, 1830540171056, 1830540171059, 1830540171060, 1830540171061, 1830540171062, 1830540181000, 1830540181001, 1830540181002, 1830540181003, 1830540181004, 1830540181005, 1830540181006, 1830540181008, 1830540181009, 1830540181010, 1830540181011, 1830540182000, 1830540182001, 1830540182002, 1830540182003, 1830540182004, 1830540182005, 1830540182006, 1830540182007, 1830540182008, 1830540182009, 1830540182010, 1830540182011, 1830540182012, 1830540182013, 1830540182014, 1830540182015, 1830540182016; VTD: 13-07, VTD: 13-08, VTD: 13-09, VTD: 16-01: Block(s) 1830528032014, 1830528032015, 1830528032020, 1830528032021, 1830528032052, 1830528072044, 1830528072048, 1830528072049, 1830528072050, 1830528072051, 1830528072052, 1830528072053, 1830528072084, 1830528072085, 1830528072086,

1830528072095, 1830528072096; VTD: 16-02, VTD: 16-03: Block(s) 1830528022001, 1830528022002, 1830528022003, 1830528022004, 1830528022005, 1830528022006, 1830528022007, 1830528022008, 1830528022009, 1830528022010, 1830528032029; VTD: 16-04: 1830528081023, 1830528081024, 1830528081028, 1830528081029, 1830528083000, 1830528083001, 1830528083007, 1830528083008, 1830528083009, 1830528083010; VTD: 16-05: 1830528021000, 1830528021001, 1830528021002, 1830528021003, 1830545002052, 1830545002069, 1830545002071; VTD: 16-06: 1830528015000, 1830528015001, 1830528015002, 1830528015003, 1830528081000, 1830528081001, 1830528081004, 1830528082003, 1830528082004, 1830528082005, 1830528082006, 1830528082007, 1830528082008, 1830528082009, 1830528082010, 1830528082011, 1830528082012, 1830528082013, 1830528082014, 1830528082015, 1830528082016, 1830528082030; VTD: 16-08: 1830528032008, 1830528032009, 1830528032010, 1830528032011, 1830528032016, 1830528032051, 1830528032053, 1830528032054, 1830528032057, 1830528032058, 1830528032059, 1830528032060, 1830528061000, 1830528061001, 1830528061002, 1830528061003, 1830528061004, 1830528061005, 1830528061006, 1830528061007, 1830528061008, 1830528061009, 1830528061010, 1830528061011, 1830528061012, 1830528061013, 1830528061014, 1830528061015, 1830528061016, 1830528061017, 1830528061018, 1830528061030, 1830528061031, 1830528061032, 1830528061033, 1830528064000, 1830528064001, 1830528064002, 1830528064003, 1830528064004, 1830528064005, 1830528064006, 1830528064007, 1830528064008, 1830528064009, 1830528064010, 1830528064011, 1830528064012, 1830528064013, 1830528064014, 1830528064015, 1830528064016, 1830528064017, 1830528064018, 1830528064019, 1830528064020, 1830528064021, 1830528064022, 1830528064023, 1830528064024, 1830528064025, 1830528064026, 1830528064027, 1830528064028, 1830528064029, 1830528064030, 1830528064031, 1830528064032, 1830528064033, 1830528064034, 1830528064035, 1830528064036, 1830528064037, 1830528064038, 1830528064045, 1830528064046, 1830528064047, 1830528064048, 1830528064049, 1830528064050, 1830528064051, 1830528064052, 1830528064053, 1830528064054, 1830528064055, 1830528064056, 1830528064057, 1830528064058, 1830528064059, 1830528064060, 1830528064061, 1830528071005, 1830528071006, 1830528071007, 1830528071008, 1830528072000, 1830528072001, 1830528072002, 1830528072003, 1830528072004, 1830528072005, 1830528072006, 1830528072007, 1830528072008, 1830528072009, 1830528072010, 1830528072011, 1830528072012, 1830528072013, 1830528072014, 1830528072015, 1830528072016, 1830528072017, 1830528072018, 1830528072019, 1830528072020, 1830528072021, 1830528072022, 1830528072023, 1830528072024, 1830528072025, 1830528072026, 1830528072027, 1830528072028, 1830528072029, 1830528072030, 1830528072031, 1830528072032, 1830528072033, 1830528072034, 1830528072035, 1830528072036, 1830528072037, 1830528072038, 1830528072039, 1830528072040, 1830528072041, 1830528072042, 1830528072043, 1830528072045, 1830528072046, 1830528072047, 1830528072054, 1830528072055, 1830528072056, 1830528072057, 1830528072058, 1830528072059, 1830528072060, 1830528072061, 1830528072062, 1830528072063, 1830528072064, 1830528072065, 1830528072066, 1830528072067, 1830528072068, 1830528072069, 1830528072070, 1830528072071, 1830528072072, 1830528072073, 1830528072074, 1830528072075, 1830528072076, 1830528072077, 1830528072078, 1830528072079, 1830528072080, 1830528072081, 1830528072082, 1830528072083, 1830528072097; VTD: 16-09: 1830528082001, 1830528082002, 1830528082017, 1830528082018, 1830528082022, 1830528082023, 1830528082024, 1830528082025, 1830528082026, 1830528082027, 1830528082028, 1830528082029, 1830528082034, 1830528082036, 1830528082037, 1830528082038, 1830528082039, 1830528082040; VTD: 17-01, VTD: 17-02: Block(s) 1830541082001, 1830541082002, 1830541082004, 1830541083000, 1830541083001, 1830541083002, 1830541083003, 1830541083004, 1830541083005, 1830541083006, 1830541083007, 1830541083008, 1830541083009,

1830541083010, 1830541083011, 1830541083012, 1830541083013, 1830541083014, 1830541083015, 1830541083016, 1830541083017, 1830541083018, 1830541083019, 1830541083020, 1830541083021, 1830541083025, 1830541083026, 1830541083027, 1830541083028, 1830541083029, 1830541083030, 1830541083031, 1830541083032, 1830541083033, 1830541083034, 1830541083035, 1830541083036, 1830541083037, 1830541083038, 1830541083039, 1830541083040, 1830541083041, 1830541083042, 1830541083043, 1830541083045, 1830541083046, 1830541083051, 1830541083052, 1830541121039, 1830541121040, 1830541121046, 1830541121047, 1830541121048, 1830541154000, 1830541154001, 1830541154002; VTD: 17-03: 1830541051000, 1830541051001, 1830541051002, 1830541051003, 1830541051004, 1830541051005, 1830541051006, 1830541051007, 1830541051008, 1830541051009, 1830541051010, 1830541051011, 1830541051012, 1830541051013, 1830541051014, 1830541051015, 1830541051016, 1830541051017, 1830541051018, 1830541051019, 1830541051020, 1830541051021, 1830541051022, 1830541051023, 1830541051024, 1830541051025, 1830541051026, 1830541051027, 1830541051028, 1830541051029, 1830541051030, 1830541051031, 1830541051032, 1830541051033, 1830541051034, 1830541051035, 1830541051036, 1830541051037, 1830541051039, 1830541051040, 1830541051041, 1830541051043, 1830541051046, 1830541052000, 1830541052001, 1830541052002, 1830541052003, 1830541052004, 1830541052005, 1830541052006, 1830541052007, 1830541052008, 1830541052009, 1830541052010, 1830541052011, 1830541052012, 1830541052013, 1830541052014, 1830541052016, 1830541052017, 1830541052018, 1830541052019, 1830541052020, 1830541052021, 1830541052022, 1830541052023, 1830541052024, 1830541052025, 1830541052026, 1830541052027, 1830541052028, 1830541052029, 1830541052030, 1830541052031, 1830541052032, 1830541052034, 1830541052035, 1830541052036, 1830541053002, 1830541053005, 1830541053006, 1830541053007, 1830541053008, 1830541053009, 1830541053010, 1830541053011, 1830541053012, 1830541053013, 1830541053014, 1830541053015, 1830541053016, 1830541053017, 1830541053018, 1830541053019, 1830541053020, 1830541053021, 1830541053022, 1830541053023, 1830541053024, 1830541053025, 1830541053026, 1830541053027; VTD: 17-04: 1830541111011, 1830541111014, 1830541121000, 1830541121001, 1830541121002, 1830541121003, 1830541121004, 1830541121005, 1830541121006, 1830541121007, 1830541121008, 1830541121009, 1830541121010, 1830541121011, 1830541121012, 1830541121013, 1830541121014, 1830541121015, 1830541121016, 1830541121017, 1830541121018, 1830541121019, 1830541121020, 1830541121021, 1830541121022, 1830541121023, 1830541121024, 1830541121025, 1830541121026, 1830541121027, 1830541121028, 1830541121029, 1830541121030, 1830541121031, 1830541121032, 1830541121033, 1830541121034, 1830541121035, 1830541121036, 1830541121037, 1830541121038, 1830541121041, 1830541121042, 1830541121043, 1830541121044, 1830541121045, 1830541131008, 1830541131009, 1830541131010, 1830541131011, 1830541131012, 1830541131013, 1830541131014, 1830541131015, 1830541131016, 1830541131017, 1830541131018, 1830541131019, 1830541131020, 1830541131021, 1830541132000, 1830541132001, 1830541132002, 1830541132003, 1830541132004, 1830541132005, 1830541132006, 1830541132007, 1830541132008, 1830541132009, 1830541132010, 1830541132011, 1830541132012, 1830541132013, 1830541132014, 1830541132015, 1830541132016, 1830541132017, 1830541132018, 1830541132019, 1830541132020, 1830541132021, 1830541132022, 1830541132023, 1830541132026, 1830541132028, 1830541132029, 1830541132030, 1830541132031, 1830541132032, 1830541132033, 1830541132036, 1830541132037, 1830541132038, 1830541132039, 1830541132040, 1830541132041, 1830541132042, 1830541132043, 1830541132044; VTD: 17-05, VTD: 17-07, VTD: 17-08: Block(s) 1830541132024, 1830541132025, 1830541132027, 1830541132034, 1830541132035, 1830541141000, 1830541141001, 1830541141002, 1830541141003, 1830541141004, 1830541141005, 1830541141006, 1830541141007, 1830541141008, 1830541141009,

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District B: Wake County: VTD: 01-11, VTD: 01-15, VTD: 01-17, VTD: 01-18: Block(s) 1830527011000, 1830527011001, 1830527011002, 1830527011003, 1830527011004, 1830527011005, 1830527011006, 1830527011007, 1830527011008, 1830527011009, 1830527011010, 1830527011011, 1830527011012, 1830527011013, 1830527011014, 1830527011015, 1830527011016, 1830527011017, 1830527011018, 1830527011019, 1830527012002, 1830527012003, 1830527012004, 1830527012005, 1830527012006, 1830527012007, 1830527012008, 1830527012020, 1830527013001, 1830527013002, 1830527013003, 1830527013004, 1830527013009; VTD: 01-30, VTD: 01-36, VTD: 01-37, VTD: 01-39, VTD: 01-42, VTD: 01-43: Block(s) 1830540012000, 1830540012001, 1830540012002, 1830540012003, 1830540012004, 1830540012007, 1830540012008,

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(b) The names and boundaries of voting tabulation districts, tracts, block groups, and blocks specified in this section are as shown on the 2010 Census Redistricting TIGER/Line Shapefiles. If any voting tabulation district boundary is changed, that change shall not change the boundary of a district, which shall remain the same as it is depicted by the 2010 Census Redistricting TIGER/Line Shapefiles.

(c) Thereafter, beginning in 2021, district boundaries may be changed by the Wake County Board of Education in accordance with G.S. 115C-37(i) to account for population imbalances after each federal census, but such revision shall not impair the ability of any persons to finish the term for which they are elected or affect the appointment of any person to fill a vacancy in such position for the remainder of that term."

SECTION 6. Effective January 1, 2016, Section 8 of Chapter 717, Session Laws of 1975, as amended by Section 4 of Chapter 321 of the 1977 Session Laws, is repealed.

SECTION 7. Except as provided herein, this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 13th day of June, 2013.

Became law on the date it was ratified.

Session Law 2013-111 **H.B. 68**

AN ACT TO ESTABLISH A FOSTER CARE OMBUDSMAN PILOT PROGRAM IN GASTON COUNTY.

The General Assembly of North Carolina enacts:

SECTION 1.(a) There is created a foster care ombudsman pilot program.

SECTION 1.(b) The Board of County Commissioners (Board) shall establish qualifications for the selection of the foster care ombudsman, including the criteria that the person selected shall have experience in child welfare and State laws and policies governing children in foster care and shall remain objective and impartial when performing his or her duties. The Board shall appoint a person to serve as the foster care ombudsman for a period of time established by the Board. The ombudsman shall serve at the discretion and under the direction and supervision of the Board.

SECTION 1.(c) The foster care ombudsman shall:

(1) When a juvenile is placed in foster care following a disposition order under G.S. 7B-905, be a party in all actions under G.S. 7B-906 and G.S. 7B-907 on behalf of the foster parents and permitted to speak on their behalf. The County shall designate an attorney to assist the ombudsman, if requested by the ombudsman.

(2) Determine the facts, the needs of the juvenile, and the available resources within the family, foster community, and community to meet those needs; to facilitate, when appropriate, the settlement of disputed issues; to explore options with the court at the dispositional hearing; to report to the court when the needs of the juvenile are not being met; and to protect and promote the best interests of the juvenile as seen by the foster family.

(3) Have the authority to obtain any information or reports, whether or not confidential, that may in the ombudsman's opinion be relevant to the case. No privilege other than the attorney-client privilege may be invoked to prevent the ombudsman from obtaining such information. The confidentiality of the information or reports shall be respected by the ombudsman, and no disclosure of any information or reports shall be made to anyone except by order of the court or unless otherwise provided by law.

(4) Refer to the social services director and any appropriate law enforcement any cause of suspect that any juvenile is abused, neglected, or dependent, as defined by G.S. 7B-101.

(5) Be a resource and advocate for foster parents.

(6) Provide to the director of social services a periodic report on foster placements within the county, including any recommendations regarding that placement or future placements.
(7) Compile and make available to the Board any data the ombudsman has collected in the course of exercising his or her official duties.
(8) Provide information regarding the role, duties, and functions of foster parents and the ombudsman, and the rights of children in foster care.
(9) Comply with any other duties or responsibilities deemed appropriate by the Board.

SECTION 2. G.S. 7B-906(c) reads as rewritten:

"(c) At every review hearing, the court shall consider information from the parent, the juvenile, the guardian, any foster parent, relative, or preadoptive parent providing care for the child, the custodian or agency with custody, the guardian ad litem, the foster care ombudsman, and any other person or agency which will aid in its review. The court may consider any evidence, including hearsay evidence as defined in G.S. 8C-1, Rule 801, that the court finds to be relevant, reliable, and necessary to determine the needs of the juvenile and the most appropriate disposition.

In each case the court shall consider the following criteria and make written findings regarding those that are relevant:

(1) Services which have been offered to reunite the family, or whether efforts to reunite the family clearly would be futile or inconsistent with the juvenile's safety and need for a safe, permanent home within a reasonable period of time.
(2) Where the juvenile's return home is unlikely, the efforts which have been made to evaluate or plan for other methods of care.
(3) Goals of the foster care placement and the appropriateness of the foster care plan.
(4) A new foster care plan, if continuation of care is sought, that addresses the role the current foster parent will play in the planning for the juvenile.
(5) Reports on the placements the juvenile has had and any services offered to the juvenile and the parent, guardian, custodian, or caretaker.
(6) An appropriate visitation plan.
(7) If the juvenile is 16 or 17 years of age, a report on an independent living assessment of the juvenile and, if appropriate, an independent living plan developed for the juvenile.
(8) When and if termination of parental rights should be considered.
(9) Any other criteria the court deems necessary."

SECTION 3. G.S. 7B-907 reads as rewritten:

"§ **7B-907. Permanency planning hearing.**

(a) In any case where custody is removed from a parent, guardian, custodian, or caretaker, the judge shall conduct a review hearing designated as a permanency planning hearing within 12 months after the date of the initial order removing custody, and the hearing may be combined, if appropriate, with a review hearing required by G.S. 7B-906. The purpose of the permanency planning hearing shall be to develop a plan to achieve a safe, permanent home for the juvenile within a reasonable period of time. Subsequent permanency planning hearings shall be held at least every six months thereafter, or earlier as set by the court, to review the progress made in finalizing the permanent plan for the juvenile, or if necessary, to make a new permanent plan for the juvenile. The Director of Social Services shall make a timely request to the clerk to calendar each permanency planning hearing at a session of court scheduled for the hearing of juvenile matters. The clerk shall give 15 days' notice of the hearing and its purpose to the parent, the juvenile if 12 years of age or more, the guardian, the foster parent, relative, or preadoptive parent providing care for the child, the custodian or agency with custody, the guardian ad litem, the foster care ombudsman, and any other person or agency the

court may specify, indicating the court's impending review. The department of social services shall either provide to the clerk the name and address of the foster parent, relative, or preadoptive parent providing care for the child for notice under this subsection or file written documentation with the clerk that the child's current care provider was sent notice of hearing. Nothing in this provision shall be construed to make the foster parent, relative, or preadoptive parent a party to the proceeding solely based on receiving notice and the right to be heard.

(b) At any permanency planning review, the court shall consider information from the parent, the juvenile, the guardian, any foster parent, relative or preadoptive parent providing care for the child, the custodian or agency with custody, the guardian ad litem, the foster care ombudsman, and any other person or agency which will aid it in the court's review. The court may consider any evidence, including hearsay evidence as defined in G.S. 8C-1, Rule 801, that the court finds to be relevant, reliable, and necessary to determine the needs of the juvenile and the most appropriate disposition. At the conclusion of the hearing, if the juvenile is not returned home, the court shall consider the following criteria and make written findings regarding those that are relevant:

(1) Whether it is possible for the juvenile to be returned home immediately or within the next six months, and if not, why it is not in the juvenile's best interests to return home;

(2) Where the juvenile's return home is unlikely within six months, whether legal guardianship or custody with a relative or some other suitable person should be established, and if so, the rights and responsibilities which should remain with the parents;

(3) Where the juvenile's return home is unlikely within six months, whether adoption should be pursued and if so, any barriers to the juvenile's adoption;

(4) Where the juvenile's return home is unlikely within six months, whether the juvenile should remain in the current placement or be placed in another permanent living arrangement and why;

(5) Whether the county department of social services has since the initial permanency plan hearing made reasonable efforts to implement the permanent plan for the juvenile;

(6) Any other criteria the court deems necessary.

(c) At the conclusion of the hearing, the judge shall make specific findings as to the best plan of care to achieve a safe, permanent home for the juvenile within a reasonable period of time. The judge may appoint a guardian of the person for the juvenile pursuant to G.S. 7B-600 or make any disposition authorized by G.S. 7B-903 including the authority to place the child in the custody of either parent or any relative found by the court to be suitable and found by the court to be in the best interest of the juvenile. If the juvenile is not returned home, the court shall enter an order consistent with its findings that directs the department of social services to make reasonable efforts to place the juvenile in a timely manner in accordance with the permanent plan, to complete whatever steps are necessary to finalize the permanent placement of the juvenile, and to document such steps in the juvenile's case plan. Any order shall be reduced to writing, signed, and entered no later than 30 days following the completion of the hearing. If the order is not entered within 30 days following completion of the hearing, the clerk of court for juvenile matters shall schedule a subsequent hearing at the first session of court scheduled for the hearing of juvenile matters following the 30-day period to determine and explain the reason for the delay and to obtain any needed clarification as to the contents of the order. The order shall be entered within 10 days of the subsequent hearing required by this subsection.

If at any time custody is restored to a parent, or findings are made in accordance with G.S. 7B-906(b), the court shall be relieved of the duty to conduct periodic judicial reviews of the placement.

If the court continues the juvenile's placement in the custody or placement responsibility of a county department of social services, the provisions of G.S. 7B-507 shall apply to any order entered under this section.

(d) In the case of a juvenile who is in the custody or placement responsibility of a county department of social services, and has been in placement outside the home for 12 of the most recent 22 months; or a court of competent jurisdiction has determined that the parent has abandoned the child; or has committed murder or voluntary manslaughter of another child of the parent; or has aided, abetted, attempted, conspired, or solicited to commit murder or voluntary manslaughter of the child or another child of the parent, the director of the department of social services shall initiate a proceeding to terminate the parental rights of the parent unless the court finds:

(1) The permanent plan for the juvenile is guardianship or custody with a relative or some other suitable person;

(2) The court makes specific findings why the filing of a petition for termination of parental rights is not in the best interests of the child; or

(3) The department of social services has not provided the juvenile's family with such services as the department deems necessary, when reasonable efforts are still required to enable the juvenile's return to a safe home.

(e) If a proceeding to terminate the parental rights of the juvenile's parents is necessary in order to perfect the permanent plan for the juvenile, the director of the department of social services shall file a petition to terminate parental rights within 60 calendar days from the date of the permanency planning hearing unless the court makes written findings why the petition cannot be filed within 60 days. If the court makes findings to the contrary, the court shall specify the time frame in which any needed petition to terminate parental rights shall be filed.

(f) If the court determines that the juvenile shall be placed in the custody of an individual other than the parents or appoints an individual guardian of the person pursuant to G.S. 7B-600, the court shall verify that the person receiving custody or being appointed as guardian of the juvenile understands the legal significance of the placement or appointment and will have adequate resources to care appropriately for the juvenile."

SECTION 4. This act applies to Gaston County only.

SECTION 5. This act is effective when it becomes law and expires July 1, 2015.

In the General Assembly read three times and ratified this the 13th day of June, 2013.

Became law on the date it was ratified.

Session Law 2013-112 **H.B. 501**

AN ACT PROVIDING THAT BUNCOMBE COUNTY IS AUTHORIZED TO CONSTRUCT COMMUNITY COLLEGE BUILDINGS ON THE CAMPUSES OF ASHEVILLE-BUNCOMBE TECHNICAL COMMUNITY COLLEGE WITHIN THE COUNTY.

The General Assembly of North Carolina enacts:

SECTION 1. Notwithstanding G.S. 115D-9, 115D-15.1(c), and 143-341(3) or any other provisions of law, Buncombe County (County) is hereby authorized to construct community college buildings, as that term is defined in G.S. 143-336, on the campuses of Asheville-Buncombe Technical Community College (College) located within Buncombe County. Buncombe County may finance the construction of these buildings in accordance with Article 8 of Chapter 159 and Chapter 160A-20 of the General Statutes. In constructing the buildings, the County does not have to comply with the provisions of G.S. 115D-9 or Part 1 of Article 36 of Chapter 143 of the General Statutes. However, the County shall comply with the provisions of Article 3D of Chapter 143 of the General Statutes (Procurement of Architectural, Engineering, and Surveying Services) and Article 8 of Chapter 143 of the General Statutes

(Public Contracts). The County shall consult with the Board of Trustees of the College about programming requirements for the buildings and shall keep the Board informed as to the construction process and progress. Upon the completion of the construction of the buildings, the County shall lease the buildings to the College under the terms and conditions agreed to by both the County and College.

SECTION 2. The Board of Trustees of the College shall transfer title to the following properties to the County for the life of the debt: (i) Tract 1 as shown on a survey recorded in Plat Book 78, Page 23, and as described in Deed Book 2360, Page 507, recorded in the Buncombe County Registry of Deeds; (ii) a 7.9 acre tract as described in Deed Book 2870, Page 607, as recorded in the Buncombe County Registry of Deeds; and (iii) a 12.87 acre parcel of land as described in Deed Book 1492, Page 339, as recorded in the Buncombe County Registry of Deeds. Upon the satisfaction of the debt, the County shall transfer title to the property back to the Board of Trustees of the College.

SECTION 3. The memorandum of understanding by and between the County and the Board of Trustees of the College executed on March 20, 2012, is null and void. Any provision of any other interlocal or other agreement between the County and College that is inconsistent with the provisions of this act is null and void. However, notwithstanding the provisions of this act, the County and Board of Trustees of the College may enter into another memorandum of understanding to allow for the construction of community college buildings by the County on the campuses of the College located within the County if deemed appropriate by the County and College and if the terms of the memorandum will allow for the construction to be completed in a timely fashion and cost-efficient manner.

SECTION 4. This act is effective when it becomes law and applies only to construction projects and renovations funded entirely with county funds and coordinated by the County for College uses and purposes between January 1, 2012, and December 31, 2018.

In the General Assembly read three times and ratified this the 13th day of June, 2013.

Became law on the date it was ratified.

Session Law 2013-113 **S.B. 128**

AN ACT TO AMEND THE CHARTER OF THE TOWN OF CARRBORO TO PROVIDE THAT VACANCIES IN THE OFFICE OF ALDERMAN SHALL BE FILLED BY APPOINTMENT IN ACCORDANCE WITH THE NORTH CAROLINA GENERAL STATUTES OR MAY BE FILLED THROUGH A SPECIAL ELECTION PROCESS UNDER CERTAIN CONDITIONS.

The General Assembly of North Carolina enacts:

SECTION 1. Section 2-2 of the Charter of the Town of Carrboro, being Chapter 476 of the 1987 Session Laws, as amended by S.L. 2007-270, reads as rewritten:

"**Section 2-2. Election of Mayor and Aldermen.** (a) The mayor and the aldermen shall be elected by the voters of the entire town. The mayor shall be elected for a term of two years and the aldermen shall be elected for staggered terms of four years.

(b) The municipal elections in the Town of Carrboro shall be nonpartisan and decided by a simple plurality. No primary elections shall be held. The municipal elections shall be conducted pursuant to the applicable provisions of Chapter 163 of the North Carolina General Statutes, particularly Articles 23 and 24 thereof.

(c) In the municipal elections to be held in 1987, and every two years thereafter, the mayor shall be elected for a term of two years. In the 1987 election (and the municipal elections held every four years thereafter), three aldermen shall be elected to fill the seats of the aldermen whose terms expire in 1987 (and every four years thereafter). In the municipal elections to be held in 1989 (and every four years thereafter), three aldermen shall be elected to fill the seats of the aldermen whose terms expire in 1989 (and every four years thereafter).

(d) In the general municipal election the candidate receiving the highest number of votes for mayor shall be elected. The three candidates in such election receiving the highest number of votes for the office of alderman shall be elected for full four-year terms.

(e) Vacancies that occur in the office of mayor shall be filled by appointment of the board of aldermen in accordance with the provisions of G.S. 160A-63.

(f) ~~Notwithstanding the first four sentences of G.S. 160A-63, but subject to this subsection and subsection (g) of this section,~~Vacancies that occur on the board of aldermen (other than vacancies in the office of mayor) shall be filled by appointment of the board of aldermen in accordance with the provisions of G.S. 160A-63, except that whenever a seat on the board of aldermen (other than that of the mayor) becomes vacant at a time when one year or more of the term of office of that seat remains ~~unexpired, such seat shall be filled by a special election. Such special election shall be called by~~ unexpired, the board of aldermen ~~by the adoption of~~ may instead adopt a resolution pursuant to G.S. 163-287 ~~at the next regular or special meeting of the board held after the vacancy occurs.~~calling for a special election to fill such vacancy. Such ~~resolution shall not schedule an election~~ an election shall not be scheduled during the time period beginning on the first Monday in July and ending on the last Monday in August in any calendar year. ~~Vacancies that occur in the office of alderman at a time when less than one year of that alderman's term of office remains unexpired shall be filled by appointment of the board of aldermen in accordance with G.S. 160A-63.~~

(g) If the board of aldermen adopts a resolution calling for a special election to fill one or more vacant ~~board~~ seats as provided in subsection (f) of this section, and the resolution sets as the date of such election the same date as a ~~regular~~ municipal general election, then ~~(i)~~ the resolution shall provide that the same filing period, filing fee, and absentee voting period that are applicable to the three seats on the board whose terms are expiring shall also apply to the special election for the vacant seat or ~~seats; (ii)~~ seats. If the resolution sets as the date of such election concurrent with an election other than the municipal general election, then the resolution shall prescribe the filing period and the filing fee. If the resolution sets as the date of such election a date other than the same date as another election, then the resolution shall prescribe the filing period, filing fee, and absentee voting period for such special election, including an alternative location for one-stop absentee voting within the corporate limits of the municipality, rather than the office of the board of elections, if no other elections are conducted within the county on the same date.

(h) Whenever a vacancy on the board of aldermen is to be filled at a general municipal election (for the remaining two years of the unexpired term of the vacant seat), then (i) candidates ~~who seek to fill either the expiring seats or the vacant seats~~ for the office of alderman shall file and appear on the ballot simply as candidates for election to the board ~~of aldermen~~ (i.e. they shall not be allowed to file or appear on the ballot as a candidate for ~~either~~ a particular vacant seat or ~~an expiring~~ for a four-year term or for the unexpired term of a vacant seat); and ~~(iii)~~ (ii) the three candidates receiving the highest number of votes for the office of alderman shall be elected to full four-year terms, and the person receiving the fourth highest number of votes for aldermen (and, if necessary, the fifth and the sixth highest number of votes) shall be elected for the remaining two years of the unexpired term of the vacant seat or seats."

SECTION 2. This act is effective when it becomes law and applies to any vacancy on the board of aldermen occurring on or after the date.

In the General Assembly read three times and ratified this the 18th day of June, 2013.

Became law on the date it was ratified.

Session Law 2013-114 **H.B. 533**

AN ACT TO AUTHORIZE COMPANY POLICE OFFICERS IN CERTAIN COUNTIES TO USE APPROPRIATE AND REASONABLE FORCE TO KEEP A RESPONDENT AT THE FACILITY WHERE THE RESPONDENT IS TO OBTAIN AN EXAMINATION BY A PHYSICIAN OR PSYCHOLOGIST PURSUANT TO COURT ORDER.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 122C-251 reads as rewritten:

"§ **122C-251. Transportation.**

(a) Except as provided in subsections (f) and (g), transportation of a respondent within a county under the involuntary commitment proceedings of this Article, including admission and discharge, shall be provided by the city or county. The city has the duty to provide transportation of a respondent who is a resident of the city or who is taken into custody in the city limits. The county has the duty to provide transportation for a respondent who resides in the county outside city limits or who is taken into custody outside of city limits. However, cities and counties may contract with each other to provide transportation.

(b) Except as provided in subsections (f) and (g) or in G.S. 122C-408(b), transportation between counties under the involuntary commitment proceedings of this Article for admission to a 24-hour facility shall be provided by the county where the respondent is taken into custody. Transportation between counties under the involuntary commitment proceedings of this Article for respondents held in 24-hour facilities who have requested a change of venue for the district court hearing shall be provided by the county where the petition for involuntary commitment was initiated. Transportation between counties under the involuntary commitment proceedings of this Article for discharge of a respondent from a 24-hour facility shall be provided by the county of residence of the respondent. However, a respondent being discharged from a facility may use his own transportation at his own expense.

(c) Transportation of a respondent may be by city-or county-owned vehicles or by private vehicle by contract with the city or county. To the extent feasible, law enforcement officers transporting respondents shall dress in plain clothes and shall travel in unmarked vehicles. Further, law enforcement officers, to the extent possible, shall advise respondents when taking them into custody that they are not under arrest and have not committed a crime, but are being transported to receive treatment and for their own safety and that of others.

(d) In providing transportation of a respondent, a city or county shall provide a driver or attendant who is the same sex as the respondent, unless the law-enforcement officer allows a family member of the respondent to accompany the respondent in lieu of an attendant of the same sex as the respondent.

(e) In providing transportation required by this section, the law-enforcement officer may use reasonable force to restrain the respondent if it appears necessary to protect himself, the respondent, or others. No law-enforcement officer may be held criminally or civilly liable for assault, false imprisonment, or other torts or crimes on account of reasonable measures taken under the authority of this Article.

(f) Notwithstanding the provisions of subsections (a), (b), and (c) of this section, a clerk, a magistrate, or a district court judge, where applicable, may authorize the family or immediate friends of the respondent, if they so request, to transport the respondent in accordance with the procedures of this Article. This authorization shall only be granted in cases where the danger to the public, the family or friends of the respondent, or the respondent himself is not substantial. The family or immediate friends of the respondent shall bear the costs of providing this transportation.

(g) The governing body of a city or county may adopt a plan for transportation of respondents in involuntary commitment proceedings in this Article. Law-enforcement personnel, volunteers, or other public or private agency personnel may be designated to provide all or parts of the transportation required by involuntary commitment proceedings. Persons so

designated shall be trained and the plan shall assure adequate safety and protections for both the public and the respondent. Law enforcement, other affected agencies, and the area authority shall participate in the planning. If any person other than a law-enforcement agency is designated by a city or county, the person so designated shall provide the transportation and follow the procedures in this Article. References in this Article to a law-enforcement officer apply to this person.

(h) The cost and expenses of transporting a respondent to or from a 24-hour facility is the responsibility of the county of residence of the respondent. The State (when providing transportation under G.S. 122C-408(b)), a city, or a county is entitled to recover the reasonable cost of transportation from the county of residence of the respondent. The county of residence of the respondent shall reimburse the State, another county, or a city the reasonable transportation costs incurred as authorized by this subsection. The county of residence of the respondent is entitled to recover the reasonable cost of transportation it has paid to the State, a city, or a county. Provided that the county of residence provides the respondent or other individual liable for the respondent's support a reasonable notice and opportunity to object to the reimbursement, the county of residence of the respondent may recover that cost from:

(1) The respondent, if the respondent is not indigent;
(2) Any person or entity that is legally liable for the resident's support and maintenance provided there is sufficient property to pay the cost;
(3) Any person or entity that is contractually responsible for the cost; or
(4) Any person or entity that otherwise is liable under federal, State, or local law for the cost.

(i) If the law enforcement officer vacates the facility after finding, in collaboration with the facility, that the respondent is safe to be temporarily detained under the appropriate supervision provided by the facility, an employee commissioned under G.S. 74E-2(b) who is employed by a hospital certified under G.S. 74E-2(b) may use appropriate and reasonable force and means to (i) keep the respondent at the facility where the respondent is to be detained and (ii) if pursuant to a continuous and immediate pursuit, to return the respondent to the facility where the respondent is to be detained. This subsection applies when the respondent is being temporarily detained in accordance with G.S. 122C-261(d), 122C-263(a), and 122C-263(d)(2)."

SECTION 2. This act applies to Ashe, Cumberland, and Wilkes Counties only.

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

In the General Assembly read three times and ratified this the 18th day of June, 2013.

Became law on the date it was ratified.

Session Law 2013-115 **S.B. 111**

AN ACT TO ALLOW THE CITY OF CLINTON TO USE THE DESIGN-BUILD METHOD OF CONSTRUCTION.

The General Assembly of North Carolina enacts:

SECTION 1. Notwithstanding G.S. 143-128, 143-129, 143-131, 143-132, 143-64.31, and 143-64.32, the City of Clinton may use the design-build method of construction for the construction or renovation of buildings, facilities, and infrastructure owned by the City. The City shall solicit at least two design-build teams to bid the project and shall receive at least two sealed proposals from those teams for the project. The City shall interview at least two of the design-build teams that submit proposals. The City shall award the contract to the best qualified team, taking into consideration in its selection the time of completion of the project, compliance with the provisions of G.S. 143-128.2, and the cost of the project.

SECTION 2. The City may use the authority under Section 1 of this act for up to two projects, the award of which must occur on or before June 30, 2015.

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

In the General Assembly read three times and ratified this the 19th day of June, 2013.

Became law on the date it was ratified.

Session Law 2013-116 **H.B. 473**

AN ACT TO ENACT THE NORTH CAROLINA CAPTIVE INSURANCE ACT.

The General Assembly of North Carolina enacts:

SECTION 1. Article 10 of Chapter 58 of the North Carolina General Statutes is amended by adding a new Part to read:

"Part 9. Captive Insurance Companies.

"Subpart 1. General Provisions.

"**§ 58-10-335. Purpose.**

(a) This Part shall be known and may be cited as the "North Carolina Captive Insurance Act."

(b) The purpose of this Part is to establish the procedures for the organization and regulation of the operations of captive insurance companies transacting insurance business within this State and thereby promote the general welfare of the people of this State.

"**§ 58-10-340. Definitions.**

The following definitions apply in this Part:

(1) Affiliated company. – Any company in the same corporate system as a parent, an industrial insured, or a member organization by virtue of common ownership, control, operation, or management.

(2) Alien. – An alien company as defined in G.S. 58-1-5.

(3) Alien captive insurance company. – Any insurance company formed to write insurance business for its parents and affiliates and licensed pursuant to the laws of an alien jurisdiction which imposes statutory or regulatory standards in a form acceptable to the Commissioner on companies transacting the business of insurance in such jurisdiction.

(4) Association. – Any legal association of individuals, corporations, limited liability companies, partnerships, associations, or other entities that meets the criteria set forth in either sub-subdivision a. or b. of this subdivision:

a. The member organizations of the association or the association itself, either alone or in conjunction with some or all of the member organizations, are described by any of the following:

1. Owning, controlling, or holding with power to vote all of the outstanding voting securities of an association captive insurance company incorporated as a stock insurer.
2. Having complete voting control over an association captive insurance company incorporated as a mutual insurer.
3. Constituting all of the subscribers of an association captive insurance company formed as a reciprocal insurer.
4. Having complete voting control over an association captive insurance company formed as a limited liability company.

b. Each member organization of the association is one of the following:

1. A not-for-profit corporation, nonprofit association, or similar nonprofit organization.
2. An entity or organization exempt from taxation under Section 501(c) of the Internal Revenue Code, 26 U.S.C. § 501(c).

3. A municipality, metropolitan government, county, authority, utility district, or other public body generally classified as a governmental body or governmental entity, whether organized by local act or public act of the General Assembly, or any agency, board, or commission of any municipality, metropolitan government, county, authority, utility district or other public body generally classified as a governmental body or governmental entity. This sub-sub-subdivision shall be liberally construed.

(5) Association captive insurance company. – Any company that insures risks of the member organizations of an association, and that also may insure the risks of affiliated companies of the member organizations and the risks of the association itself.

(6) Branch business. – Any insurance business transacted by a branch captive insurance company in this State.

(7) Branch captive insurance company. – Any alien captive insurance company licensed by the Commissioner to transact the business of insurance in this State through a business unit with a principal place of business in this State. A branch captive insurance company is a pure captive insurance company with respect to operations in this State, unless otherwise permitted by the Commissioner.

(8) Branch operations. – Any business operations of a branch captive insurance company in this State.

(9) Captive insurance company. – Any pure captive insurance company, association captive insurance company, industrial insured captive insurance company, risk retention group, protected cell captive insurance company, incorporated cell captive insurance company, or special purpose financial captive insurance company formed or licensed under this Part.

(10) Commissioner. – Defined in G.S. 58-1-5.

(11) Control, controlling, controlled by, or under common control with. – The possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract other than a commercial contract for goods or nonmanagement services, or otherwise; provided that such power is not the result of an official position or corporate office held by the person. Control shall be presumed to exist if a person, directly or indirectly, owns, controls, holds with the power to vote, or holds proxies representing ten percent (10%) or more of the voting securities of another person. This presumption may be rebutted by a showing that control does not exist. Notwithstanding this definition, for purposes of this Part, the fact that an SPFC exclusively provides reinsurance to a ceding insurer under an SPFC contract is not by itself sufficient grounds for a finding that the SPFC and ceding insurer are under common control.

(12) Controlled unaffiliated business. – A person meeting all of the following:

a. The person is not in the corporate system of a parent and its affiliated companies in the case of a pure captive insurance company or is not in the corporate system of an industrial insured and its affiliated companies in the case of an industrial insured captive insurance company.

b. The person has an existing contractual relationship with a parent or one of its affiliated companies in the case of a pure captive insurance company or with an industrial insured or one of its affiliated

companies in the case of an industrial insured captive insurance company.

c. The person's risks are managed by a pure captive insurance company or an industrial insured captive insurance company, as applicable, in accordance with G.S. 58-10-470.

(13) Counterparty. – An SPFC's parent or affiliated company or a ceding insurer to the SPFC contract. A nonaffiliated company may be designated a counterparty, but that designation is subject to the prior approval of the Commissioner.

(14) Court. – Defined in G.S. 58-30-10.

(15) Department. – Defined in G.S. 58-1-5.

(16) General account. – All assets and liabilities of a protected cell captive insurance company not attributable to a protected cell.

(17) Incorporated cell. – A protected cell of an incorporated cell captive insurance company that is organized as a corporation or other legal entity separate from the incorporated cell captive insurance company.

(18) Incorporated cell captive insurance company. – A protected cell captive insurance company that is established as a corporation or other legal entity separate from its incorporated cells that are also organized as separate legal entities.

(19) Industrial insured. – An insured that meets all of the following:

a. It procures the insurance of any risk or risks by use of the services of a full-time employee acting as an insurance manager or buyer.

b. Its aggregate annual premiums for insurance on all risks total at least twenty-five thousand dollars ($25,000).

c. It has at least 25 full-time employees.

(20) Industrial insured captive insurance company. – Any company that insures risks of the industrial insureds that comprise the industrial insured group and that may insure the risks of the affiliated companies of the industrial insureds and the risks of the controlled unaffiliated business of an industrial insured or its affiliated companies.

(21) Industrial insured group. – Any group of industrial insureds that collectively are described by any of the following:

a. Own, control, or hold with power to vote all of the outstanding voting securities of an industrial insured captive insurance company incorporated as a stock insurer.

b. Have complete voting control over an industrial insured captive insurance company incorporated as a mutual insurer.

c. Constitute all of the subscribers of an industrial insured captive insurance company formed as a reciprocal insurer.

d. Have complete voting control over an industrial insured captive insurance company formed as a limited liability company.

(22) Insurance securitization or securitization. – A transaction or a group of related transactions which meet the requirements of sub-subdivisions a. and b. of this subdivision:

a. The transactions include capital market offerings that are effected through related risk transfer instruments and facilitating administrative agreements where all or part of the result of such transactions is used to fund the SPFC's obligations under a reinsurance contract with a ceding insurer and by which one of the following occur:

1. Proceeds are obtained by a SPFC, directly or indirectly, through the issuance of securities by the SPFC or any other person.
2. All of the following occur: (i) a person provides one or more letters of credit or other assets for the benefit of the SPFC; (ii) the Commissioner authorizes the SPFC to treat such letters of credit or other assets as admitted assets for purposes of the SPFC's annual report; and (iii) all or any part of such proceeds, letters of credit, or assets, as applicable, are used to fund the SPFC's obligations under a reinsurance contract with a ceding insurer.

b. The transactions do not include the issuance of a letter of credit for the benefit of the Commissioner to satisfy all or part of the SPFC's capital and surplus requirements under G.S. 58-10-575.

(23) Member organization. – Any individual, corporation, limited liability company, partnership, association, or other entity that belongs to an association.

(24) Mutual corporation. – A corporation organized without stockholders and includes a nonprofit corporation with members.

(25) Mutual insurer. – A company owned by its policyholders where no stock is available for purchase on the stock exchanges.

(26) NAIC. – Defined in G.S. 58-1-5.

(27) Organizational documents. – The documents that must be submitted pursuant to North Carolina law in order to legally form a business in this State or to obtain a certificate of authority to transact business in this State.

(28) Parent. – An individual, corporation, limited liability company, partnership, association, or other entity, or individual that directly or indirectly owns, controls, or holds with power to vote more than fifty percent (50%) of the outstanding voting of any of the following interests:

a. Securities of a pure captive insurance company organized as a stock corporation.
b. Membership interests of a pure captive insurance company organized as a nonprofit corporation.
c. Membership interests of a pure captive insurance company organized as a limited liability company.
d. Securities of an SPFC.

(29) Participant. – A person or an entity authorized to be a participant by G.S. 58-10-515, and any affiliate of a participant, that is insured by a protected cell captive insurance company, if the losses of the participant are limited through a participant contract.

(30) Participant contract. – A contract by which a protected cell captive insurance company insures the risks of a participant and limits the losses of each such participant to its pro rata share of the assets of one or more protected cells identified in such participant contract.

(31) Person. – Defined in G.S. 58-1-5.

(32) Protected cell. – Either of the following:

a. A separate account established by a protected cell captive insurance company formed or licensed under this Part, in which an identified pool of assets and liabilities is segregated and insulated by means of this Part from the remainder of the protected cell captive insurance company's assets and liabilities, in accordance with the terms of one or more participant contracts to fund the liability of the protected cell

captive insurance company, with respect to the participants as set forth in the participant contracts.

b. A separate account established and maintained by an SPFC for one SPFC contract and the accompanying insurance securitization with a counterparty.

(33) Protected cell assets. – All assets, contract rights, and general intangibles identified with and attributable to a specific protected cell of a protected cell captive insurance company.

(34) Protected cell captive insurance company. – Any captive insurance company meeting all of the following:

a. The minimum capital and surplus required by this Part are provided by one or more sponsors.

b. The company is formed or licensed under this Part.

c. The company insures the risks of separate participants through participant contracts.

d. The company funds its liability to each participant through one or more protected cells and segregates the assets of each protected cell from the assets of other protected cells and from the assets of the protected cell captive insurance company's general account.

(35) Protected cell liabilities. – All liabilities and other obligations identified with and attributed to a specific protected cell of a protected cell captive insurance company.

(36) Pure captive insurance company. – Any company that insures risks of its parent and affiliated companies or a controlled unaffiliated business or businesses.

(37) Risk retention group. – A captive insurance company organized under the laws of this State pursuant to the Liability Risk Retention Act of 1986, 15 U.S.C. § 3901, et seq., as amended, as a stock or mutual corporation or as a reciprocal or other limited liability entity. Risk retention groups formed under this Part are subject to all applicable insurance laws including, but not limited to, any applicable provisions in Articles 1, 2, 3, 7, 19, 22, 33, and 34 of this Chapter.

(38) Securities. – Those different types of debt obligations, equity, surplus certificates, surplus notes, funding agreements, derivatives, and other legal forms of financial instruments.

(39) SPFC or Special Purpose Financial Captive. – A captive insurance company that has received a certificate of authority from the Commissioner for the limited purposes provided for in this Part.

(40) SPFC contract. – A contract between the SPFC and the counterparty pursuant to which the SPFC agrees to provide insurance or reinsurance protection to the counterparty for risks associated with the counterparty's insurance or reinsurance business.

(41) SPFC securities. – The securities issued by an SPFC.

(42) Sponsor. – Any person or entity that is approved by the Commissioner to provide all or part of the capital and surplus required by this Part and to organize and operate a protected cell captive insurance company.

(43) Surplus note. – An unsecured subordinated debt obligation deemed to be a surplus certificate under this Part and otherwise possessing characteristics consistent with paragraph 3 of the NAIC's Statement of Statutory Accounting Principles No. 41, as amended.

"§ **58-10-345. Licensing; authority; confidentiality.**

(a) Any captive insurance company, when permitted by its organizational documents, may apply to the Commissioner for a license to do any and all insurance comprised in G.S. 58-7-15; provided, however, that:

(1) No pure captive insurance company shall insure any risks other than those of its parent and affiliated companies or a controlled unaffiliated business or businesses.

(2) No association captive insurance company shall insure any risks other than those of its association, those of the member organizations of its association, and those of a member organization's affiliated companies.

(3) No industrial insured captive insurance company shall insure any risks other than those of the industrial insureds that comprise the industrial insured group, those of their affiliated companies, and those of the controlled unaffiliated business of an industrial insured or its affiliated companies.

(4) No risk retention group shall insure any risks other than those of its members and owners.

(5) No captive insurance company shall provide personal motor vehicle or homeowner's insurance coverage or any component thereof.

(6) No captive insurance company shall accept or cede reinsurance except as provided in G.S. 58-10-445 and G.S. 58-10-605.

(7) No captive insurance company shall provide accident and health insurance on a direct basis.

(8) No captive insurance company shall provide workers' compensation and employer's liability insurance on a direct basis.

(9) No captive insurance company shall provide life insurance or annuities on a direct basis.

(b) No captive insurance company shall transact any insurance business in this State unless:

(1) It obtains a license from the Commissioner pursuant to subsection (c) of this section authorizing it to do insurance business in this State.

(2) Its board of directors or committee of managers or, in the case of a reciprocal insurer, its subscribers' advisory committee holds at least one meeting each year in this State.

(3) It maintains its principal place of business in this State.

(4) It appoints a registered agent to accept service of process and to otherwise act on its behalf in this State, provided that whenever such registered agent cannot with reasonable diligence be found at the registered office of the captive insurance company, the Commissioner shall be an agent of such captive insurance company upon whom any process, notice, or demand may be served and such service shall be done in accordance with G.S. 58-16-30.

(c) In order to receive a license to issue policies of insurance as a captive insurance company in this State, an applicant business entity shall meet all of the following requirements:

(1) The applicant business entity shall submit its organizational documents to the Commissioner. If the Commissioner approves the organizational documents, then the Commissioner shall issue a letter to the applicant certifying the Commissioner's approval. The applicant business entity shall submit the organizational documents, along with a copy of the approval letter issued by the Commissioner, and the required filing fees for organizational documents prescribed by North Carolina law to the Secretary of State for filing. Upon filing the organizational documents, the Secretary of State shall issue a certificate of filing to the applicant. The applicant business entity shall submit a copy of the certificate of filing relative to the

applicant's organizational documents issued by the Secretary of State to the Commissioner.

(2) The applicant business entity shall file a statement under oath of its president and secretary showing its financial condition.

(3) The applicant business entity shall file its plan of operation.

(4) The applicant business entity shall file other documents as required by the Commissioner.

(5) The applicant business entity shall also file with the Commissioner evidence of all of the following:

a. The amount and liquidity of its assets relative to the risks to be assumed.

b. The adequacy of the expertise, experience, and character of the person or persons who will manage it.

c. The overall soundness of its plan of operation.

d. The adequacy of the loss prevention programs of its insureds.

e. Such other factors deemed relevant by the Commissioner in ascertaining whether the applicant business entity will be able to meet its policy obligations.

(6) No less than the amount required by G.S. 58-10-370 shall be paid in by the applicant business entity and deposited with the Commissioner. In the alternative, an irrevocable letter of credit in that amount and acceptable to the Commissioner shall be filed with the Commissioner.

(7) The applicant business entity shall submit to the Commissioner for approval a description of the coverages, deductibles, coverage limits, and rates, together with such additional information as the Commissioner may require.

(d) Whenever a captive insurance company desires to amend the organizational documents submitted pursuant to subdivision (c)(1) of this section, the company shall submit the amended organizational documents to the Commissioner. If the Commissioner approves the amendment, then the Commissioner shall issue a letter to the applicant certifying the Commissioner's approval. The applicant business entity shall submit the organizational documents, along with a copy of the approval letter issued by the Commissioner, and the required filing fees for organizational documents prescribed in North Carolina law to the Secretary of State for filing. Upon filing the organizational documents, the Secretary of State shall issue a certificate of filing to the applicant. The applicant shall submit a copy of the certificate of filing relative to the applicant's organizational documents issued by the Secretary of State to the Commissioner.

(e) If a captive insurance company makes any subsequent material change to any item in the description submitted pursuant to subdivision (c)(7) of this section, then the captive insurance company shall submit an appropriate revision to the Commissioner for approval and shall not offer any additional kinds of insurance until a revision of such description is approved by the Commissioner. The captive insurance company shall inform the Commissioner of any material change in rates within 30 days of the adoption of such change.

(f) Information submitted pursuant to this subsection is confidential and may be made public by the Commissioner or the Commissioner's designee only upon an order of a court of competent jurisdiction except:

(1) This subdivision shall not apply to any risk retention group.

(2) The Commissioner shall have the discretion to disclose such information to a public official having jurisdiction over the regulation of insurance in another state, provided that:

a. The public official agrees in writing to maintain the confidentiality of such information; and

b. The laws of the state in which the public official serves require the information to be and to remain confidential.

(3) Organizational documents filed with the Secretary of State shall continue to be nonconfidential public records in the Secretary of State's office.

(g) The Commissioner is authorized to retain legal, financial, and examination services from outside the Department, the costs of which shall be reimbursed by the applicant. G.S. 58-2-160 shall apply to examinations, investigations, and processing conducted under the authority of this section.

(h) If the Commissioner is satisfied that the documents and statements filed by an applicant captive insurance company comply with this section, then the Commissioner shall grant a license authorizing it to do insurance business in this State.

"**§ 58-10-350. Commissioner use of consultants and other professionals.**

The Commissioner may contract with consultants and other professionals to expedite and complete the application process, examinations, and other regulatory activities required pursuant to this Part. Such contracts for financial, legal, examination, and other services shall not be subject to any of the following:

(1) G.S. 114-2.3.

(2) G.S. 147-17.

(3) Articles 3, 3C, and 8 of Chapter 143 of the General Statutes, together with rules and procedures adopted under those Articles concerning procurement, contracting, and contract review.

"**§ 58-10-355. Organizational examination.**

In addition to the processing of the application, an organizational investigation or examination may be performed before an applicant is licensed. Such investigation or examination shall consist of a general survey of the applicant's corporate records, including charters, bylaws, and minute books; verification of capital and surplus; verification of principal place of business; determination of assets and liabilities; and a review of such other factors as the Commissioner deems necessary.

"**§ 58-10-360. Designation of captive manager.**

Before licensing, captive insurance companies shall report in writing to the Commissioner the name and address of the manager designated to manage the captive insurance company. The Commissioner shall approve the captive manager and may require the submission of additional information regarding the proposed captive manager in a form and manner as the Commissioner may designate.

"**§ 58-10-365. Names of companies.**

No captive insurance company shall adopt a name that is the same, deceptively similar, or likely to be confused with or mistaken for any other existing business name registered in this State nor any name likely to mislead the public. Any name adopted by a captive insurance company shall comply with the requirements of State law.

"**§ 58-10-370. Capital and surplus requirements.**

(a) No captive insurance company shall be issued a license unless it possesses and maintains unimpaired paid-in capital and surplus of:

(1) In the case of a pure captive insurance company, not less than two hundred fifty thousand dollars ($250,000) or such other amount determined by the Commissioner.

(2) In the case of an association captive insurance company, not less than five hundred thousand dollars ($500,000).

(3) In the case of an industrial insured captive insurance company, not less than five hundred thousand dollars ($500,000).

(4) In the case of a risk retention group, not less than one million dollars ($1,000,000).

(5) In the case of a protected cell captive insurance company, not less than two hundred fifty thousand dollars ($250,000).

(b) The Commissioner may prescribe additional capital and surplus based upon the type, volume, and nature of insurance business to be transacted.

(c) Capital and surplus shall be in the form of cash or an irrevocable letter of credit issued by a bank approved by the Commissioner.

"**§ 58-10-375. Dividends and distributions.**

No captive insurance company shall pay a dividend or other distribution from capital or surplus without the prior approval of the Commissioner. Approval of an ongoing plan for the payment of dividends or other distributions shall be conditioned upon the retention, at the time of each payment, of capital or surplus in excess of amounts specified by or determined in accordance with formulas approved by the Commissioner. A captive insurance company may otherwise make such distributions as are in conformity with its purposes and approved by the Commissioner.

"**§ 58-10-380. Formation of captive insurance companies.**

(a) A pure captive insurance company may be incorporated as a stock insurer with its capital divided into shares and held by the stockholders, as a nonprofit corporation with one or more members, or as a manager-managed limited liability company.

(b) An association captive insurance company, an industrial insured captive insurance company, or a risk retention group may be any of the following:

(1) Incorporated as a stock insurer with its capital divided into shares and held by the stockholders.

(2) Incorporated as a mutual corporation.

(3) Organized as a reciprocal insurer in accordance with Article 15 of this Chapter.

(4) Organized as a manager-managed limited liability company.

(c) A captive insurance company incorporated or organized in this State shall have not less than three incorporators or three organizers of whom not less than one shall be a resident of this State.

(d) The capital stock of a captive insurance company incorporated as a stock insurer may be authorized with no par value.

(e) In the case of a captive insurance company formed as a corporation, at least one of the members of the board of directors shall be a resident of this State. In the case of a captive insurance company formed as a reciprocal insurer, at least one of the members of the subscribers' advisory committee shall be a resident of this State. In the case of a captive insurance company formed as a limited liability company, at least one of the managers shall be a resident of this State.

(f) Captive insurance companies formed as corporations, limited liability companies, partnerships, or as nonprofit corporations under this Part shall have the privileges provided in and be subject to all State statutes and laws, as applicable, provided that this Part shall control in the event of a conflict.

(g) Mergers, consolidations, conversions, mutualizations, acquisitions, redomestications, or other similar transactions of captive insurance companies shall be subject to the same provisions of this Chapter applicable to traditional insurance companies, except:

(1) The Commissioner may, upon request of an insurer party to a merger authorized under this subsection, waive such applicable requirements.

(2) The Commissioner may waive or modify the requirements for public notice and hearing.

(3) An alien insurer may be a party to a merger authorized under this subsection, provided that the requirements for a merger between a captive insurance company and a foreign insurer under this Chapter shall apply to a merger between a captive insurance company and an alien insurer under this subsection. For the purposes of this subdivision, an alien insurer shall be treated as a foreign insurer under this Chapter, and the domicile of the alien shall be the equivalent to that of another state.

(h) Captive insurance companies formed as reciprocal insurers under this Part shall have the privileges provided in and be subject to Article 15 of this Chapter in addition to this Part, provided that this Part shall control in the event of a conflict. To the extent a reciprocal insurer is made subject to other provisions of this Chapter pursuant to Article 15 of this Chapter, such provisions shall not be applicable to a reciprocal insurer formed under this Part unless such provisions are expressly made applicable to captive insurance companies under this Part.

(i) The articles of incorporation or bylaws of a captive insurance company formed as a corporation may authorize a quorum of its board of directors to consist of no fewer than one-third of the fixed or prescribed number of directors.

(j) The subscribers' agreement or other organizing document of a captive insurance company formed as a reciprocal insurer may authorize a quorum of its subscribers' advisory committee to consist of no fewer than one-third of the number of its members.

(k) With the Commissioner's approval, a captive insurance company organized as a stock insurer may convert to a nonprofit corporation with one or more members by filing with the Secretary of State an election for such conversion, provided that:

(1) The election shall certify that, at the time of the company's original organization and at all times thereafter, the company has conducted its business in a manner not inconsistent with a nonprofit purpose.

(2) At the time of the filing of its election, the company shall file with both the Commissioner and the Secretary of State articles of conversion, including articles of incorporation consistent with this Part and with all other applicable State statutes and laws.

(l) In the case of a captive insurance company formed as a limited liability company, a reciprocal insurance company, or mutual insurance company, any proxy executed by the members, subscribers, and policyholders of each shall be valid if executed and transmitted in compliance with all applicable State statutes and laws.

"**§ 58-10-385. Directors.**

(a) Every captive insurance company shall report to the Commissioner within 30 days after any change in its executive officers or directors, including in its report a biographical affidavit for each new officer or director.

(b) No director, officer, or employee of a captive insurance company shall, except on behalf of the captive insurance company, accept or be the beneficiary of, any fee, brokerage, gift, or other compensation because of any investment, loan, deposit, purchase, sale, payment, or exchange made by or for the captive insurance company, but such person may receive reasonable compensation for necessary services rendered to the captive insurance company in his or her usual private, professional, or business capacity.

(c) Any profit or gain received by or on behalf of any person in violation of this section shall inure to and be recoverable by the captive insurance company.

"**§ 58-10-390. Conflict of interest.**

(a) Each captive insurance company chartered in this State is required to adopt a conflict of interest statement for officers, directors, and key employees. Such statement shall disclose that the individual has no outside commitments, personal or otherwise, that would divert him or her from his or her duty to further the interests of the captive insurance company he or she represents, but this shall not preclude such person from being a director or officer in more than one insurance company.

(b) Each officer, director, and key employee shall file such disclosure with the Board of Directors yearly.

"**§ 58-10-395. Change of business.**

(a) Any material change in a captive insurance company's business plan that was filed with the Commissioner at the time of initial application and any subsequent amendment of the plan requires prior approval from the Commissioner.

(b) Any change in any other information filed with the application must be filed with the Commissioner within 60 days but does not require prior approval.

"**§ 58-10-400. Insurance manager and intermediaries.**

No person shall act in or from this State as a managing general agent, producer, or reinsurance intermediary for captive business without the authorization of the Commissioner. Application for such authorization must be on a form prescribed by the Commissioner.

"**§ 58-10-405. Annual reports.**

(a) No captive insurance companies shall be required to make any annual report to the Commissioner except as provided in this Part.

(b) Prior to March 1 of each year, and prior to March 15 of each year in the case of pure captive insurance companies or industrial insured captive insurance companies, each captive insurance company shall submit to the Commissioner a report of its financial condition, verified by oath of two of its executive officers. Each captive insurance company shall report using generally accepted accounting principles, unless the Commissioner requires, approves, or accepts the use of statutory accounting principles or other comprehensive basis of accounting. The Commissioner may require, approve, or accept any appropriate or necessary modifications of the statutory accounting principles or other comprehensive basis of accounting for the type of insurance and kinds of insurers to be reported upon. The Commissioner may require additional information to supplement such report. Except as otherwise provided, each risk retention group and association captive insurance company shall file its report in the form required by G.S. 58-2-165, and each risk retention group and association captive insurance company shall comply with the requirements set forth in G.S. 58-4-5. All other captive insurance companies shall report on forms adopted by the Commissioner. G.S. 58-10-345(f) shall apply to each report filed pursuant to this section. Branch captive insurance companies shall file the report required by this section unless otherwise required by G.S. 58-10-545. Special Purpose Financial Captive insurance companies shall report in accordance with G.S. 58-10-625.

(c) A pure captive insurance company or an industrial insured captive insurance company may make written application to the Commissioner for filing the required report on an alternative reporting date based on the company's fiscal year-end. If an alternative reporting date is granted by the Commissioner, then:

(1) The annual report is due 75 days after the fiscal year-end.

(2) In order to provide sufficient detail to support the premium tax return, the pure captive insurance company or industrial insured captive insurance company shall file, prior to March 15 of each year for each calendar year-end, pages 1, 2, 3, and 5 of the "Captive Annual Statement; Pure or Industrial Insured," verified by oath of two of its executive officers.

"**§ 58-10-420. Annual audit and actuarial certification.**

(a) All captive insurance companies shall have an annual audit by an independent certified public accountant and shall file such audited financial report with the Commissioner on or before June 30 for the prior calendar year.

(b) Captive insurance companies that have received approval to report on other than a calendar year basis pursuant to G.S. 58-10-405 shall file such statements within 180 days after the end of their fiscal year.

(c) Captive insurance companies with less than one million two hundred thousand dollars ($1,200,000) in written premium may make a written request for exemption from the annual audit requirement. Such request must be made at least 90 days prior to the captive insurance company's fiscal year-end or as otherwise required by the Commissioner. Requests will be considered on a case-by-case basis and may be subject to the Commissioner receiving an annual audit of the captive insurance company's parent company in lieu of the annual audit of the captive insurance company.

(d) The annual audit report shall be considered part of the captive insurance company's annual report of financial condition except with respect to the date by which it must be filed with the Commissioner. The annual audit shall consist of the following:

(1) Opinion of independent certified public accountant. – Financial statements furnished pursuant to this section shall be audited by independent certified public accountants in accordance with generally accepted auditing standards as determined by the American Institute of Certified Public Accountants or statutory accounting principles in accordance with the NAIC Accounting Practices and Procedures Manual in effect for the period covered by the report. The opinion of the independent certified public accountant shall cover all years presented. The opinion shall be addressed to the captive insurance company on stationery of the accountant showing the address of issuance and shall be signed and dated.

(2) Report of evaluation of internal controls. – This report shall include an evaluation of the internal controls of the captive insurance company relating to the methods and procedures used in the securing of assets and the reliability of the financial records, including, but not limited to, such controls as the system of authorization and approval and the separation of duties. The review shall be conducted in accordance with generally accepted auditing standards or statutory accounting principles and the report filed with the Commissioner. An exemption from this evaluation may be granted on a case–by-case basis upon written request to the Commissioner.

(3) Accountant's letter of qualifications. – The accountant shall furnish the captive insurance company, for inclusion in the filing of the audited annual report, a letter stating:

a. That the accountant is independent with respect to the captive insurance company and conforms to the standards of the profession as contained in the Code of Professional Ethics, pronouncements of the American Institute of Certified Public Accountants, and pronouncements of the Financial Accounting Standards Board.

b. The general background and experience of the staff engaged in the audit, including the experience in auditing captives or other insurance companies.

c. That the accountant understands that the audited annual report and the accountant's opinions thereon will be filed in compliance with this section with the Commissioner.

d. That the accountant consents to the requirements of G.S. 58-10-422(b) and (c) and that the accountant consents and agrees to make available for review by the Commissioner, the Commissioner's appointed agent, or other designee the work papers as defined in G.S. 58-10-422(c).

e. That the accountant is properly licensed by an appropriate state licensing authority and that he or she is a member in good standing of the American Institute of Certified Public Accountants.

(4) Financial statements. – Statements required shall be as follows:

a. Balance sheets reporting assets, liabilities, capital, and surplus.

b. Statements of operations.

c. Statements of cash flow.

d. Statements of changes in capital and surplus.

e. Notes to financial statements. The notes to financial statements shall be those required by generally accepted accounting principles, or as required by any other comprehensive basis of accounting in use by

the captive insurance company and approved by the Commissioner, and shall include:

1. A reconciliation of differences, if any, between the audited financial report and the report of its financial condition filed with the Commissioner in accordance with G.S. 58-10-405(b).
2. A summary of ownership and relationship of the captive insurance company and all affiliated corporations or companies insured by the captive insurance company.
3. A narrative explanation of all material transactions and balances with the captive insurance company.

(5) Certification of loss reserves and loss expense reserves. – The annual audit shall be filed with a Statement of Actuarial Opinion evaluating the captive insurance company's loss reserves and loss expense reserves. The individual who prepares the Statement of Actuarial Opinion shall be a Fellow of the Casualty Actuarial Society, a member in good standing of the American Academy of Actuaries, or an individual who has demonstrated competence in loss reserve evaluation to the Commissioner. Certification shall be in such form as the Commissioner deems appropriate.

"**§ 58-10-422. Independent certified public accountants.**

(a) A captive insurance company, after becoming subject to this Part, shall within 60 days report to the Commissioner in writing, the name and address of the independent certified public accountant retained to conduct the annual audit set forth in G.S. 58-10-420.

(b) A captive insurance company shall require its independent certified public accountant to immediately notify in writing an officer and all members of the board of directors of the captive insurance company of any determination by the independent certified public accountant that the captive insurance company has materially misstated its financial condition in its report to the Commissioner as required in G.S. 58-10-405. The independent certified public accountant shall furnish such notification to the Commissioner within five working days of notifying the captive insurance company.

(c) A captive insurance company shall require its independent certified public accountant to make available for review by the Commissioner or his or her appointed agent the work papers prepared in the conduct of the audit of the captive insurance company. The captive insurance company shall require that the independent certified public accountant retain the audit work papers for a period of not less than five years after the period reported upon. The aforementioned review by the Commissioner shall be considered an examination, and all working papers obtained during the course of such examination shall be confidential. The captive insurance company shall require that the independent certified public accountant provide copies, in such form as the Commissioner deems appropriate, of any of the working papers which the Commissioner considers relevant. Such working papers may be retained by the Commissioner. "Work papers" as referred to in this section include, but are not necessarily limited to, schedules, analyses, reconciliations, abstracts, memoranda, narratives, flow charts, copies of captive insurance company records, or other documents prepared or obtained by the independent certified public accountant and the independent certified public accountant's employees in the conduct of their audit of the captive insurance company.

(d) The lead audit partner may not act in that capacity for more than five consecutive years. For purposes of this subsection, lead audit partner means the partner having primary responsibility for the audit. The person shall be disqualified from acting in that or similar capacity for the captive insurance company for a period of five consecutive years. A captive insurance company may make application to the Commissioner for relief from the above rotation requirement on the basis of unusual circumstances. This application should be made at least 30 days before the end of the calendar year. The Commissioner may consider the following factors in determining if the relief should be granted:

(1) Number of partners, expertise of the partners, or the number of insurance clients in the firm;

(2) Premium volume of the captive insurance company; or

(3) Number of jurisdictions in which the insurer transacts business.

"**§ 58-10-425. Deposit requirement.**

(a) Whenever the Commissioner deems that the financial condition of a captive insurance company warrants additional security beyond that required pursuant to G.S. 58-10-345(c)(6), the Commissioner may require a captive insurance company to deposit with the Commissioner additional cash or securities approved by the Commissioner or, alternatively, to furnish the Commissioner a clean irrevocable letter of credit issued by a bank chartered by the State or by a member bank of the Federal Reserve System and approved by the Commissioner.

(b) A captive insurance company may receive interest or dividends from deposits held by the Commissioner or exchange the deposits for others of equal value with the approval of the Commissioner.

(c) If a captive insurance company discontinues business, the Commissioner shall return deposits held by the Commissioner only after being satisfied that all obligations of the captive insurance company have been discharged.

"**§ 58-10-430. Examinations.**

(a) Whenever the Commissioner determines it to be prudent, the Commissioner shall visit a captive insurance company and inspect and examine its affairs to ascertain its financial condition, its ability to fulfill its obligations, and whether it has complied with this Part. The expenses and charges of the examination shall be paid by the captive insurance company.

(b) G.S. 58-2-160 shall apply to examinations conducted under this section.

(c) All examination reports, preliminary examination reports or results, working papers, recorded information, documents, and copies thereof produced by, obtained by, or disclosed to the Commissioner or any other person in the course of an examination made under this section are confidential, are not subject to subpoena, and may not be made public by the Commissioner or an employee or agent of the Commissioner. Nothing in this subsection shall prevent the Commissioner from using such information in furtherance of the Commissioner's regulatory authority under this Chapter. The Commissioner shall have the discretion to grant access to such information to public officials having jurisdiction over the regulation of insurance in any other state or country or to law enforcement officers of this State or any other state or agency of the federal government at any time only if the officials receiving the information agree in writing to maintain the confidentiality of the information in a manner consistent with this subsection.

"**§ 58-10-435. License suspension or revocation.**

(a) The license of a captive insurance company may be suspended or revoked if the Commissioner finds, upon examination, hearing, or other evidence, that a captive insurance company has committed the violations described in subdivisions (1) through (7) of this subsection, or met the criteria in subdivisions (8) through (10) of this subsection, and that the suspension or revocation is in the best interest of the public and the policyholders of such captive insurance company, notwithstanding any other provision of this Chapter:

(1) Insolvency or impairment of capital or surplus.

(2) Failure to meet the requirements of G.S. 58-10-370.

(3) Refusal or failure to submit an annual report, as required by this Part, or any other report or statement required by law or by lawful order of the Commissioner.

(4) Failure to comply with its own charter, bylaws, or other organizational document.

(5) Failure to submit to or pay the cost of an examination or any legal obligation relative to an examination, as required by this Part.

(6) Use of methods that, although not otherwise specifically prohibited by law, nevertheless render its operation detrimental or its condition unsound with respect to the public or to its policyholders.

(7) Failure otherwise to comply with the laws of this State.

(8) Failure to commence business according to its plan of operation within two years of being licensed.

(9) Failure to carry on insurance business in or from this State.

(10) By request of the captive insurance company.

(b) Before the Commissioner suspends or revokes the license of a captive insurance company under subdivisions (a)(7) or (a)(8) of this section, the Commissioner shall give the captive insurance company notice in writing of the grounds on which the Commissioner proposes to suspend or revoke the license and shall afford the captive insurance company an opportunity to make objection in writing within the period of 30 days after receipt of notice. The Commissioner shall take into consideration any objection received by the Commissioner within that period and, if the Commissioner decides to suspend or revoke the license, cause the order of suspension or revocation to be served on the captive insurance company.

"§ **58-10-440. Investment requirements.**

(a) Except as may be otherwise authorized by the Commissioner, association captive insurance companies and risk retention groups shall comply with the investment requirements contained in G.S. 58-7-167, 58-7-170, 58-7-172, 58-7-173, 58-7-178, 58-7-179, 58-7-180, 58-7-183, 58-7-185, 58-7-187, 58-7-188, 58-7-192, 58-7-193, 58-7-197, 58-7-200, and 58-7-205, as applicable. Notwithstanding any other provision of this Chapter, the Commissioner may approve the use of alternative reliable methods of valuation and rating.

(b) No pure captive insurance company, industrial insured captive insurance company, protected cell captive insurance company, incorporated cell captive insurance company, or special purpose financial captive insurance company shall be subject to any restrictions on allowable investments, provided that the Commissioner may prohibit or limit any investment that threatens the solvency or liquidity of any such company.

(c) No pure captive insurance company shall make a loan to or an investment in its parent company or affiliates without prior written approval of the Commissioner, and any such loan or investment shall be evidenced by documentation approved by the Commissioner. Loans of minimum capital and surplus funds required by G.S. 58-10-370 are prohibited.

(d) Notwithstanding this section or G.S. 58-7-167, 58-7-170, 58-7-172, 58-7-173, 58-7-178, 58-7-179, 58-7-180, 58-7-183, 58-7-185, 58-7-187, 58-7-188, 58-7-192, 58-7-193, 58-7-197, 58-7-200, and 58-7-205, an association captive insurance company of an association described in G.S. 58-10-340(4)(b) may hold any interest in qualified headquarters property, and the qualified headquarters property shall be admitted assets and authorized investments of the association captive insurance company. The net book value of the qualified headquarters property deemed admitted and authorized under this subsection may not exceed two million five hundred thousand dollars ($2,500,000), and an association captive insurance company holding qualified headquarters property pursuant to this subsection shall at all times maintain total surplus, without regard to the qualified headquarters property, of at least the sum of (i) fifty percent (50%) of the net book value of the qualified headquarters property and (ii) the minimum capital and surplus requirements. For purposes of this subsection, "qualified headquarters property" includes the real property and the building in which the principal office of the association captive insurance company is located and also includes any improved and unimproved real property of the association captive insurance company that is located within 1,500 feet of the company's principal office.

"§ **58-10-445. Reinsurance.**

(a) Any captive insurance company may provide reinsurance as authorized by this Chapter on risks ceded by any other insurer.

(b) Any captive insurance company may take credit for the reinsurance of risks or portions of risks ceded to reinsurers complying with this Chapter. If the reinsurer is licensed as a risk retention group, then the ceding risk retention group or its members must qualify for membership with the reinsurer. The Commissioner shall have the discretion to allow a captive insurance company to take credit for the reinsurance of risks or portions of risks ceded to an unauthorized reinsurer, after review, on a case-by-case basis. The Commissioner may require any documents, financial information, or other evidence that such an unauthorized reinsurer will be able to demonstrate adequate security for its financial obligations.

(c) In addition to reinsurers authorized by this Chapter, a captive insurance company may take credit for the reinsurance of risks or portions of risks ceded to a pool, exchange, or association to the extent authorized by the Commissioner. The Commissioner may require any documents, financial information, or other evidence that such a pool, exchange, or association will be able to provide adequate security for its financial obligations. The Commissioner may deny authorization or impose any limitations on the activities of a reinsurance pool, exchange, or association that in the Commissioner's judgment are necessary and proper to provide adequate security for the ceding captive insurance company and for the protection and consequent benefit of the public at large.

(d) Insurance by a captive insurance company of any workers' compensation or accident and health-qualified self-insured plan shall only be in the form of reinsurance.

(e) No credit shall be allowed for reinsurance where the reinsurance contract does not result in the complete transfer of the risk or liability to the reinsurer.

(f) No credit shall be allowed, as an asset or a deduction from liability, to any ceding insurer for reinsurance unless the reinsurance is payable by the assuming insurer on the basis of the liability of the ceding insurer under the contract reinsured without diminution because of the insolvency of the ceding insurer.

(g) Reinsurance under this section shall be effected through a written agreement of reinsurance setting forth the terms, provisions, and conditions governing such reinsurance. The Commissioner may require that complete copies of all reinsurance treaties and contracts be filed and approved by the Commissioner.

"**§ 58-10-450. Membership in rating organizations; exemption from compulsory associations.**

(a) No captive insurance company shall be required to join a rating organization.

(b) No captive insurance company shall be permitted to join or contribute financially to any plan, pool, association, or guaranty or insolvency fund in this State, nor shall any such captive insurance company, or any insured or affiliate thereof, receive any benefit from any such plan, pool, association, or guaranty or insolvency fund for claims arising out of the operations of such captive insurance company.

"**§ 58-10-455. Taxation.**

A captive insurance company is taxed in accordance with Article 8B of Chapter 105 of the General Statutes.

"**§ 58-10-460. Adoption and amendment of rules by Commissioner.**

The Commissioner may adopt and, from time to time, amend such rules relating to captive insurance companies as are necessary to enable the Commissioner to carry out the provisions of this Part.

"**§ 58-10-465. Applicable provisions.**

No provisions of this Chapter, other than those contained in this Part or as expressly provided in this Part, shall apply to captive insurance companies. Risk retention groups shall have the privileges and be subject to Article 22 of this Chapter in addition to the applicable provisions of this Part.

"**§ 58-10-470. Establishment of standards regarding risk management.**

The Commissioner may adopt rules establishing standards to ensure that a parent or its affiliated company, or an industrial insured or its affiliated company, is able to exercise control of the risk management function of any controlled unaffiliated business to be insured by a pure

captive insurance company or an industrial insured captive insurance company, respectively; provided, however, that until such time as rules under this section are adopted, the Commissioner may approve the coverage of such risks by a pure captive insurance company or an industrial insured captive insurance company.

"**§ 58-10-475. Supervision; rehabilitation; liquidation.**

Except as otherwise provided in this Part, the terms and conditions set forth in Article 30 of this Chapter shall apply in full to captive insurance companies formed or licensed under this Part.

"**§ 58-10-480. Authority for expenditure of public funds.**

Any municipality, county, authority, utility district, or other public body generally classified as a governmental body or governmental entity whether chartered or organized by local act or public act of the General Assembly, or otherwise, or any agency, board, or commission of any municipality, metropolitan government, county, authority, utility district, or other public body generally classified as a governmental body or governmental entity may expend public funds for the purchase of capital stock in a captive insurance company or to provide guaranty capital in a mutual captive insurance company, provided that at the time of authorization of expenditure of public funds adequate insurance markets in the United States are not available to cover the risks, hazards, and liabilities of the public body or that the needed coverage is only available at excessive rates or with unreasonable deductibles.

"**§ 58-10-485. Violations and penalties.**

(a) If, after providing the opportunity for a contested case hearing held in accordance with the provisions of Article 3A of Chapter 150B of the General Statutes, the Commissioner finds that any insurer, person, or entity required to be licensed, permitted, or authorized to transact the business of insurance under this Part has violated any provision of this Part or any rule or regulation authorized by this Part, the Commissioner may order:

(1) The insurer, person, or entity to cease and desist from engaging in the act or practice giving rise to the violation.

(2) Payment of a monetary penalty pursuant to G.S. 58-2-70.

(3) The suspension or revocation of the insurer's, person's, or entity's license.

(b) Whenever the Commissioner has evidence that any person has violated or is violating any provisions of this Part, or has violated or is violating any order or requirement of the Commissioner issued by the Commissioner under this Part, and that the interests of policyholders, creditors, or the public may be irreparably harmed by delay, the Commissioner may issue an emergency cease and desist order that shall become effective on the date specified in the order. The emergency cease and desist order shall also include a notice of hearing, which shall be conducted as provided under Article 3A of Chapter 150B of the General Statutes. However, the person ordered to cease and desist under this subsection may request and shall be granted an expedited review of the order. The emergency order shall remain in effect prior to and during the proceedings, unless modified by the Commissioner.

"**§ 58-10-495. Captive insurance companies reinsuring life insurance policies.**

(a) A captive insurance company that reinsures life insurance policies, including term, universal, and variable life policies, and related guarantees and riders, shall maintain reserves that are actuarially sufficient to support the liabilities incurred by the captive insurance company in reinsuring life insurance policies.

(b) For purposes of the annual report required pursuant to G.S. 58-10-405, a captive insurance company described by subsection (a) of this section shall comply with the following requirements:

(1) If the company uses statutory accounting principles, it shall submit the annual report in the form of the annual statement approved by the NAIC for life insurers, as modified or supplemented by the Commissioner, unless the Commissioner requires or approves a different form of annual report.

(2) If the company uses generally accepted accounting principles, including any appropriate modifications or adaptations thereto approved by the Commissioner, it shall submit the annual report in a form approved by the Commissioner.

"Subpart 2. Protected Cell Captive Insurance Companies.

"**§ 58-10-500. Forming a protected cell captive insurance company.**

(a) One or more sponsors may form a protected cell captive insurance company under this Subpart.

(b) A protected cell captive insurance company shall be incorporated as a stock insurer with its capital divided into shares and held by the stockholders, as a mutual corporation, as a nonprofit corporation with one or more members, or as a manager-managed limited liability company.

"**§ 58-10-505. Additional filing requirements for applicant protected cell captive insurance companies.**

In addition to the information required by G.S. 58-10-345(c), each applicant protected cell captive insurance company shall file with the Commissioner all of the following:

(1) Materials demonstrating how the applicant will account for the loss and expense experience of each protected cell at a level of detail found to be sufficient by the Commissioner, and how it will report such experience to the Commissioner.

(2) A statement acknowledging that all records of the applicant, including records pertaining to any protected cells, shall be made available for inspection or examination by the Commissioner or the Commissioner's designated agent.

(3) All contracts or sample contracts between the applicant and any participants.

(4) Evidence that expenses shall be allocated to each protected cell in a fair and equitable manner.

"**§ 58-10-510. Establishment of protected cells.**

(a) A protected cell captive insurance company formed or licensed under this Part may establish and maintain one or more incorporated or unincorporated protected cells, to insure risks of one or more participants, subject to the following conditions:

(1) A protected cell captive insurance company may establish one or more protected cells if the Commissioner has approved in writing a plan of operation or amendments to a plan of operation submitted by the protected cell captive insurance company with respect to each protected cell. A plan of operation shall include, but is not limited to, the specific business objectives and investment guidelines of the protected cell, provided that the Commissioner may require additional information in the plan of operation.

(2) Upon the Commissioner's written approval of the plan of operation, the protected cell captive insurance company may attribute insurance obligations with respect to its insurance business to the protected cell in accordance with the approved plan of operation.

(3) A protected cell shall have its own distinct name or designation that shall include the words "protected cell" or "incorporated cell."

(4) The protected cell captive insurance company shall transfer all assets attributable to a protected cell to one or more separately established and identified protected cell accounts bearing the name or designation of that protected cell. Protected cell assets must be held in the protected cell accounts for the purpose of satisfying the obligations of that protected cell.

(5) An incorporated protected cell may be organized and operated in any form of business organization authorized by the Commissioner. Each incorporated protected cell of a protected cell captive insurer shall be treated as a captive insurer for purposes of this Part. Unless otherwise permitted by the

organizational documents of a protected cell captive insurer, each incorporated protected cell of the protected cell captive insurer must have the same directors, secretary, and registered office as the protected cell captive insurer.

(6) All attributions of assets and liabilities between a protected cell and the general account shall be in accordance with the plan of operation and participant contracts approved by the Commissioner. No other attribution of assets or liabilities shall be made by a protected cell captive insurance company between the protected cell captive insurance company's general account and its protected cells. Any attribution of assets and liabilities between the general account and a protected cell shall be in cash or in readily marketable securities with established market values.

(b) The creation of a protected cell does not create, with respect to that protected cell, a legal person separate from the protected cell captive insurance company, unless the protected cell is an incorporated cell. Amounts attributed to a protected cell under this Part, including assets transferred to a protected cell account, are owned by the protected cell. No protected cell captive insurance company shall be, or hold itself out to be, a trustee with respect to those protected cell assets of that protected cell account. Notwithstanding this subsection, the protected cell captive insurance company may allow for a security interest to attach to protected cell assets or a protected cell account when the security interest is in favor of a creditor of the protected cell and otherwise allowed under applicable law.

(c) This Part shall not be construed to prohibit the protected cell captive insurance company from contracting with or arranging for an investment advisor, commodity trading advisor, or other third party to manage the protected cell assets of a protected cell, if all remuneration, expenses, and other compensation of the third-party advisor or manager are payable from the protected cell assets of that protected cell and not from the protected cell assets of other protected cells or the assets of the protected cell captive insurance company's general account.

(d) A protected cell captive insurance company shall establish administrative and accounting procedures necessary to properly identify (i) the one or more protected cells of the protected cell captive insurance company and (ii) the assets and liabilities attributable to each protected cell. The directors of a protected cell captive insurance company shall keep protected cell assets and liabilities:

(1) Separate and separately identifiable from the assets and liabilities of the protected cell captive insurance company's general account.

(2) Attributable to one protected cell separate and separately identifiable from protected cell assets and protected cell liabilities attributable to other protected cells.

If this subsection is violated, then the remedy of tracing is applicable to protected cell assets when commingled with protected cell assets of other protected cells or the assets of the protected cell captive insurance company's general account. The remedy of tracing shall not be construed as an exclusive remedy.

(e) When establishing a protected cell, the protected cell captive insurance company shall attribute to the protected cell assets a value at least equal to the reserves and other insurance liabilities attributed to that protected cell.

(f) Each protected cell shall be accounted for separately on the books and records of the protected cell captive insurance company to reflect (i) the financial condition and results of operations of such protected cell, (ii) net income or loss, (iii) dividends or other distributions to participants, and (iv) such other factors as may be provided in the participant contract or required by the Commissioner.

(g) No asset of a protected cell shall be chargeable with liabilities arising out of any other insurance business the protected cell captive insurance company may conduct.

(h) No sale, exchange, or other transfer of assets shall be made by such protected cell captive insurance company between or among any of its protected cells without the consent of such protected cells.

(i) No sale, exchange, transfer of assets, dividend, or distribution shall be made from a protected cell to a protected cell captive insurance company or participant without the Commissioner's approval. In no event shall the Commissioner's approval be given if the sale, exchange, transfer, dividend, or distribution would result in the insolvency or impairment of a protected cell.

(j) All attributions of assets and liabilities to the protected cells and the general account shall be in accordance with the plan of operation approved by the Commissioner. No other attribution of assets or liabilities shall be made by a protected cell captive insurance company between its general account and any protected cell, or between any protected cells. The protected cell captive insurance company shall attribute all insurance obligations, assets, and liabilities relating to a reinsurance contract entered into with respect to a protected cell to such protected cell. The performance under such reinsurance contract and any tax benefits, losses, refunds, or credits allocated pursuant to a tax allocation agreement to which the protected cell captive insurance company is a party, including any payments made by or due to be made to the protected cell captive insurance company pursuant to the terms of such agreement, shall reflect the insurance obligations, assets, and liabilities relating to the reinsurance contract that are attributed to such protected cell.

(k) In connection with the conservation, rehabilitation, or liquidation of a protected cell captive insurance company, the assets and liabilities of a protected cell shall, to the extent the Commissioner determines they are separable, at all times be kept separate from and shall not be commingled with those of other protected cells and the protected cell captive insurance company.

(l) Each protected cell captive insurance company shall annually file with the Commissioner such financial reports as required by the Commissioner. Any such financial report shall include without limitation accounting statements detailing the financial experience of each protected cell.

(m) Each protected cell captive insurance company shall notify the Commissioner in writing within 10 business days of any protected cell that is insolvent or otherwise unable to meet its claim or expense obligations.

(n) No participant contract shall take effect without the Commissioner's prior written approval. The addition of each new protected cell, the withdrawal of any participant, or the termination of any existing protected cell shall constitute a change in the plan of operation requiring the Commissioner's prior written approval.

(o) The business written by a protected cell captive insurance company, with respect to each protected cell, must be secured by one of the following methods:

(1) Fronted by an insurance company licensed under the laws of any state.

(2) Reinsured by a reinsurer authorized or approved by this State.

(3) Secured by a trust fund in the United States for the benefit of policyholders and claimants, funded by an irrevocable letter of credit, or other arrangement that is acceptable to the Commissioner. The amount of security provided shall be no less than the reserves associated with those liabilities which are neither fronted nor reinsured, including reserves for losses, allocated loss adjustment expenses, incurred but not reported losses, and unearned premiums for business written through the participant's protected cell. The Commissioner may require the protected cell captive insurance company to increase the funding of any security arrangement established under this subdivision. If the form of security is a letter of credit, the letter of credit shall be issued or confirmed by a bank approved by the Commissioner. A trust maintained pursuant to this subdivision shall be established in a form and upon such terms approved by the Commissioner.

(p) Notwithstanding this Chapter or other laws of this State, and in addition to G.S. 58-10-525, in the event of an insolvency of a protected cell captive insurance company where the Commissioner determines that one or more protected cells remain solvent, the Commissioner may separate such cells from the protected cell captive insurance company and may allow, on application of the protected cell captive insurance company, for the conversion of such protected cells into one or more new or existing protected cell captive insurance companies, or one or more other captive insurance companies, pursuant to such plan of operation as the Commissioner deems acceptable.

"**§ 58-10-515. Participation in a protected cell captive insurance company.**

(a) Associations, corporations, limited liability companies, partnerships, trusts, and other business entities may be participants in any protected cell captive insurance company formed or licensed under this Part.

(b) A sponsor may be a participant in a protected cell captive insurance company.

(c) A participant need not be a shareholder of the protected cell captive insurance company or any affiliate thereof.

(d) A participant shall insure only its own risks through a protected cell captive insurance company.

"**§ 58-10-520. Combining assets of protected cells.**

Notwithstanding G.S. 58-10-510, the assets of two or more protected cells may be combined for purposes of investment and such combination shall not be construed as defeating the segregation of such assets for accounting or other purposes. Protected cell captive insurance companies shall comply with the investment requirements contained in G.S. 58-7-167, 58-7-170, 58-7-172, 58-7-173, 58-7-178, 58-7-179, 58-7-180, 58-7-183, 58-7-185, 58-7-187, 58-7-188, 58-7-192, 58-7-193, 58-7-197, 58-7-200, and 58-7-205, as applicable; provided that compliance with such investment requirements shall be waived for protected cell captive insurance companies to the extent that credit for reinsurance ceded to reinsurers is allowed pursuant to G.S. 58-10-445 or to the extent otherwise deemed reasonable and appropriate by the Commissioner. Notwithstanding any other provision of this Chapter, the Commissioner may approve the use of alternative reliable methods of valuation and rating.

"**§ 58-10-525. Application of supervision, rehabilitation, and liquidation provisions to protected cell captive insurance companies.**

(a) Except as otherwise provided in this Part, Article 30 of this Chapter shall apply to a protected cell captive insurance company.

(b) Upon any order of supervision, rehabilitation, or liquidation of a protected cell captive insurance company, the Commissioner or receiver shall manage the assets and liabilities of the protected cell captive insurance company pursuant to this Part.

(c) Notwithstanding Article 30 of this Chapter:

(1) No assets of a protected cell shall be used to pay any expenses or claims other than those attributable to such protected cell.

(2) A protected cell captive insurance company's capital and surplus shall at all times be available to pay any expenses of, or claims against, the protected cell captive insurance company.

"Subpart 3. Branch Captive Insurance Companies.

"**§ 58-10-530. Establishment of branch captive insurance companies.**

(a) A branch captive insurance company may be established in this State, in accordance with this Subpart, to write in this State any insurance or reinsurance of the employee benefit business of its parent and affiliated companies that is subject to the Employee Retirement Income Security Act of 1974, as amended, or any insurance or reinsurance permitted to be written by captive insurance companies pursuant to this Part.

(b) No branch captive insurance company shall do any insurance business in this State unless it maintains the principal place of business for its branch operations in this State.

"§ **58-10-535. Security for payment of branch captive insurance company liabilities.**

(a) No branch captive insurance company shall be issued a license by the Commissioner unless it possesses and maintains as security for the payment of liabilities attributable to the branch operations:

(1) An amount equal to the amount set forth in G.S. 58-10-370 as the minimum capital requirement for a pure captive insurance company.

(2) Reserves on such insurance policies or such reinsurance contracts as may be issued or assumed by the branch captive insurance company through its branch operations, including reserves for losses, allocated loss adjustment expenses, incurred but not reported losses, and unearned premiums with regard to business written through the branch operations; provided, however, that the Commissioner may permit a branch captive insurance company to credit against any such reserve requirement any security for loss reserves that the branch captive insurance company may post with a ceding insurer or that may be posted by a reinsurer with the branch captive insurance company, and in either case if such security remains posted.

(b) Subject to the prior approval of the Commissioner, the amounts required in subsection (a) of this section may be held in the form of:

(1) A trust formed under a trust agreement and funded by assets acceptable to the Commissioner.

(2) An irrevocable letter of credit issued or confirmed by a bank approved by the Commissioner.

(3) With respect to the amounts required in subdivision (a)(1) of this section only, cash on deposit with the Commissioner.

(4) Any combination of subdivisions (b)(1) through (3) of this section.

"§ **58-10-540. Petition for certificate of authority.**

In the case of an alien captive insurance company seeking to become licensed as a branch captive insurance company, the alien captive insurance company shall petition the Commissioner to issue a certificate setting forth the Commissioner's finding that, after considering the character, reputation, financial responsibility, insurance experience, and business qualifications of the officers and directors of the alien captive insurance company, the licensing and maintenance of the branch operations will promote the general good of the State. After the Commissioner issues a certificate of authorization, the alien captive insurance company shall comply with all other applicable State statutes or common law.

"§ **58-10-545. Filing of reports and statements.**

Prior to March 1 of each year, or with the approval of the Commissioner within 60 days after its fiscal year-end, a branch captive insurance company shall file with the Commissioner a copy of all reports and statements required to be filed under the laws of the jurisdiction in which the alien captive insurance company is formed, verified by oath of two of its executive officers. If the Commissioner is satisfied that the annual report filed by the alien captive insurance company in its domiciliary jurisdiction provides adequate information concerning the financial condition of the alien captive insurance company, the Commissioner may waive the requirement for completion of the captive annual statement for business written in the alien jurisdiction.

"§ **58-10-550. Examination of a branch captive insurance company.**

(a) Any examination of a branch captive insurance company pursuant to G.S. 58-10-430 shall be of branch business and branch operations only so long as the branch captive insurance company files annually with the Commissioner a certificate of compliance, or its equivalent, issued by or filed with the licensing authority of the jurisdiction in which the branch captive insurance company is formed, and demonstrates to the Commissioner's satisfaction that it is operating in sound financial condition in accordance with all applicable laws and regulations of such jurisdiction.

(b) As a condition of licensure, an alien captive insurance company shall grant authority to the Commissioner for examination of the affairs of the alien captive insurance company in the jurisdiction in which the alien captive insurance company is formed.

"Subpart 4. Special Purpose Financial Captives.

"**§ 58-10-555. Creation of special purpose financial captives.**

Special purpose financial captives (SPFCs) are provided by this Subpart exclusively to facilitate the securitization of one or more risks as a means of accessing alternative sources of capital and achieving the benefits of securitization. SPFCs are created for the limited purpose of entering into SPFC contracts and insurance securitization transactions and into related agreements to facilitate the accomplishment and execution of those transactions. The creation of SPFCs is intended to achieve greater efficiencies in structuring and executing insurance securitizations, to diversify and broaden sources of capital for insurers, to facilitate access for many insurers to insurance securitization and capital markets financing technology, and to further the economic development and expand the interest of this State through its captive insurance program.

"**§ 58-10-560. Controlling provisions when conflict exists; exemptions.**

(a) No provisions of this Chapter, other than those expressly provided in this Part, shall apply to an SPFC. If any conflict occurs in this Part related to an SPFC, the provisions of this Subpart shall control.

(b) The Commissioner, by rule, regulation, or order, may exempt an SPFC or its protected cells, on a case-by-case basis, from this Part if the Commissioner determines regulation under this Part to be inappropriate given the nature of the risks to be insured.

"**§ 58-10-565. Application requirements.**

(a) An SPFC, when permitted by its organizational documents, may apply to the Commissioner for a certificate of authority to transact insurance or reinsurance business as authorized by this Part. An SPFC shall only insure or reinsure the risks of its counterparty. Notwithstanding any other provision of this Part, an SPFC may purchase reinsurance to cede the risks assumed under the SPFC contract as approved by the Commissioner.

(b) To transact business in this State, an SPFC shall:

(1) Comply with the procedures established in G.S. 58-10-345(c).

(2) Obtain from the Commissioner a certificate of authority authorizing it to conduct insurance or reinsurance business, or both, in this State.

(3) Hold at least one management meeting each year in this State. For the purposes of this section, management is defined as the board of directors, managing board, or other individual or individuals vested with overall responsibility for the management of the affairs of the SPFC, including the election and appointment of officers or other of those agents to act on behalf of the SPFC.

(4) Maintain its principal place of business in this State.

(5) Appoint a resident registered agent to accept service of process and to otherwise act on its behalf in this State. If the registered agent, with reasonable diligence, is not found at the registered office of the SPFC, the Commissioner shall be an agent of the SPFC upon whom any process, notice, or demand may be served.

(6) Provide such documentation of the insurance securitization as requested by the Commissioner immediately upon closing of the transaction, including:

a. An opinion of a duly licensed North Carolina legal counsel with respect to compliance with this Part and any other applicable laws as of the effective date of the transaction.

b. A statement under oath of its president and secretary demonstrating its financial condition.

(7) Provide a complete set of the documentation of the insurance securitization to the Commissioner immediately following closing of the transaction.

(c) A complete SPFC application shall include the following:

(1) A certified copy of the SPFC's organizational documents.

(2) Evidence of:

a. The amount and liquidity of its assets relative to the risks to be assumed.

b. The adequacy of the expertise, experience, and character of the person or persons who manage the SPFC.

c. The overall soundness of the SPFC's plan of operation.

d. Other factors considered relevant by the Commissioner in ascertaining whether the proposed SPFC is able to meet its policy obligations.

e. The applicant SPFC's financial condition, including the source and form of the minimum capital to be contributed to the SPFC.

(3) A plan of operation consisting of a description of or statement of intent with respect to the contemplated insurance securitization, the SPFC contract, and related transactions, which shall include:

a. Draft documentation or, at the discretion of the Commissioner, a written summary of all material agreements that are entered into to effectuate the SPFC contract and, before the effectuation of the SPFC contract, the insurance securitization, to include the names of the counterparty, the nature of the risks being assumed, the proposed use of protected cells, if any, and the maximum amounts, purpose, and nature and the interrelationships of the various transactions required to effectuate the insurance securitization.

b. The source and form of additional capital to be contributed to the SPFC.

c. The proposed investment strategy of the SPFC.

d. A description of the underwriting, reporting, and claims payment methods by which losses covered by the SPFC contract are reported, accounted for, and settled.

e. A pro forma balance sheet and income statement illustrating various stress case scenarios for the performance of the SPFC under the SPFC contract.

(4) Biographical affidavits in NAIC format of all of the prospective SPFC's officers and directors, providing the officers' and directors' legal names, any names under which they have or are conducting their affairs, and any other biographical information as the Commissioner may request.

(5) An affidavit from the applicant SPFC verifying:

a. The applicant SPFC complies with this Part.

b. The applicant SPFC operates only pursuant to this Part.

c. The applicant SPFC's investment strategy reflects and takes into account the liquidity of assets and the reasonable preservation, administration, and asset management of such assets relative to the risks associated with the SPFC contract and the insurance securitization transaction.

d. The securities proposed to be issued, if any, are valid legal obligations that are either properly registered with the Commissioner or constitute an exempt security or form part of an exempt transaction.

(6) Any other statements or documents required by the Commissioner to evaluate and complete the licensing of the SPFC.

(d) In addition to the information required by subsection (c) of this section and by G.S. 58-10-585, when a protected cell is used, an applicant SPFC shall file with the Commissioner:

(1) A business plan demonstrating how the applicant SPFC accounts for the loss and expense experience of each protected cell at a level of detail found to be sufficient by the Commissioner and how the applicant will report the experience to the Commissioner.

(2) A statement acknowledging that all records of the SPFC, including records pertaining to any protected cells, must be made available for inspection or examination by the Commissioner.

(3) All contracts or sample contracts between the SPFC and any counterparty related to each protected cell.

(4) A description of the expenses allocated to each protected cell.

(e) Information submitted pursuant to this section shall be and remain confidential, and shall not be made public by the Commissioner or the Commissioner's designee unless disclosure is ordered by a court of competent jurisdiction. In addition, the Commissioner shall have the discretion to disclose such information to a public official having jurisdiction over the regulation of insurance in another state, provided that:

(1) Such public official shall agree in writing to maintain the confidentiality of such information.

(2) The laws of the state in which such public official serves require such information to be and to remain confidential.

(f) G.S. 58-10-430 applies to SPFCs.

(g) SPFCs are subject to any rules or regulations promulgated pursuant to G.S. 58-10-460.

(h) The Commissioner may retain legal, financial, and examination services from outside the Department to examine and investigate the application, the cost of which may be charged against the applicant. The Commissioner also may use internal resources to examine and investigate the application based upon an hourly rate for the services performed or the usual and customary fee charged by the financial services industry for similar work subject to a minimum fee of twelve thousand dollars ($12,000), six thousand dollars ($6,000) of which is payable upon filing of the application and the remainder upon licensure.

(i) An SPFC shall be subject to payment of premium taxes as required by G.S. 58-10-455.

(j) The Commissioner shall grant a certificate of authority authorizing the SPFC to transact insurance or reinsurance business as an SPFC in this State, upon a finding by the Commissioner that:

(1) The SPFC's proposed plan of operation provides a reasonable and expected successful operation.

(2) The terms of the SPFC contract and related transactions comply with this Part.

(3) The proposed plan of operation is not hazardous to any counterparty.

(4) To the extent required by law or regulation, the Commissioner or an equivalent regulatory authority of the state of domicile of each counterparty has notified the Commissioner in writing or otherwise provided assurance satisfactory to the Commissioner that it has approved or not disapproved the transaction.

(5) The certificate of authority authorizing the SPFC to transact business is limited only to the insurance or reinsurance activities that the SPFC is authorized to conduct pursuant to this Part.

(k) In evaluating the expectation of a successful operation, factors the Commissioner shall consider include whether the proposed SPFC and its management are of known good character and reasonably believed not to be affiliated, directly or indirectly, through ownership, control, management, reinsurance transactions, or other insurance or business relations, with a person known to have been involved in the improper manipulation of assets, accounts, or reinsurance.

(l) To ensure the proposed plan of operation is not hazardous to any counterparty, the Commissioner may require reasonable safeguards in the SPFC's plan of operation where applicable and appropriate in the circumstance, including, without limitation, that certain assets of the SPFC be held in a trust to secure the obligations of the SPFC to a counterparty under an SPFC contract.

(m) A foreign or alien corporation or limited liability company, upon approval of the Commissioner, may become a domestic SPFC after complying with G.S. 58-10-345(c)(1). After such documents are successfully filed, the foreign or alien corporation or limited liability company is entitled to the necessary or appropriate certificates or licenses to transact business as an SPFC in this State and is subject to the authority and jurisdiction of this State. In connection with this redomestication, the Commissioner may waive any requirements for public hearings. It is not necessary for a corporation or limited liability company redomesticating into this State to merge, consolidate, transfer assets, or otherwise engage in another reorganization, other than as specified in this section.

"**§ 58-10-570. Organization of an SPFC.**

(a) An SPFC may be established as a stock corporation, limited liability company, mutual, partnership, or other form of organization approved by the Commissioner.

(b) The SPFC's organizational documents shall limit the SPFC's authority to transact the business of insurance or reinsurance to those activities the SPFC conducts to accomplish its purpose as expressed in this Part.

(c) The SPFC shall not adopt a name that is the same as, deceptively similar to, or likely to be confused with or mistaken for another existing business name registered in this State. Any name adopted by an SPFC shall comply with State law.

(d) An SPFC shall have at least three incorporators or organizers, of whom at least two shall be residents of this State.

(e) At least one of the members of the management of the SPFC shall be a resident of this State.

(f) An SPFC formed pursuant to this Part has the privileges of and is subject to all other requirements of this State's law applicable to its formation, as well as the applicable provisions contained in this Part, provided that this Part controls if a conflict exists in this State's law.

"**§ 58-10-575. Minimum capital.**

(a) An SPFC shall initially possess and maintain minimum capital of not less than two hundred and fifty thousand dollars ($250,000). All of the minimum initial capitalization shall be in cash. All other funds of the SPFC in excess of its minimum initial capitalization shall be in the form of cash, cash equivalent, or securities invested as approved by the Commissioner.

(b) Additional capitalization for the SPFC shall be determined, if so required, by the Commissioner after giving due consideration to the SPFC's plan of operation, feasibility study, pro formas, and the nature of the risks being insured or reinsured, which may be prescribed in formulas approved by the Commissioner.

"**§ 58-10-580. Authorized activities.**

(a) An SPFC shall only insure the risks of a counterparty.

(b) No SPFC shall issue a contract for assumption of risk or indemnification of loss other than an SPFC contract. However, the SPFC may cede risks assumed through an SPFC contract to third-party reinsurers through the purchase of reinsurance or retrocession protection on terms approved by the Commissioner.

(c) An SPFC may enter into contracts and conduct other commercial activities related or incidental to and necessary to fulfill the purposes of the SPFC contract, insurance securitization, and this Part. Those activities may include, but are not limited to:

(1) Entering into SPFC contracts.

(2) Issuing SPFC securities in accordance with applicable securities law.

(3) Complying with the terms of such contracts or securities.

(4) Entering into trust, guaranteed investment contract, letter of credit, swap, tax, administration, reimbursement, or fiscal agent transactions.

(5) Complying with trust indenture, reinsurance, or retrocession, and agreements necessary or incidental to effectuate an insurance securitization in compliance with this Part or the plan of operation approved by the Commissioner.

(d) An SPFC shall do all of the following:

(1) Discount its reserves at discount rates as approved by the Commissioner.

(2) Maintain reserves that are actuarially sufficient to support the liabilities incurred by an SPFC in reinsuring life insurance policies.

(3) File annually with the Commissioner an actuarial opinion on reserves provided by an approved independent actuary.

"**§ 58-10-585. Establishment of protected cell accounts.**

(a) This section and G.S. 58-10-590 provide a basis for the creation and use of protected cells by an SPFC as a means of accessing alternative sources of capital, lowering formation and administrative expenses, and generally making insurance securitizations more efficient. If a conflict exists between other provisions of this Part and either this section or G.S. 58-10-590, then this section or G.S. 58-10-515 shall control as applicable.

(b) An SPFC may establish and maintain one or more protected cells with prior written approval of the Commissioner and subject to compliance with the applicable provisions of this Part and all of the following conditions:

(1) A protected cell shall be established only for the purpose of insuring or reinsuring risks of one or more SPFC contracts with a counterparty with the intent of facilitating an insurance securitization.

(2) Each protected cell shall be accounted for separately on the books and records of the SPFC to reflect the financial condition and results of operations of the protected cell, net income or loss, dividends, or other distributions to the counterparty for the SPFC contract with each cell, and other factors as may be provided in the SPFC contract, insurance securitization transaction documents, plan of operation, or business plan, or as required by the Commissioner.

(3) Amounts attributed to a protected cell under this Part, including assets transferred to a protected cell account, are owned by the SPFC, and no SPFC shall be or hold itself out to be a trustee with respect to those protected cell assets of that protected cell account.

(4) All attributions of assets and liabilities between a protected cell and the general account shall be in accordance with the plan of operation approved by the Commissioner, and no other attribution of assets or liabilities by an SPFC between the SPFC's general account and its protected cell or cells is permitted. The SPFC shall attribute all insurance obligations, assets, and liabilities relating to an SPFC contract and the related insurance securitization transaction, including any securities issued by the SPFC as part of the insurance securitization, to a particular protected cell. The insurance obligations, assets, and liabilities relating to the SPFC contract and the insurance securitization transaction that are attributed to a particular protected cell shall be consistent with:

a. The rights, benefits, obligations, and liabilities of any securities attributable to that protected cell.

b. The performance under an SPFC contract and the related securitization transaction and any tax benefits, losses, refunds, or credits allocated, at any point in time pursuant to a tax allocation agreement between the SPFC and the SPFC's counterparty, parent, or company or group company, or any of them, in common control with them, as the case may be, including any payments made by or due to be made to the SPFC pursuant to the terms of the agreement.

(5) No assets of a protected cell shall be chargeable with liabilities arising out of an SPFC contract related to or associated with another protected cell. However, one or more SPFC contracts may be attributed to a protected cell only if the SPFC contracts are intended to be and ultimately are part of a single securitization transaction.

(6) No sale, exchange, or other transfer of assets shall be made by the SPFC between or among any of the SPFC's protected cells without the consent of the Commissioner, counterparty, and each protected cell.

(7) Except as otherwise contemplated in the SPFC contract or related insurance securitization transaction documents, or both, no sale, exchange, transfer of assets, dividend, or distribution shall be made from a protected cell to a counterparty or parent without the Commissioner's approval and the sale, exchange, transfer, dividend, or distribution shall not be approved if the sale, exchange, transfer, dividend, or distribution would result in a protected cell's insolvency or impairment.

(8) An SPFC may pay interest or repay principal, or both, and make distributions or repayments with respect to any securities attributed to a particular protected cell from assets or cash flows relating to or emerging from the SPFC contract and the insurance securitization transactions that are attributable to that particular protected cell in accordance with this Part, or as otherwise approved by the Commissioner.

(c) No SPFC contract with or attributable to a protected cell shall take effect without the Commissioner's prior written approval, and the addition of each new protected cell constitutes a change in the business plan requiring the Commissioner's prior written approval. The Commissioner may retain legal, financial, and examination services from outside the Department to examine and investigate the application for a protected cell, the cost of which may be charged against the applicant, or the Commissioner may use internal resources to examine and investigate the application, the cost of which may be charged against the applicant, or both.

(d) An SPFC utilizing protected cells shall possess and maintain minimum capitalization separate and apart from the capitalization of its protected cell or cells in an amount determined by the Commissioner after giving due consideration of the SPFC's business plan, feasibility study, and pro formas, including the nature of the risks to be insured or reinsured. For purposes of determining the capitalization of each protected cell, an SPFC shall initially capitalize and maintain capitalization in each protected cell in the amount and manner required for an SPFC in G.S. 58-10-575.

(e) The establishment of one or more protected cells alone shall not constitute and shall not be deemed to be a fraudulent conveyance, an intent by the SPFC to defraud creditors, or the carrying out of business by the SPFC for any other fraudulent purpose.

"**§ 58-10-590. Protected cell accounts.**

(a) All of the following shall apply to a protected cell:

(1) The creation of a protected cell shall not create, with respect to that protected cell, a legal person separate from the SPFC.

(2) Notwithstanding subdivision (a)(1) of this subsection, a protected cell shall have its own distinct name or designation that includes the words "protected cell." The SPFC shall transfer all assets attributable to the protected cell to one or more separately established and identified protected cell accounts bearing the name or designation of that protected cell.

(3) Although a protected cell is not a separate legal person, the property of an SPFC in a protected cell is subject to orders of the court by name as the property would have been if the protected cell were a separate legal person.

(4) The property of an SPFC in a protected cell shall be served with process in its own name in all civil actions or proceedings involving or relating to the activities of that protected cell or a breach by the SPFC of a duty to the protected cell or to a counterparty to a transaction linked or attributed to it by serving the SPFC.

(5) A protected cell exists only at the pleasure of the SPFC. At the cessation of business of a protected cell in accordance with the plan approved by the Commissioner, the SPFC shall close out the protected cell account.

(b) Nothing in this section shall be construed to prohibit an SPFC from contracting with or arranging for an investment advisor, commodity trading advisor, or other third party to manage the assets of a protected cell, if all remuneration, expenses, and other compensation of the third-party advisor or manager are payable from the assets of that protected cell and not from the assets of other protected cells or the assets of the SPFC's general account, unless approved by the Commissioner.

(c) Creditors with respect to a protected cell are not entitled to have recourse against the protected cell assets of other protected cells or the assets of the SPFC's general account. If an obligation of an SPFC relates only to the general account, the obligation of the SPFC extends only to that creditor with respect to that obligation, and the creditor is entitled to have recourse only to the assets of the SPFC's general account.

(d) The assets of the protected cell shall not be used to pay expenses or claims other than those attributable to the protected cell. Protected cell assets are available only to the SPFC contract counterparty and other creditors of the SPFC that are creditors only with respect to that protected cell and, accordingly, are entitled in conformity with this Part, to have recourse to the protected cell assets attributable to that protected cell. The assets of the protected cell are protected from the creditors of the SPFC that are not creditors with respect to that protected cell and who, accordingly, are not entitled to have recourse to the protected cell assets attributable to that protected cell. If an obligation of an SPFC to a person or counterparty arises from an SPFC contract or related insurance securitization transaction, or is otherwise incurred with respect to a protected cell, then the obligation shall:

(1) Extend only to the protected cell assets attributable to that protected cell, and the person or counterparty, with respect to that obligation, is entitled to have recourse only to the protected cell assets attributable to that protected cell.

(2) Not extend to the protected cell assets of another protected cell or the assets of the SPFC's general account, and the person or counterparty, with respect to that obligation, is not entitled to have recourse to the protected cell assets of another protected cell or the assets of the SPFC's general account. The SPFC's capitalization held separate and apart from the capitalization of its protected cell or cells must be available at all times to pay expenses of or claims against the SPFC and may not be used to pay expenses or claims attributable to any protected cell.

(e) Notwithstanding any other provision of law, an SPFC may allow for a security interest in accordance with applicable law to attach to protected cell assets or a protected cell account when in favor of a creditor of the protected cell or to facilitate an insurance

securitization, including, without limitation, the issuance of the SPFC contract, to the extent those protected cell assets are not required at all times to support the risk, but without otherwise affecting the discharge of liabilities under the SPFC contract, or as otherwise approved by the Commissioner.

(f) An SPFC shall establish administrative and accounting procedures necessary to properly identify the one or more protected cells of the SPFC and the protected cell assets and protected cell liabilities to each protected cell. An SPFC shall keep protected cell assets and protected cell liabilities:

(1) Separate and separately identifiable from the assets and liabilities of the SPFC's general account.

(2) Attributable to one protected cell separate and separately identifiable from protected cell assets and protected cell liabilities attributable to other protected cells.

(g) All contracts or other documentation reflecting protected cell liabilities shall clearly indicate that only the protected cell assets are available for the satisfaction of those protected cell liabilities. In all SPFC insurance securitizations involving a protected cell, the contracts or other documentation effecting the transaction shall contain provisions identifying the protected cell to which the transaction is attributed. In addition, the contracts or other documentation shall clearly disclose that the assets of that protected cell, and only those assets, are available to pay the obligations of that protected cell. Notwithstanding this subsection, and subject to this Part and other applicable laws or regulations, the failure to include this language in the contracts or other documentation shall not be used as the sole basis by creditors, insureds or reinsureds, insurers or reinsurers, or other claimants to circumvent the provisions of this section.

(h) An SPFC with protected cells shall annually file with the Department accounting statements and financial reports required by this Part, which shall:

(1) Detail the financial experience of each protected cell and the SPFC separately.

(2) Provide the combined financial experience of the SPFC and all protected cells.

(i) An SPFC with protected cells shall notify the Commissioner in writing within 10 business days of a protected cell becoming insolvent.

"**§ 58-10-595. Issuing securities.**

(a) An SPFC may issue securities, including surplus notes and other forms of financial instruments, subject to and in accordance with applicable law, its approved plan of operation, and its organizational documents.

(b) An SPFC, in connection with the issuance of securities, may enter into and perform all of its obligations under any required contracts to facilitate the issuance of these securities.

(c) Subject to the approval of the Commissioner, an SPFC may lawfully:

(1) Account for the proceeds of surplus notes as surplus and not as debt for purposes of statutory accounting.

(2) Submit for prior approval of the Commissioner periodic written requests for payments of interest on and repayments of principal of surplus notes. In lieu of approval of periodic written requests for authorization to make payments of interest on and repayments of principal of surplus notes and other debt obligations issued by the SPFC, the Commissioner may approve a formula or plan, which shall be included in the SPFC's plan of operation as amended from time to time, for payment of interest, principal, or both, with respect to such surplus notes and debt obligations.

(d) The Commissioner, without otherwise prejudicing the Commissioner's authority, may approve formulas for an ongoing plan of interest payments or principal repayments, or both, to provide guidance in connection with the Commissioner's ongoing reviews of requests to approve the payments on and principal repayments of the surplus notes.

(e) The obligation to repay principal or interest, or both, on the securities issued by the SPFC must reflect the risk associated with the obligations of the SPFC to the counterparty under the SPFC contract.

"**§ 58-10-600. Asset management agreements.**

An SPFC may enter into swap agreements, or other forms of asset management agreements, including guaranteed investment contracts, or other transactions that have the objective of leveling timing differences in funding of up-front or ongoing transaction expenses, or managing asset, credit, or interest rate risk of the investments to ensure that the investments are sufficient to assure payment or repayment of the securities, and related interest or principal payments, issued pursuant to an SPFC insurance securitization transaction, or the obligations of the SPFC under the SPFC contract.

"**§ 58-10-605. Reinsurance.**

(a) An SPFC may reinsure only the risks of a ceding insurer pursuant to a reinsurance contract. No SPFC shall issue a contract of insurance or a contract for assumption of risk or indemnification of loss other than such reinsurance contract.

(b) Unless otherwise approved in advance by the Commissioner, no SPFC shall assume or retain exposure to insurance or reinsurance losses for its own account that are not funded by:

(1) Proceeds from an insurance securitization, letters of credit, or other assets described in G.S. 58-10-340(22).

(2) Premium and other amounts payable by the ceding insurer to the SPFC pursuant to the reinsurance contract.

(3) Any return on investment of the items described in subdivisions (1) and (2) of this subsection.

(c) The reinsurance contract shall contain all provisions required or approved by the Commissioner, which requirements shall take into account the laws applicable to the ceding insurer regarding the ceding insurer taking credit for the reinsurance provided under such reinsurance contract.

(d) An SPFC may cede risks assumed through a reinsurance contract to one or more reinsurers through the purchase of reinsurance, subject to the prior approval of the Commissioner.

(e) An SPFC may enter into contracts and conduct other commercial activities related or incidental to and necessary to fulfill the purposes of the reinsurance contract, the insurance securitization, and this Part, provided such contracts and activities are included in the SPFC's plan of operation or are otherwise approved in advance by the Commissioner. Such contracts and activities may include the following:

(1) Entering into SPFC contracts.

(2) Issuing SPFC securities in accordance with applicable securities law.

(3) Complying with the terms of such contracts or securities.

(4) Entering into trust, guaranteed investment contract, letter of credit, swap, tax, administration, reimbursement, or fiscal agent transactions.

(5) Complying with trust indenture, reinsurance, or retrocession and other agreements necessary or incidental to effectuate an insurance securitization in compliance with this Part or the plan of operation approved by the Commissioner.

(f) Unless otherwise approved in advance by the Commissioner, a reinsurance contract shall not contain any provision for payment by the SPFC in discharge of its obligations under the reinsurance contract to any person other than the ceding insurer or any receiver of the ceding insurer.

(g) An SPFC shall notify the Commissioner immediately of any action by a ceding insurer or any other person to foreclose on or otherwise take possession of collateral provided by the SPFC to secure any obligation of the SPFC.

(h) In the SPFC insurance securitization, the contracts or other relating documentation shall contain provisions identifying the SPFC.

(i) Unless otherwise approved by the Commissioner, no SPFC shall enter into an SPFC contract with a person that is not licensed or otherwise authorized to transact the business of insurance or reinsurance in at least its state or country of domicile.

(j) No SPFC shall:

(1) Have any direct obligation to the policyholders or reinsureds of the counterparty.

(2) Perform any of the following activities with anyone convicted of a felony, anyone who is untrustworthy or of known bad character, or anyone convicted of a criminal offense involving the conversion or misappropriation of fiduciary funds or insurance accounts, theft, deceit, fraud, misrepresentation, or corruption:

a. Lend or otherwise invest assets.

b. Place any assets in custody, trust, or under management.

c. Borrow money or receive a loan or advance, other than by issuance of the securities pursuant to an insurance securitization.

"§ **58-10-610. No securities considered to be insurance or reinsurance contracts.**

No securities issued by an SPFC pursuant to an insurance securitization shall be considered to be insurance or reinsurance contracts. No investor in these securities or a holder of these securities, by sole means of this investment or holding, shall be considered to be transacting the business of insurance in this State. The underwriter's placement or selling agents and their partners, directors, officers, members, managers, employees, agents, representatives, and advisors involved in an insurance securitization pursuant to this Part shall not be considered to be insurance producers or brokers or conducting business as an insurance or reinsurance company or agency, brokerage, intermediary, advisory, or consulting business only by virtue of their activities in connection with an insurance securitization.

"§ **58-10-615. Disposition of assets; investment limitations.**

(a) The assets of an SPFC shall be preserved and administered by or on behalf of the SPFC to satisfy the liabilities and obligations of the SPFC incident to the reinsurance contract, the insurance securitization, and other related agreements.

(b) In the insurance securitization, the security offering memorandum or other document issued to prospective investors regarding the offer and sale of a surplus note or other security shall include a disclosure that all or part of the proceeds of such insurance securitization will be used to fund the SPFC's obligations to the ceding insurer.

(c) No SPFC shall be subject to any restriction on investments other than the following:

(1) The Commissioner may limit investments by an SPFC to those categories and amounts of authorized investments delineated in G.S. 58-7-167, 58-7-170, 58-7-172, 58-7-173, 58-7-178, 58-7-179, 58-7-180, 58-7-183, 58-7-185, 58-7-187, 58-7-188, 58-7-192, 58-7-193, 58-7-197, 58-7-200, and 58-7-205, as applicable and as amended from time to time.

(2) No SPFC shall make a loan to any person other than as permitted under its plan of operation or as otherwise approved in advance by the Commissioner.

(3) The Commissioner may prohibit or limit any investment that threatens the solvency or liquidity of the SPFC unless the investment is otherwise approved by the Commissioner in writing.

"§ **58-10-620. Dividends.**

(a) No SPFC shall declare or pay dividends in any form to its owners other than in accordance with the insurance securitization transaction agreements, and in no extent shall the dividends decrease the capital of the SPFC below two hundred fifty thousand dollars ($250,000). After giving effect to the dividends, the assets of the SPFC, including assets held in trust pursuant to the terms of the insurance securitization, shall be sufficient to satisfy the Commissioner that the SPFC can meet its obligations. Approval by the Commissioner of an

ongoing plan for the payment of dividends or other distribution by an SPFC must be conditioned upon the retention at the time of each payment of capital or surplus equal to or in excess of amounts specified by or determined in accordance with formulas approved for the SPFC by the Commissioner.

(b) The dividends may be declared by the management of the SPFC if the dividends do not violate this Part or jeopardize the fulfillment of the obligations of the SPFC or the trustee pursuant to the SPFC insurance securitization agreements, the SPFC contract, or any related transaction and other provisions of this Part.

"**§ 58-10-625. Changes in plan of operation; filing of audit and statement of operation; examinations.**

(a) Any material change of the SPFC's plan of operation, whether or not through an SPFC protected cell, shall require prior approval of the Commissioner. The following transactions do not constitute material change for purposes of this section:

(1) If initially approved in the plan of operation, securities subsequently issued to continue the securitization activities of the SPFC either during or after expiration, redemption, or satisfaction of all of these, of part or all of the securities issued pursuant to initial insurance securitization transactions.

(2) A change and substitution in a counterparty to a swap transaction for an existing insurance securitization as allowed pursuant to this Part if the replacement swap counterparty carries a similar or higher rating to its predecessor with two or more nationally recognized rating agencies.

(b) No later than six months after the fiscal year-end of the SPFC, the SPFC shall file with the Commissioner an audit by a certified public accounting firm of the financial statements of the SPFC and the trust accounts.

(c) An SPFC shall report using statutory accounting principles, unless the Commissioner requires, approves, or accepts the use of generally accepted accounting principles or other comprehensive basis of accounting. In each case the Commissioner may require, approve, or accept any appropriate or necessary modifications or adaptations to the accounting basis, and may require the report to be supplemented by additional information.

(d) Each SPFC shall file by March 1 a statement of operations, using either generally accepted accounting principles or, if approved, accepted, or required by the Commissioner, statutory accounting principles with useful or necessary modifications or adaptations for the type of insurance and kinds of insurers to be reported upon, and as supplemented by additional information required by the Commissioner. The statement of operations shall include a statement of income, a balance sheet, and may include a detailed listing of invested assets, including identification of assets held in trust to secure the obligations of the SPFC under the SPFC contract. The SPFC also may include with the filing risk-based capital calculations and other adjusted capital calculations to assist the Commissioner with evaluating the levels of the surplus of the SPFC for the year ending on December 31 of the previous year. The statements shall be prepared on forms required by the Commissioner. In addition, the Commissioner may require the filing of performance assessments of the SPFC contract.

(e) An SPFC shall maintain the SPFC's records in this State unless otherwise approved by the Commissioner and shall make its records available for examination by the Commissioner at any time. The SPFC shall keep its books and records in such manner that its financial condition, affairs, and operations can be ascertained and so that the Commissioner may readily verify its financial statements and determine its compliance with this Part.

(f) All original books, records, documents, accounts, and vouchers shall be preserved and kept available in this State for the purpose of examination and until authority to destroy or otherwise dispose of the records is secured from the Commissioner. The original records, however, may be kept and maintained outside this State if, according to a plan adopted by the management of the SPFC and approved by the Commissioner, the SPFC maintains suitable copies instead of the originals. The books or records may be photographed, reproduced on film, or stored and reproduced electronically.

"§ **58-10-630. Cessation of business.**

At the cessation of business of an SPFC following termination or cancellation of an SPFC contract and the redemption of any related securities issued in connection with the SPFC contract, the authority granted by the Commissioner expires or, in the case of retiring and surviving protected cells, is modified, the SPFC is no longer authorized to conduct activities unless and until a new or modified certificate of authority is issued pursuant to a new filing under this Part or as agreed by the Commissioner.

"§ **58-10-635. Supervision, rehabilitation, or liquidation of SPFC.**

(a) Except as otherwise provided in this section, the terms and conditions set forth in Article 30 of this Chapter pertaining to supervision, rehabilitation, and liquidation of insurers apply in full to SPFCs or each of the SPFC's protected cells, independently, or both, without causing or otherwise effecting a supervision, rehabilitation, or liquidation of the SPFC or another protected cell.

(b) Notwithstanding the provisions of Article 30 of this Chapter, and without causing or otherwise effecting a rehabilitation or liquidation of an otherwise solvent protected cell of an SPFC and subject to the provisions of subdivision (g)(5) of this section, the Commissioner may apply by petition to the court for an order authorizing the Commissioner to rehabilitate or liquidate an SPFC domiciled in this State on one or more of the following grounds:

(1) There has been embezzlement, wrongful sequestration, dissipation, or diversion of the assets of the SPFC intended to be used to pay amounts owed to the counterparty or the holders of SPFC securities.

(2) The SPFC is insolvent and the holders of a majority in outstanding principal amount of each class of SPFC securities request or consent to rehabilitation or liquidation pursuant to the provisions of this Part.

(c) Notwithstanding the provisions of Article 30 of this Chapter, the Commissioner may apply by petition to the Court for an order authorizing the Commissioner to rehabilitate or liquidate one or more of an SPFC's protected cells independently, without causing or otherwise effecting a rehabilitation or liquidation of the SPFC generally or another of its protected cells on one or more of the following grounds:

(1) There has been embezzlement, wrongful sequestration, dissipation, or diversion of the assets of the SPFC attributable to the affected protected cell or cells intended to be used to pay amounts owed to the counterparty or the holders of SPFC securities of the affected protected cell or cells.

(2) The affected protected cell is insolvent and the holders of a majority in outstanding principal amount of each class of SPFC securities attributable to that particular protected cell request or consent to rehabilitation or liquidation pursuant to the provisions of this Part.

(d) The Court may not grant relief provided by subdivision (b)(1) or (c)(1) of this section, unless after notice and a hearing, the Commissioner, who shall have the burden of proof, establishes by preponderance of the evidence that relief must be granted. The court's order may be made with respect to one or more protected cells by name, rather than the SPFC generally.

(e) Notwithstanding another provision in this Chapter, rules adopted under this Chapter, or another applicable law or regulation, upon any order of rehabilitation or liquidation of a SPFC, or one or more of the SPFC's protected cells, the receiver shall manage the assets and liabilities of the SPFC pursuant to the provisions of this Part. The receiver shall ensure that the assets linked to one protected cell are not applied to the liabilities linked to another protected cell or to the SPFC generally, unless an asset or liability is linked to more than one protected cell, in which case the receiver shall deal with the asset or liability in accordance with the terms of any relevant governing instrument or contract.

(f) With respect to amounts recoverable under an SPFC contract, the amount recoverable by the receiver must not be reduced or diminished as a result of the entry of an order of rehabilitation or liquidation with respect to the counterparty, notwithstanding another provision in the contracts or other documentation governing the SPFC insurance securitization.

(g) Notwithstanding the provisions of Article 30 of this Chapter or other laws of this State:

(1) An application or petition, or a temporary restraining order or injunction issued pursuant to the provisions of Article 30 of this Chapter, with respect to a counterparty does not prohibit the transaction of a business by an SPFC, including any payment by an SPFC made pursuant to an SPFC security, or any action or proceeding against an SPFC or its assets.

(2) The commencement of a summary proceeding or other interim proceeding commenced before a delinquency proceeding with respect to an SPFC, and any order issued by the court does not prohibit the payment by an SPFC made pursuant to an SPFC security, SPFC contract, or the SPFC from taking any action required to make the payment.

(3) A receiver of a counterparty may not void a nonfraudulent transfer by a counterparty to an SPFC of money or other property made pursuant to an SPFC contract.

(4) A receiver of an SPFC may not void a nonfraudulent transfer by the SPFC of money or other property made to a counterparty pursuant to an SPFC contract or made to or for the benefit of any holder of an SPFC security on account of the SPFC security.

(5) The Commissioner may not seek to have an SPFC with protected cells declared insolvent as long as at least one of the SPFC's protected cells remains solvent, and in the case of such an insolvency, the receiver shall handle the SPFC's assets in compliance with subsection (e) of this section and other laws of this State.

(h) Subsection (g) of this section does not prohibit the Commissioner from taking any action permitted under Article 30 of this Chapter with respect only to the rehabilitation of an SPFC with protected cell or cells, provided the Commissioner would have had sufficient grounds to seek to declare the SPFC insolvent, subject to and without otherwise affecting the provisions of subdivision (5) of subsection (g) of this section. In this case, with respect to the solvent protected cell or cells, the Commissioner may not prohibit payments made by the SPFC pursuant to the SPFC security, SPFC contract, or otherwise made under the insurance securitization transaction that are attributable to these protected cell or cells or prohibit the SPFC from taking any action required to make these payments.

(i) With the exception of the fulfillment of the obligations under an SPFC contract, and notwithstanding another provision of this Part or other laws of this State, the assets of an SPFC, including assets held in trust, must not be consolidated with or included in the estate of a counterparty in any delinquency proceeding against the counterparty, pursuant to the provisions of this Part for any purpose including, without limitation, distribution to creditors of the counterparty.

"Subpart 5. Other Provisions.

"§ **58-10-650. Other laws applicable to captive insurance companies.**

In addition to the statutes and laws previously referred to in this Part, the following provisions of this Chapter are applicable to all captive insurance companies subject to this Part:

(1) G.S. 58-2-45. – Orders of Commissioner; when writing required.

(2) G.S. 58-2-160. – Reporting and investigation of insurance and reinsurance fraud and the financial condition of licensees; immunity from liability.

(3) G.S. 58-2-162. – Embezzlement by insurance agents, brokers, or administrators.
(4) G.S. 58-2-185. – Record of business kept by companies and agents; Commissioner may inspect.
(5) G.S. 58-2-190. – Commissioner may require special reports.
(6) G.S. 58-2-195. – Commissioner may require records, reports, etc., for agencies, agents, and others.
(7) G.S. 58-2-200. – Books and papers required to be exhibited.
(8) G.S. 58-5-1. – Deposits; use of master trust.
(9) G.S. 58-7-50. – Maintenance and removal of records and assets.
(10) G.S. 58-7-55. – Exceptions to requirements of G.S. 58-7-50."

SECTION 2. G.S. 58-22-15 reads as rewritten:

"§ **58-22-15. Risk retention groups chartered in this State.**

(a) A risk retention group ~~seeking to be chartered in this State must be chartered~~ shall, pursuant to the provisions of Part 9 of Article 10 of this Chapter, be chartered and licensed ~~as a~~ to write only liability insurance ~~company under Article 7 of this Chapter~~ pursuant to this Article and, except as provided elsewhere in this Article, must comply with all of the laws and rules applicable to such insurers chartered and licensed in this State and with G.S. 58-22-20 to the extent such requirements are not a limitation on laws, administrative rules, or requirements of this State. ~~As a chartered and licensed liability insurance company, the group is subject to the taxes imposed in Article 8B of Chapter 105 of the General Statutes.~~

…."

SECTION 3. G.S. 58-28-5 reads as rewritten:

"§ **58-28-5. Transacting business without a license prohibited; exceptions.**

(a) Except as otherwise provided in this section, it is unlawful for any company to enter into a contract of insurance as an insurer or to transact insurance business in this State as set forth in G.S. 58-28-13 without a license issued by the Commissioner. This section does not apply to the following acts or transactions:

…

(10) An activity in this State by or on the sole behalf of a captive insurer licensed and subject to regulation in another jurisdiction other than this State that insures solely the risks of the company's parent and affiliated ~~companies.~~companies or the risks of a controlled unaffiliated business.

…."

SECTION 4. G.S. 58-47-95 reads as rewritten:

"§ **58-47-95. Excess insurance and reinsurance.**

…

(b) Any excess insurance policy or reinsurance contract under this section shall be issued by a licensed insurance company, a licensed captive insurance company, an approved surplus lines insurance company, or an accredited reinsurer, and shall:

(1) Provide for at least 30 days' written notice of cancellation by certified mail, return receipt requested, to the group and to the Commissioner.
(2) Be renewable automatically at its expiration, except upon 30 days' written notice of nonrenewal by certified mail, return receipt requested, to the group and to the Commissioner.

…."

SECTION 5. G.S. 97-190 reads as rewritten:

"§ **97-190. Excess insurance.**

…

(b) An excess insurance policy required by this section shall be issued by either an insurance company licensed in this ~~State~~ State, a captive insurance company licensed in this State, or an eligible surplus lines insurer as defined in G.S. 58-21-10 and shall:

(1) Provide for at least 30 days' written notice of cancellation by registered or certified mail, return receipt requested, to the self-insurer and to the Commissioner.

(2) Be renewable automatically at its expiration, except upon 30 days' written notice of nonrenewal by certified mail, return receipt requested, to the self-insurer and to the Commissioner.

…."

SECTION 6.(a) G.S. 105-228.3 reads as rewritten:

"§ **105-228.3. Definitions.**

The following definitions apply in this Article:

(1) Article 65 corporation. – A corporation subject to Article 65 of Chapter 58 of the General Statutes, regulating hospital, medical, and dental service corporations.

(1a) Captive insurance company. – Defined in G.S. 58-10-340.

(2) Insurer. – An insurer as defined in G.S. 58-1-5 or a group of employers who have pooled their liabilities pursuant to G.S. 97-93 of the Workers' Compensation Act.

(3) Self-insurer. – An employer that carries its own risk pursuant to G.S. 97-93 of the Workers' Compensation Act."

SECTION 6.(b) Article 8B of Chapter 105 of the General Statutes is amended by adding a new section to read:

"**§ 105-228.4A. Tax on captive insurance companies.**

(a) Tax Levied. – A tax is levied in this section on a captive insurance company doing business in this State. In the case of a branch captive insurance company, the tax levied in this section applies only to the branch business of the company. Two or more captive insurance companies under common ownership and control are taxed under this section as a single captive insurance company.

(b) Other Taxes. – A captive insurance company that is subject to the tax levied by this section is not subject to any of the following:

(1) Franchise taxes imposed by Article 3 of this Chapter.

(2) Income taxes imposed by Article 4 of this Chapter.

(3) Local privilege taxes or local taxes computed on the basis of gross premiums.

(4) The insurance regulatory charge imposed by G.S. 58-6-25.

(c) Administration. – The definitions in G.S. 58-10-340 apply in this section. A company subject to this section must file with the Secretary a full and accurate report of the premiums contracted for or collected on policies or contracts of insurance written by the company during the preceding calendar year. In the case of a multiyear policy or contract, the premiums must be prorated among the years covered by the policy or contract. The report is due on or before March 1. The taxes imposed by this section are due to the Secretary with the report.

(d) Tax on Assumed Reinsurance Premiums. – The tax to be applied to assumed reinsurance premiums is computed at the percentages provided in the table below. The tax does not apply to premiums for risks or portions of risks that are subject to taxation on a direct basis under subsection (e) of this section. The tax is not payable in connection with the receipt of assets in exchange for the assumption of loss reserves and other liabilities of one insurer by another insurer if the two insurers are under common control and the Commissioner of Insurance verifies both of the following: (i) the transaction between the insurers is part of a plan to discontinue the operations of one of the insurers, and (ii) the intent of the insurers is to renew or maintain business with the captive insurance company.

Premiums Collected	**Rate of Tax**
Up to $20,000,000	.225%
$20,000,000 to $40,000,000	.150%
$40,000,000 to $60,000,000	.050%
$60,000,000 and over	.025%

(e) Tax on Direct Premiums. – The tax to be applied to direct premiums is computed at the percentages provided in the table below. In determining the amount of premiums subject to tax under this subsection, the taxpayer may deduct the amounts paid to policyholders as return premiums. Return premiums include dividends on unabsorbed premiums or premium deposits returned or credited to policyholders.

Premiums Collected	**Rate of Tax**
Up to $20,000,000	0.4%
$20,000,000 and more	0.3%

(f) Total Tax Liability. – The aggregate amount of tax payable under this section by a protected cell captive insurance company with more than 10 cells may not be less than ten thousand dollars ($10,000) and may not exceed the lesser of (i) one hundred thousand dollars ($100,000) plus five thousand dollars ($5,000) multiplied by the number of cells over 10 and (ii) two hundred thousand dollars ($200,000). The aggregate amount of tax payable under this section for any other captive insurance company may not be less than five thousand dollars ($5,000) and may not exceed one hundred thousand dollars ($100,000).

If a captive insurance company is a special purpose financial captive and if the special purpose financial captive is under common ownership and control with one or more other captive insurance companies, the following provisions apply to the consolidated group of companies that are taxed as a single captive insurance company pursuant to subsection (a) of this section:

(1) The amount of premium tax payable under this section is allocated to each member of the consolidated group in the same proportion that the premium allocable to the member bears to the total premium of all members.

(2) The aggregate amount of tax payable under this section by the consolidated group is equal to the greater of the following:

a. The sum of the premium tax allocated to the members.

b. Five thousand dollars ($5,000).

(3) If the total premium tax allocated to all members of a consolidated group that are special purpose financial captives exceeds one hundred thousand dollars ($100,000), then the total premium tax allocated to those members is one hundred thousand dollars ($100,000).

(4) If the total premium tax allocated to all members of the consolidated group that are not special purpose financial captives exceeds one hundred thousand dollars ($100,000), then the total premium tax allocated to those members is one hundred thousand dollars ($100,000)."

SECTION 6.(c) G.S. 105-228.5(g) reads as rewritten:

"(g) Exemptions. – This section does not apply to farmers' mutual assessment fire insurance companies or to fraternal orders or societies that do not operate for a profit and do not issue policies on any person except members. This section does not apply to a captive insurance company taxed under G.S. 105-228.4A."

SECTION 7. G.S. 58-6-25 reads as rewritten:

"§ **58-6-25. Insurance regulatory charge.**

(a) Charge Levied. – There is levied on each insurance ~~company~~ company, other than a captive insurance company, an annual charge for the purposes stated in subsection (d) of this section. The charge levied in this section is in addition to all other fees and taxes. The percentage rate of the charge is established pursuant to subsection (b) of this section and is applied to the company's premium tax liability for the taxable year. In determining an insurance company's premium tax liability for a taxable year, the following shall be disregarded:

…

(d) Use of Proceeds. – The Insurance Regulatory Fund is created in the State treasury, under the control of the Office of State Budget and Management. The proceeds of the charge levied in this section and all fees collected under Articles 69 through 71 of this Chapter and under Articles 9 and 9C of Chapter 143 of the General Statutes shall be credited to the Fund. The Fund shall be placed in an interest-bearing account and any interest or other income derived from the Fund shall be credited to the Fund. Moneys in the Fund may be spent only pursuant to appropriation by the General Assembly and in accordance with the line item budget enacted by the General Assembly. The Fund is subject to the provisions of the Executive Budget Act, except that no unexpended surplus of the Fund shall revert to the General Fund. All money credited to the Fund shall be used to reimburse the General Fund for the following:

(1) Money appropriated to the Department of Insurance to pay its expenses incurred in regulating the insurance ~~industry~~ industry, including the captive insurance industry, and other industries in this State.

…

(10) Money appropriated to the Department of Insurance to pay its expenses incurred in promoting North Carolina's captive insurance industry.

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

(1) Repealed by Session Laws 2003-284, s. 43.2, effective for taxable years beginning on or after January 1, 2004.

(1a) Captive insurance company. – Defined in G.S. 105-228.3.

(2) Insurance company. – A company that pays the gross premiums tax levied in G.S. 105-228.5 and G.S. 105-228.8.

(3) Insurer. – Defined in G.S. 105-228.3."

SECTION 8. Nothing in this act shall be construed to obligate the General Assembly to appropriate funds to implement the provisions of this act. This act becomes effective July 1, 2013, if funds are appropriated for the 2013-2015 fiscal biennium to provide the Department with regulatory staff and resources to license and regulate captive insurance companies. If no funds are appropriated, then this act shall not become effective until July 1 of a year in which the General Assembly appropriates funds to implement it.

In the General Assembly read three times and ratified this the 13th day of June, 2013.

Became law upon approval of the Governor at 4:06 p.m. on the 19th day of June, 2013.

Session Law 2013-117 **H.B. 88**

AN ACT TO MAKE TECHNICAL CORRECTIONS TO THE LAW PERTAINING TO LIEN AGENTS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 44A-11.1 reads as rewritten:

"§ **44A-11.1. Lien agent; designation and duties.**

(a) With regard to any improvements to real property to which this Article is applicable for which the costs of the undertaking are thirty thousand dollars ($30,000) or more, either at the time that the original building permit is issued or, in cases in which no building permit is required, at the time the contract for the improvements is entered into with the owner, the owner shall designate a lien agent no later than the time the owner first contracts with any person to improve the real property. Provided, however, that the owner is not required to designate a lien agent for improvements to an existing single-family residential dwelling unit as defined in G.S. 87-15.5(7) that is ~~used~~ occupied by the owner as a ~~residence.~~residence, or for the addition of an accessory building or accessory structure as defined in the North Carolina Uniform Residential Building Code, the use of which is incidental to that residence. The owner

shall deliver written notice of designation to its designated lien agent by any method authorized in G.S. 44A-11.2(g), and shall include in its notice the street address, tax map lot and block number, reference to recorded instrument, or any other description that reasonably identifies the real property for the improvements to which the lien agent has been designated, and the owner's contact information. Designation of a lien agent pursuant to this section does not make the lien agent an agent of the owner for purposes of receiving a Claim of Lien on Real Property, a Notice of Claim of Lien upon Funds or for any purpose other than the receipt of notices to the lien agent required under G.S. 44A-11.2.

…

(d) In the event that the lien agent ~~dies,~~ resigns, is no longer licensed to serve as a lien agent, revokes its consent to serve as lien agent or is removed by the owner, or otherwise becomes unable or unwilling to serve before the completion of all improvements to the real property, the owner shall within three business days of notice of such event do all of the following:

(1) Designate a successor lien agent and provide written notice of designation to the successor lien agent pursuant to subsection (a) of this section.

(2) Provide the contact information for the successor lien agent to the inspection department that issued any required building permit and to any persons who requested information from the owner relating to the predecessor lien agent.

(3) Display the contact information for the successor lien agent on the building permit or attachment thereto posted on the improved property or, if no building permit was required, on a sign complying with G.S. 44A-11.2(f).

…."

SECTION 2. G.S. 44A-11.2 reads as rewritten:

"§ **44A-11.2. Identification of lien agent; notice to lien agent; effect of notice.**

…

(d) A contractor or subcontractor for improvements to real property subject to G.S. 44A-11.1 shall, within three business days of contracting with a lower-tier subcontractor who is not required to furnish ~~labor~~ labor, materials, rental equipment, or professional design or surveying services at the site of the improvements, provide the lower-tier subcontractor with a written notice containing the contact information for the lien agent designated by the owner. This notice shall be given pursuant to subsection (g) of this section or may be given by including the lien agent contact information in a written subcontract entered into by, or a written purchase order issued to, the lower-tier subcontractor entitled to the notice required by this subsection. Any contractor or subcontractor who has previously received notice of the lien agent contact information, whether from the building permit, the inspections office, a notice from the owner, contractor, or subcontractor, or by any other means, and who fails to provide the lien agent contact information to the lower-tier subcontractor in the time required under this subsection, shall be liable to the lower-tier subcontractor for any actual damages incurred by the lower-tier subcontractor as a result of the failure to give notice.

…

(g) In complying with any requirement for written notice pursuant to this section, the notice shall be addressed to the person required to be provided with the notice and shall be delivered by any of the following methods:

…

(7) Utilizing an Internet Web site approved for such use by the designated lien agent to transmit to the designated lien agent, with delivery receipt, all information required to notify the lien agent of its designation pursuant to ~~G.S. 44A-11.1,~~G.S. 44A-11.1 or to provide a notice to the designated lien agent pursuant to this ~~section, or to deliver a copy of a notice of claim of lien upon funds to the designated lien agent pursuant to G.S. 44A-23(a1)(3) or G.S. 44A-23(b)(5)c.~~section.

…

(h) For purposes of this subsection, "custom contractor" means a contractor duly licensed as a general contractor pursuant to Article 1 of Chapter 87 of the General Statutes who has contracted with an owner who is not an affiliate, relative, or insider of the contractor to build a single-family residence on the owner's property to be occupied by the owner as a residence. A custom contractor will be deemed to have met the requirement of notice under subsections (m) and (n) of this section on the date of the lien agent's receipt of notice of its designation as lien agent delivered to it by the custom contractor in accordance with this section if, at the time of the lien agent's receipt of the notice, all of the following conditions are met:

(1) The owner has not previously designated a lien agent for the improvements to which the notice of designation of lien agent relates.

(2) The custom contractor is authorized to designate the lien agent on behalf of the owner under the written contract between the owner and custom contractor.

(3) In addition to the information required to be included pursuant to G.S. 44A-11.1(a), the notice of designation of lien agent contains the following information:

a. The custom contractor's name, mailing address, telephone number, fax number (if available), and electronic mailing address (if available).

b. The name of the owner with whom the custom contractor has contracted to improve the real property identified in the notice.

After receiving a notice of its designation from a custom contractor pursuant to this subsection, the designated lien agent shall include the custom contractor's name and contact information in responding to any request for information pursuant to G.S. 58-26-45(b)(7).

~~When a lien agent is identified in a contract between an owner and a contractor for improvements to real property consisting of a single family residence, the contractor will be deemed to have met the requirement of notice under subsections (m) and (n) of this section on the date of the lien agent's receipt of the owner's notice of designation of the lien agent. The owner shall provide written notice to the lien agent containing the information pertaining to the contractor required in a notice to lien agent pursuant to subdivisions (1) through (3) of subsection (j) of this section, by any method of delivery authorized in G.S. 44A-11.2(g). The lien agent shall include the contractor's name and address in its response to any persons requesting information relating to persons who have given notice to the lien agent pursuant to this section.~~

…."

SECTION 3. G.S. 58-26-45(b) reads as rewritten:

"§ **58-26-45. Registration as a lien agent.**

…

(b) Upon receipt of the notice of designation by the owner pursuant to G.S. 44A-11.1, a lien agent shall have the duty to do all of the following:

…

~~(6) Within three business days of receipt of information relating to the contractor provided by the owner pursuant to G.S. 44A-11.2(h), provide a written notice to the contractor acknowledging receipt of this information, by any method of delivery authorized in G.S. 44A-11.2(g).~~

~~(6a) Within three business days of receipt of information relating to a design professional provided by the owner pursuant to G.S. 44A-11.2(i), provide a written notice to the design professional acknowledging receipt of this information by any method of delivery authorized in G.S. 44A-11.2(g).~~

…."

SECTION 4. G.S. 87-14(a)(3) reads as rewritten:

"§ **87-14. Regulations as to issue of building permits.**

(a) Any person, firm, or corporation, upon making application to the building inspector or such other authority of any incorporated city, town, or county in North Carolina charged with the duty of issuing building or other permits for the construction of any building, highway, sewer, grading, or any improvement or structure where the cost thereof is to be thirty thousand dollars ($30,000) or more, shall, before being entitled to the issuance of a permit, satisfy the following:

…

(3) Any person, firm, or corporation, upon making application to the building inspector or such other authority of any incorporated city, town, or county in North Carolina charged with the duty of issuing building permits pursuant to G.S. 160A-417(a)(1) or G.S. 153A-357(a)(1) for any improvements for which the combined cost is to be thirty thousand dollars ($30,000) or more, other than for improvements to an existing single-family residential dwelling unit as defined in G.S. 87-15.5(7) that the ~~applicant uses~~owner occupies as a residence, or for the addition of an accessory building or accessory structure as defined in the North Carolina Uniform Residential Building Code, the use of which is incidental to that residential dwelling unit, shall be required to provide to the building inspector or other authority the name, physical and mailing address, telephone number, facsimile number, and electronic mail address of the lien agent designated by the owner pursuant to G.S. 44A-11.1(a)."

SECTION 5. G.S. 160A-417(d) reads as rewritten:

"§ **160A-417. Permits.**

(a) No person shall commence or proceed with any of the following without first securing from the inspection department with jurisdiction over the site of the work any and all permits required by the State Building Code and any other State or local laws applicable to the work:

(1) The construction, reconstruction, alteration, repair, movement to another site, removal, or demolition of any building or structure.

…

(d) No permit shall be issued pursuant to subdivision (1) of subsection (a) of this section where the cost of the work is thirty thousand dollars ($30,000) or more, other than for improvements to an existing single-family residential dwelling unit as defined in G.S. 87-15.5(7) that the ~~applicant uses~~owner occupies as a residence, or for the addition of an accessory building or accessory structure as defined in the North Carolina Uniform Residential Building Code, the use of which is incidental to that residential dwelling unit, unless the name, physical and mailing address, telephone number, facsimile number, and electronic mail address of the lien agent designated by the owner pursuant to G.S. 44A-11.1(a) is conspicuously set forth in the permit or in an attachment thereto. The building permit may contain the lien agent's electronic mail address. The lien agent information for each permit issued pursuant to this subsection shall be maintained by the inspection department in the same manner and in the same location in which it maintains its record of building permits issued."

SECTION 6. G.S. 153A-357(e) reads as rewritten:

"§ **153A-357. Permits.**

(a) No person may commence or proceed with any of the following without first securing from the inspection department with jurisdiction over the site of the work each permit required by the State Building Code and any other State or local law or local ordinance or regulation applicable to the work:

(1) The construction, reconstruction, alteration, repair, movement to another site, removal, or demolition of any building.

…

(e) No permit shall be issued pursuant to subdivision (1) of subsection (a) of this section where the cost of the work is thirty thousand dollars ($30,000) or more, other than for improvements to an existing single-family residential dwelling unit as defined in G.S. 87-15.5(7) that the ~~applicant uses~~owner occupies as a residence, or for the addition of an accessory building or accessory structure as defined in the North Carolina Uniform Residential Building Code, the use of which is incidental to that residential dwelling unit, unless the name, physical and mailing address, telephone number, facsimile number, and electronic mail address of the lien agent designated by the owner pursuant to G.S. 44A-11.1(a) is conspicuously set forth in the permit or in an attachment thereto. The building permit may contain the lien agent's electronic mail address. The lien agent information for each permit issued pursuant to this subsection shall be maintained by the inspection department in the same manner and in the same location in which it maintains its record of building permits issued."

SECTION 7. This act is effective three days after it becomes law and applies to improvements to real property affected hereby for which the first furnishing of labor or materials at the site of the improvements is on or after that date.

In the General Assembly read three times and ratified this the 10th day of June, 2013.

Became law upon approval of the Governor at 4:09 p.m. on the 19th day of June, 2013.

Session Law 2013-118 **H.B. 120**

AN ACT TO REQUIRE APPROVAL FROM THE NORTH CAROLINA BUILDING CODE COUNCIL BEFORE A UNIT OF LOCAL GOVERNMENT MAY REQUIRE BUILDING INSPECTIONS IN ADDITION TO THOSE REQUIRED BY THE BUILDING CODE; TO SPECIFY THE FREQUENCY AND EFFECTIVE DATES OF CODE UPDATES; AND TO EXEMPT CABLE TELEVISION EQUIPMENT INSTALLATION FROM BUILDING CODE REQUIREMENTS.

The General Assembly of North Carolina enacts:

SECTION 1.(a) G.S.153A-352 reads as rewritten:

"§ **153A-352. Duties and responsibilities.**

(a) The duties and responsibilities of an inspection department and of the inspectors in it are to enforce within the county's territorial jurisdiction State and local laws and local ordinances and regulations relating to:

(1) The construction of buildings;

(2) The installation of such facilities as plumbing systems, electrical systems, heating systems, refrigeration systems, and air-conditioning systems;

(3) The maintenance of buildings in a safe, sanitary, and healthful condition;

(4) Other matters that may be specified by the board of commissioners.

These duties and responsibilities include receiving applications for permits and issuing or denying permits, making necessary inspections, issuing or denying certificates of compliance, issuing orders to correct violations, bringing judicial actions against actual or threatened violations, keeping adequate records, and taking any other actions that may be required to adequately enforce the laws and ordinances and regulations. The board of commissioners may enact reasonable and appropriate provisions governing the enforcement of the laws and ordinances and regulations.

(b) Except as provided in G.S. 153A-364, a county may not adopt a local ordinance or resolution or any other policy that requires regular, routine inspections of buildings or structures constructed in compliance with the North Carolina Residential Code for One- and Two-Family Dwellings in addition to the specific inspections required by the North Carolina Building Code without first obtaining approval from the North Carolina Building Code Council. The North Carolina Building Code Council shall review all applications for additional

inspections requested by a county and shall, in a reasonable manner, approve or disapprove the additional inspections. This subsection does not limit the authority of the county to require inspections upon unforeseen or unique circumstances that require immediate action."

SECTION 1.(b) G.S. 160A-412 reads as rewritten:

"§ **160A-412. Duties and responsibilities.**

(a) The duties and responsibilities of an inspection department and of the inspectors therein shall be to enforce within their territorial jurisdiction State and local laws relating to

(1) The construction of buildings and other structures;

(2) The installation of such facilities as plumbing systems, electrical systems, heating systems, refrigeration systems, and air-conditioning systems;

(3) The maintenance of buildings and other structures in a safe, sanitary, and healthful condition;

(4) Other matters that may be specified by the city council.

These duties shall include the receipt of applications for permits and the issuance or denial of permits, the making of any necessary inspections, the issuance or denial of certificates of compliance, the issuance of orders to correct violations, the bringing of judicial actions against actual or threatened violations, the keeping of adequate records, and any other actions that may be required in order adequately to enforce those laws. The city council shall have the authority to enact reasonable and appropriate provisions governing the enforcement of those laws.

(b) Except as provided in G.S. 160A-424, a city may not adopt a local ordinance or resolution or any other policy that requires regular, routine inspections of buildings or structures constructed in compliance with the North Carolina Residential Code for One- and Two-Family Dwellings in addition to the specific inspections required by the North Carolina Building Code without first obtaining approval from the North Carolina Building Code Council. The North Carolina Building Code Council shall review all applications for additional inspections requested by a city and shall, in a reasonable manner, approve or disapprove the additional inspections. This subsection does not limit the authority of the city to require inspections upon unforeseen or unique circumstances that require immediate action."

SECTION 2. G.S. 143-138(d) reads as rewritten:

"(d) Amendments of the Code. – The Building Code Council may periodically revise and amend the North Carolina State Building Code, either on its own motion or upon application from any citizen, State agency, or political subdivision of the State. In addition to the periodic revisions or amendments made by the Council, the Council shall revise the North Carolina State Building Code: Residential Code for One- and Two-Family Dwellings, including provisions applicable to One- and Two-Family Dwellings from the NC Energy Code, NC Electrical Code, NC Fuel Gas Code, NC Plumbing Code, and NC Mechanical Code only every six years, to become effective the first day of January of the following year, with at least six months between adoption and effective date. The first six-year revision under this subsection shall be adopted to become effective January 1, 2019, and every six years thereafter. In adopting any amendment, the Council shall comply with the same procedural requirements and the same standards set forth above for adoption of the Code. The Council, through the Department of Insurance, shall publish in the North Carolina Register and shall post on the Council's Web site all appeal decisions made by the Council and all formal opinions at least semiannually. The Council, through the Department of Insurance, shall also publish at least semiannually in the North Carolina Register a statement providing the accurate Web site address and information on how to find additional commentary and interpretation of the Code."

SECTION 3. G.S. 143-138(b8) reads as rewritten:

"(b8) Nothing in this Article shall extend to or be construed as being applicable to the regulation of the design, construction, location, installation, or operation of (1) equipment for storing, handling, transporting, and utilizing liquefied petroleum gases for fuel purposes or anhydrous ammonia or other liquid fertilizers, except for liquefied petroleum gas from the outlet of the first stage pressure regulator to and including each liquefied petroleum gas utilization device within a building or structure covered by the Code, or (2) equipment or

facilities, other than buildings, of a public utility, as defined in G.S. 62-3, a cable television company, or an electric or telephone membership corporation, including without limitation poles, towers, and other structures supporting ~~electric~~ electric, cable television, or communication lines."

SECTION 3.5. The Department of Insurance shall post and maintain on its Web site written commentaries and written interpretations made and given by staff to the North Carolina Building Code Council and the Department for each section of the North Carolina Building Code.

SECTION 4. If any provision of this act or its application is held invalid, the invalidity does not affect other provisions or applications of this act that can be given effect without the invalid provisions or application, and to this end the provisions of this act are severable.

SECTION 5. This act becomes effective July 1, 2013.

In the General Assembly read three times and ratified this the 13th day of June, 2013.

Became law upon approval of the Governor at 4:09 p.m. on the 19th day of June, 2013.

Session Law 2013-119 **H.B. 317**

AN ACT TO IMPROVE EDUCATIONAL OUTCOMES FOR NORTH CAROLINA CHILDREN WHO ARE DEAF OR HARD OF HEARING.

Whereas, children with low-incidence disabilities, as a group, make up approximately one percent (1%) of the total statewide enrollment in public schools; and

Whereas, children with low-incidence disabilities may require highly specialized services, equipment, and materials from the age of onset; and

Whereas, the acquisition of language is essential to the achievement of literacy and academic success; and

Whereas, children who are deaf or hard of hearing, regardless of communication modality, are entitled to the same opportunity to achieve grade and age-level literacy as other children; and

Whereas, skill in signing or speaking does not guarantee skill in reading and writing, and reading and writing must be taught using the mode of the individual child's communication; and

Whereas, children who have a solid language base, regardless of whether it is spoken or signed, become better readers than those who do not; and

Whereas, all children who come to school and who are not proficient in reading and writing English, including children whose spoken language is not English and children who use non-English American Sign Language (ASL) or other combined signing systems, must receive specialized instruction in order to read and write English; and

Whereas, some children who are deaf or hard of hearing and who are not proficient in reading and writing English may be eligible for special education services if an Individualized Education Program (IEP) team determines the child's hearing loss is the reason the child has not obtained proficiency in reading and writing English; and

Whereas, some children who are deaf or hard of hearing require instruction from highly qualified and certified personnel who can communicate using the individual child's communication mode; and

Whereas, children who are deaf or hard of hearing may be classified as having a primary disability other than hearing loss for purposes of special education and, therefore, may not be tracked within existing Department of Public Instruction databases as having a hearing loss, thus making it challenging to monitor their language development and literacy achievement; and

Whereas, children who are deaf or hard of hearing may be best served by having opportunities to interact with a sufficient number of same language and communication mode peers who are of the same age and ability level; and

Whereas, it is desirable for children who are deaf or hard of hearing to have opportunities to interact with adult role models who are deaf or hard of hearing; and

Whereas, children who are deaf or hard of hearing should be offered equal opportunity to benefit from all services and programs at their school; and

Whereas, North Carolina has adopted the Common Core State and NC Essential Standards; Now, therefore,

The General Assembly of North Carolina enacts:

SECTION 1. The State Board of Education shall do at least all of the following to improve the educational outcomes for North Carolina children who are deaf or hard of hearing:

(1) Develop assessment procedures and protocols to measure, at least annually or more frequently if specified in a child's Individualized Education Program (IEP), the acquisition of language skills necessary for literacy using linguistically and culturally appropriate assessment tools. The results of these assessments shall be used to determine whether further support and services, if any, are needed for a child.

(2) Require an IEP team to use the Communication Plan Worksheet for Student Who is Deaf or Hard of Hearing to document (i) the team's consideration of the language and communication needs of the individual child as the IEP is developed, reviewed, or revised, (ii) data to be used in the placement decisions made for that child, and (iii) the team's review, at least annually, of the child's placement and language and communication needs.

(3) Ensure that personnel who are highly qualified in the education of children who are deaf or hard of hearing are available to meet the unique needs of each child, including interactions in the child's language and communication modality to meet academic and social goals.

(4) Develop and implement strategies to ensure that parents of a child who is deaf or hard of hearing know they are entitled to request that the child's IEP team consider placement of their child in a residential setting and, if such a request is made, that a representative from one of the two North Carolina residential/day program schools for the deaf shall be a member of the IEP team.

SECTION 2. The Department of Health and Human Services and other State agencies and organizations upon the request of the Department of Public Instruction (DPI) shall make databases containing information on children under the age of 22 who are diagnosed as deaf or hard of hearing available to DPI. DPI shall use this information to develop and maintain a statewide data tracking system for the purpose of coordinating with other State agencies and organizations and ensuring literacy achievement for all such children who are deaf or hard of hearing.

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

In the General Assembly read three times and ratified this the 10th day of June, 2013.

Became law upon approval of the Governor at 4:11 p.m. on the 19th day of June, 2013.

Session Law 2013-120 **H.B. 211**

AN ACT TO MODIFY THE WEIGHT RESTRICTIONS APPLICABLE TO VEHICLES TRANSPORTING FEED THAT IS USED IN THE FEEDING OF POULTRY OR LIVESTOCK WHEN TRAVELING WITHIN ONE HUNDRED FIFTY MILES OF THE POINT OF ORIGIN TO CERTAIN LOCATIONS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-118(c)(12) reads as rewritten:

"(12) Subsections (b) and (e) of this section do not apply to a vehicle or vehicle combination that meets all of the conditions set out below:

a. Is transporting any of the following items within 150 miles of the point of origination:

1. Agriculture crop products transported from a farm to a processing plant or market.
2. Water, fertilizer, pesticides, seeds, fuel, or animal waste transported to or from a farm by a farm vehicle as defined in G.S. 20-37.16(e)(3).
3. Meats, livestock, or live poultry transported from the farm where they were raised to a processing plant or market.

3a. Feed that is used in the feeding of poultry or livestock and transported from a storage facility, holding facility, or mill to a farm.

4. Forest products originating and transported from a farm or woodlands to market with delay interruption or delay for further packaging or processing after initiating transport.
5. Wood residuals, including wood chips, sawdust, mulch, or tree bark from any site.
6. Raw logs to market.
7. Trees grown as Christmas trees from field, farm, stand, or grove to a processing point.

b. Repealed by Session Laws 1993 (Reg. Sess., 1994), c. 761, s. 13.

b1. Does not operate on an interstate highway or exceed any posted bridge weight limits during transportation or hauling of agricultural products.

c. Meets any of the following vehicle configurations:

1. Does not exceed a single-axle weight of 22,000 pounds, a tandem-axle weight of 42,000 pounds, or a gross weight of 90,000 pounds.
2. Consists of a five or more axle combination vehicle that does not exceed a single-axle weight of 26,000 pounds, a tandem-axle weight of 44,000 pounds and a gross weight of 90,000 pounds, with a length of at least 48 feet between the center of axle one and the center of the last axle of the vehicle and a minimum of 11 feet between the center of axle one and the center of axle two of the vehicle.
3. Consists of a two-axle vehicle that does not exceed a gross weight of 37,000 pounds and a single-axle weight of no more than 27,000 pounds, with a length of at least 14 feet between the center of axle one and the center of axle two of the vehicle.

d. Repealed by Session Laws 2012-78, s. 6, effective June 26, 2012."

SECTION 2. This act becomes effective July 1, 2013.

In the General Assembly read three times and ratified this the 12th day of June, 2013.

Became law upon approval of the Governor at 4:14 p.m. on the 19th day of June, 2013.

Session Law 2013-121 **H.B. 279**

AN ACT TO AUTHORIZE THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES TO TRANSFER CERTAIN ENVIRONMENTAL PERMITS ASSOCIATED WITH PROPERTY DEVELOPMENT WHEN THE ORIGINAL PROPERTY OWNER IS UNWILLING OR UNABLE TO AGREE TO THE PERMIT TRANSFER.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143-214.7 is amended by adding a new subsection to read:

"§ **143-214.7. Stormwater runoff rules and programs.**

…

(c5) The Department may transfer a permit issued pursuant to this section without the consent of the permit holder to a successor-owner of the property on which the permitted activity is occurring or will occur as provided in this subsection.

(1) The Department may transfer a permit if all of the following conditions are met:

a. The successor-owner of the property submits to the Department a written request for the transfer of the permit.

b. The Department finds all of the following:

1. The permit holder is one of the following:

I. A natural person who is deceased.

II. A partnership, limited liability corporation, corporation, or any other business association that has been dissolved.

III. A person who has been lawfully and finally divested of title to the property on which the permitted activity is occurring or will occur.

IV. A person who has sold the property on which the permitted activity is occurring or will occur.

2. The successor-owner holds title to the property on which the permitted activity is occurring or will occur.

3. The successor-owner is the sole claimant of the right to engage in the permitted activity.

4. There will be no substantial change in the permitted activity.

(2) The permit holder shall comply with all terms and conditions of the permit until such time as the permit is transferred.

(3) The successor-owner shall comply with all terms and conditions of the permit once the permit has been transferred.

(4) Notwithstanding changes to law made after the original issuance of the permit, the Department may not impose new or different terms and conditions in the permit without the prior express consent of the successor-owner.

…."

SECTION 2. G.S. 143-215.1 is amended by adding a new subsection to read:

"§ **143-215.1. Control of sources of water pollution; permits required.**

…

(d3) The Department may transfer a permit issued pursuant to subsection (d) of this section without the consent of the permit holder to a successor-owner of the property on which the permitted activity is occurring or will occur as provided in this subsection.

(1) The Department may transfer a permit if all of the following conditions are met:

a. The successor-owner of the property submits to the Department a written request for the transfer of the permit.

b. The Department finds all of the following:

1. The permit holder is one of the following:

I. A natural person who is deceased.

II. A partnership, limited liability corporation, corporation, or any other business association that has been dissolved.

III. A person who has been lawfully and finally divested of title to the property on which the permitted activity is occurring or will occur.

IV. A person who has sold the property on which the permitted activity is occurring or will occur.

2. The successor-owner holds title to the property on which the permitted activity is occurring or will occur.

3. The successor-owner is the sole claimant of the right to engage in the permitted activity.

4. There will be no substantial change in the permitted activity.

(2) The permit holder shall comply with all terms and conditions of the permit until such time as the permit is transferred.

(3) The successor-owner shall comply with all terms and conditions of the permit once the permit has been transferred.

(4) Notwithstanding changes to law made after the original issuance of the permit, the Department may not impose new or different terms and conditions in the permit without the prior express consent of the successor-owner.

…."

SECTION 3. G.S. 113A-54.1 reads as rewritten:

"§ **113A-54.1. Approval of erosion control plans.**

(a) A draft erosion and sedimentation control plan must contain the applicant's address and, if the applicant is not a resident of North Carolina, designate a North Carolina agent for the purpose of receiving notice from the Commission or the Secretary of compliance or noncompliance with the plan, this Article, or any rules adopted pursuant to this Article. Except as provided in subsection (a1) of this section, if the applicant is not the owner of the land to be disturbed, the draft erosion and sedimentation control plan must include the owner's written consent for the applicant to submit a draft erosion and sedimentation control plan and to conduct the anticipated land-disturbing activity. The Commission shall approve, approve with modifications, or disapprove a draft erosion and sedimentation control plan for those land-disturbing activities for which prior plan approval is required within 30 days of receipt. The Commission shall condition approval of a draft erosion and sedimentation control plan upon the applicant's compliance with federal and State water quality laws, regulations, and rules. Failure to approve, approve with modifications, or disapprove a completed draft erosion and sedimentation control plan within 30 days of receipt shall be deemed approval of the plan. If the Commission disapproves a draft erosion and sedimentation control plan or a revised erosion and sedimentation control plan, it must state in writing the specific reasons that the plan

was disapproved. Failure to approve, approve with modifications, or disapprove a revised erosion and sedimentation control plan within 15 days of receipt shall be deemed approval of the plan. The Commission may establish an expiration date for erosion and sedimentation control plans approved under this Article.

(a1) If the applicant is not the owner of the land to be disturbed and the anticipated land-disturbing activity involves the construction of utility lines for the provision of water, sewer, gas, telecommunications, or electrical service, the draft erosion and sedimentation control plan may be submitted without the written consent of the owner of the land, so long as the owner of the land has been provided prior notice of the project.

(b) If, following commencement of a land-disturbing activity pursuant to an approved erosion and sedimentation control plan, the Commission determines that the plan is inadequate to meet the requirements of this Article, the Commission may require any revision of the plan that is necessary to comply with this Article. Failure to approve, approve with modifications, or disapprove a revised erosion and sedimentation control plan within 15 days of receipt shall be deemed approval of the plan.

(c) The Commission shall disapprove an erosion and sedimentation control plan if implementation of the plan would result in a violation of rules adopted by the Environmental Management Commission to protect riparian buffers along surface waters. The Director of the Division of Energy, Mineral, and Land Resources may disapprove an erosion and sedimentation control plan or disapprove a transfer of a plan under subsection (d1) of this section upon finding that an applicant or a parent, subsidiary, or other affiliate of the applicant:

(1) Is conducting or has conducted land-disturbing activity without an approved plan, or has received notice of violation of a plan previously approved by the Commission or a local government pursuant to this Article and has not complied with the notice within the time specified in the notice;

(2) Has failed to pay a civil penalty assessed pursuant to this Article or a local ordinance adopted pursuant to this Article by the time the payment is due;

(3) Has been convicted of a misdemeanor pursuant to G.S. 113A-64(b) or any criminal provision of a local ordinance adopted pursuant to this Article; or

(4) Has failed to substantially comply with State rules or local ordinances and regulations adopted pursuant to this Article.

(d) In the event that an erosion and sedimentation control plan or a transfer of a plan is disapproved by the Director pursuant to subsection (c) of this section, the Director shall state in writing the specific reasons that the plan was disapproved. The applicant or the proposed transferee may appeal the Director's disapproval of the plan to the Commission. For purposes of this subsection and subsection (c) of this section, an applicant's record or a proposed transferee's record may be considered for only the two years prior to the application date.

(d1) The Department may transfer an erosion and sedimentation control plan approved pursuant to this section without the consent of the plan holder to a successor-owner of the property on which the permitted activity is occurring or will occur as provided in this subsection.

(1) The Department may transfer a plan if all of the following conditions are met:

a. The successor-owner of the property submits to the Department a written request for the transfer of the plan and an authorized statement of financial responsibility and ownership.

b. The Department finds all of the following:

1. The plan holder is one of the following:

I. A natural person who is deceased.

II. A partnership, limited liability corporation, corporation, or any other business association that has been dissolved.

III. A person who has been lawfully and finally divested of title to the property on which the permitted activity is occurring or will occur.

IV. A person who has sold the property on which the permitted activity is occurring or will occur.

2. The successor-owner holds title to the property on which the permitted activity is occurring or will occur.

3. The successor-owner is the sole claimant of the right to engage in the permitted activity.

4. There will be no substantial change in the permitted activity.

(2) The plan holder shall comply with all terms and conditions of the plan until such time as the plan is transferred.

(3) The successor-owner shall comply with all terms and conditions of the plan once the plan has been transferred.

(4) Notwithstanding changes to law made after the original issuance of the plan, the Department may not impose new or different terms and conditions in the plan without the prior express consent of the successor-owner. Nothing in this subsection shall prevent the Commission from requiring a revised plan pursuant to G.S. 113A-54.1(b).

(e) The landowner, the financially responsible party, or the landowner's or the financially responsible party's agent shall perform an inspection of the area covered by the plan after each phase of the plan has been completed and after establishment of temporary ground cover in accordance with G.S. 113A-57(2). The person who performs the inspection shall maintain and make available a record of the inspection at the site of the land-disturbing activity. The record shall set out any significant deviation from the approved erosion control plan, identify any measures that may be required to correct the deviation, and document the completion of those measures. The record shall be maintained until permanent ground cover has been established as required by the approved erosion and sedimentation control plan. The inspections required by this subsection shall be in addition to inspections required by G.S. 113A-61.1."

SECTION 4. G.S. 113A-61 reads as rewritten:

"§ **113A-61. Local approval of erosion and sedimentation control plans.**

(a) For those land-disturbing activities for which prior approval of an erosion and sedimentation control plan is required, the Commission may require that a local government that administers an erosion and sedimentation control program approved under G.S. 113A-60 require the applicant to submit a copy of the erosion and sedimentation control plan to the appropriate soil and water conservation district or districts at the same time the applicant submits the erosion and sedimentation control plan to the local government for approval. The soil and water conservation district or districts shall review the plan and submit any comments and recommendations to the local government within 20 days after the soil and water conservation district received the erosion and sedimentation control plan or within any shorter period of time as may be agreed upon by the soil and water conservation district and the local government. Failure of a soil and water conservation district to submit comments and recommendations within 20 days or within agreed upon shorter period of time shall not delay final action on the proposed plan by the local government.

(b) Local governments shall review each erosion and sedimentation control plan submitted to them and within 30 days of receipt thereof shall notify the person submitting the plan that it has been approved, approved with modifications, or disapproved. A local government shall only approve a plan upon determining that it complies with all applicable State and local regulations for erosion and sedimentation control.

(b1) A local government shall condition approval of a draft erosion and sedimentation control plan upon the applicant's compliance with federal and State water quality laws, regulations, and rules. A local government shall disapprove an erosion and sedimentation

control plan if implementation of the plan would result in a violation of rules adopted by the Environmental Management Commission to protect riparian buffers along surface waters. A local government may disapprove an erosion and sedimentation control plan or disapprove a transfer of a plan under subsection (b3) of this section upon finding that an applicant or a parent, subsidiary, or other affiliate of the applicant:

(1) Is conducting or has conducted land-disturbing activity without an approved plan, or has received notice of violation of a plan previously approved by the Commission or a local government pursuant to this Article and has not complied with the notice within the time specified in the notice.

(2) Has failed to pay a civil penalty assessed pursuant to this Article or a local ordinance adopted pursuant to this Article by the time the payment is due.

(3) Has been convicted of a misdemeanor pursuant to G.S. 113A-64(b) or any criminal provision of a local ordinance adopted pursuant to this Article.

(4) Has failed to substantially comply with State rules or local ordinances and regulations adopted pursuant to this Article.

(b2) In the event that an erosion and sedimentation control plan or a transfer of a plan is disapproved by a local government pursuant to subsection (b1) of this section, the local government shall so notify the Director of the Division of Energy, Mineral, and Land Resources within 10 days of the disapproval. The local government shall advise the applicant or the proposed transferee and the Director in writing as to the specific reasons that the plan was disapproved. Notwithstanding the provisions of subsection (c) of this section, the applicant may appeal the local government's disapproval of the plan directly to the Commission. For purposes of this subsection and subsection (b1) of this section, an applicant's record or the proposed transferee's record may be considered for only the two years prior to the application date.

(b3) A local government administering an erosion and sedimentation control program may transfer an erosion and sedimentation control plan approved pursuant to this section without the consent of the plan holder to a successor-owner of the property on which the permitted activity is occurring or will occur as provided in this subsection.

(1) The local government may transfer a plan if all of the following conditions are met:

a. The successor-owner of the property submits to the local government a written request for the transfer of the plan and an authorized statement of financial responsibility and ownership.

b. The local government finds all of the following:

1. The plan holder is one of the following:

I. A natural person who is deceased.

II. A partnership, limited liability corporation, corporation, or any other business association that has been dissolved.

III. A person who has been lawfully and finally divested of title to the property on which the permitted activity is occurring or will occur.

IV. A person who has sold the property on which the permitted activity is occurring or will occur.

2. The successor-owner holds title to the property on which the permitted activity is occurring or will occur.

3. The successor-owner is the sole claimant of the right to engage in the permitted activity.

4. There will be no substantial change in the permitted activity.

(2) The plan holder shall comply with all terms and conditions of the plan until such time as the plan is transferred.

(3) The successor-owner shall comply with all terms and conditions of the plan once the plan has been transferred.

(4) Notwithstanding changes to law made after the original issuance of the plan, the local government may not impose new or different terms and conditions in the plan without the prior express consent of the successor-owner. Nothing in this subsection shall prevent the local government from requiring a revised plan pursuant to G.S. 113A-54.1(b).

(c) The disapproval or modification of any proposed erosion and sedimentation control plan by a local government shall entitle the person submitting the plan to a public hearing if the person submits written demand for a hearing within 15 days after receipt of written notice of the disapproval or modification. The hearings shall be conducted pursuant to procedures adopted by the local government. If the local government upholds the disapproval or modification of a proposed erosion and sedimentation control plan following the public hearing, the person submitting the erosion and sedimentation control plan is entitled to appeal the local government's action disapproving or modifying the plan to the Commission. The Commission, by regulation, shall direct the Secretary to appoint such employees of the Department as may be necessary to hear appeals from the disapproval or modification of erosion and sedimentation control plans by local governments. In addition to providing for the appeal of local government decisions disapproving or modifying erosion and sedimentation control plans to designated employees of the Department, the Commission shall designate an erosion and sedimentation control plan review committee consisting of three members of the Commission. The person submitting the erosion and sedimentation control plan may appeal the decision of an employee of the Department who has heard an appeal of a local government action disapproving or modifying an erosion and sedimentation control plan to the erosion and sedimentation control plan review committee of the Commission. Judicial review of the final action of the erosion and sedimentation control plan review committee of the Commission may be had in the superior court of the county in which the local government is situated.

(d) Repealed by Session Laws 1989, c. 676, s. 4."

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

In the General Assembly read three times and ratified this the 10th day of June, 2013.

Became law upon approval of the Governor at 4:16 p.m. on the 19th day of June, 2013.

Session Law 2013-122 **H.B. 396**

AN ACT TO ENACT THE PRIVATE WELL WATER EDUCATION ACT AT THE REQUEST OF THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES.

The General Assembly of North Carolina enacts:

SECTION 1. This act shall be known as the Private Well Water Education Act.

SECTION 2. G.S. 87-97(i) reads as rewritten:

"(i) Commission for Public Health to Adopt Drinking Water Testing Rules. – The Commission for Public Health shall adopt rules governing the sampling and testing of well water and the reporting of test results. The rules shall allow local health departments to designate third parties to collect and test samples and report test results. The rules shall also provide for corrective action and retesting where appropriate. The Commission for Public Health may by rule require testing for additional parameters, including volatile organic compounds, if the Commission makes a specific finding that testing for the additional parameters is necessary to protect public health. If the Commission finds that testing for certain volatile organic compounds is necessary to protect public health and initiates rule making to require testing for certain volatile organic compounds, the Commission shall consider all of the

following factors in the development of the rule: (i) known current and historic land uses around well sites and associated contaminants; (ii) known contaminated sites within a given radius of a well and any known data regarding dates of contamination, geology, and other relevant factors; (iii) any GIS-based information on known contamination sources from databases available to the Department of Environment and Natural Resources; and (iv) visual on-site inspections of well sites. In addition, the rules shall require local health departments to educate citizens for whom new private drinking water wells are constructed and for citizens who contact local health departments regarding testing an existing well on all of the following:

(1) The scope of the testing required pursuant to this Article.

(2) Optional testing available pursuant to this Article.

(3) The limitations of both the required and optional testing.

(4) Minimum drinking water standards."

SECTION 3. G.S. 87-97(j) reads as rewritten:

"(j) Test Results. – The local health department shall provide test results to the owner of the newly constructed private drinking water well and, to the extent practicable, to any leaseholder of a dwelling unit or other facility served by the well at the time the water is sampled. The local health department shall include with any test results provided to an owner of a private drinking water well, information regarding the scope of the required and optional testing as established by rules adopted pursuant to subsection (i) of this section."

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

In the General Assembly read three times and ratified this the 13th day of June, 2013.

Became law upon approval of the Governor at 4:16 p.m. on the 19th day of June, 2013.

Session Law 2013-123 **H.B. 24**

AN ACT TO AMEND THE PROCEDURES FOR PERSONS ON PROBATION WHO ARE DIRECTED TO PARTICIPATE IN AN ABUSER TREATMENT PROGRAM AND MAKE CLARIFYING CHANGES RELATING TO DOMESTIC VIOLENCE OFFENSES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 15A-1343(b) reads as rewritten:

"(b) Regular Conditions. – As regular conditions of probation, a defendant must:

…

(12) Attend and complete an abuser treatment program if (i) the court finds the defendant is responsible for acts of domestic violence and (ii) there is a program, approved by the Domestic Violence Commission, reasonably available to the defendant, unless the court finds that such would not be in the best interests of justice. A defendant attending an abuser treatment program shall abide by all of the rules of the program. ~~If the defendant is discharged from the program for failure to comply with the program or its rules, such noncompliance shall be reported to the court.~~

a. If the defendant is placed on supervised probation, the following procedures apply:

1. The probation officer shall forward a copy of the judgment, including all conditions of ~~probation~~probation, to the abuser treatment program.~~program, and the abuser treatment~~

2. The program shall notify the probation officer if the defendant fails to participate in the program or if the defendant is discharged from the program for violating any of

the program rules.~~of any violations of program rules by the defendant.~~

3. If the defendant fails to participate in the program or is discharged from the program for failure to comply with the program or its rules, the probation officer shall file a violation report with the court and notify the district attorney of such noncompliance.

b. If the defendant is placed on unsupervised probation, the following procedures apply:

1. The defendant shall be required to notify the district attorney and the abuser treatment program of their choice of program within 10 days of the judgment if the program has not previously been selected.

2. The district attorney shall forward a copy of the judgment, including all conditions of probation, to the abuser treatment program.

3. If the defendant fails to participate in the program or is discharged from the program for failure to comply with the program or its rules, the program shall notify the district attorney of such noncompliance.

…

Defendants placed on unsupervised probation are subject to the provisions of this subsection, except that defendants placed on unsupervised probation are not subject to the regular conditions contained in subdivisions (2), (3), (6), (8), (13), (14), and (15) of this subsection. ~~If a defendant placed on unsupervised probation is subject to the condition contained in subdivision (12) of this subsection, the court shall schedule a compliance review hearing within 60 days of judgment and every 60 days thereafter until the defendant completes the abuser treatment program.~~"

SECTION 2. Section 3 of S.L. 2012-39 reads as rewritten:

"**SECTION 3.** This act becomes effective December 1, ~~2012,~~2012. ~~and~~ Section 1 of this act applies to defendants placed on probation on or after that date. Section 2 of this act applies to judgments entered on or after that date."

SECTION 3. Section 1 of this act becomes effective December 1, 2013, and applies to defendants placed on supervised or unsupervised probation on or after that date. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 11th day of June, 2013.

Became law upon approval of the Governor at 4:20 p.m. on the 19th day of June, 2013.

Session Law 2013-124 **H.B. 29**

AN ACT TO CREATE THE OFFENSE OF POSSESSION OF PSEUDOEPHEDRINE IF THE DEFENDANT HAS A PRIOR CONVICTION FOR THE POSSESSION OR MANUFACTURE OF METHAMPHETAMINE, AND TO AGGRAVATE THE PENALTY FOR MANUFACTURING METHAMPHETAMINE WHEN CHILDREN, DISABLED, OR ELDERLY ARE PRESENT, AS RECOMMENDED BY THE HOUSE SELECT COMMITTEE ON METHAMPHETAMINE ABUSE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 90-95(d1)(1) reads as rewritten:

"(d1) (1) Except as authorized by this Article, it is unlawful for any person to:

a. Possess an immediate precursor chemical with intent to manufacture a controlled substance; or

b. Possess or distribute an immediate precursor chemical knowing, or having reasonable cause to believe, that the immediate precursor chemical will be used to manufacture a controlled substance.

c. Possess a pseudoephedrine product if the person has a prior conviction for the possession or manufacture of methamphetamine.

Any person who violates this subsection shall be punished as a Class H felon, unless the immediate precursor is one that can be used to manufacture methamphetamine."

SECTION 2. G.S. 15A-1340.16D reads as rewritten:

"§ **15A-1340.16D. Manufacturing methamphetamine; enhanced sentence.~~Enhanced sentence if defendant is convicted of manufacture of methamphetamine and the offense resulted in serious injury to a law enforcement officer, probation officer, parole officer, emergency medical services employee, or a firefighter.~~**

(a) If a person is convicted of the offense of manufacture of methamphetamine under G.S. 90-95(b)(1a) and it is found as provided in this section that a law enforcement officer, probation officer, parole officer, emergency medical services employee, or a firefighter suffered serious injury while discharging or attempting to discharge his or her official duties and that the injury was directly caused by one of the hazards associated with the manufacture of methamphetamine, then the person shall have the minimum term of imprisonment to which the person is sentenced for that felony increased by 24 months. The maximum term of imprisonment shall be the maximum term that corresponds to the minimum term after it is increased by 24 months, as specified in G.S. 15A-1340.17(e) and (e1).

(a1) If a person is convicted of the offense of manufacture of methamphetamine under G.S. 90-95(b)(1a) and it is found as provided in this section that:

(1) A minor under 18 years of age resided on the property used for the manufacture of methamphetamine, or was present at a location where methamphetamine was being manufactured, then the person shall have the minimum term of imprisonment to which the person is sentenced for that felony increased by 24 months. The maximum term of imprisonment shall be the maximum term that corresponds to the minimum term after it is increased by 24 months, as specified in G.S. 15A-1340.17(e) and (e1).

(2) A disabled or elder adult resided on the property used for the manufacture of methamphetamine, or was present at a location where methamphetamine was being manufactured, then the person shall have the minimum term of imprisonment to which the person is sentenced for that felony increased by 24 months. The maximum term of imprisonment shall be the maximum term that corresponds to the minimum term after it is increased by 24 months, as specified in G.S. 15A-1340.17(e) and (e1).

(3) A minor and a disabled or elder adult resided on the property, or were present at a location where methamphetamine was being manufactured, then the person shall have the minimum term of imprisonment to which the person is sentenced for that felony increased by 48 months. The maximum term of imprisonment shall be the maximum term that corresponds to the minimum term after it is increased by 48 months, as specified in G.S. 15A-1340.17(e) and (e1).

(a2) For the purposes of this section, the terms "disabled adult" and "elder adult" shall be defined as set forth in G.S. 14-32.3(d).

(a3) The penalties set forth in this section are cumulative. The minimum sentence shall be increased by the sum of the number of months for convictions under subsections (a) and (a1) of this section, and the maximum term of imprisonment shall be the maximum term that corresponds to the total number of months, as specified in G.S. 15A-1340.17(e) and (e1).

(b) An indictment or information for the offense of manufacture of methamphetamine under G.S. 90-95(b)(1a) shall allege in that indictment or information the facts set out in subsection (a) or (a1) of this section. The pleading is sufficient if it alleges any or all of the following:

(1) ~~that the~~ The defendant committed the offense of manufacture of methamphetamine and that as a result of the offense a law enforcement officer, probation officer, parole officer, emergency medical services employee, or firefighter suffered serious injury while discharging or attempting to discharge his or her official duties.~~One pleading is sufficient for all felonies that are tried at a single trial.~~

(2) The defendant committed the offense of manufacture of methamphetamine and that a minor resided on the property used for manufacturing the methamphetamine, or was present at a location where methamphetamine was being manufactured.

(3) The defendant committed the offense of manufacture of methamphetamine and that a disabled or elder adult resided on the property used for manufacturing the methamphetamine, or was present at a location where methamphetamine was being manufactured.

(4) The defendant committed the offense of manufacture of methamphetamine and that a minor and a disabled or elder adult resided on the property used for manufacturing the methamphetamine, or were present at a location where methamphetamine was being manufactured.

One pleading is sufficient for all felonies that are tried at a single trial.

(c) The State shall prove the issue or issues set out in subsection (b) of this section beyond a reasonable doubt during the same trial in which the defendant is tried for the offense of manufacture of methamphetamine unless the defendant pleads guilty or no contest to the issue. If the defendant pleads guilty or no contest to the offense of manufacture of methamphetamine but pleads not guilty to the issue or issues set out in subsection (b) of this section, then a jury shall be impaneled to determine the issue.

(d) This section does not apply if the offense is packaging or repackaging methamphetamine, or labeling or relabeling the methamphetamine container."

SECTION 3. This act becomes effective December 1, 2013, and applies to offenses committed on or after that date.

In the General Assembly read three times and ratified this the 12th day of June, 2013.

Became law upon approval of the Governor at 4:20 p.m. on the 19th day of June, 2013.

Session Law 2013-125 **H.B. 157**

AN ACT TO PROTECT THE TAXPAYERS OF NORTH CAROLINA FROM THE DIVERSION OF FUEL TAX PROCEEDS FOR NONTRANSPORTATION USES BY REQUIRING THAT THE UNRESERVED CREDIT BALANCE IN THE HIGHWAY FUND BE USED FOR ROAD-RELATED USES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 136-44.2 reads as rewritten:

"§ **136-44.2. Budget and appropriations.**

…

(f) If the unreserved credit balance in the Highway Fund on the last day of a fiscal year is greater than the amount estimated for that date in the Current Operations Appropriations Act for the following fiscal year, the excess shall be used in accordance with this subsection. The Director of the Budget shall allocate the excess to a reserve (i) for access and public roads or

(ii) for other urgent road construction or road maintenance needs. The use of this reserve shall be subject to the following:

(1) Restrictions on use. – No more than five million dollars ($5,000,000) from this reserve may be spent on a single project. Funds from this reserve being used for an "other urgent road construction or road maintenance need" project cannot be used for nontransportation administrative costs, nontransportation information technology costs, or any economic ~~development.~~development purpose.

(2) Approval. – The Department of Transportation shall submit for approval to the Director of the Budget all expenditures from the reserve established under this subsection.

(3) Reporting. – At least five days, not including State holidays or weekend days, prior to submitting an expenditure request to the Director of the Budget under subdivision (2) of this subsection, the Department of Transportation shall submit a report on the expenditure request to the Fiscal Research Division and to the members of the House Appropriations Subcommittee on Transportation and the Senate Appropriations Committee on Department of Transportation. Such report shall be certified by the chief financial officer of the Department of Transportation and shall include (i) a project description, (ii) whether the project is for access and public roads or for other urgent needs, (iii) a justification of the project, (iv) the total project cost, (v) the amount of funding for the project coming from the reserve, and (vi) other funding sources for the project.

(4) Carryforward. – If on the last day of the fiscal year the balance in the reserve established by this subsection is greater than five million dollars ($5,000,000), then the Director of the Budget shall transfer the amount in excess of that sum to the Reserve for General Maintenance in the Highway Fund.

…."

SECTION 2. This act becomes effective July 1, 2014.

In the General Assembly read three times and ratified this the 12th day of June, 2013.

Became law upon approval of the Governor at 4:20 p.m. on the 19th day of June, 2013.

Session Law 2013-126 **H.B. 276**

AN ACT TO CLARIFY AND MODERNIZE STATUTES REGARDING ZONING BOARDS OF ADJUSTMENT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 160A-388 reads as rewritten:

"§ **160A-388. Board of adjustment.**

(a) Composition and Duties. – The ~~city council~~ zoning or unified development ordinance may provide for the appointment and compensation of a board of adjustment consisting of five or more members, each to be appointed for three years. In appointing the original ~~members of such board,~~ members or in the filling of vacancies caused by the expiration of the terms of existing members, the city council may appoint certain members for less than three years ~~to the end~~ so that ~~thereafter~~ the terms of all members shall not expire at the same time. The council ~~may, in its discretion,~~ may appoint and provide compensation for alternate members to serve on the board in the absence or temporary disqualification of any regular member or to fill a vacancy pending appointment of a member. Alternate members shall be appointed for the same term, at the same time, and in the same manner as regular members.

Each alternate ~~member, while attending any regular or special meeting of the board and~~ member serving on behalf of any regular ~~member, shall have and may exercise~~ member has all the powers and duties of a regular member. ~~A city~~ The ordinance may designate a planning board or governing board to perform any ~~or all~~ of the duties of a board of adjustment in addition to its other ~~duties.~~duties and may create and designate specialized boards to hear technical appeals.

(a1) Provisions of Ordinance. – The zoning or unified development ordinance may provide that the board of adjustment hear and decide special and conditional use permits, requests for variances, and appeals of decisions of administrative officials charged with enforcement of the ordinance. As used in this section, the term "decision" includes any final and binding order, requirement, or determination. The board of adjustment shall follow quasi-judicial procedures when deciding appeals and requests for variances and special and conditional use permits. The board shall hear and decide all matters upon which it is required to pass under any statute or ordinance that regulates land use or development.

(a2) Notice of Hearing. – Notice of hearings conducted pursuant to this section shall be mailed to the person or entity whose appeal, application, or request is the subject of the hearing; to the owner of the property that is the subject of the hearing if the owner did not initiate the hearing; to the owners of all parcels of land abutting the parcel of land that is the subject of the hearing; and to any other persons entitled to receive notice as provided by the zoning or unified development ordinance. In the absence of evidence to the contrary, the city may rely on the county tax listing to determine owners of property entitled to mailed notice. The notice must be deposited in the mail at least 10 days, but not more than 25 days, prior to the date of the hearing. Within that same time period, the city shall also prominently post a notice of the hearing on the site that is the subject of the hearing or on an adjacent street or highway right-of-way.

(b) ~~A zoning ordinance or those provisions of a unified development ordinance adopted pursuant to the authority granted in this Part shall provide that the board of adjustment shall hear and decide appeals from and review any order, requirement, decision, or determination made by an administrative official charged with the enforcement of that ordinance. An appeal may be taken by any person aggrieved or by an officer, department, board, or bureau of the city. Appeals shall be taken within times prescribed by the board of adjustment by general rule, by filing with the officer from whom the appeal is taken and with the board of adjustment a notice of appeal, specifying the grounds thereof. The officer from whom the appeal is taken shall forthwith transmit to the board all the papers constituting the record upon which the action appealed from was taken. An appeal stays all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the board of adjustment, after notice of appeal has been filed with him, that because of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property or that because the violation charged is transitory in nature a stay would seriously interfere with enforcement of the ordinance. In that case proceedings shall not be stayed except by a restraining order, which may be granted by the board of adjustment or by a court of record on application, on notice to the officer from whom the appeal is taken and on due cause shown. The board of adjustment shall fix a reasonable time for the hearing of the appeal, give due notice thereof to the parties, and decide it within a reasonable time. The board of adjustment may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination appealed from, and shall make any order, requirement, decision, or determination that in its opinion ought to be made in the premises. To this end the board shall have all the powers of the officer from whom the appeal is taken.~~

(b1) Appeals. – The board of adjustment shall hear and decide appeals decisions of administrative officials charged with enforcement of the zoning or unified development ordinance and may hear appeals arising out of any other ordinance that regulates land use or development, pursuant to all of the following:

(1) Any person who has standing under G.S. 160A-393(d) or the city may appeal a decision to the board of adjustment. An appeal is taken by filing a notice of appeal with the city clerk. The notice of appeal shall state the grounds for the appeal.

(2) The official who made the decision shall give written notice to the owner of the property that is the subject of the decision and to the party who sought the decision, if different from the owner. The written notice shall be delivered by personal delivery, electronic mail, or by first-class mail.

(3) The owner or other party shall have 30 days from receipt of the written notice within which to file an appeal. Any other person with standing to appeal shall have 30 days from receipt from any source of actual or constructive notice of the decision within which to file an appeal.

(4) It shall be conclusively presumed that all persons with standing to appeal have constructive notice of the decision from the date a sign containing the words "Zoning Decision" or "Subdivision Decision" in letters at least six inches high and identifying the means to contact an official for information about the decision is prominently posted on the property that is the subject of the decision, provided the sign remains on the property for at least 10 days. Posting of signs is not the only form of constructive notice. Any such posting shall be the responsibility of the landowner or applicant. Verification of the posting shall be provided to the official who made the decision. Absent an ordinance provision to the contrary, posting of signs shall not be required.

(5) The official who made the decision shall transmit to the board all documents and exhibits constituting the record upon which the action appealed from is taken. The official shall also provide a copy of the record to the appellant and to the owner of the property that is the subject of the appeal if the appellant is not the owner.

(6) An appeal of a notice of violation or other enforcement order stays enforcement of the action appealed from unless the official who made the decision certifies to the board of adjustment after notice of appeal has been filed that because of the facts stated in an affidavit, a stay would cause imminent peril to life or property or because the violation is transitory in nature, a stay would seriously interfere with enforcement of the ordinance. In that case, enforcement proceedings shall not be stayed except by a restraining order, which may be granted by a court. If enforcement proceedings are not stayed, the appellant may file with the official a request for an expedited hearing of the appeal, and the board of adjustment shall meet to hear the appeal within 15 days after such a request is filed. Notwithstanding the foregoing, appeals of decisions granting a permit or otherwise affirming that a proposed use of property is consistent with the ordinance shall not stay the further review of an application for permits or permissions to use such property; in these situations the appellant may request and the board may grant a stay of a final decision of permit applications or building permits affected by the issue being appealed.

(7) Subject to the provisions of subdivision (6) of this subsection, the board of adjustment shall hear and decide the appeal within a reasonable time.

(8) The official who made the decision shall be present at the hearing as a witness. The appellant shall not be limited at the hearing to matters stated in the notice of appeal. If any party or the city would be unduly prejudiced by the presentation of matters not presented in the notice of appeal, the board shall continue the hearing. The board of adjustment may reverse or affirm, wholly or partly, or may modify the decision appealed from and shall make

any order, requirement, decision, or determination that ought to be made. The board shall have all the powers of the official who made the decision.

(9) When hearing an appeal pursuant to G.S. 160A-400.9(e) or any other appeal in the nature of certiorari, the hearing shall be based on the record below and the scope of review shall be as provided in G.S. 160A-393(k).

(10) The parties to an appeal that has been made under this subsection may agree to mediation or other forms of alternative dispute resolution. The ordinance may set standards and procedures to facilitate and manage such voluntary alternative dispute resolution.

(c) Special and Conditional Use Permits. – The ~~zoning~~ ordinance may provide that the board of adjustment may ~~permit special exceptions to the zoning regulations in specified classes of cases or situations as provided in subsection (d) of this section, not including variances in permitted uses, and that the board may use~~ hear and decide special and conditional use ~~permits, all to be~~ permits in accordance with ~~the principles, conditions, safeguards,~~ standards and procedures specified in the ordinance. Reasonable and appropriate conditions may be imposed upon these permits.~~The ordinance may also authorize the board to interpret zoning maps and pass upon disputed questions of lot lines or district boundary lines and similar questions as they arise in the administration of the ordinance. The board shall hear and decide all matters referred to it or upon which it is required to pass under any zoning ordinance.~~

(d) Variances. – When ~~practical difficulties or~~ unnecessary hardships would result from carrying out the strict letter of a zoning ordinance, the board of adjustment shall ~~have the power to~~ vary ~~or modify~~ any of the ~~regulations or provisions of the ordinance so that~~ provisions of the ordinance upon a showing of all of the following:

(1) Unnecessary hardship would result from the strict application of the ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.

(2) The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance.

(3) The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship.

(4) The requested variance is consistent with the ~~spirit~~ spirit, purpose, and intent of the ~~ordinance shall be observed,~~ ordinance, such that public ~~safety and welfare secured,~~ safety is secured, and substantial justice ~~done.~~ is achieved.

No change in permitted uses may be authorized by variance. ~~Appropriate conditions, which must be reasonably related to the condition or circumstance that gives rise to the need for a variance, may be imposed on any approval issued by the board.~~Appropriate conditions may be imposed on any variance, provided that the conditions are reasonably related to the variance. Any other ordinance that regulates land use or development may provide for variances consistent with the provisions of this subsection.

(e) Voting. –

(1) The concurring vote of four-fifths ~~of the members~~ of the board shall be necessary to ~~reverse any order, requirement, decision, or determination of any administrative official charged with the enforcement of an ordinance adopted pursuant to this Part, or to decide in favor of the applicant any matter upon which it is required to pass under any ordinance, or to grant a variance from the provisions of the ordinance.~~ grant a variance. A majority of the members shall be required to decide any other quasi-judicial matter or to determine an appeal made in the nature of certiorari. For the purposes of

this subsection, vacant positions on the board and members who are disqualified from voting on a quasi-judicial matter shall not be considered ~~"members of the board"~~members of the board for calculation of the requisite ~~supermajority~~ majority if there are no qualified alternates available to take the place of such members.

(e1) A member of the board or any other body exercising quasi-judicial functions pursuant to this Article shall not participate in or vote on any quasi-judicial matter in a manner that would violate affected persons' constitutional rights to an impartial decision maker. Impermissible conflicts include, but are not limited to, a member having a fixed opinion prior to hearing the matter that is not susceptible to change, undisclosed ex parte communications, a close familial, business, or other associational relationship with an affected person, or a financial interest in the outcome of the matter. If an objection is raised to a member's participation and that member does not recuse himself or herself, the remaining members shall by majority vote rule on the objection.

(e2) Quasi-Judicial Decisions and Judicial Review. –

(1) The board shall determine contested facts and make its decision within a reasonable time. Every quasi-judicial decision shall be based upon competent, material, and substantial evidence in the record. Each quasi-judicial decision shall be reduced to writing and reflect the board's determination of contested facts and their application to the applicable standards. The written decision shall be signed by the chair or other duly authorized member of the board. A quasi-judicial decision is effective upon filing the written decision with the clerk to the board or such other office or official as the ordinance specifies. The decision of the board shall be delivered by personal delivery, electronic mail, or by first-class mail to the applicant, property owner, and to any person who has submitted a written request for a copy, prior to the date the decision becomes effective. The person required to provide notice shall certify that proper notice has been made.

(2) Every quasi-judicial decision ~~of the board~~ shall be subject to review by the superior court by proceedings in the nature of ~~certiorari. Any~~ certiorari pursuant to G.S. 160A-393. A petition for review ~~by the superior court~~ shall be filed with the clerk of superior court ~~within~~ by the later of 30 days after the decision ~~of the board is filed in such office as the ordinance specifies,~~ is effective or after a written copy thereof is given in accordance with subdivision (1) of this subsection. When first-class mail is used to deliver notice, three days shall be added to the time to file the petition.~~delivered to every aggrieved party who has filed a written request for such copy with the secretary or chairman of the board at the time of its hearing of the case, whichever is later. The decision of the board may be delivered to the aggrieved party either by personal service or by registered mail or certified mail return receipt requested.~~

(f) Oaths. – The ~~chairman~~ chair of the board ~~of adjustment~~ or any member ~~temporarily~~ acting as ~~chairman,~~ chair and the clerk to the board are~~is~~ authorized ~~in his official capacity~~ to administer oaths to witnesses in any matter coming before the board. Any person who, while under oath during a proceeding before the board of adjustment, willfully swears falsely is guilty of a Class 1 misdemeanor.

(g) Subpoenas. – The board of ~~adjustment~~ adjustment through the chair, or in the chair's absence anyone acting as chair, may subpoena witnesses and compel the production of evidence. To request issuance of a subpoena, persons with standing under G.S. 160A-393(d) may make a written request to the chair explaining why it is necessary for certain witnesses or evidence to be compelled. The chair shall issue requested subpoenas he or she determines to be relevant, reasonable in nature and scope, and not oppressive. The chair shall rule on any motion

to quash or modify a subpoena. Decisions regarding subpoenas made by the chair may be appealed to the full board of adjustment. If a person fails or refuses to obey a subpoena issued pursuant to this subsection, the board of adjustment or the party seeking the subpoena may apply to the General Court of Justice for an order requiring that its ~~order~~ subpoena be obeyed, and the court shall have jurisdiction to issue these orders after notice to all proper parties. ~~No testimony of any witness before the board of adjustment pursuant to a subpoena issued in exercise of the power conferred by this subsection may be used against the witness in the trial of any civil or criminal action other than a prosecution for false swearing committed on the examination. Any person who, while under oath during a proceeding before the board of adjustment, willfully swears falsely, is guilty of a Class 1 misdemeanor.~~"

SECTION 2.(a) G.S. 160A-388(e1) is recodified as G.S. 160A-388(e)(2).

SECTION 2.(b) G.S. 160A-388(e)(2), as recodified by Section 2(a) of this act, reads as rewritten:

"(2) A member of ~~the~~ any board ~~or any other body~~ exercising quasi-judicial functions pursuant to this Article shall not participate in or vote on any quasi-judicial matter in a manner that would violate affected persons' constitutional rights to an impartial decision maker. Impermissible ~~conflicts~~ violations of due process include, but are not limited to, a member having a fixed opinion prior to hearing the matter that is not susceptible to change, undisclosed ex parte communications, a close familial, business, or other associational relationship with an affected person, or a financial interest in the outcome of the matter. If an objection is raised to a member's participation and that member does not recuse himself or herself, the remaining members shall by majority vote rule on the objection."

SECTION 3.(a) G.S. 153A-345 is repealed except that any local modification to that section in effect on September 30, 2013, shall be treated as a local modification to G.S. 160A-388 from October 1, 2013, through June 30, 2015.

SECTION 3.(b) Article 18 of Chapter 153A of the General Statutes is amended by adding a new section to read:

"**§ 153A-345.1. Board of adjustment.**

(a) The provisions of G.S. 160A-388 are applicable to counties.

(b) For the purposes of this section, as used in G.S. 160A-388, the term "city council" is deemed to refer to the board of county commissioners, and the terms "city" or "municipality" are deemed to refer to the county.

(c) If a board of county commissioners does not zone the entire territorial jurisdiction of the county, each designated zoning area shall, if practicable, have at least one resident as a member of the board of adjustment; otherwise, the provisions of G.S. 153A-25 regarding qualifications for appointive office shall apply to board of adjustment appointments."

SECTION 4. G.S. 160A-381(c) reads as rewritten:

"(c) The regulations may also provide that the board of adjustment, the planning board, or the city council may issue special use permits or conditional use permits in the classes of cases or situations and in accordance with the principles, conditions, safeguards, and procedures specified therein and may impose reasonable and appropriate conditions and safeguards upon these permits. When deciding special use permits or conditional use permits, the city council or planning board shall follow quasi-judicial procedures. Notice of hearings on special or conditional use permit applications shall be as provided in G.S. 160A-388(a2). No vote greater than a majority vote shall be required for the city council or planning board to issue such permits. For the purposes of this section, vacant positions on the board and members who are disqualified from voting on a quasi-judicial matter shall not be considered "members of the board" for calculation of the requisite majority. Every such decision of the city council or planning board shall be subject to review of the superior court in the nature of certiorari in accordance with G.S. 160A-388.

Where appropriate, such conditions may include requirements that street and utility rights-of-way be dedicated to the public and that provision be made of recreational space and facilities."

SECTION 5. G.S. 153A-340(c1) reads as rewritten:

"(c1) The regulations may also provide that the board of adjustment, the planning board, or the board of commissioners may issue special use permits or conditional use permits in the classes of cases or situations and in accordance with the principles, conditions, safeguards, and procedures specified therein and may impose reasonable and appropriate conditions and safeguards upon these permits. Where appropriate, the conditions may include requirements that street and utility rights-of-way be dedicated to the public and that recreational space be provided. When deciding special use permits or conditional use permits, the board of county commissioners or planning board shall follow quasi-judicial procedures. Notice of hearings on special or conditional use permit applications shall be as provided in G.S. 160A-388(a2). No vote greater than a majority vote shall be required for the board of county commissioners or planning board to issue such permits. For the purposes of this section, vacant positions on the board and members who are disqualified from voting on a quasi-judicial matter shall not be considered "members of the board" for calculation of the requisite majority. Every such decision of the board of county commissioners or planning board shall be subject to review of the superior court in the nature of certiorari consistent with G.S. 153A-345."

SECTION 6. G.S. 153A-44 reads as rewritten:

"§ **153A-44. Members excused from voting.**

The board may excuse a member from voting, but only upon questions involving the member's own financial interest or official conduct or on matters on which the member is prohibited from voting under G.S. 14-234, 153A-340(g), or ~~153A-345(e1).~~ 160A-388(e)(2). For purposes of this section, the question of the compensation and allowances of members of the board does not involve a member's own financial interest or official conduct."

SECTION 7. G.S. 153A-336(a) reads as rewritten:

"(a) When a subdivision ordinance adopted under this Part provides that the decision whether to approve or deny a preliminary or final subdivision plat is to be made by a board of commissioners or a planning board, other than a planning board comprised solely of members of a county planning staff, and the ordinance authorizes the board of commissioners or planning board to make a quasi-judicial decision in deciding whether to approve the subdivision plat, then that quasi-judicial decision of the board of commissioners or planning board shall be subject to review by the superior court by proceedings in the nature of certiorari. The provisions of G.S. 153A-340(f), ~~153A-345(e2),~~160A-388(e2)(2), and 153A-349 shall apply to those appeals."

SECTION 8. G.S. 153A-340(c1) reads as rewritten:

"(c1) The regulations may also provide that the board of adjustment, the planning board, or the board of commissioners may issue special use permits or conditional use permits in the classes of cases or situations and in accordance with the principles, conditions, safeguards, and procedures specified therein and may impose reasonable and appropriate conditions and safeguards upon these permits. Where appropriate, the conditions may include requirements that street and utility rights-of-way be dedicated to the public and that recreational space be provided. When deciding special use permits or conditional use permits, the board of county commissioners or planning board shall follow quasi-judicial procedures. No vote greater than a majority vote shall be required for the board of county commissioners or planning board to issue such permits. For the purposes of this section, vacant positions on the board and members who are disqualified from voting on a quasi-judicial matter shall not be considered "members of the board" for calculation of the requisite majority. Every such decision of the board of county commissioners or planning board shall be subject to review of the superior court in the nature of certiorari consistent with ~~G.S. 153A-345.~~ G.S. 160A-388."

SECTION 9. G.S. 153A-349(c) is repealed.

SECTION 10. G.S. 153A-349.8(c) reads as rewritten:

"(c) If the developer fails to cure the material breach within the time given, then the local government unilaterally may terminate or modify the development agreement; provided, the notice of termination or modification may be appealed to the board of adjustment in the manner provided by ~~G.S. 153A-345(b).~~ G.S. 160A-388(b1)."

SECTION 11. G.S. 160A-75 reads as rewritten:

"§ **160A-75. Voting.**

No member shall be excused from voting except upon matters involving the consideration of the member's own financial interest or official conduct or on matters on which the member is prohibited from voting under G.S. 14-234, 160A-381(d), or ~~160A-388(e1).~~160A-388(e)(2). In all other cases, a failure to vote by a member who is physically present in the council chamber, or who has withdrawn without being excused by a majority vote of the remaining members present, shall be recorded as an affirmative vote. The question of the compensation and allowances of members of the council is not a matter involving a member's own financial interest or official conduct.

An affirmative vote equal to a majority of all the members of the council not excused from voting on the question in issue, including the mayor's vote in case of an equal division, shall be required to adopt an ordinance, take any action having the effect of an ordinance, authorize or commit the expenditure of public funds, or make, ratify, or authorize any contract on behalf of the city. In addition, no ordinance nor any action having the effect of any ordinance may be finally adopted on the date on which it is introduced except by an affirmative vote equal to or greater than two thirds of all the actual membership of the council, excluding vacant seats and not including the mayor unless the mayor has the right to vote on all questions before the council. For purposes of this section, an ordinance shall be deemed to have been introduced on the date the subject matter is first voted on by the council."

SECTION 12. G.S. 160A-377(a) reads as rewritten:

"(a) When a subdivision ordinance adopted under this Part provides that the decision whether to approve or deny a preliminary or final subdivision plat is to be made by a city council or a planning board, other than a planning board comprised solely of members of a city planning staff, and the ordinance authorizes the council or planning board to make a quasi-judicial decision in deciding whether to approve the subdivision plat, then that quasi-judicial decision of the council or planning board shall be subject to review by the superior court by proceedings in the nature of certiorari. The provisions of G.S. 160A-381(c), ~~160A-388(e2),~~160A-388(e2)(2), and 160A-393 shall apply to those appeals."

SECTION 13. G.S. 160A-393(c)(3) reads as rewritten:

"(3) Set forth with particularity the allegations and facts, if any, in support of allegations that, as the result of impermissible conflict as described in ~~G.S. 160A-388(e1),~~G.S. 160A-388(e)(2), or locally adopted conflict rules, the decision-making body was not sufficiently impartial to comply with due process principles."

SECTION 14. G.S. 160A-393(j)(2) reads as rewritten:

"(2) Whether, as a result of impermissible conflict as described in ~~G.S. 160A-388(e1),~~G.S. 160A-388(e)(2), or locally adopted conflict rules, the decision-making body was not sufficiently impartial to comply with due process principles."

SECTION 15. This act becomes effective October 1, 2013, and applies to actions taken on or after that date by any board of adjustment.

In the General Assembly read three times and ratified this the 10th day of June, 2013.

Became law upon approval of the Governor at 4:20 p.m. on the 19th day of June, 2013.

Session Law 2013-127 **H.B. 278**

AN ACT ENCOURAGING PARTIES TO A DISPUTE INVOLVING CERTAIN MATTERS RELATED TO REAL ESTATE UNDER THE JURISDICTION OF A HOMEOWNERS ASSOCIATION TO INITIATE MEDIATION TO TRY TO RESOLVE THE DISPUTE PRIOR TO FILING A CIVIL ACTION.

Whereas, homeowners associations in condominium and planned communities serve a vital role in our State by maintaining common areas, providing recreational facilities and neighborhood meeting places, and adopting rules and regulations to help preserve property values; and

Whereas, often disputes arise between homeowners associations and their members, which either do not constitute the basis for a legal cause of action or result in costly litigation; and

Whereas, the State has an interest in encouraging homeowners associations and their members to voluntarily mediate disputes in a manner that will allow both sides to be heard and to reach a mutually satisfactory agreement; Now, therefore,

The General Assembly of North Carolina enacts:

SECTION 1. Article 5 of Chapter 7A of the General Statutes is amended by adding a new section to read as follows:

"**§ 7A-38.3F. Prelitigation mediation of condominium and homeowners association disputes.**

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

(1) Association. – An association of unit or lot owners organized as allowed under North Carolina law, including G.S. 47C-3-101 and G.S. 47F-3-101.

(2) Dispute. – Any matter relating to real estate under the jurisdiction of an association about which the member and association cannot agree. The term "dispute" does not include matters expressly exempted in subsection (b) of this section.

(3) Executive board. – The body, regardless of name, designated in the declaration to act on behalf of an association.

(4) Mediator. – A neutral person who acts to encourage and facilitate a resolution of a dispute between an association and a member.

(5) Member. – A person who is a member of an association of unit or lot owners organized as allowed under North Carolina law, including G.S. 47C-3-101 and G.S. 47F-3-101.

(6) Party or parties. – An association or member who is involved in a dispute, as that term is defined in subdivision (2) of this subsection.

(b) Voluntary Prelitigation Mediation. – Prior to filing a civil action, the parties to a dispute arising under Chapter 47C of the General Statutes (North Carolina Condominium Act), Chapter 47F of the General Statutes (North Carolina Planned Community Act), or an association's declaration, bylaws, or rules and regulations are encouraged to initiate mediation pursuant to this section. However, disputes related solely to a member's failure to timely pay an association assessment or any fines or fees associated with the levying or collection of an association assessment are not covered under this section.

(c) Initiation of Mediation. – Either an association or a member may contact the North Carolina Dispute Resolution Commission or the Mediation Network of North Carolina for the name of a mediator or community mediation center. Upon contacting a mediator, either the association or member may supply to the mediator the physical address of the other party, or the party's representative, and the party's telephone number and e-mail address, if known. The mediator shall contact the party, or the party's representative, to notify him or her of the request to mediate. If the parties agree to mediate, they shall request in writing that the mediator

schedule the mediation. The mediator shall then notify the parties in writing of the date, time, and location of the mediation, which shall be scheduled not later than 25 days after the mediator receives the written request from the parties.

(d) Mediation Procedure. – The following procedures shall apply to mediation under this section:

(1) Attendance. – The mediator shall determine who may attend mediation. The mediator may require the executive board or a large group of members to designate one or more persons to serve as their representatives in the mediation.

(2) All parties are expected to attend mediation. The mediator may allow a party to participate in mediation by telephone or other electronic means if the mediator determines that the party has a compelling reason to do so.

(3) If the parties cannot reach a final agreement in mediation because to do so would require the approval of the full executive board or the approval of a majority or some other percentage of the members of the association, the mediator may recess the mediation meeting to allow the executive board or members to review and vote on the agreement.

(e) Decline Mediation. – Either party to a dispute may decline mediation under this section. If either party declines mediation after mediation has been initiated under subsection (c) of this section but mediation has not been held, the party declining mediation shall inform the mediator and the other party in writing of his or her decision to decline mediation. No costs shall be assessed to any party if either party declines mediation prior to the occurrence of an initial mediation meeting.

(f) Costs of Mediation. – The costs of mediation, including the mediator's fees, shall be shared equally by the parties unless otherwise agreed to by the parties. Fees shall be due and payable at the end of each mediation meeting. When an attorney represents a party to the mediation, that party shall pay his or her attorneys' fees.

(g) Certification That Mediation Concluded. – Upon the conclusion of mediation, the mediator shall prepare a certification stating the date on which the mediation was concluded and a statement that an agreement was reached or that mediation was attempted but an agreement was not reached. If both parties participate in mediation and a cause of action involving the dispute mediated is later filed, either party may file the certificate with the clerk of court, and the parties shall not be required to mediate again under any provision of law.

(h) Inadmissibility of Evidence. – Evidence of statements made and conduct occurring during mediation under this section shall not be subject to discovery and shall be inadmissible in any proceeding in a civil action arising from the dispute which was the subject of that mediation; except proceedings to enforce or rescind a settlement agreement reached at that mediation, disciplinary proceedings before the State Bar or Dispute Resolution Commission, or proceedings to enforce laws concerning juvenile or elder abuse. No evidence otherwise discoverable shall be inadmissible merely because it is presented or discussed in a mediation under this section.

No mediator shall be compelled to testify or produce evidence concerning statements made and conduct occurring in anticipation of, during, or as a follow-up to a mediation pursuant to this section in any civil proceeding for any purpose, including proceedings to enforce or rescind the settlement agreement; except in disciplinary hearings before the State Bar or Dispute Resolution Commission and proceedings to enforce laws concerning juvenile or elder abuse, and except in proceedings to enforce or rescind an agreement reached in a mediation under this section, but only to attest to the signing of the agreement.

(i) Time Periods Tolled. – Time periods relating to the filing of a civil action, including any applicable statutes of limitations or statutes of repose, with respect to a dispute described in subsection (a) of this section, shall be tolled upon the initiation of mediation under this section until 30 days after the date on which the mediation is concluded as set forth in the mediator's

certification. For purposes of this section, "initiation of mediation" shall be defined as the date upon which both parties have signed the written request to schedule the mediation.

(j) Association Duty to Notify. – Each association shall, in writing, notify the members of the association each year that they may initiate mediation under this section to try to resolve a dispute with the association. The association shall publish the notice required in this subsection on the association's Web site; but if the association does not have a Web site, the association shall publish the notice at the same time and in the same manner as the names and addresses of all officers and board members of the association are published as provided in G.S. 47C-3-103 and G.S. 47F-3-103."

SECTION 2. This act becomes effective July 1, 2013, and applies to all homeowners and condominium association disputes not specifically exempted by this act that occur on or after that date.

In the General Assembly read three times and ratified this the 12th day of June, 2013.

Became law upon approval of the Governor at 4:21 p.m. on the 19th day of June, 2013.

Session Law 2013-128 **H.B. 289**

AN ACT RELATED TO THE PURCHASING OF REFURBISHED COMPUTER EQUIPMENT AS A METHOD OF ACQUISITION FOR STATE AND LOCAL GOVERNMENTAL ENTITIES.

The General Assembly of North Carolina enacts:

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

(1) Computer equipment. – Any desktop computer, notebook or laptop computer, monitor or video display unit for a computer system, and the keyboard, mice, other peripheral equipment, and a printing device such as a printer, a scanner, a combination print-scanner-fax machine, or other device designed to produce hard paper copies from a computer.

(2) Computer equipment refurbisher. – A person in the business of restoring pre-owned computer equipment to original equipment standards, meeting the manufacturers' warranty requirements and any software licensing requirements.

(3) Registered computer equipment refurbisher. – A person certified by the original equipment manufacturer to restore pre-owned computer equipment to original equipment standards meeting the manufacturers' warranty requirements, and any software licensing requirements, in accordance with the manufacturers' and software makers' official refurbisher programs.

(4) Refurbished computer equipment. – Computer equipment that has been reformatted to remove any preexisting software and data, and then cleaned, repaired, inspected, and tested as necessary to ensure that the equipment has been restored to "like new" full functionality that meets or exceeds the manufacturers' original equipment standards and warranty requirements.

(5) State and local governmental entities. – The executive, legislative, and judicial branches of government; any local political subdivisions of the State; community colleges; local boards of educations; and The University of North Carolina.

SECTION 2. The Office of the State Chief Information Officer and the Department of Administration, with the administrative support of the Information Technology Procurement Office, shall offer State and local governmental entities the option of purchasing refurbished computer equipment from registered computer equipment refurbishers whenever most appropriate to meet the needs of State and local governmental entities.

State and local governmental entities shall document savings resulting from the purchase of the refurbished computer equipment, including, but not limited to, the initial acquisition cost as well as operations and maintenance costs. These savings shall be reported quarterly to the Office of the State Chief Information Officer.

The Information Technology Procurement Office shall administer the refurbished computer equipment program by establishing a competitive purchasing process to support this initiative that meets all State information technology procurement laws and procedures and ensures that agencies receive the best value.

Participating computer equipment refurbishers must meet all procurement requirements established by the Office of the State Chief Information Officer and the Department of Administration.

SECTION 3. Refurbished computer equipment purchased under this act must conform to the same standards as the State may establish as to the configuration and specification requirements for the purchase of new computers.

SECTION 4. The Office of the State Chief Information Officer shall maintain data on equipment reliability, potential cost savings, and any issues associated with the refurbished computer equipment initiative and shall report the results of the initiative to the Joint Legislative Oversight Committee on Information Technology and the Fiscal Research Division by March 1, 2014, and then quarterly thereafter.

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

In the General Assembly read three times and ratified this the 13th day of June, 2013.

Became law upon approval of the Governor at 4:21 p.m. on the 19th day of June, 2013.

Session Law 2013-129 **H.B. 350**

AN ACT TO MAKE VARIOUS CHANGES TO THE JUVENILE CODE PURSUANT TO REVISIONS PROPOSED BY THE COURT IMPROVEMENT PROJECT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 7B-101 reads as rewritten:

"§ **7B-101. Definitions.**

As used in this Subchapter, unless the context clearly requires otherwise, the following words have the listed meanings:

…

~~(5) Community-based program. – A program providing nonresidential or residential treatment to a juvenile in the community where the juvenile's family lives. A community-based program may include specialized foster care, family counseling, shelter care, and other appropriate treatment.~~

…

(8) Custodian. – The person or agency that has been awarded legal custody of a juvenile by a ~~court or a person, other than parents or legal guardian, who has assumed the status and obligation of a parent without being awarded the legal custody of a juvenile by a~~ court.

(9) Dependent juvenile. – A juvenile in need of assistance or placement because (i) the juvenile has no parent, guardian, or custodian responsible for the juvenile's care or supervision or ~~whose~~ (ii) the juvenile's parent, guardian, or custodian is unable to provide for the juvenile's care or supervision and lacks an appropriate alternative child care arrangement.

…

(18b) Return home or reunification. – Placement of the juvenile in the home of either parent or placement of the juvenile in the home of a guardian or custodian from whose home the child was removed by court order.

…

~~(20) Shelter care. The temporary care of a juvenile in a physically unrestricting facility pending court disposition.~~

…

The singular includes the plural, the masculine singular includes the feminine singular and masculine and feminine plural unless otherwise specified."

SECTION 2. G.S. 7B-200(b) reads as rewritten:

"(b) The court shall have jurisdiction over the ~~parent or guardian~~parent, guardian, custodian, or caretaker of a juvenile who has been adjudicated abused, neglected, or dependent, ~~as provided by G.S. 7B-904,~~ provided the ~~parent or guardian~~parent, guardian, custodian, or caretaker has (i) been properly served with summons pursuant to ~~G.S. 7B-406.~~G.S. 7B-406, (ii) waived service of process, or (iii) automatically become a party pursuant to G.S. 7B-401.1(c) or (d)."

SECTION 3. G.S. 7B-311(b)(2) reads as rewritten:

"(b) The Department shall also maintain a list of responsible individuals. The Department may provide information from this list to child caring institutions, child placing agencies, group home facilities, and other providers of foster care, child care, or adoption services that need to determine the fitness of individuals to care for or adopt children. The name of an individual who has been identified as a responsible individual shall be placed on the responsible individuals list only after one of the following:

…

(2) The court determines that the individual is a responsible individual as a result of a hearing ~~either:~~on the individual's petition for judicial review.

~~a. On the individual's petition for judicial review; or~~

~~b. On a juvenile petition that alleges and seeks a determination that the individual is a responsible person.~~

…."

SECTION 4. G.S. 7B-320 reads as rewritten:

"§ **7B-320. Notification to individual determined to be a responsible individual.**

(a) Within five working days after the completion of an investigative assessment response that results in a determination of abuse or serious neglect and the identification of a responsible individual, the director shall personally deliver written notice of the determination to the identified individual.

(b) If personal written notice is not made within 15 days of the ~~determination,~~determination and the director has made diligent efforts to locate the identified individual, the director shall send the notice to the ~~identified~~ individual by registered or certified mail, ~~restricted delivery,~~ return receipt requested, and addressed to the individual at the individual's last known address.

(c) The notice shall include all of the following:

(1) A statement informing the individual of the nature of the investigative assessment response and whether the director determined abuse or serious neglect or both.

(1a) A statement that the individual has been identified as a responsible individual.

(2) A statement summarizing the substantial evidence supporting the director's determination without identifying the reporter or collateral contacts.

(3) A statement informing the individual that unless the individual petitions for judicial review, the individual's name will be placed on the responsible individuals list as provided in G.S. 7B-311, and that the Department of Health and Human Services may provide information from this list to child

caring institutions, child placing agencies, group home facilities, and other providers of foster care, child care, or adoption services that need to determine the fitness of individuals to care for or adopt children.

(4) A clear description of the actions the individual must take to seek judicial review of the director's determination.

(d) In addition to the notice, the director shall provide the individual with a copy of a petition for judicial review ~~form and instructions for how to file and serve the petition.~~form."

SECTION 5. G.S. 7B-323 reads as rewritten:

"…

(a1) If the director cannot show that the individual has received actual notice, the director shall not place the individual on the responsible individuals list until an ex parte hearing is held at which a district court judge determines that the director made diligent efforts to find the individual. A finding that the individual is evading service is relevant to the determination that the director made diligent efforts.

(b) The clerk of court shall maintain a separate docket for judicial review actions. Upon the filing of a petition for judicial review, the clerk shall calendar the matter for hearing within ~~15~~ 45 days from the date the petition is filed at a session of district court hearing juvenile matters or, if there is no such session, at the next session of juvenile court. The clerk shall send notice of the hearing to the petitioner and to the director who determined the abuse or serious neglect and identified the individual as a responsible individual. Upon the request of a party, the court shall close the hearing to all persons, except officers of the court, the parties, and their witnesses. At the hearing, the director shall have the burden of proving by a preponderance of the evidence the abuse or serious neglect and the identification of the individual seeking judicial review as a responsible individual. The hearing shall be before a judge without a jury. The rules of evidence applicable in civil cases shall apply. However, the court, in its discretion, may permit the admission of any reliable and relevant evidence if the general purposes of the rules of evidence and the interests of justice will best be served by its admission.

…."

SECTION 6. G.S. 7B-324 reads as rewritten:

"§ **7B-324. Persons ineligible to petition for judicial ~~review; stay of judicial review proceeding pending juvenile court case.~~review.**

(a) An individual who has been identified by a director as a responsible individual may not petition for judicial review if any of the following apply:

(1) The individual is criminally convicted as a result of the same incident. The district attorney shall inform the director of the result of the criminal proceeding.

~~(2) The individual is a respondent in a juvenile court proceeding regarding abuse or neglect resulting from the same incident that concludes with an adjudication of abuse or neglect and a determination that the individual has abused or seriously neglected the juvenile and is a responsible individual.~~

(3) Repealed by Session Laws 2010-90, s. 8, effective July 11, 2010.

(4) After proper notice, the individual fails to file a petition for judicial review with the district court in a timely manner.

(5) Repealed by Session Laws 2010-90, s. 8, effective July 11, 2010.

(b) If an individual seeking judicial review is named as a respondent in a juvenile court case or a defendant in a criminal court case resulting from the same incident, the district court judge may stay the judicial review ~~proceeding or consolidate the proceeding with the juvenile court case. If the juvenile court case is involuntarily dismissed, or concludes without an adjudication of abuse or neglect and a determination that the individual has abused or seriously neglected a juvenile and is a responsible individual, the director shall not place the individual's name on the responsible individuals list. If a juvenile court case concludes with an adjudication of abuse or neglect and a determination that the individual has abused or seriously neglected a~~

~~juvenile and is a responsible individual, the director shall place that individual's name on the responsible individuals list, consistent with the court's order.~~proceeding."

SECTION 7. G.S. 7B-400 reads as rewritten:

"§ **7B-400. Venue.**

(a) A proceeding in which a juvenile is alleged to be abused, neglected, or dependent may be commenced in the district in which the juvenile resides or is present. Notwithstanding G.S. 153A-257, the absence of a juvenile from the juvenile's home pursuant to a protection plan during an assessment or the provision of case management services by a department of social services shall not change the original venue if it subsequently becomes necessary to file a juvenile petition.

(b) When the director in one county conducts an assessment pursuant to G.S. 7B-302 in another county because a conflict of interest exists, the director in the county conducting the assessment may file a resulting petition in either county.

(c) For good cause, the court may grant motion for change of venue before adjudication. A pre-adjudication change of venue shall not affect the identity of the petitioner.

(d) Any change of venue after adjudication shall be pursuant to G.S. 7B-900.1."

SECTION 8. G.S. 7B-401 reads as rewritten:

"§ **7B-401. Pleading and process.**

(a) The pleading in an abuse, neglect, or dependency action is the petition. The process in an abuse, neglect, or dependency action is the summons.

(b) If the court has retained jurisdiction over a juvenile whose custody was granted to a parent and there are no periodic judicial reviews of the placement, the provisions of Article 8 of this subchapter shall apply to any subsequent report of abuse, neglect, or dependency determined by the director of social services to require court action pursuant to G.S. 7B-302."

SECTION 9. Article 4 of Chapter 7B of the General Statutes is amended by adding the following new section to read:

"**§ 7B-401.1. Parties.**

(a) Petitioner. – Only a county director of social services or the director's authorized representative may file a petition alleging that a juvenile is abused, neglected, or dependent. The petitioner shall remain a party until the court terminates its jurisdiction in the case.

(b) Parents. – The juvenile's parent shall be a party unless one of the following applies:

(1) The parent's rights have been terminated.

(2) The parent has relinquished the juvenile for adoption, unless the court orders that the parent be made a party.

(3) The parent has been convicted under G.S. 14-27.2 or G.S. 14-27.3 for an offense that resulted in the conception of the juvenile.

(c) Guardian. – A person who is the child's court-appointed guardian of the person or general guardian when the petition is filed shall be a party. A person appointed as the child's guardian pursuant to G.S. 7B-600 shall automatically become a party but only if the court has found that the guardianship is the permanent plan for the juvenile.

(d) Custodian. – A person who is the juvenile's custodian, as defined in G.S. 7B-101(8), when the petition is filed shall be a party. A person to whom custody of the juvenile is awarded in the juvenile proceeding shall automatically become a party but only if the court has found that the custody arrangement is the permanent plan for the juvenile.

(e) Caretaker. – A caretaker shall be a party only if (i) the petition includes allegations relating to the caretaker, (ii) the caretaker has assumed the status and obligation of a parent, or (iii) the court orders that the caretaker be made a party.

(f) The Juvenile. – The juvenile shall be a party.

(g) Removal of a Party. – If a guardian, custodian, or caretaker is a party, the court may discharge that person from the proceeding, making the person no longer a party, if the court finds that the person does not have legal rights that may be affected by the action and that the person's continuation as a party is not necessary to meet the juvenile's needs.

(h) Intervention. – Except as provided in G.S. 7B-1103(b), the court shall not allow intervention by a person who is not the juvenile's parent, guardian, custodian, or caretaker but may allow intervention by another county department of social services that has an interest in the proceeding. This section shall not prohibit the court from consolidating a juvenile proceeding with a civil action or claim for custody pursuant to G.S. 7B-200."

SECTION 10. G.S. 7B-402 reads as rewritten:

"§ **7B-402. Petition.**

(a) The petition shall contain the name, date of birth, address of the juvenile, the name and last known address of ~~the juvenile's parent, guardian, or custodian,~~each party as determined by G.S. 7B-401.1, and allegations of facts sufficient to invoke jurisdiction over the juvenile. ~~A petition alleging that a juvenile is abused or neglected may also allege and seek a determination that a respondent is a responsible individual as defined in G.S. 7B-101(18a). A person whose actions resulted in a conviction under G.S. 14-27.2 or G.S. 14-27.3 and the conception of the juvenile need not be named in the petition.~~ The petition may contain information on more than one juvenile when the juveniles are from the same home and are before the court for the same reason.

(b) The petition, or an affidavit attached to the petition, shall contain the information required by G.S. 50A-209.

(c) Sufficient copies of the petition shall be prepared so that copies will be available for each ~~parent if living separate and apart, the guardian, custodian, or caretaker,~~party named in the petition, except the juvenile, and for the juvenile's guardian ad litem, the social worker, and any person determined by the court to be a necessary party.

(d) If the petition is filed in a county other than the county of the juvenile's residence, the petitioner shall provide a copy of the petition and any notices of hearing to the director of the department of social services in the county of the juvenile's residence."

SECTION 11. G.S. 7B-406 reads as rewritten:

"§ **7B-406. Issuance of summons.**

(a) Immediately after a petition has been filed alleging that a juvenile is abused, neglected, or dependent, the clerk shall issue a summons to ~~the parent, guardian, custodian, or caretaker~~each party named in the petition, except the juvenile, requiring them to appear for a hearing at the time and place stated in the summons. ~~No summons is required for any person whose actions resulted in a conviction under G.S. 14-27.2 or G.S. 14-27.3 and the conception of the juvenile.~~ A copy of the petition shall be attached to each summons. Service of the summons shall be completed as provided in G.S. 7B-407, but the parent of the juvenile shall not be deemed to be under a disability even though the parent is a minor.

(b) A summons shall be on a printed form supplied by the Administrative Office of the Courts and shall include each of the following:

(1) Notice of the nature of the proceeding.

(2) Notice of any right to counsel and information about how ~~to~~ a parent may seek the appointment of counsel prior to a ~~hearing.~~hearing if provisional counsel is not identified.

~~(2a) Notice that, if the petition alleges and the court determines that the respondent is a responsible individual, the respondent's name will be placed on the responsible individuals list as provided in G.S. 7B-311, and that the Department of Health and Human Services may provide information from the list to child caring institutions, child placing agencies, group home facilities, and other providers of foster care, child care, or adoption services that need to determine the fitness of individuals to care for or adopt children.~~

(3) Notice that, if the court determines at the hearing that the allegations of the petition are true, the court will conduct a dispositional hearing to consider the needs of the juvenile and enter an order designed to meet those needs and the objectives of the State.

(4) Notice that the dispositional order or a subsequent order:

a. May remove the juvenile from the custody of the parent, guardian, or custodian.
b. May require that the juvenile receive medical, psychiatric, psychological, or other treatment and that the parent participate in the treatment.
c. May require the parent to undergo psychiatric, psychological, or other treatment or counseling for the purpose of remedying the behaviors or conditions that are alleged in the petition or that contributed to the removal of the juvenile from the custody of that person.
d. May order the parent to pay for treatment that is ordered for the juvenile or the parent.
e. May, upon proper notice and hearing and a finding based on the criteria set out in G.S. 7B-1111, terminate the parental rights of the respondent parent.

(c) The summons shall advise the parent that upon service, jurisdiction over that person is obtained and that failure to comply with any order of the court pursuant to G.S. 7B-904 may cause the court to issue a show cause order for contempt.

(d) A summons shall be directed to the person summoned to appear and shall be delivered to any person authorized to serve process."

SECTION 12. G.S. 7B-407 reads as rewritten:

"§ **7B-407. Service of summons.**

The summons shall be served under G.S. 1A-1, Rule 4(j) upon the parent, guardian, custodian, or caretaker, not less than five days prior to the date of the scheduled hearing. The time for service may be waived in the discretion of the court.

If ~~the parent, guardian, custodian, or caretaker entitled to receive a summons cannot be found by a diligent effort, the court may authorize service of the summons and petition~~service by publication under G.S. 1A-1, ~~Rule 4(j1). The~~Rule 4(j1) is required, the cost of the service by publication shall be advanced by the petitioner and may be charged as court costs as the court may direct.

~~If the parent, guardian, custodian, or caretaker is served as herein provided and fails without reasonable cause to appear and to bring the juvenile before the court, the parent, guardian, custodian, or caretaker may be proceeded against as for contempt of court.~~"

SECTION 13. G.S. 7B-505 reads as rewritten:

"§ **7B-505. ~~Place of~~Placement while in nonsecure custody.**

(a) A juvenile meeting the criteria set out in G.S. 7B-503 may be placed in nonsecure custody with the department of social services or a person designated in the order for temporary residential placement in:

(1) A licensed foster home or a home otherwise authorized by law to provide such care; or
(2) A facility operated by the department of social services; or
(3) Any other home or facility, including a relative's home approved by the court and designated in the order.

(b) In placing a juvenile in nonsecure custody under this section, the court shall first consider whether a relative of the juvenile is willing and able to provide proper care and supervision of the juvenile in a safe home. If the court finds that the relative is willing and able to provide proper care and supervision in a safe home, then the court shall order placement of the juvenile with the relative unless the court finds that placement with the relative would be contrary to the best interests of the juvenile.

(c) If the court does not place the juvenile with a relative, the court may consider whether nonrelative kin is willing and able to provide proper care and supervision of the juvenile in a safe home. Nonrelative kin is an individual having a substantial relationship with the juvenile. In the case of a juvenile member of a State-recognized tribe as set forth in

G.S. 143B-407(a), nonrelative kin also includes any member of a State-recognized tribe or a member of a federally recognized tribe, whether or not there is a substantial relationship with the juvenile. The court may order the Department to notify the juvenile's State-recognized tribe of the need for nonsecure custody for the purpose of locating relatives or nonrelative kin for placement. The court may order placement of the juvenile with nonrelative kin if the court finds the placement is in the juvenile's best interests.

(d) In placing a juvenile in nonsecure custody under this section, the court shall also consider whether it is in the juvenile's best interest to remain in the juvenile's community of residence. In placing a juvenile in nonsecure custody under this section, the court shall consider the Indian Child Welfare Act, Pub. L. No. 95-608, 25 U.S.C. §§ 1901, et seq., as amended, and the Howard M. Metzenbaum Multiethnic Placement Act of 1994, Pub. L. No. 103-382, 108 Stat. 4056, as amended, as they may apply. Placement of a juvenile with a relative outside of this State must be in accordance with the Interstate Compact on the Placement of Children, Article 38 of this Chapter."

SECTION 14. G.S. 7B-506 reads as rewritten:

"§ **7B-506. Hearing to determine need for continued nonsecure custody.**

…

(b) At a hearing to determine the need for continued custody, the court shall receive testimony and shall allow the guardian ad litem, or juvenile, and the juvenile's parent, guardian, custodian, or caretaker the right to introduce evidence, to be heard in the person's own behalf, and to examine witnesses. The ~~State~~ petitioner shall bear the burden at every stage of the proceedings to provide clear and convincing evidence that the juvenile's placement in custody is necessary. The court shall not be bound by the usual rules of evidence at such hearings.

…

(g) ~~Reserved.~~In addition to the hearings required under this section, any party may schedule a hearing on the issue of placement.

(h) At each hearing to determine the need for continued custody, the court ~~shall:~~shall determine the following:

(1) Inquire as to the identity and location of any missing parent and ~~as to~~ whether paternity is at issue. The court shall include findings as to the efforts undertaken to locate the missing parent and to serve that parent, as well as efforts undertaken to establish paternity when paternity is an issue. The order may provide for specific efforts aimed at determining the identity and location of any missing parent, as well as specific efforts aimed at establishing paternity.

(2) Inquire about efforts made to identify and notify relatives as potential resources for placement or support and as to whether a relative of the juvenile is willing and able to provide proper care and supervision of the juvenile in a safe home. If the court finds that the relative is willing and able to provide proper care and supervision in a safe home, then the court shall order temporary placement of the juvenile with the relative unless the court finds that placement with the relative would be contrary to the best interests of the juvenile. In placing a juvenile in nonsecure custody under this section, the court shall consider the Indian Child Welfare Act, Pub. L. No. 95-608, 25 U.S.C. §§ 1901, et seq., as amended, and the Howard M. Metzenbaum Multiethnic Placement Act of 1994, Pub. L. No. 103-382, 108 Stat. 4056, as amended, as they may apply. Placement of a juvenile with a relative outside of this State must be in accordance with the Interstate Compact on the Placement of Children set forth in Article 38 of this ~~Chapter; and~~Chapter.

(2a) If the court does not place the juvenile with a relative, the court may consider whether nonrelative kin is willing and able to provide proper care and supervision of the juvenile in a safe home. Nonrelative kin is an individual having a substantial relationship with the juvenile. In the case of a

juvenile member of a State-recognized tribe as set forth in G.S. 143B-407(a), nonrelative kin also includes any member of a State-recognized tribe or a member of a federally recognized tribe, whether or not there is a substantial relationship with the juvenile. The court may order the Department to notify the juvenile's State-recognized tribe of the need for nonsecure custody for the purpose of locating relatives or nonrelative kin for placement. The court may order placement of the juvenile with nonrelative kin if the court finds the placement is in the juvenile's best interests.

(3) Inquire as to whether there are other juveniles remaining in the home from which the juvenile was removed and, if there are, inquire as to the specific findings of the assessment conducted under G.S. 7B-302 and any actions taken or services provided by the director for the protection of the other juveniles."

SECTION 15. G.S. 7B-507(c) reads as rewritten:

"(c) When the court determines that reunification efforts are not required or shall cease, the court shall order a plan for permanence as soon as possible, after providing each party with a reasonable opportunity to prepare and present evidence. If the court's determination to cease reunification efforts is made in a hearing that was duly and timely noticed as a permanency planning hearing, then the court may immediately proceed to consider all of the criteria contained in ~~G.S. 7B-907(b),~~G.S. 7B-906.1(e), make findings of fact, and set forth the best plan of care to achieve a safe, permanent home within a reasonable period of time. If the court's decision to cease reunification efforts arises in any other hearing, the court shall schedule a subsequent hearing within 30 days to address the permanent plan in accordance with ~~G.S. 7B-907.~~G.S. 7B-906.1. At any hearing at which the court orders that reunification efforts shall cease, the affected parent, guardian, or custodian may give notice to preserve the right to appeal that order in accordance with G.S. 7B-1001. The party giving notice shall be permitted to make a detailed offer of proof as to any evidence that party sought to offer in opposition to cessation of reunification that the court refused to admit."

SECTION 16. G.S. 7B-600 reads as rewritten:

"§ **7B-600. Appointment of guardian.**

(a) In any case when no parent appears in a hearing with the juvenile or when the court finds it would be in the best interests of the juvenile, the court may appoint a guardian of the person for the juvenile. The guardian shall operate under the supervision of the court with or without bond and shall file only such reports as the court shall require. The guardian shall have the care, custody, and control of the juvenile or may arrange a suitable placement for the juvenile and may represent the juvenile in legal actions before any court. The guardian may consent to certain actions on the part of the juvenile in place of the parent including (i) marriage, (ii) enlisting in the Armed Forces of the United States, and (iii) enrollment in school. The guardian may also consent to any necessary remedial, psychological, medical, or surgical treatment for the juvenile. The authority of the guardian shall continue until the guardianship is terminated by court order, until the juvenile is emancipated pursuant to Article 35 of Subchapter IV of this Chapter, or until the juvenile reaches the age of majority.

(b) In any case where the court has determined that the appointment of a relative or other suitable person as guardian of the person for a juvenile is ~~in the best interest of the juvenile and has also made findings in accordance with G.S. 7B-907 that guardianship is~~ the permanent plan for the juvenile and appoints a guardian under this section, the guardian ~~is~~ becomes a party to the ~~proceeding, the~~proceeding. The court may ~~not~~ terminate the guardianship ~~or order that the juvenile be reintegrated into a parent's home unless~~only if (i) the court finds that the relationship between the guardian and the juvenile is no longer in the juvenile's best interest, ~~that~~ (ii) the guardian is unfit, ~~that~~ (iii) the guardian has neglected a guardian's duties, or ~~that~~ (iv) the guardian is unwilling or unable to continue assuming a guardian's duties.

(b1) If a party files a motion ~~or petition under G.S. 7B-906~~under G.S. 7B-906.1 or G.S. 7B-1000, the court may, prior to conducting a review hearing, do one or more of the following:

(1) Order the county department of social services to conduct an investigation and file a written report of the investigation regarding the performance of the guardian of the person of the juvenile and give testimony concerning its investigation.

(2) Utilize the community resources in behavioral sciences and other professions in the investigation and study of the guardian.

(3) Ensure that a guardian ad litem has been appointed for the juvenile in accordance with G.S. 7B-601 and has been notified of the pending motion or petition.

(4) Take any other action necessary in order to make a determination in a particular case.

(c) If the court appoints an individual guardian of the person pursuant to this section, the court shall verify that the person being appointed as guardian of the juvenile understands the legal significance of the appointment and will have adequate resources to care appropriately for the juvenile."

SECTION 17. G.S. 7B-602 reads as rewritten:

"§ **7B-602. Parent's right to counsel; guardian ad litem.**

(a) In cases where the juvenile petition alleges that a juvenile is abused, neglected, or dependent, the parent has the right to counsel and to appointed counsel in cases of indigency unless that person waives the right. When a petition is filed alleging that a juvenile is abused, neglected, or dependent, the clerk shall appoint provisional counsel for each parent named in the petition in accordance with rules adopted by the Office of Indigent Defense Services and shall indicate the appointment on the juvenile summons or attached notice. At the first hearing, the court shall dismiss the provisional counsel if the respondent parent:

(1) Does not appear at the hearing;

(2) Does not qualify for court-appointed counsel;

(3) Has retained counsel; or

(4) Waives the right to counsel.

The court shall confirm the appointment of counsel if subdivisions (1) through (4) of this subsection are not applicable to the respondent parent.

The court may reconsider a parent's eligibility and desire for appointed counsel at any stage of the proceeding.

(a1) A parent qualifying for appointed counsel may be permitted to proceed without the assistance of counsel only after the court examines the parent and makes findings of fact sufficient to show that the waiver is knowing and voluntary. The court's examination shall be reported as provided in G.S. 7B-806.

(b) In addition to the right to appointed counsel set forth above, a guardian ad litem shall be appointed in accordance with the provisions of G.S. 1A-1, Rule 17, to represent a parent who is under the age of 18 years and who is not married or otherwise emancipated. The appointment of a guardian ad litem under this subsection shall not affect the minor parent's entitlement to a guardian ad litem pursuant to G.S. 7B-601 in the event that the minor parent is the subject of a separate juvenile petition.

(c) On motion of any party or on the court's own motion, the court may appoint a guardian ad litem for a parent who is incompetent in accordance with G.S. 1A-1, ~~Rule 17, if the court determines that there is a reasonable basis to believe that the parent is incompetent or has diminished capacity and cannot adequately act in his or her own interest. The parent's counsel shall not be appointed to serve as the guardian ad litem.~~Rule 17.

(d) The parent's counsel shall not be appointed to serve as the guardian ad litem and the guardian ad litem shall not act as the parent's attorney. Communications between the guardian ad litem appointed under this section and the parent and between the guardian ad litem and the parent's counsel shall be privileged and confidential to the same extent that communications between the parent and the parent's counsel are privileged and confidential.

~~(e) Guardians ad litem appointed under this section may engage in all of the following practices:~~

~~(1) Helping the parent to enter consent orders, if appropriate.~~

~~(2) Facilitating service of process on the parent.~~

~~(3) Assuring that necessary pleadings are filed.~~

~~(4) Assisting the parent and the parent's counsel, if requested by the parent's counsel, to ensure that the parent's procedural due process requirements are met.~~"

SECTION 18. Article 8 of Chapter 7B of the General Statutes is amended by adding the following new section to read:

"§ **7B-800.1. Pre-adjudication hearing.**

(a) Prior to the adjudicatory hearing, the court shall consider the following:

(1) Retention or release of provisional counsel.

(2) Identification of the parties to the proceeding.

(3) Whether paternity has been established or efforts made to establish paternity, including the identity and location of any missing parent.

(4) Whether relatives have been identified and notified as potential resources for placement or support.

(5) Whether all summons, service of process, and notice requirements have been met.

(6) Any pretrial motions, including (i) appointment of a guardian ad litem in accordance with G.S. 7B-602, (ii) discovery motions in accordance with G.S. 7B-700, (iii) amendment of the petition in accordance with G.S. 7B-800, or (iv) any motion for a continuance of the adjudicatory hearing in accordance with G.S. 7B-803.

(7) Any other issue that can be properly addressed as a preliminary matter.

(b) The pre-adjudication hearing may be combined with a hearing on the need for nonsecure custody or any pretrial hearing or conducted in accordance with local rules.

(c) The parties may enter stipulations in accordance with G.S. 7B-807 or enter a consent order in accordance with G.S. 7B-801."

SECTION 19. G.S. 7B-803 reads as rewritten:

"§ **7B-803. Continuances.**

The court may, for good cause, continue the hearing for as long as is reasonably required to receive additional evidence, reports, or assessments that the court has requested, or other information needed in the best interests of the juvenile and to allow for a reasonable time for the parties to conduct expeditious discovery. Otherwise, continuances shall be granted only in extraordinary circumstances when necessary for the proper administration of justice or in the best interests of the juvenile. Resolution of a pending criminal charge against a respondent arising out of the same transaction or occurrence as the juvenile petition shall not be the sole extraordinary circumstance for granting a continuance."

SECTION 20. G.S. 7B-805 reads as rewritten:

"§ **7B-805. Quantum of proof in adjudicatory hearing.**

The allegations in a petition alleging that a juvenile is abused, neglected, or dependent shall be proved by clear and convincing evidence. ~~Allegations in a petition alleging that a respondent is a responsible individual who has abused or seriously neglected a juvenile shall be proved by a preponderance of the evidence.~~"

SECTION 21. G.S. 7B-807 reads as rewritten:

"§ **7B-807. Adjudication.**

(a) If the court finds from the evidence, including stipulations by a party, that the allegations in the petition have been proven by clear and convincing evidence, the court shall so state. A record of specific stipulated adjudicatory facts shall be made by either reducing the facts to a writing, signed by each party stipulating to them and submitted to the court; or by reading the facts into the record, followed by an oral statement of agreement from each party stipulating to them. If the court finds that the allegations have not been proven, the court shall dismiss the petition with prejudice, and if the juvenile is in nonsecure custody, the juvenile shall be released to the parent, guardian, custodian, or caretaker.

~~(a1) After an adjudication that a juvenile is abused or neglected, if the petition alleges and the court determines by a preponderance of the evidence that a respondent has abused or seriously neglected a juvenile and is a responsible individual, the court shall order the placement of that individual's name on the responsible individuals list as provided in G.S. 7B-311.~~

(b) The adjudicatory order shall be in writing and shall contain appropriate findings of fact and conclusions of law. The order shall be reduced to writing, signed, and entered no later than 30 days following the completion of the hearing. If the order is not entered within 30 days following completion of the hearing, the clerk of court for juvenile matters shall schedule a subsequent hearing at the first session of court scheduled for the hearing of juvenile matters following the 30-day period to determine and explain the reason for the delay and to obtain any needed clarification as to the contents of the order. The order shall be entered within 10 days of the subsequent hearing required by this subsection."

SECTION 22. G.S. 7B-901 reads as rewritten:

"§ **7B-901. Dispositional hearing.**

The dispositional hearing shall take place immediately following the adjudicatory hearing and shall be concluded within 30 days of the conclusion of the adjudicatory hearing. The dispositional hearing may be informal and the court may consider written reports or other evidence concerning the needs of the juvenile. The juvenile and the juvenile's parent, guardian, or custodian shall have the right to present evidence, and they may advise the court concerning the disposition they believe to be in the best interests of the juvenile. The court may consider any evidence, including hearsay evidence as defined in G.S. 8C-1, Rule 801, <u>including testimony or evidence from any person who is not a party,</u> that the court finds to be relevant, reliable, and necessary to determine the needs of the juvenile and the most appropriate disposition. The court may exclude the public from the hearing unless the juvenile moves that the hearing be open, which motion shall be granted.

At the dispositional hearing, the court shall inquire as to the identity and location of any missing parent and whether paternity is at issue. The court shall include findings of the efforts undertaken to locate the missing parent and to serve that parent and efforts undertaken to establish paternity when paternity is an issue. The order may provide for specific efforts in determining the identity and location of any missing parent and specific efforts in establishing paternity. The court shall also inquire about efforts made to identify and notify relatives as potential resources for placement or support."

SECTION 23. G.S. 7B-905 reads as rewritten:

"§ **7B-905. Dispositional order.**

(a) The dispositional order shall be in writing, signed, and entered no later than 30 days from the completion of the hearing, and shall contain appropriate findings of fact and conclusions of law. The court shall state with particularity, both orally and in the written order of disposition, the precise terms of the disposition including the kind, duration, and the person who is responsible for carrying out the disposition and the person or agency in whom custody is vested. If the order is not entered within 30 days following completion of the hearing, the clerk of court for juvenile matters shall schedule a subsequent hearing at the first session of court scheduled for the hearing of juvenile matters following the 30-day period to determine and

explain the reason for the delay and to obtain any needed clarification as to the contents of the order. The order shall be entered within 10 days of the subsequent hearing required by this subsection.

(b) A dispositional order under which a juvenile is removed from the custody of a parent, guardian, custodian, or caretaker shall direct that the review hearing required by ~~G.S. 7B-906~~G.S. 7B-906.1 be held within 90 days from of the date of the dispositional hearing and, if practicable, shall set the date and time for the review hearing.

(c) Any dispositional order shall comply with the requirements of G.S. 7B-507. ~~Any dispositional order under which a juvenile is removed from the custody of a parent, guardian, custodian, or caretaker, or under which the juvenile's placement is continued outside the home shall provide for appropriate visitation as may be in the best interests of the juvenile and consistent with the juvenile's health and safety. If the juvenile is placed in the custody or placement responsibility of a county department of social services, the court may order the director to arrange, facilitate, and supervise a visitation plan expressly approved by the court. If the director subsequently makes a good faith determination that the visitation plan may not be in the best interests of the juvenile or consistent with the juvenile's health and safety, the director may temporarily suspend all or part of the visitation plan. The director shall not be subjected to any motion to show cause for this suspension, but shall expeditiously file a motion for review.~~

(d) When a county department of social services having custody or placement responsibility of a juvenile intends to change the juvenile's placement, the department shall give the guardian ad litem for the juvenile notice of its intention unless precluded by emergency circumstances from doing so. Where emergency circumstances exist, the department of social services shall notify the guardian ad litem or the attorney advocate within 72 hours of the placement change, unless local rules require notification within a shorter time period."

SECTION 24. Article 9 of Chapter 7B of the General Statutes is amended by adding the following new section to read:

"**§ 7B-905.1. Visitation.**

(a) An order that removes custody of a juvenile from a parent, guardian, or custodian or that continues the juvenile's placement outside the home shall provide for appropriate visitation as may be in the best interests of the juvenile consistent with the juvenile's health and safety. The court may specify in the order conditions under which visitation may be suspended.

(b) If the juvenile is placed or continued in the custody or placement responsibility of a county department of social services, the court may order the director to arrange, facilitate, and supervise a visitation plan expressly approved or ordered by the court. The plan shall indicate the minimum frequency and length of visits and whether the visits shall be supervised. Unless the court orders otherwise, the director shall have discretion to determine who will supervise visits when supervision is required, to determine the location of visits, and to change the day and time of visits in response to scheduling conflicts, illness of the child or party, or extraordinary circumstances. The director shall promptly communicate a limited and temporary change in the visitation schedule to the affected party. Any ongoing change in the visitation schedule shall be communicated to the party in writing and state the reason for the change.

If the director makes a good faith determination that the visitation plan is not consistent with the juvenile's health and safety, the director may temporarily suspend all or part of the visitation plan. The director shall not be subject to any motion to show cause for this suspension but shall expeditiously file a motion for review.

(c) If the juvenile is placed or continued in the custody or guardianship of a relative or other suitable person, any order providing for visitation shall specify the minimum frequency and length of the visits and whether the visits shall be supervised. The court may authorize additional visitation as agreed upon by the respondent and custodian or guardian.

(d) If the court retains jurisdiction, all parties shall be informed of the right to file a motion for review of any visitation plan entered pursuant to this section. Upon motion of any party and after proper notice and a hearing, the court may establish, modify, or enforce a

visitation plan that is in the juvenile's best interest. Prior to or at the hearing, the court may order the department and guardian ad litem to investigate and make written recommendations as to appropriate visitation and give testimony concerning its recommendations. For resolution of issues related to visitation, the court may order the parents, guardian, or custodian to participate in custody mediation where there is a program established pursuant to G.S. 7A-494. In referring a case to custody mediation, the court shall specify the issue or issues for mediation, including, but not limited to, whether or not visitation shall be supervised and whether overnight visitation may occur. Custody mediation shall not permit the participants to consent to a change in custody. A copy of any agreement reached in custody mediation shall be provided to all parties and counsel and shall be approved by the court. The provisions of G.S. 50-13.1(d) through (f) apply to this section."

SECTION 25. G.S. 7B-906 and G.S. 7B-907 are repealed.

SECTION 26. Article 9 of Chapter 7B of the General Statutes is amended by adding the following new section to read:

"**§ 7B-906.1. Review and permanency planning hearings.**

(a) In any case where custody is removed from a parent, guardian, or custodian, the court shall conduct a review hearing within 90 days from the date of the dispositional hearing and shall conduct a review hearing within six months thereafter. Within 12 months of the date of the initial order removing custody, there shall be a review hearing designated as a permanency planning hearing. Review hearings after the initial permanency planning hearing shall be designated as subsequent permanency planning hearings. The subsequent permanency planning hearings shall be held at least every six months thereafter or earlier as set by the court to review the progress made in finalizing the permanent plan for the juvenile, or if necessary, to make a new permanent plan for the juvenile.

(b) The director of social services shall make a timely request to the clerk to calendar each hearing at a session of court scheduled for the hearing of juvenile matters. The clerk shall give 15 days' notice of the hearing and its purpose to (i) the parents, (ii) the juvenile if 12 years of age or more, (iii) the guardian, (iv) the person providing care for the juvenile, (v) the custodian or agency with custody, (vi) the guardian ad litem, and (vii) any other person or agency the court may specify. The department of social services shall either provide to the clerk the name and address of the person providing care for the juvenile for notice under this subsection or file written documentation with the clerk that the juvenile's current care provider was sent notice of hearing. Nothing in this subsection shall be construed to make the person providing care for the juvenile a party to the proceeding solely based on receiving notice and the right to be heard.

(c) At each hearing, the court shall consider information from the parents, the juvenile, the guardian, any person providing care for the juvenile, the custodian or agency with custody, the guardian ad litem, and any other person or agency that will aid in the court's review. The court may consider any evidence, including hearsay evidence as defined in G.S. 8C-1, Rule 801, or testimony or evidence from any person that is not a party, that the court finds to be relevant, reliable, and necessary to determine the needs of the juvenile and the most appropriate disposition.

(d) At each hearing, the court shall consider the following criteria and make written findings regarding those that are relevant:

(1) Services which have been offered to reunite the juvenile with either parent whether or not the juvenile resided with the parent at the time of removal or the guardian or custodian from whom the child was removed.

(2) Reports on visitation that has occurred and whether there is a need to create, modify, or enforce an appropriate visitation plan in accordance with G.S. 7B-905.1.

(3) Whether efforts to reunite the juvenile with either parent clearly would be futile or inconsistent with the juvenile's safety and need for a safe, permanent home within a reasonable period of time. The court shall consider

efforts to reunite regardless of whether the juvenile resided with the parent, guardian, or custodian at the time of removal. If the court determines efforts would be futile or inconsistent, the court shall consider a permanent plan of care for the juvenile.

(4) Reports on the placements the juvenile has had, the appropriateness of the juvenile's current foster care placement, and the goals of the juvenile's foster care plan, including the role the current foster parent will play in the planning for the juvenile.

(5) If the juvenile is 16 or 17 years of age, a report on an independent living assessment of the juvenile and, if appropriate, an independent living plan developed for the juvenile.

(6) When and if termination of parental rights should be considered.

(7) Any other criteria the court deems necessary.

(e) At any permanency planning hearing where the juvenile is not placed with a parent, the court shall additionally consider the following criteria and make written findings regarding those that are relevant:

(1) Whether it is possible for the juvenile to be placed with a parent within the next six months and, if not, why such placement is not in the juvenile's best interests.

(2) Where the juvenile's placement with a parent is unlikely within six months, whether legal guardianship or custody with a relative or some other suitable person should be established and, if so, the rights and responsibilities that should remain with the parents.

(3) Where the juvenile's placement with a parent is unlikely within six months, whether adoption should be pursued and, if so, any barriers to the juvenile's adoption.

(4) Where the juvenile's placement with a parent is unlikely within six months, whether the juvenile should remain in the current placement, or be placed in another permanent living arrangement and why.

(5) Whether the county department of social services has since the initial permanency plan hearing made reasonable efforts to implement the permanent plan for the juvenile.

(6) Any other criteria the court deems necessary.

(f) In the case of a juvenile who is in the custody or placement responsibility of a county department of social services and has been in placement outside the home for 12 of the most recent 22 months, or a court of competent jurisdiction has determined that the parent (i) has abandoned the child, (ii) has committed murder or voluntary manslaughter of another child of the parent, or (iii) has aided, abetted, attempted, conspired, or solicited to commit murder or voluntary manslaughter of the child or another child of the parent, the director of the department of social services shall initiate a proceeding to terminate the parental rights of the parent unless the court finds any of the following:

(1) The permanent plan for the juvenile is guardianship or custody with a relative or some other suitable person.

(2) The court makes specific findings as to why the filing of a petition for termination of parental rights is not in the best interests of the child.

(3) The department of social services has not provided the juvenile's family with services the department deems necessary when reasonable efforts are still required to enable the juvenile's return to a safe home.

(g) At the conclusion of each permanency planning hearing, the judge shall make specific findings as to the best plan of care to achieve a safe, permanent home for the juvenile within a reasonable period of time.

(h) The order shall be reduced to writing, signed, and entered no later than 30 days following the completion of the hearing. If the order is not entered within 30 days following completion of the hearing, the clerk of court for juvenile matters shall schedule a subsequent hearing at the first session of court scheduled for the hearing of juvenile matters following the 30-day period to determine and explain the reason for the delay and to obtain any needed clarification as to the contents of the order. The order shall be entered within 10 days of the subsequent hearing required by this subsection.

(i) The court may maintain the juvenile's placement under review or order a different placement, appoint a guardian of the person for the juvenile pursuant to G.S. 7B-600, or order any disposition authorized by G.S. 7B-903, including the authority to place the child in the custody of either parent or any relative found by the court to be suitable and found by the court to be in the best interests of the juvenile.

(j) If the court determines that the juvenile shall be placed in the custody of an individual other than a parent or appoints an individual guardian of the person pursuant to G.S. 7B-600, the court shall verify that the person receiving custody or being appointed as guardian of the juvenile understands the legal significance of the placement or appointment and will have adequate resources to care appropriately for the juvenile.

(k) If at any time custody is placed with a parent or findings are made in accordance with subsection (n) of this section, the court shall be relieved of the duty to conduct periodic judicial reviews of the placement.

(l) If the court continues the juvenile's placement in the custody or placement responsibility of a county department of social services, the provisions of G.S. 7B-507 shall apply to any order entered under this section.

(m) If the court finds that a proceeding to terminate the parental rights of the juvenile's parents is necessary in order to perfect the permanent plan for the juvenile, the director of the department of social services shall file a petition to terminate parental rights within 60 calendar days from the date of the entry of the order unless the court makes written findings regarding why the petition cannot be filed within 60 days. If the court makes findings to the contrary, the court shall specify the time frame in which any needed petition to terminate parental rights shall be filed.

(n) Notwithstanding other provisions of this Article, the court may waive the holding of hearings required by this section, may require written reports to the court by the agency or person holding custody in lieu of review hearings, or order that review hearings be held less often than every six months if the court finds by clear, cogent, and convincing evidence each of the following:

(1) The juvenile has resided in the placement for a period of at least one year.

(2) The placement is stable and continuation of the placement is in the juvenile's best interests.

(3) Neither the juvenile's best interests nor the rights of any party require that review hearings be held every six months.

(4) All parties are aware that the matter may be brought before the court for review at any time by the filing of a motion for review or on the court's own motion.

(5) The court order has designated the relative or other suitable person as the juvenile's permanent custodian or guardian of the person.

The court may not waive or refuse to conduct a review hearing if a party files a motion seeking the review. However, if a guardian of the person has been appointed for the juvenile and the court has also made findings in accordance with subsection (n) of this section that guardianship is the permanent plan for the juvenile, the court shall proceed in accordance with G.S. 7B-600(b)."

SECTION 27. G.S. 7B-908 reads as rewritten:

"§ **7B-908. Post termination of parental rights' placement court review.**

(a) The purpose of each placement review is to ensure that every reasonable effort is being made to provide for a permanent placement plan for the juvenile who has been placed in the custody of a county director or licensed child-placing agency, which is consistent with the juvenile's best interests. At each review hearing the court may consider information from the department of social services, the licensed child-placing agency, the guardian ad litem, the child, ~~the foster parent, relative, or preadoptive parent~~the person providing care for the child, and any other person or agency the court determines is likely to aid in the review. The court may consider any evidence, including hearsay evidence as defined in G.S. 8C-1, Rule 801, that the court finds to be relevant, reliable, and necessary to determine the needs of the juvenile and the most appropriate disposition.

(b) The court shall conduct a placement review not later than six months from the date of the termination hearing when parental rights have been terminated by a petition brought by any person or agency designated in G.S. 7B-1103(2) through (5) and a county director or licensed child-placing agency has custody of the juvenile. The court shall conduct reviews every six months thereafter until the juvenile is the subject of a decree of adoption:

(1) No more than 30 days and no less than 15 days prior to each review, the clerk shall give notice of the review to the juvenile if the juvenile is at least 12 years of age, the legal custodian of the juvenile, the ~~foster parent, relative, or preadoptive parent~~person providing care for the juvenile, the guardian ad litem, if any, and any other person or agency the court may specify. The department of social services shall either provide to the clerk the name and address of the ~~foster parent, relative, or preadoptive parent~~person providing care for the child for notice under this subsection or file written documentation with the clerk that the child's current care provider was sent notice of hearing. Only the juvenile, if the juvenile is at least 12 years of age, the legal custodian of the juvenile, the ~~foster parent, relative, or preadoptive parent~~person providing care for the juvenile, and the guardian ad litem shall attend the review hearings, except as otherwise directed by the court. Nothing in this subdivision shall be construed to make the ~~foster parent, relative, or preadoptive parent~~person a party to the proceeding solely based on receiving notice and the right to be heard. Any individual whose parental rights have been terminated shall not be considered a party to the proceeding unless an appeal of the order terminating parental rights is pending, and a court has stayed the order pending the appeal.

(2) If a guardian ad litem for the juvenile has not been appointed previously by the court in the termination proceeding, the court, at the initial six-month review hearing, may appoint a guardian ad litem to represent the juvenile. The court may continue the case for such time as is necessary for the guardian ad litem to become familiar with the facts of the case.

(c) The court shall consider at least the following in its review and make written findings regarding the following that are relevant:

(1) The adequacy of the plan developed by the county department of social services or a licensed child-placing agency for a permanent placement relative to the juvenile's best interests and the efforts of the department or agency to implement such plan.

(2) Whether the juvenile has been listed for adoptive placement with the North Carolina Adoption Resource Exchange, the North Carolina Photo Adoption Listing Service (PALS), or any other specialized adoption agency.

(3) The efforts previously made by the department or agency to find a permanent home for the juvenile.

(4) Whether the current placement is in the juvenile's best interest.

(d) The court, after making findings of fact, shall do one of the following:

(1) Affirm the county department's or child-placing agency's plans.

(2) If a juvenile is not placed with prospective adoptive ~~parents,~~parents as selected in G.S. 7B-1112.1, order a placement or different plan the court finds to be in the juvenile's best interest after considering the department's recommendations.

In either case, the court may require specific additional steps that are necessary to accomplish a permanent placement that is in the best interests of the juvenile.

(e) If the juvenile is the subject of a decree of adoption prior to the date scheduled for the review, within 10 days of receiving notice that the adoption decree has been entered, the department of social services shall file with the court and serve on any guardian ad litem for the juvenile written notice of the entry. The adoption decree shall not be filed in the court file. The review hearing shall be cancelled with notice of said cancellation given by the clerk to all persons previously notified.

(f) Repealed by Session Laws 2011-295, s. 10, effective October 1, 2011, and applicable to actions filed or pending on or after that date."

SECTION 28. G.S. 7B-909 reads as rewritten:

"§ **7B-909. Review of agency's plan for placement.**

(a) The director of social services or the director of the licensed private child-placing agency shall promptly notify the clerk to calendar the case for review of the department's or agency's plan for the juvenile at a session of court scheduled for the hearing of juvenile ~~matters in any case where:~~matters. The review shall be held within six months of accepting a relinquishment of a juvenile for adoption under the provisions of Part 7 of Article 3 of Chapter 48 of the General Statutes unless the juvenile has become the subject of a decree of adoption.

~~(1) One parent has surrendered a juvenile for adoption under the provisions of Part 7 of Article 3 of Chapter 48 of the General Statutes and the termination of parental rights proceedings have not been instituted against the nonsurrendering parent within six months of the surrender by the other parent, or~~

~~(2) Both parents have surrendered a juvenile for adoption under the provisions of Part 7 of Article 3 of Chapter 48 of the General Statutes and that juvenile has not been placed for adoption within six months from the date of the more recent parental surrender.~~

(b) Repealed by 2007-276, s. 6, effective October 1, 2007.

(c) Notification of the court under this section shall be by a petition for ~~review. The petition shall set forth the circumstances necessitating the review under subsection (a) of this section.~~review or motion for review, if the court is exercising jurisdiction over the juvenile. The review shall be conducted within 30 days following the filing of the petition for review unless the court shall otherwise direct. The court shall conduct reviews every six months until the juvenile is the subject of a decree of adoption. The initial review and all subsequent reviews shall be conducted pursuant to G.S. 7B-908. Any individual whose parental rights have been terminated or who has relinquished the juvenile for adoption under the provisions of Part 7 of Article 3 of Chapter 48 of the General Statutes shall not be considered a party to the review unless an appeal of the order terminating parental rights is pending, and a court has stayed the order pending the appeal."

SECTION 29. G.S. 7B-911 reads as rewritten:

"§ **7B-911. Civil child custody order.**

(a) ~~After making proper findings at a dispositional hearing or any subsequent hearing,~~ Upon placing custody with a parent or other appropriate person, the court ~~on its own motion or the motion of a party may award~~shall determine whether or not jurisdiction in the juvenile proceeding should be terminated and custody of the juvenile awarded to a parent or other appropriate person pursuant to G.S. 50-13.1, 50-13.2, 50-13.5, and ~~50-13.7, as provided in this section, and terminate the court's jurisdiction in the juvenile proceeding.~~50-13.7.

(b) When the court enters a custody order under this section, the court shall either cause the order to be filed in an existing civil action relating to the custody of the juvenile or, if there is no other civil action, instruct the clerk to treat the order as the initiation of a civil action for custody.

If the order is filed in an existing civil action and the person to whom the court is awarding custody is not a party to that action, the court shall order that the person be joined as a party and that the caption of the case be changed accordingly. The order shall resolve any pending claim for custody and shall constitute a modification of any custody order previously entered in the action.

If the court's order initiates a civil action, the court shall designate the parties to the action and determine the most appropriate caption for the case. The civil filing fee is waived unless the court orders one or more of the parties to pay the filing fee for a civil action into the office of the clerk of superior court. The order shall constitute a custody determination, and any motion to enforce or modify the custody order shall be filed in the newly created civil action in accordance with the provisions of Chapter 50 of the General Statutes. The Administrative Office of the Courts may adopt rules and shall develop and make available appropriate forms for establishing a civil file to implement this section.

(c) ~~The court may enter a civil custody order under this section and terminate the court's jurisdiction in the juvenile proceeding only if:~~When entering an order under this section, the court shall satisfy the following:

(1) ~~In the civil custody order the court makes~~Make findings and conclusions that support the entry of a custody order in an action under Chapter 50 of the General Statutes or, if the juvenile is already the subject of a custody order entered pursuant to Chapter 50, makes findings and conclusions that support modification of that order pursuant to ~~G.S. 50-13.7; and~~G.S. 50-13.7.

(2) ~~In a separate order terminating the juvenile court's jurisdiction in the juvenile proceeding, the court finds:~~Make the following findings:

a. ~~That there~~There is not a need for continued State intervention on behalf of the juvenile through a juvenile court ~~proceeding; and~~proceeding.

b. ~~That at~~At least six months have passed since the court made a determination that the juvenile's placement with the person to whom the court is awarding custody is the permanent plan for the juvenile, though this finding is not required if the court is awarding custody to a parent or to a person with whom the child was living when the juvenile petition was filed."

SECTION 30. G.S. 7B-1000(a) reads as rewritten:

"(a) Upon motion in the cause or petition, and after notice, the court may conduct a review hearing to determine whether the order of the court is in the best interests of the juvenile, and the court may modify or vacate the order in light of changes in circumstances or the needs of the juvenile. Notwithstanding the provision of this subsection, if a guardian of the person has been appointed for the juvenile and the court has also made findings ~~in accordance with G.S. 7B-907~~ that guardianship is the permanent plan for the juvenile, the court shall proceed in accordance with G.S. 7B-600(b)."

SECTION 31. G.S. 7B-1001 reads as rewritten:

"§ **7B-1001. Right to appeal.**

(a) In a juvenile matter under this Subchapter, appeal of a final order of the court in a juvenile matter shall be made directly to the Court of Appeals. Only the following juvenile matters may be appealed:

(1) Any order finding absence of jurisdiction.

(2) Any order, including the involuntary dismissal of a petition, which in effect determines the action and prevents a judgment from which appeal might be taken.

(3) Any initial order of disposition and the adjudication order upon which it is based.

(4) Any order, other than a nonsecure custody order, that changes legal custody of a juvenile.

(5) An order entered under G.S. 7B-507(c) with rights to appeal properly ~~preserved as provided in that subsection,~~preserved, as follows:

a. The Court of Appeals shall review the order to cease reunification together with an appeal of the termination of parental rights order if all of the following apply:

1. A motion or petition to terminate the parent's rights is heard and granted.

2. The order terminating parental rights is appealed in a proper and timely manner.

3. The order to cease reunification is identified as an issue in the record on appeal of the termination of parental rights.

b. A party who is a parent shall have the right to appeal the order if no termination of parental rights petition or motion is filed within 180 days of the order.

c. A party who is a custodian or guardian shall have the right to immediately appeal the order.

(6) Any order that terminates parental rights or denies a petition or motion to terminate parental rights.

(b) Notice of appeal and notice to preserve the right to appeal shall be given in writing by a proper party as defined in G.S. 7B-1002 and shall be made within 30 days after entry and service of the order in accordance with G.S. 1A-1, Rule 58.

(c) Notice of appeal shall be signed by both the appealing party and counsel for the appealing party, if ~~any, and shall be taken only by following direct instruction of the appealing party after the conclusion of the proceeding.~~any. In the case of an appeal by a juvenile, notice of appeal shall be signed by the guardian ad litem attorney advocate."

SECTION 32. G.S. 7B-1101.1 reads as rewritten:

"§ **7B-1101.1. Parent's right to counsel; guardian ad litem.**

(a) The parent has the right to counsel, and to appointed counsel in cases of indigency, unless the parent waives the right. The fees of appointed counsel shall be borne by the Office of Indigent Defense Services. When a petition is filed, unless the parent is already represented by counsel, the clerk shall appoint provisional counsel for each respondent parent named in the petition in accordance with rules adopted by the Office of Indigent Defense Services and shall indicate the appointment on the juvenile summons. At the first hearing after service upon the respondent parent, the court shall dismiss the provisional counsel if the respondent parent:

(1) Does not appear at the hearing;

(2) Does not qualify for court-appointed counsel;

(3) Has retained counsel; or

(4) Waives the right to counsel.

The court shall confirm the appointment of counsel if subdivisions (1) through (4) of this subsection are not applicable to the respondent parent. The court may reconsider a parent's eligibility and desire for appointed counsel at any stage of the proceeding.

(a1) A parent qualifying for appointed counsel may be permitted to proceed without the assistance of counsel only after the court examines the parent and makes findings of fact sufficient to show that the waiver is knowing and voluntary. This examination shall be reported as provided in G.S. 7B-806.

(b) In addition to the right to appointed counsel under subsection (a) of this section, a guardian ad litem shall be appointed in accordance with G.S. 1A-1, Rule 17, to represent any parent who is under the age of 18 years and who is not married or otherwise emancipated.

(c) On motion of any party or on the court's own motion, the court may appoint a guardian ad litem for a parent who is incompetent in accordance with G.S. 1A-1, ~~Rule 17 if the court determines that there is a reasonable basis to believe that the parent is incompetent or has diminished capacity and cannot adequately act in his or her own interest. The parent's counsel shall not be appointed to serve as the guardian ad litem.~~Rule 17.

(d) The parent's counsel shall not be appointed to serve as the guardian ad litem and the guardian ad litem shall not act as the parent's attorney. Communications between the guardian ad litem appointed under this section and the parent and between the guardian ad litem and the parent's counsel shall be privileged and confidential to the same extent that communications between the parent and the parent's counsel are privileged and confidential.

~~(e) Guardians ad litem appointed under this section may engage in all of the following practices:~~

~~(1) Helping the parent to enter consent orders, if appropriate.~~

~~(2) Facilitating service of process on the parent.~~

~~(3) Assuring that necessary pleadings are filed.~~

~~(4) Assisting the parent and the parent's counsel, if requested by the parent's counsel, to ensure that the parent's procedural due process requirements are met.~~

(f) The fees of a guardian ad litem appointed pursuant to this section shall be borne by the Office of Indigent Defense Services when the court finds that the respondent is indigent. In other cases, the fees of the court-appointed guardian ad litem shall be a proper charge against the respondent if the respondent does not secure private legal counsel."

SECTION 33. G.S. 7B-1106 is amended by adding the following new subsection to read:

"(a2) If an attorney has been appointed for a respondent pursuant to G.S. 7B-602 and has not been relieved of responsibility, a copy of all pleadings and other papers required to be served on the respondent shall be served on the respondent's attorney pursuant to procedures established under G.S. 1A-1, Rule 5."

SECTION 34. G.S. 7B-1109(b) reads as rewritten:

"(b) The court shall inquire whether the juvenile's parents are present at the hearing and, if so, whether they are represented by counsel. If the parents are not represented by counsel, the court shall inquire whether the parents desire counsel but are indigent. In the event that the parents desire counsel but are indigent as defined in G.S. 7A-450(a) and are unable to obtain counsel to represent them, counsel shall be appointed to represent them in accordance with rules adopted by the Office of Indigent Defense Services. The court shall grant the parents such an extension of time as is reasonable to permit their appointed counsel to prepare their defense to the termination petition or motion. ~~In the event that the parents do not desire counsel and are present at the hearing, the court shall examine each parent and make findings of fact sufficient to show that the waivers were knowing and voluntary. This examination shall be reported as provided in G.S. 7A-198.~~"

SECTION 35. G.S. 7B-1111(a)(5) reads as rewritten:

"(a) The court may terminate the parental rights upon a finding of one or more of the following:

…

(5) The father of a juvenile born out of wedlock has not, prior to the filing of a petition or motion to terminate parental ~~rights:~~rights, done any of the following:

a. ~~Established paternity judicially or by affidavit which has been filed~~Filed an affidavit of paternity in a central registry maintained by the Department of Health and Human Services; provided, the ~~court~~ petitioner or movant shall inquire of the Department of Health and Human Services as to whether such an affidavit has been so filed and

~~shall incorporate into the case record~~ the Department's certified ~~reply; or~~reply shall be submitted to and considered by the court.

b. Legitimated the juvenile pursuant to provisions of ~~G.S. 49-10~~G.S. 49-10, G.S. 49-12.1, or filed a petition for this specific ~~purpose; or~~purpose.

c. Legitimated the juvenile by marriage to the mother of the ~~juvenile; or~~juvenile.

d. Provided substantial financial support or consistent care with respect to the juvenile and mother.

e. Established paternity through G.S. ~~49~~-14, 110-132, 130A-101, 130A-118, or other judicial proceeding.

…."

SECTION 36. G.S. 7B-1112.1 reads as rewritten:

"§ **7B-1112.1. Selection of adoptive parents.**

The process of selection of specific adoptive parents shall be the responsibility of and within the discretion of the county department of social services or licensed child-placing agency. In selecting the adoptive parents, any current placement provider wanting to adopt the child shall be considered. The guardian ad litem may request information from and consult with the county department or child-placing agency concerning the selection process. If the guardian ad litem requests information about the selection process, the county shall provide the information within five business days. The county department of social services shall notify the guardian ad litem and the foster parents of the selection of prospective adoptive parents within 10 days of the selection and before the filing of the adoption petition. If the guardian ad litem disagrees with the selection of adoptive ~~parents,~~parents or the foster parents want to adopt the juvenile and were not selected as adoptive parents, the guardian ad litem or foster parents shall file a motion within 10 days of the department's notification and schedule the case for hearing on the next juvenile calendar. The department shall not change the juvenile's placement to the prospective adoptive parents unless the time period for filing a motion has expired and no motion has been filed. The Department shall provide a copy of a motion for judicial review of adoption selection to the foster parents not selected. Nothing in this section shall be construed to make the foster parents a party to the proceeding solely based on receiving notification and the right to be heard by filing a motion. In hearing ~~the~~ any motion, the court shall consider the recommendations of the agency and the guardian ad litem and other facts related to the selection of adoptive parents. The court shall then determine whether the proposed adoptive placement is in the juvenile's best interests."

SECTION 37. G.S. 7B-1114 reads as rewritten:

"§ **7B-1114. Reinstatement of parental rights.**

(a) A juvenile whose parent's rights have been ~~terminated pursuant to this Article,~~terminated, the guardian ad litem attorney, or a county department of social services with custody of the juvenile may file a motion to reinstate the parent's rights if all of the following conditions are satisfied:

(1) The juvenile is at least 12 years of age or, if the juvenile is younger than 12, the motion alleges extraordinary circumstances requiring consideration of the motion.

(2) The juvenile does not have a legal parent, is not in an adoptive placement, and is not likely to be adopted within a reasonable period of time.

(3) The order terminating parental rights was entered at least three years before the filing of the motion, unless the court has found or the juvenile's attorney advocate and the county department of social services with custody of the juvenile stipulate that the juvenile's permanent plan is no longer adoption.

…

(i) At any hearing under this section, after making proper findings of fact and conclusions of law, the court may do one of the following:

(1) Enter an order for visitation in accordance with ~~G.S. 7B-905(c).~~G.S. 7B-905.1.

(2) Order that the juvenile be placed in the former parent's home and supervised by the department of social services either directly or, when the former parent lives in a different county, through coordination with the county department of social services in that county, or by other personnel as may be available to the court, subject to conditions applicable to the former parent as the court may specify. Any order authorizing placement with the former parent shall specify that the juvenile's placement and care remain the responsibility of the county department of social services with custody of the juvenile and that the department is to provide or arrange for the placement of the juvenile.

…."

SECTION 38. G.S. 7B-1203(2) reads as rewritten:

"§ **7B-1203. Alternative plans.**

A district court district shall be granted a waiver from the implementation of a local program if the Administrative Office of the Courts determines that the following conditions are met:

…

(2) The proposed alternative plan will require no greater proportion of State funds than the district court district's abuse and neglect caseload represents to the State's abuse and neglect caseload. Computation of abuse and neglect caseloads shall include such factors as the juvenile population, number of substantiated abuse and neglect reports, number of abuse and neglect petitions, number of abused and neglected juveniles in care to be reviewed pursuant to ~~G.S. 7B-906,~~G.S. 7B-906.1, nature of the district's district court caseload, and number of petitions to terminate parental rights."

SECTION 39. G.S. 7B-2503(1)c. reads as rewritten:

"§ **7B-2503. Dispositional alternatives for undisciplined juveniles.**

The following alternatives for disposition shall be available to the court exercising jurisdiction over a juvenile who has been adjudicated undisciplined. In placing a juvenile in out-of-home care under this section, the court shall also consider whether it is in the juvenile's best interest to remain in the juvenile's community of residence. The court may combine any of the applicable alternatives when the court finds it to be in the best interests of the juvenile:

(1) In the case of any juvenile who needs more adequate care or supervision or who needs placement, the judge may:

…

c. If the director of the department of social services has received notice and an opportunity to be heard, place the juvenile in the custody of a department of social services in the county of the juvenile's residence, or in the case of a juvenile who has legal residence outside the State, in the physical custody of a department of social services in the county where the juvenile is found so that agency may return the juvenile to the responsible authorities in the juvenile's home state. An order placing a juvenile in the custody or placement responsibility of a county department of social services shall contain a finding that the juvenile's continuation in the juvenile's own home would be contrary to the juvenile's best interest. This placement shall be reviewed in accordance with ~~G.S. 7B-906.~~G.S. 7B-906.1. The director may, unless otherwise ordered by the judge, arrange for, provide, or consent to, needed routine or emergency medical or surgical care or treatment. In the case where the parent is unknown, unavailable, or unable to act on behalf of the juvenile or juveniles, the director may,

unless otherwise ordered by the judge, arrange for, provide or consent to any psychiatric, psychological, educational, or other remedial evaluations or treatment for the juvenile placed by a judge or the judge's designee in the custody or physical custody of a county department of social services under the authority of this or any other Chapter of the General Statutes. Prior to exercising this authority, the director shall make reasonable efforts to obtain consent from a parent, guardian, or custodian of the affected juvenile. If the director cannot obtain consent, the director shall promptly notify the parent, guardian, or custodian that care or treatment has been provided and shall give the parent, guardian, or custodian frequent status reports on the circumstances of the juvenile. Upon request of a parent, guardian, or custodian of the affected juvenile, the results or records of the aforementioned evaluations, findings, or treatment shall be made available to the parent, guardian, or custodian by the director unless prohibited by G.S. 122C-53(d)."

SECTION 40. G.S. 7B-2506(1)c. reads as rewritten:

"§ **7B-2506. Dispositional alternatives for delinquent juveniles.**

The court exercising jurisdiction over a juvenile who has been adjudicated delinquent may use the following alternatives in accordance with the dispositional structure set forth in G.S. 7B-2508:

(1) In the case of any juvenile who needs more adequate care or supervision or who needs placement, the judge may:

…

c. If the director of the county department of social services has received notice and an opportunity to be heard, place the juvenile in the custody of the department of social services in the county of his residence, or in the case of a juvenile who has legal residence outside the State, in the physical custody of a department of social services in the county where the juvenile is found so that agency may return the juvenile to the responsible authorities in the juvenile's home state. An order placing a juvenile in the custody or placement responsibility of a county department of social services shall contain a finding that the juvenile's continuation in the juvenile's own home would be contrary to the juvenile's best interest. This placement shall be reviewed in accordance with ~~G.S. 7B-906.~~G.S. 7B-906.1. The director may, unless otherwise ordered by the judge, arrange for, provide, or consent to, needed routine or emergency medical or surgical care or treatment. In the case where the parent is unknown, unavailable, or unable to act on behalf of the juvenile or juveniles, the director may, unless otherwise ordered by the judge, arrange for, provide, or consent to any psychiatric, psychological, educational, or other remedial evaluations or treatment for the juvenile placed by a judge or his designee in the custody or physical custody of a county department of social services under the authority of this or any other Chapter of the General Statutes. Prior to exercising this authority, the director shall make reasonable efforts to obtain consent from a parent, guardian, or custodian of the affected juvenile. If the director cannot obtain consent, the director shall promptly notify the parent, guardian, or custodian that care or treatment has been provided and shall give the parent, guardian, or custodian frequent status reports on the circumstances of the juvenile. Upon request of a parent, guardian, or custodian of the affected juvenile, the results or records of the

aforementioned evaluations, findings, or treatment shall be made available to the parent, guardian, or custodian by the director unless prohibited by G.S. 122C-53(d)."

SECTION 41. This act becomes effective October 1, 2013, and applies to actions filed or pending on or after that date.

In the General Assembly read three times and ratified this the 13th day of June, 2013.

Became law upon approval of the Governor at 4:21 p.m. on the 19th day of June, 2013.

Session Law 2013-130 **H.B. 439**

AN ACT TO CREATE AN INFRASTRUCTURE PROPERTY TAX DEFERRAL PROGRAM.

The General Assembly of North Carolina enacts:

SECTION 1. Article 12 of Subchapter II of Chapter 105 of the General Statutes is amended by adding a new section to read:

"**§ 105-277.15A. Taxation of site infrastructure land.**

(a) Classification. – Site infrastructure land is designated a special class of property under Section 2(2) of Article V of the North Carolina Constitution and must be appraised, assessed, and taxed in accordance with this section.

(b) Requirements. – Land qualifies as site infrastructure land if it meets the following size and use requirements:

(1) Size. – The land must consist of at least 100 contiguous acres.

(2) Use. – The land must meet all of the following requirements:

a. It must be zoned for industrial use, office use, or both.

b. A building permit for a primary building or structure must not have been issued for the land, and there is no primary building or structure on the land.

c. It must be classified under G.S. 105-277.3 or have been classified under G.S. 105-277.3 within the previous six months.

(c) Deferred Taxes. – An owner may defer a portion of tax imposed on site infrastructure land that represents the sum of the increase in value of the property attributable solely to improvements made to the site infrastructure land, if any, and the difference between the true value of the site infrastructure land and the value of the site infrastructure land as if it were classified under G.S. 105-277.3 as agricultural land. The difference between the taxes due under this section and the taxes that would have been payable in the absence of this section is a lien on the site infrastructure land as provided in G.S. 105-355(a). The difference in taxes must be carried forward in the records of each taxing unit as deferred taxes. The deferred taxes are due and payable in accordance with G.S. 105-277.1F when the site infrastructure land loses its eligibility for deferral because of the occurrence of a disqualifying event as follows:

(1) The deferred taxes for the preceding five fiscal years are due and payable when an amount equal to the deferred taxes is not invested in improvements to make the land suitable for industrial use, office use, or both within five years from the first day of the fiscal year the property was classified under this section.

(2) The deferred taxes for the preceding five fiscal years are due and payable when the minimum investment required by subdivision (1) of this subsection is timely made, but the land has been classified under this section for 10 years.

(3) All deferred taxes are due and payable when some or all of the site infrastructure land is rezoned for a use other than for industrial use, office use, or both.

(4) The deferred taxes for the preceding year are due and payable when the land is transferred or when a building permit for a primary building or structure for the land is issued.

(d) Notice. – On or before September 1 of each year, the collector shall notify each owner to whom a tax deferral has previously been granted of the accumulated sum of deferred taxes and interest. An owner who fails to notify the county assessor when land classified under this section loses its eligibility for classification is subject to a penalty in the amount set in G.S. 105-277.5.

(e) Exception to Payment. – No deferred taxes are due in the following circumstances, and the deferred taxes remain a lien on the land:

(1) When the owner of site infrastructure land that was previously classified under G.S. 105-277.3 does not transfer the land, and the land again becomes eligible for classification under G.S. 105-277.3. In this circumstance, the deferred taxes are payable in accordance with G.S. 105-277.3.

(2) When a portion of the site infrastructure land is transferred for industrial use, office use, or both or has issued for the land a building permit for a primary building or structure for industrial use, office use, or both, and the remainder of the site infrastructure land no longer meets the size requirement of this section. In this circumstance, the deferred taxes for the remainder are payable in accordance with this section without application of the size requirement of subdivision (b)(1) of this section.

(f) Application. – An application for property tax relief provided by this section should be filed during the regular listing period but may be filed after the regular listing period upon a showing of good cause by the applicant for failure to make a timely application, as determined and approved by the board of equalization and review or, if that board is not in session, by the board of county commissioners. An untimely application approved under this subsection applies only to property taxes levied by the county or municipality in the calendar year in which the untimely application is filed. Decisions of the county board may be appealed to the Property Tax Commission. Persons may apply for this property tax relief by entering the appropriate information on a form made available by the assessor under G.S. 105-282.1. An application for property tax relief provided by this section may not be approved for any portion of site infrastructure land which has previously lost eligibility for the program.

(g) Report. – On August 1 of each year, the Secretary shall report to the Department of Commerce the number and location of site infrastructure lands qualified under this section."

SECTION 2. G.S. 105-277.3 is amended by adding a new subsection to read:

"(d3) Site Infrastructure Exception. – When an owner of land classified under this section (i) does not transfer the land and the land becomes eligible for classification under G.S. 105-277.15A or (ii) does transfer the land but the land becomes eligible for classification under G.S. 105-277.15A within six months of the transfer, no deferred taxes are due. The deferred taxes remain a lien on the land and are payable in accordance with G.S. 105-277.15A."

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

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

(1) G.S. 105-275(12), real property owned by a nonprofit corporation held as a protected natural area.

(1a) G.S. 105-275(29a), historic district property held as future site of historic structure.

(2) G.S. 105-277.1B, the property tax homestead circuit breaker.

(2a) G.S. 105-277.1D, the inventory property tax deferral.

(3) G.S. 105-277.4(c), present-use value property.
(4) G.S. 105-277.14, working waterfront property.
(4a) G.S. 105-277.15, wildlife conservation land.
(4b) G.S. 105-277.15A, site infrastructure land.
(5) G.S. 105-278(b), historic property.
(6) G.S. 105-278.6(e), nonprofit property held as future site of low- or moderate-income housing."

SECTION 4. G.S. 143B-437.02(k) reads as rewritten:

"(k) Monitoring and Reports. – The Department is responsible for monitoring compliance with the performance criteria under each site development agreement and for administering the repayment in case of default. The Department shall pay for the cost of this monitoring from funds appropriated to it for that purpose or for other economic development purposes.

On September 1 of each year until all funds have been expended, the Department shall report to the Joint Legislative Commission on Governmental Operations regarding the Site Infrastructure Development Program. This report shall include a listing of each agreement negotiated and entered into during the preceding year, including the name of the business, the cost/benefit analysis conducted by the Committee during the application process, a description of the project, and the amount of the site development incentive expected to be paid under the agreement during the current fiscal year. The report shall also include detailed information about any defaults and repayment during the preceding ~~year.~~year and the information contained in the report required by G.S. 105-277.15A(g). The Department shall publish this report on its web site and shall make printed copies available upon request."

SECTION 5. Sections 1, 2, and 3 of this act are effective for taxes imposed for taxable years beginning on or after July 1, 2013. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 12th day of June, 2013.

Became law upon approval of the Governor at 4:22 p.m. on the 19th day of June, 2013.

Session Law 2013-131 **H.B. 505**

AN ACT TO CODIFY AND MAKE PERMANENT THE PROGRAM FOR INSPECTIONS OF CERTAIN ANIMAL OPERATIONS BY THE DIVISION OF SOIL AND WATER CONSERVATION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143-215.10F reads as rewritten:

"§ **143-215.10F. Inspections.**

(a) ~~The~~ Except as provided in subsection (b) of this section, the Division shall conduct inspections of all animal operations that are subject to a permit under G.S. 143-215.10C at least once a year to determine whether the system is causing a violation of water quality standards and whether the system is in compliance with its animal waste management plan or any other condition of the permit.

(b) As an alternative to the inspection program set forth in subsection (a) of this section, the Division of Soil and Water Conservation of the Department of Agriculture and Consumer Services shall conduct inspections of all animal operations that are subject to a permit under G.S. 143-215.10C at least once a year to determine whether the system is causing a violation of water quality standards and whether the system is in compliance with its animal waste management plan or any other condition of the permit. The alternative inspection program shall be located in up to four counties selected using the criteria set forth in Section 15.4(a) of S.L. 1997-443, as amended, as it existed prior to its expiration. The Department of Agriculture and

Consumer Services shall establish procedures whereby resources within the local Soil and Water Conservation Districts serving the counties are used for quick response to complaints and reported problems previously referred only to the Division of Water Quality."

SECTION 2. The Department of Environment and Natural Resources and the Division of Soil and Water Conservation of the Department of Agriculture and Consumer Services shall continue and transition the inspection program and practices required by and developed pursuant to Section 15.4(a) of S.L. 1997-443, as it existed prior to its expiration, into the inspection program and practices required by G.S. 143-215.10F, as amended by Section 1 of this act, including the counties in which the alternative inspection program is conducted.

SECTION 3. This act becomes effective June 30, 2013.

In the General Assembly read three times and ratified this the 11th day of June, 2013.

Became law upon approval of the Governor at 4:22 p.m. on the 19th day of June, 2013.

Session Law 2013-132 **H.B. 515**

AN ACT TO AMEND THE LAWS GOVERNING CREDIT UNIONS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 54-109.57A is amended by adding a new subsection to read:

"(e) Any payable on death account created under the provisions of G.S. 54-109.57, as it existed prior to October 1, 2011, shall for all purposes be governed by the provisions of this section on and after October 1, 2011, and any reference to G.S. 54-109.57 in any document concerning the account shall be deemed a reference to this section."

SECTION 2. G.S. 54-109.58 reads as rewritten:

"§ **54-109.58. Joint accounts.**

(a) Shares may be issued to and deposits received from any two or more persons opening or holding an account or accounts, but no joint tenant, unless a member in his own right, shall be permitted to vote, obtain loans, or hold office or be required to pay an entrance or membership fee. The account and any balance thereof shall be held by them as joint tenants, with or without right of survivorship, as the contract shall provide; the account may also be held pursuant to G.S. 41-2.1 and have the incidents set forth in that section, provided, however, if the account is held pursuant to G.S. 41-2.1 the contract shall set forth that fact as well.

(b) Unless the persons establishing the account have agreed with the credit union that withdrawals require more than one signature, payment by the credit union to, or on the order of, any persons holding an account authorized by this section shall be a total discharge of the credit union's obligations as to the amount so paid.

(c) Funds in a joint account established with right of survivorship shall belong to the surviving joint tenant or tenants upon the death of a joint tenant, and the funds shall be subject only to the personal representative's right of collection as set forth in G.S. 28A-15-10(a)(3), or as provided in G.S. 41-2.1 if the account is established pursuant to the provisions of that section. Payment by the credit union of funds in the joint account to a surviving joint tenant or tenants shall terminate the personal representative's authority under G.S. 28A-15-10(a)(3) to collect against the credit union for the funds so paid, but the personal representative's authority to collect such funds from the surviving joint tenant or tenants is not terminated.

(d) A pledge of such account by any holder or holders shall, unless otherwise specifically agreed upon, be a valid pledge and transfer of such account, or of the amount so pledged, and shall not operate to sever or terminate the joint ownership of all or any part of the account.

(e) A credit union is not liable to joint tenants for complying in good faith with a writ of execution, garnishment, attachment, levy, or other legal process that appears to have been issued by a court or other authority of competent jurisdiction and seeks funds held in the name of any one or more of the joint tenants.

(f) Persons establishing an account under this section shall sign a statement showing their election of the right of survivorship in the account, and containing language set forth in a conspicuous manner and substantially similar to the following:

"**CREDIT UNION (OR NAME OF INSTITUTION)**
JOINT ACCOUNT WITH RIGHT OF SURVIVORSHIP
G.S. 54-109.58

We understand that by establishing a joint account under the provisions of North Carolina General Statute 54-109.58 that:

1. The credit union (or name of institution) may pay the money in the account to, or on the order of, any person named in the account unless we have agreed with the credit union that withdrawals require more than one signature; and
2. Upon the death of one joint owner the money remaining in the account will belong to the surviving joint owners and will not pass by inheritance to the heirs of the deceased joint owner or be controlled by the deceased joint owner's will.

We DO elect to create the right of survivorship in this account.

_____
_____"

The language may be on a signature card or in an explanation of the account that is set out in a separate document whose receipt is acknowledged by the person or persons establishing the account.

(g) Any joint tenant may terminate a joint account.

(h) Where a joint account is held by two or more individuals and a joint tenant does not wish for the account to be terminated but requests to be removed from the account, the credit union shall remove the joint tenant from the account. The joint account shall continue in the names of the remaining tenant or tenants. Any joint tenant who requested to be removed from an account remains liable for any debts incurred in connection with the joint account during the period in which the individual was a named joint tenant.

~~(a1)~~(i) This section shall not be deemed exclusive. Deposit ~~accounts,~~accounts not conforming to this section shall be governed by other applicable provisions of the General Statutes or the common law as appropriate.

~~(b)~~(j) This section does not repeal or modify any provisions of laws relating to estate taxes. This section regulates and protects the credit union in its relationship with joint owners of accounts.

~~(c)~~(k) No addition to such account, nor any withdrawal or payment shall affect the nature of the account as a joint account, or affect the right of any tenant to terminate the account."

SECTION 3. Article 14F of Chapter 54 of the General Statutes is amended by adding the following sections to read:

"§ **54-109.60A. Minors.**

(a) A credit union may issue and operate a share or deposit account in the name of (i) a minor or (ii) the names of two or more individuals, one or more of which are minors. A minor who obtains a share or deposit account from a credit union under this subsection, whether individually or together with others, is bound by the terms of the account agreement to the same extent as if the minor were of full age and legal capacity.

(b) If a minor with a share account, other than a joint account with right of survivorship or a payable on death account, dies, a parent or legal guardian of the minor may access and withdraw the funds on deposit, and the credit union is discharged to the extent of any withdrawal.

(c) This section shall not affect the law governing transactions with minors in cases outside the scope of this section, including transactions that constitute an extension of credit to a minor.

"**§ 54-109.60B. Accounts opened by adults for minors.**

(a) One or more adults may open and maintain a custodial share account for or in the name of a minor and using the minor's taxpayer identification number. Unless otherwise provided in the agreement governing the account, the following terms apply:

(1) Beneficial ownership of the account vests exclusively in the minor. All interest credited to the account shall belong to the minor and shall be reported to the appropriate taxing authorities in the name of the minor using the minor's taxpayer identification number.

(2) Except as otherwise provided, control of the account vests exclusively in the custodian whose name appears on the credit union's records for the account. If there is more than one custodian named on the credit union's account records, each may act independently. Any one or more of the custodians named on the credit union's records may turn over control of the account to the minor at any time, either before or after the minor reaches the age of majority.

(3) If the custodian has not already transferred control, then after the minor beneficiary reaches the age of majority, the beneficiary may instruct the credit union to transfer control to the beneficiary and remove the named custodian.

(4) If the custodian or, if more than one custodian is on the account, the last of the custodians to survive dies before the minor reaches the age of majority, the minor's parent or the minor's legal guardian may act as custodian or name another custodian on the account.

(b) This section shall not be deemed exclusive. Accounts not conforming to this section shall be governed by other applicable provisions of the General Statutes, including Chapter 33A, the North Carolina Uniform Transfers to Minors Act, or the common law, as appropriate.

…

"**§ 54-109.62. Payment of balance of deceased person or person under disability to personal representative or guardian.**

(a) A credit union may pay any balance on deposit to the credit of any deceased individual to the duly qualified personal representative, collector, or public administrator of the decedent who is qualified as such under the laws of any state.

(b) A credit union may pay any balance on deposit to the credit of any individual judicially declared incompetent or otherwise under a legal disability to the duly qualified personal representative, guardian, curator, conservator, or committee of the person declared incompetent or under disability who is qualified as such under the laws of any state.

(c) The presentation of a letter of qualification as personal representative, collector, public administrator, guardian, curator, conservator, or committee of the person issued or certified by the appointing court shall be conclusive proof of the jurisdiction of the court issuing the same and sufficient authority for the payment.

(d) Payment by a credit union in good faith under the authority of this section discharges the liability of the bank to the extent of the payment.

"**§ 54-109.62A. Powers of attorney; notice of revocation; payment after notice.**

(a) Any credit union may continue to recognize any act of an attorney-in-fact or other agent until the credit union receives actual notice of the principal's death or a written notice of revocation signed by the principal who granted the authority or, in the case of a company,

evidence satisfactory to the credit union of the revocation. Payment by the credit union to or at the direction of an attorney-in-fact or other agent before receipt of the notice is a total discharge of the credit union's obligation as to the amount so paid.

(b) Notwithstanding that a credit union has received written notice of revocation of the authority of an attorney-in-fact or other designated agent, a credit union may, until 10 days after receipt of notice, pay any item made, drawn, accepted, or endorsed by the attorney-in-fact or agent prior to the revocation, provided that the item is otherwise properly payable."

SECTION 4. G.S. 54-109.63(a) reads as rewritten:

"(a) A person may open a personal agency account by written contract containing a statement that it is executed pursuant to the provisions of this section. A personal agency account may be a checking account, savings account, time deposit, or any other type of withdrawable account or certificate. The written contract shall name an agent who shall have authority to act on behalf of the depositor in regard to the account as set out in this subsection. The agent shall have the authority to:

(1) Make, sign or execute checks drawn on the account or otherwise make withdrawals from the account;

(2) Endorse checks made payable to the principal for deposit only into the account; and

(3) Deposit cash or negotiable instruments, including instruments endorsed by the principal, into the account.

A person establishing an account under this section shall sign a statement containing language substantially similar to the following in a conspicuous manner:

"**CREDIT UNION (OR NAME OF INSTITUTION)**
PERSONAL AGENCY ACCOUNT
G.S. 54-109.63

I understand that by establishing a personal agency account under the provisions of North Carolina General Statute 54-109.63 that the agent named in the account may:

1. Sign checks drawn on the account; and
2. Make deposits into the account.

I also understand that upon my death the money remaining in the account will be controlled by my will or inherited by my heirs.

_____ "

The language may be on a signature card or in an explanation of the account that is set out in a separate document whose receipt is acknowledged by the person or persons establishing the account."

SECTION 5. G.S. 54-109.82(9) reads as rewritten:

"§ **54-109.82. Investment of funds.**

The capital, deposits, undivided profits and reserve fund of the corporation may be invested only in any of the following ways:

…

(9) In any form of investment allowed by law to the State Treasurer under G.S. 147-69.1. In addition, investment in corporate bonds that bear a minimum rating of A+ by at least one nationally recognized rating service is permissible. Credit unions shall monitor overall credit exposure by setting corporate bond investment limits as a percentage of assets.

…."

SECTION 6. This act becomes effective July 1, 2013, and Sections 2 and 4 of this act apply to accounts established as of that date and accounts created on or after that date.

In the General Assembly read three times and ratified this the 12th day of June, 2013.

Became law upon approval of the Governor at 4:22 p.m. on the 19th day of June, 2013.

Session Law 2013-133 **H.B. 611**

AN ACT TO REQUIRE THE DIVISION OF MOTOR VEHICLES TO EXPUNGE SUSPENSIONS AND REVOCATIONS ENTERED ON A LIMITED PERMITTEE OR PROVISIONAL LICENSEE'S DRIVING RECORD IF THE STUDENT PROVIDES THE REQUIRED DOCUMENTATION TO THE DIVISION THAT THE STUDENT MEETS THE ELIGIBILITY REQUIREMENTS AND IF THE LIMITED PERMITTEE OR PROVISIONAL LICENSEE HAS NEVER HAD A PRIOR EXPUNCTION FROM THE PERMITTEE'S DRIVING RECORD.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-13.2(c1) reads as rewritten:

"(c1) Upon receipt of notification from the proper school authority that a person no longer meets the requirements for a driving eligibility certificate under G.S. 20-11(n), the Division must expeditiously notify the person that his or her permit or license is revoked effective on the tenth calendar day after the mailing of the revocation notice. The Division must revoke the permit or license of that person on the tenth calendar day after the mailing of the revocation notice. Notwithstanding subsection (d) of this section, the length of revocation must last for the following periods:

(1) If the revocation is because of ineligibility for a driving eligibility certificate under G.S. 20-11(n)(1), then the revocation shall last until the person's eighteenth birthday.

(2) If the revocation is because of ineligibility for a driving eligibility certificate under G.S. 20-11(n1), then the revocation shall be for a period of one year.

For a person whose permit or license was revoked due to ineligibility for a driving eligibility certificate under G.S. 20-11(n)(1), the Division must restore a person's permit or license before the person's eighteenth birthday, if the person submits to the Division one of the following:

(1) A high school diploma or its equivalent.

(2) A driving eligibility certificate as required under G.S. 20-11(n).

If the Division restores a permit or license that was revoked due to ineligibility for a driving eligibility certificate under G.S. 20-11(n)(1), any record of revocation or suspension shall be expunged by the Division from the person's driving record. The Division shall not expunge a suspension or revocation record if a person has had a prior expunction from the person's driving record for any reason.

For a person whose permit or license was revoked due to ineligibility for a driving eligibility certificate under G.S. 20-11(n1), the Division shall restore a person's permit or license before the end of the revocation period, if the person submits to the Division a driving eligibility certificate as required under G.S. 20-11(n).

Notwithstanding any other law, the decision concerning whether a driving eligibility certificate was properly issued or improperly denied shall be appealed only as provided under the rules adopted in accordance with G.S. 115C-12(28), 115D-5(a3), or 115C-566, whichever is applicable, and may not be appealed under this Chapter."

SECTION 2. This act becomes effective December 1, 2013, and applies to reinstatements occurring on or after that date.

In the General Assembly read three times and ratified this the 13th day of June, 2013.

Became law upon approval of the Governor at 4:23 p.m. on the 19th day of June, 2013.

Session Law 2013-134 **H.B. 623**

AN ACT TO MODIFY THE VEHICLE WEIGHT LIMITS FOR A SINGLE-AXLE TRUCK OWNED, OPERATED BY, OR UNDER CONTRACT TO A PUBLIC UTILITY OR ELECTRIC OR TELEPHONE MEMBERSHIP CORPORATION AND USED IN CONNECTION WITH THE INSTALLATION, RESTORATION, OR MAINTENANCE OF UTILITY SERVICES IN CERTAIN AREAS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-118(c) is amended by adding a new subdivision to read:

"(17) Subsections (b) and (e) of this section do not apply to a truck owned, operated by, or under contract to a public utility, electric or telephone membership corporation, or municipality that meets all of the conditions listed below, but all other enforcement provisions of this Article remain applicable:

a. Is being used in connection with the installation, restoration, or maintenance of utility services within a North Carolina county located in whole or in part west of Interstate 77, and the terrain, road widths, and other naturally occurring conditions prevent the safe navigation and operation of a truck having more than a single axle or using a trailer.

b. Does not operate on an interstate highway.

c. Does not exceed a single-axle weight of more than 28,000 pounds.

d. Does not exceed a maximum gross weight in excess of 48,000 pounds."

SECTION 2. This act becomes effective January 1, 2014.

In the General Assembly read three times and ratified this the 12th day of June, 2013.

Became law upon approval of the Governor at 4:23 p.m. on the 19th day of June, 2013.

Session Law 2013-135 **H.B. 629**

AN ACT TO AMEND THE DEFINITION OF A SPECIAL PURPOSE PROJECT TO INCLUDE AGRICULTURAL AND FORESTRY WASTE DISPOSAL FACILITIES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 159C-3(15a) of the General Statutes reads as rewritten:

"§ **159C-3. Definitions.**

The following definitions apply in this Chapter:

…

(15a) Special purpose project. – Any structure, equipment, or other facility for any one or more of the following purposes:

…

g. Land, equipment, and facilities for the disposal, treatment, or recycling of (i) solid or other waste that are described in ~~G.S. 159I-8.~~G.S. 159I-8 or (ii) solid, forestry, agricultural, or other waste, including any residual material which is the by-product or excess raw material remaining after the completion of any commercial, consumer, governmental, agricultural, or industrial production process. Facilities for the handling and transport of products resulting from treatment and recycling are included within this purpose.

…."

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

In the General Assembly read three times and ratified this the 12th day of June, 2013.

Became law upon approval of the Governor at 4:23 p.m. on the 19th day of June, 2013.

Session Law 2013-136 **H.B. 650**

AN ACT TO MAKE CLARIFYING, CONFORMING, AND OTHER CHANGES TO THE NORTH CAROLINA LIFE AND HEALTH INSURANCE GUARANTY ASSOCIATION ACT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 58-62-21 reads as rewritten:

"§ **58-62-21. Coverage and limitations.**

…

(c) This Article does not provide coverage for:

(1) Any part of a policy not guaranteed by the insurer, or under which the risk is borne by the policyholder;

(2) Any policy or contract of reinsurance, unless assumption certificates have been issued;

(3) Any part of a policy to the extent that the rate of interest on which it is ~~based:~~based, or the interest rate, crediting rate, or similar factor determined by the use of an index or other external reference stated in the policy or contract and employed in calculating returns or changes in value:

a. Averaged over the period of four years before the date on which the Association becomes obligated with respect to the policy, exceeds a rate of interest determined by subtracting two percentage points from Moody's Corporate Bond Yield Average averaged for that same four-year period or for a lesser period if the policy was issued less than four years before the Association became obligated; and

b. On and after the date on which the Association becomes obligated with respect to the policy, exceeds the rate of interest determined by subtracting three percentage points from Moody's Corporate Bond Yield Average as most recently available;

(4) Any plan or program of an employer, association, or similar entity to provide life, health, or annuity benefits to its employees or members to the extent that the plan or program is self-funded or uninsured, including benefits payable by an employer, association, or similar entity under:

a. A multiple employer welfare arrangement as defined in section 514 of the Employee Retirement Income Security Act of 1974, as amended;

b. A minimum premium group insurance plan;

c. A stop-loss group insurance plan; or

d. An administrative services only contract;

(5) Any part of a policy to the extent that it provides dividends or experience-rating credits, or provides that any fees or allowances be paid to any person, including the policyholder, in connection with the service to or administration of the policy;

(6) Any policy issued in this State by a member insurer at a time when it was not licensed to issue the policy in this State;

(7) Any unallocated annuity contract issued to an employee benefit plan protected under the federal Pension Benefit Guaranty Corporation; and

(8) Any part of any unallocated annuity contract that is not issued to or in connection with a specific employee, union, or association of natural persons benefit plan or a government lottery.

(9) A policy or contract providing any hospital, medical, prescription drug, or other health care benefits pursuant to Part C or Part D of Subchapter XVIII, Chapter 7 of Title 42 of the United States Code (commonly known as Medicare Parts C & D) or any regulations issued pursuant thereto.

(10) A portion of a policy or contract to the extent it provides for interest or other changes in value to be determined by the use of an index or other external reference stated in the policy or contract, but which have not been credited to the policy or contract or as to which the policy or contract owner's rights are subject to forfeiture, as of the date the member insurer becomes an impaired or insolvent insurer under this Act, whichever is earlier. If a policy's or contract's interest or changes in value are credited less frequently than annually, then for purposes of determining the values that have been credited and are not subject to forfeiture under this subdivision, the interest or change in value determined by using the procedures defined in the policy or contract will be credited as if the contractual date of crediting interest or changing values was the date of impairment or insolvency, whichever is earlier, and will not be subject to forfeiture.

(d) The benefits for which the Association is liable do not, in any event, exceed the lesser of:

(1) The contractual obligations for which the insurer is liable or would have been liable if it were not a delinquent insurer; or

(2) With respect to any one individual, regardless of the number of policies, three hundred thousand dollars ($300,000) for all benefits, including cash values; or

(2a) With respect to health insurance benefits for any one individual, regardless of the number of policies:

a. Three hundred thousand dollars ($300,000) for coverages not defined as basic hospital, medical, and surgical insurance or major medical insurance as defined in this Chapter and regulations adopted pursuant to this Chapter, including disability insurance and long-term care insurance; or

b. Five hundred thousand dollars ($500,000) for basic hospital, medical, and surgical insurance or major medical insurance as defined in this Chapter and regulations adopted pursuant to this Chapter;

(3) With respect to each individual participating in a governmental retirement plan established under section 401, 403(b), or 457 of the Internal Revenue Code covered by an unallocated annuity contract, or the beneficiaries of each individual if deceased, in the aggregate, three hundred thousand dollars ($300,000) in present value annuity benefits, including net cash surrender and net cash withdrawal values; or

(4) With respect to any one contract holder covered by any unallocated annuity contract not included in subdivision (3) of this subsection, five million dollars ($5,000,000) in benefits, regardless of the number of such contracts held by that contract holder; or

(5) With respect to any one payee (or beneficiaries of one payee if the payee is deceased) of a structured settlement annuity, one million dollars ($1,000,000) for all benefits, including cash values.

(6) However, in no event shall the Association be obligated to cover more than (i) an aggregate of three hundred thousand dollars ($300,000) in benefits with respect to any one individual under subdivisions (2) and (3) and sub-subdivision (2a)a. except with respect to benefits for basic hospital, medical, and surgical and major medical insurance under sub-subdivision (2a)b. of this subsection, in which case the aggregate liability of the Association shall not exceed five hundred thousand dollars ($500,000) with respect to any one individual."

SECTION 2. G.S. 58-62-36 reads as rewritten:

"§ **58-62-36. Powers and duties of the Association.**

(a) If a member insurer is an impaired domestic insurer, the Association may, subject to any conditions imposed by the Association and approved by the Commissioner that do not impair the contractual obligations of the impaired insurer and that are, except in cases of court-ordered conservation or rehabilitation, also approved by the impaired insurer:

(1) Guarantee, assume, or reinsure, or cause to be guaranteed, assumed, or reinsured, any or all of the policies of the impaired insurer;

(2) Provide such monies, pledges, notes, guarantees, or other means as are proper to carry out subdivision (1) of this subsection and assure payment of the contractual obligations of the impaired insurer pending action under subdivision (1) of this subsection; or

(3) Lend money to the impaired insurer.

~~(b) If a member insurer is an impaired insurer, whether domestic, foreign, or alien, and the insurer is not paying claims in a timely manner, then subject to the preconditions specified in subsection (c) of this section, the Association shall, in its discretion, either:~~

~~(1) Take any of the actions specified in subsection (a) of this section, subject to the conditions therein; or~~

~~(2) Provide substitute benefits in lieu of the contractual obligations of the impaired insurer solely for health claims, periodic annuity benefit payments, death benefits, supplemental benefits, and cash withdrawals for policyowners who petition therefor under claims of emergency or hardship in accordance with standards proposed by the Association and approved by the Commissioner.~~

~~(c) The Association is subject to the requirements of subsection (b) of this section only if:~~

~~(1) The laws of the impaired insurer's state of domicile provide that until all payments of or on account of the impaired insurer's contractual obligations by all guaranty associations, along with all expenses thereof and interest on all the payments and expenses, have been repaid to the guaranty associations or a plan of repayment by the impaired insurer has been approved by the guaranty associations, the delinquency proceeding shall not be dismissed; neither the impaired insurer nor its assets may be returned to the control of its shareholders or private management; and the impaired insurer may not solicit or accept new business or have any suspended or revoked license restored; and~~

~~(2) The impaired insurer is a domestic insurer that has been placed under an order of rehabilitation by a court of competent jurisdiction in this State; or the impaired insurer is a foreign or alien insurer that has been prohibited from soliciting or accepting new business in this State, its license has been suspended or revoked in this State, and a petition for rehabilitation or~~

~~liquidation has been filed in a court of competent jurisdiction in its state of domicile by that state's insurance regulator.~~

(d) If a member insurer is an insolvent insurer, the Association shall, in its discretion, either:

(1) Guarantee, assume or reinsure, or cause to be guaranteed, assumed, or reinsured, the policies of the insolvent insurer; or

(2) Assure payment of the contractual obligations of the insolvent insurer; and

(3) Provide such monies, pledges, guarantees, or other means as are reasonably necessary to discharge those duties; or

(4) With respect only to life and health insurance policies, provide benefits and coverages in accordance with subsection (e) of this section.

(d1) In carrying out its duties in connection with guaranteeing, assuming, or reinsuring policies or contracts under subsections (a) and (d) of this section, the Association may, subject to approval of the receivership court, issue substitute coverage for a policy or contract that provides an interest rate, crediting rate, or similar factor determined by use of an index or other external reference stated in the policy or contract employed in calculating returns or changes in value by issuing an alternative policy or contract in accordance with the following provisions:

(1) In lieu of the index or other external reference provided for in the original policy or contract, the alternative policy or contract provides for (i) a fixed interest rate, (ii) payment of dividends with minimum guarantees, or (iii) a different method for calculating interest or changes in value;

(2) There is no requirement for evidence of insurability, waiting period, or other exclusion that would not have applied under the replaced policy or contract; and

(3) The alternative policy or contract is substantially similar to the replaced policy or contract in all other material terms.

…."

SECTION 3. G.S. 58-62-41 reads as rewritten:

"§ **58-62-41. Assessments.**

…

(c) The amount of any Class A assessment shall be determined by the Board and may or may not be prorated. If prorated, the Board may provide that it be credited against future Class B assessments. If not prorated, the assessment shall not exceed ~~one hundred fifty dollars ($150.00)~~five hundred dollars ($500.00) per member insurer in any one calendar year. The amount of any Class B assessment shall be allocated for assessment purposes among the accounts pursuant to an allocation formula, which may be based on the premiums or reserves of the delinquent insurer or any other standard considered by the Board in its sole discretion to be fair and reasonable under the circumstances.

…."

SECTION 4. This act becomes effective July 1, 2013.

In the General Assembly read three times and ratified this the 12th day of June, 2013.

Became law upon approval of the Governor at 4:24 p.m. on the 19th day of June, 2013.

Session Law 2013-137 **H.B. 684**

AN ACT TO INCREASE DRIVEWAY SAFETY ON CURVY ROADS.

The General Assembly of North Carolina enacts:

SECTION 1. The Department of Transportation shall consider exceptions to the sight distance requirement for driveway locations in instances where the curves of the road are close and frequent. Exceptions shall be granted in instances where sufficient sight distance can

be provided or established through other means such as advisory speed signs, convex mirrors, and advanced warning signs. When appropriate, the Department shall consider lowering the speed limit on the relevant portion of the road. The Department may require a driveway permit applicant to cover the cost of installing the appropriate signage around the driveway, including speed limit reduction and driveway warning signs, and may also require the applicant to install and maintain convex or other mirrors to increase the safety around the driveway location.

SECTION 2. This act applies only to sections of roadway where the minimum sight distance as defined in the published "Policy on Street and Driveway Access to North Carolina Highways" is not available for a proposed driveway.

SECTION 3. The Department of Transportation shall report to the Joint Legislative Oversight Committee on Transportation on its implementation of the change required by this act within 180 days of this act becoming law.

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

In the General Assembly read three times and ratified this the 13th day of June, 2013.

Became law upon approval of the Governor at 4:24 p.m. on the 19th day of June, 2013.

Session Law 2013-138 **H.B. 707**

AN ACT TO DIRECT THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES TO PURSUE VARIOUS STRATEGIES TO ENSURE THAT THE STATE'S SHALLOW DRAFT NAVIGATION CHANNELS ARE SAFE AND NAVIGABLE AND TO CREATE THE OREGON INLET LAND ACQUISITION TASK FORCE.

The General Assembly of North Carolina enacts:

SECTION 1. For purposes of this act, the following definitions apply:

(1) "Department" means the Department of Environment and Natural Resources.

(2) "Corps" means the United States Army Corps of Engineers.

(3) "Shallow draft navigation channel" means (i) a waterway connection with a maximum depth of 16 feet between the Atlantic Ocean and a bay or the Atlantic Intracoastal Waterway, (ii) a river entrance to the Atlantic Ocean through which tidal and other currents flow, or (iii) other interior coastal waterways. "Shallow draft navigation channel" includes the Atlantic Intracoastal Waterway and its side channels, Beaufort Harbor, Bogue Inlet, Carolina Beach Inlet, the channel from Back Sound to Lookout Back, channels connected to federal navigation channels, Lockwoods Folly River, Manteo/Shallowbag Bay, including Oregon Inlet, Masonboro Inlet, New River, New Topsail Inlet, Rodanthe, Rollinson, Shallotte River, Silver Lake Harbor, and the waterway connecting Pamlico Sound and Beaufort Harbor.

SECTION 2. The Department shall take all of the following steps in order to ensure that the State's shallow draft navigation channels are safe and navigable:

(1) The Department shall utilize long-term agreements with Corps to maintain the dredging of the State's shallow draft navigation channels to depths authorized on the date this act becomes law.

(2) The Department shall assist local governments in their pursuit of general permit authorizations from the Corps to allow the local governments to dredge shallow draft navigation channels to depths and according to project designs authorized on the date this act becomes law.

(3) The Department shall assist local governments in their pursuit of individual permits under the State Coastal Area Management Act permits issued by the Corps to allow the dredging of shallow draft navigation channels to depths greater than authorized on the date this act becomes law and to allow the placement of dredged materials on beaches.

SECTION 3.1. There is hereby created the Oregon Inlet Land Acquisition Task Force for the purpose of determining, reviewing, and considering the State's options for acquiring the federal government's right, title, and interest in Oregon Inlet and the real property adjacent thereto, including submerged lands. A more particular description of the property to be acquired is provided in Section 3.8 of this act. Acquiring the property described in Section 3.8 of this act will allow the State to preserve Oregon Inlet and to develop long-term management solutions for preserving and enhancing the navigability of Oregon Inlet, which is both a critical transportation corridor and a critical source of commerce for the State's Outer Banks. The Task Force shall have duties including the following:

(1) Consulting with the State Property Office and agencies and departments of the federal government, including the United States Department of Fish and Wildlife, United States National Park Service, Congressional Budget Office, and members of the North Carolina congressional delegation to establish the monetary value of Oregon Inlet and the real property adjacent thereto.

(2) Determining whether and to what degree the federal government will sell to the State Oregon Inlet and the real property adjacent thereto or exchange the property for State-owned real property. If the federal government expresses a willingness to exchange the property for State-owned property, the Task Force shall determine the identity of the State-owned property and the monetary value of the property.

(3) Exploring any and all options for acquiring Oregon Inlet and the real property adjacent thereto, including condemnation of the coastal lands conveyed to the federal government in a deed dated August 7, 1958, and recorded September 3, 1958, in the Dare County Registry of Deeds.

(4) Considering any other issues deemed relevant by the Task Force that are related to the acquisition of Oregon Inlet and the real property adjacent thereto.

SECTION 3.2. The Task Force shall consist of the following 13 members:

(1) The Governor or the Governor's designee, who shall be chair.

(2) The Commissioner of Agriculture and Consumer Services or the Commissioner's designee.

(3) The Secretary of the Department of Administration or the Secretary's designee.

(4) The Secretary of the Department of Commerce or the Secretary's designee.

(5) The Secretary of the Department of Environment and Natural Resources or the Secretary's designee.

(6) The Secretary of the Department of Public Safety or the Secretary's designee.

(7) The Secretary of the Department of Transportation or the Secretary's designee.

(8) The Attorney General or the Attorney General's designee.

(9) Two members of the Senate appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate.

(10) Two members of the House of Representatives appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives.

(11) The chair of the Dare County Board of Commissioners or the chair's designee.

SECTION 3.3. The terms of the members appointed under Section 3.2 of this act shall commence on July 1, 2013. A vacancy on the Task Force shall be filled by the Governor, except that a vacancy in an appointment by the General Assembly shall be filled by the original appointing authority.

SECTION 3.4. The Task Force shall meet at the call of the Governor. All members of the Task Force are voting members. A majority of the members of the Task Force constitutes a quorum.

SECTION 3.5. Members of the Task Force shall receive no compensation for their service, but may receive per diem, travel, and subsistence allowances in accordance with G.S. 120-3.1, 138-5, and 138-6, as appropriate. No State funds shall be appropriated to the Task Force or to any State agency or department for the Task Force.

SECTION 3.6. The Department of Commerce shall provide staff to the Task Force. All State agencies and departments shall provide assistance to the Task Force upon request.

SECTION 3.7. By May 1, 2014, the Task Force shall submit a report detailing its findings and recommendations to the Speaker of the House of Representatives, the President Pro Tempore of the Senate, and the General Assembly. The Task Force shall terminate upon the filing of the report required by this section.

SECTION 3.8. The federally owned property to be acquired by the State shall include all of the federal government's right, title, and interest in the real property, including submerged lands, located within the area described by connecting the following latitude and longitude points:

Latitude:	**Longitude:**
35.78867341400	-75.53323291600
35.78099563900	-75.52953510600
35.78178528500	-75.52513394400
35.78141354400	-75.52334019100
35.77887390700	-75.52025162500
35.77857436500	-75.51969654900
35.77781290800	-75.51900873900
35.77734893400	-75.51884305500
35.77110009400	-75.51641608800
35.76633568000	-75.51356516200
35.76116258500	-75.51036495800
35.75751496100	-75.50801176500
35.75608651600	-75.51228522200
35.75777480300	-75.51379949200
35.75860596900	-75.51451482100
35.75960484700	-75.51540263600
35.76100041400	-75.51665469900
35.76117351400	-75.51681019600
35.76212525300	-75.51767780700
35.76287562800	-75.51836186100
35.76316770200	-75.51862812200
35.76381492400	-75.51921814800
35.76415098700	-75.51955669900
35.76445468400	-75.51995078300
35.76485826900	-75.52059025200
35.76505577400	-75.52094720300
35.76528160600	-75.52142243500
35.76548548000	-75.52198988800
35.76556574300	-75.52341266800
35.76566877400	-75.52523906000

35.76454632200 -75.52902085700
35.76357138700 -75.53246190700
35.76337226200 -75.53339199600
35.76333441200 -75.53364756500
35.76332909000 -75.53390886900
35.76335819500 -75.53458675100
35.76341367100 -75.53498008200
35.76354478800 -75.53535025300
35.76361737400 -75.53547511500
35.76383009500 -75.53584104000
35.76425804000 -75.53655388200
35.76471137600 -75.53740653000
35.76502225800 -75.53875413900
35.76521060100 -75.54081681300
35.76523404100 -75.54194712400
35.76525043500 -75.54273769600
35.76526768700 -75.54353888100
35.76532715800 -75.54394387700
35.76541340600 -75.54428520100
35.76550080400 -75.54463107400
35.76577010000 -75.54534161500
35.76597248500 -75.54579049600
35.76632062300 -75.54620555000
35.76655164400 -75.54635947100
35.76725670200 -75.54660003000
35.76764041200 -75.54670534600
35.76795847900 -75.54670661900
35.77077784300 -75.54629895400
35.77115918300 -75.54624921300
35.77148150500 -75.54619720600
35.77234520600 -75.54605784500
35.77377517700 -75.54582711000
35.77469339200 -75.54566942900
35.77590248800 -75.54531166000
35.77673545200 -75.54571296000
35.77711645600 -75.54582301200
35.77742981800 -75.54581293600
35.77771608200 -75.54572387500
35.77791539100 -75.54559449800
35.77810904100 -75.54546879500
35.77904847600 -75.54478184500
35.77912430900 -75.54486803600
35.77981427400 -75.54534862400
35.78042966800 -75.54567367500
35.78135818100 -75.54600030500
35.78175635200 -75.54606539500
35.78221194600 -75.54612839200
35.78279713100 -75.54636296300
35.78378882800 -75.54668308800
35.78766932400 -75.54709605000
35.79082109200 -75.54691243300
35.79820587700 -75.54665906000
35.79859286600 -75.54249624600

35.80046065100 -75.53877586500
35.79408521600 -75.53252823100
35.79248815800 -75.53183764800
35.79151104100 -75.53197071600
35.78867341400 -75.53323291600
35.76886839300 -75.52536743000
35.76724598100 -75.52438052100
35.76805629700 -75.52240411900
35.76966632600 -75.52339266000
35.76886839300 -75.52536743000.

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

In the General Assembly read three times and ratified this the 13th day of June, 2013.

Became law upon approval of the Governor at 4:24 p.m. on the 19th day of June, 2013.

Session Law 2013-139 **H.B. 762**

AN ACT TO AMEND VARIOUS PROCEDURAL REQUIREMENTS REGARDING BAIL BONDS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 15A-531(4) reads as rewritten:

"(4) "Bail bond" means an undertaking by the defendant to appear in court as required upon penalty of forfeiting bail to the State in a stated amount. Bail bonds include an unsecured appearance bond, an appearance bond secured by a cash deposit of the full amount of the bond, an appearance bond secured by a mortgage under G.S. 58-74-5, and an appearance bond secured by at least one solvent surety. A bail bond ~~for which the surety is a bail agent acting on behalf of an insurance company is~~ signed by any surety, as defined in G.S. 15A-531(8)a. and b., is considered the same as a cash deposit for all purposes in this Article. ~~A bail bond signed by a professional bondsman who is not a bail agent is not considered the same as a cash deposit under this Article.~~ Cash bonds set in child support contempt proceedings shall not be satisfied in any manner other than the deposit of cash."

SECTION 2. G.S. 15A-540(b) reads as rewritten:

"(b) Surrender After Breach of Condition. – After there has been a breach of the conditions of a bail bond, a surety may surrender the defendant as provided in this subsection. A surety may arrest the defendant for the purpose of returning the defendant to the sheriff. After arresting a defendant, the surety may surrender the defendant to the sheriff of the county in which the defendant is bonded to appear or to the sheriff where the defendant was bonded. Alternatively, a surety may surrender a defendant who is already in the custody of any sheriff by appearing in person and informing the sheriff that the surety wishes to surrender the defendant. Before surrendering a defendant to a sheriff, the surety must provide the sheriff with a ~~certified~~ copy of the bail ~~bond.~~ bond, forfeiture, or release order. Upon surrender of the defendant, the sheriff shall provide a receipt to the surety."

SECTION 3. G.S. 15A-544.5(d)(2) reads as rewritten:

"(d) Motion Procedure. – If a forfeiture is not set aside under subsection (c) of this section, the only procedure for setting it aside is as follows:

…

(2) The motion shall be filed in the office of the clerk of superior court of the county in which the forfeiture was entered. The moving party shall, under G.S. 1A-1, Rule 5, serve a copy of the motion on the district attorney for that

county and on the attorney for the county board of education. ~~The clerk of superior court shall, by personal delivery or by mail, provide a copy of the motion to the district attorney for the county and to the attorney for the county board of education.~~

…."

SECTION 4. G.S. 15A-544.5(d)(4) reads as rewritten:

"(4) If neither the district attorney nor the attorney for the board of education has filed a written objection to the motion by the twentieth day after a copy of the motion is served by the ~~clerk of superior court pursuant to Rule 4~~ moving party pursuant to Rule 5 of the Rules of Civil Procedure, the clerk shall enter an order setting aside the forfeiture, regardless of the basis for relief asserted in the motion, the evidence attached, or the absence of either."

SECTION 5. G.S. 15A-544.8(c)(2) reads as rewritten:

"(c) Procedure. – The procedure for obtaining relief from a final judgment under this section is as follows:

…

(2) The motion shall be filed in the office of the clerk of superior court of the county in which the final judgment was, entered. The moving party shall, under G.S. 1A-1, Rule 5, serve a copy of the motion on the district attorney for that county and on the attorney for the county board of education. ~~The clerk of superior court shall, by personal delivery or by mail, provide a copy of the motion to the district attorney for the county and to the attorney for the county board of education.~~

…."

SECTION 6. This act becomes effective December 1, 2013.

In the General Assembly read three times and ratified this the 13th day of June, 2013.

Became law upon approval of the Governor at 4:24 p.m. on the 19th day of June, 2013.

Session Law 2013-140 **H.B. 763**

AN ACT AMENDING THE LAWS PERTAINING TO CONTRACTS BETWEEN A HUSBAND AND WIFE TO ALLOW A SPOUSE TO WAIVE OR ESTABLISH ALIMONY AND POST SEPARATION SUPPORT DURING THE MARRIAGE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 52-10 is amended by adding the following new subsection to read:

"(a1) A contract between a husband and wife made, with or without a valuable consideration, during a period of separation to waive, release, or establish rights and obligations to post separation support, alimony, or spousal support is valid and not inconsistent with public policy. A provision waiving, releasing, or establishing rights and obligations to post separation support, alimony, or spousal support shall remain valid following a period of reconciliation and subsequent separation, if the contract satisfies all of the following requirements:

(1) The contract is in writing.

(2) The provision waiving the rights or obligations is clearly stated in the contract.

(3) The contract was acknowledged by both parties before a certifying officer.

A release made pursuant to this subsection may be pleaded in bar of any action or proceeding for the recovery of the rights released."

SECTION 2. G.S. 50-16.6(b) reads as rewritten:

"(b) Alimony, postseparation support, and counsel fees may be barred by an express provision of a valid separation ~~agreement or premarital agreement~~ agreement, premarital agreement, or marital contract made pursuant to G.S. 52-10(a1) so long as the agreement is performed."

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

In the General Assembly read three times and ratified this the 13th day of June, 2013.

Became law upon approval of the Governor at 4:24 p.m. on the 19th day of June, 2013.

Session Law 2013-141 **H.B. 765**

AN ACT TO CLARIFY AND CODIFY JURY INSTRUCTIONS FOR A BUDGET DISPUTE BETWEEN BOARD OF EDUCATION AND BOARD OF COUNTY COMMISSIONERS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 115C-431(c) reads as rewritten:

"(c) Within five days after an announcement of no agreement by the mediator, the local board of education may file an action in the superior court division of the General Court of Justice. ~~The court shall find the facts as to the amount of money necessary to maintain a system of free public schools, and the amount of money needed from the county to make up this total.~~ Either board has the right to have the issues of fact tried by a jury. When a jury trial is demanded, the cause shall be set for the first succeeding term of the superior court in the county, and shall take precedence over all other business of the court. However, if the judge presiding certifies to the Chief Justice of the Supreme Court, either before or during the term, that because of the accumulation of other business, the public interest will be best served by not trying the cause at the term next succeeding the filing of the action, the Chief Justice shall immediately call a special term of the superior court for the county, to convene as soon as possible, and assign a judge of the superior court or an emergency judge to hold the court, and the cause shall be tried at this special term. ~~The issue submitted to the jury~~The judge shall find, or if the issue is submitted to the jury, the jury shall find ~~shall be what amount of money is needed from sources under the control of the board of county commissioners to maintain a system of free public schools.~~the facts as to the following in order to maintain a system of free public schools as defined by State law and State Board of Education policy: (i) the amount of money legally necessary from all sources and (ii) the amount of money legally necessary from the board of county commissioners. In making the finding, the judge or the jury shall consider the educational goals and policies of the State and the local board of education, the budgetary request of the local board of education, the financial resources of the county and the local board of education, and the fiscal policies of the board of county commissioners and the local board of education.

All findings of fact in the superior court, whether found by the judge or a jury, shall be conclusive. When the facts have been found, the court shall give judgment ordering the board of county commissioners to appropriate a sum certain to the local school administrative unit, and to levy such taxes on property as may be necessary to make up this sum when added to other revenues available for the purpose."

SECTION 2. This act is effective when it becomes law and applies to all actions commenced on or after that date.

In the General Assembly read three times and ratified this the 13th day of June, 2013.

Became law upon approval of the Governor at 4:24 p.m. on the 19th day of June, 2013.

Session Law 2013-142 **S.B. 9**

AN ACT REQUIRING UTILITY OWNERS TO LOCATE AND DESCRIBE UNDERGROUND UTILITIES UPON WRITTEN OR ORAL REQUEST FROM A PERSON WHO IS RESPONSIBLE FOR DESIGNING OR SURVEYING UNDERGROUND FACILITIES OR REQUIRES A GENERAL DESCRIPTION AND LOCATION OF EXISTING UNDERGROUND FACILITIES IN AN AREA.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 87-101 reads as rewritten:

"§ **87-101. Definitions.**

As used in this Article:

(1) "Association" means an association, sponsored by utility owners, that ~~will provide~~provides for receipt of notification of excavation operations and surveyor operations in a defined geographical area, and that ~~will maintain~~maintains the records of the notifications.

…

(10a) "Small water or wastewater utility owner" means any person who owns or operates any underground line, system, or facility that is used for producing, storing, conveying, transmitting, or distributing water under pressure or sanitary sewage and that serves 100 or fewer service connections.

…

(11a) "Surveyor" means a person who is responsible for surveying underground utilities or requires a general description and location of existing underground utilities in an area, and who has been retained by an engineer, architect, or property owner.

…."

SECTION 2. Article 8 of Chapter 87 of the General Statutes is amended by adding a new section to read as follows:

"**§ 87-107.1. Surveyor requests; notice required; duties of utility owners; exceptions.**

(a) Before surveying an area containing highways, public spaces, or private easements of a utility owner, a surveyor may give notice to each utility owner having underground utilities located in the area to be surveyed or to the utility owner's designated representative or association, either orally or in writing, not less than 10 working days prior to starting, of the surveyor's intent to have a survey conducted. The written or oral notice shall contain all of the following:

(1) The name, address, and telephone number of the surveyor.

(2) The name, address, and telephone number of the person conducting the survey.

(3) The anticipated starting date of the survey.

(4) The anticipated duration of the survey.

(5) The area to be surveyed.

(b) If a surveyor provides oral notice under subsection (a) of this section, the utility owner or designated representative or association and the surveyor shall make an adequate record of the notification to document compliance with this section.

(c) Each utility owner or designated representative or association, other than a small water or wastewater utility owner, notified of an intent to survey under subsection (a) of this section shall, before the proposed start of the survey, unless another period is agreed to by the surveyor and the utility owner or designated representative or association provide at least one of the following to the surveyor to the extent the information is reflected by records in the possession of and reasonably available to the utility owner:

(1) The location and description of all of the underground utilities within the area to be surveyed.

(2) The best available description of all underground utilities in the area of the proposed survey, which may include drawings marked with a scale, dimensions, and reference points for underground utilities already built in the area or other facility records that are maintained by the utility owner.

(3) Allowing the surveyor or any other authorized person to inspect the drawings or other records for all underground utilities within the area to be surveyed at a location that is acceptable to both parties.

(d) The requirements in subsection (c) of this section shall not apply to a notice of intent to survey a single-family residential property given by an engineer or architect. However, subsection (c) of this section shall apply to a notice of intent to survey a single family residential property given by a property owner or a surveyor who has been retained in connection with the development of the property."

SECTION 3. This act becomes effective July 15, 2013, and applies to notices given on or after that date.

In the General Assembly read three times and ratified this the 13th day of June, 2013.

Became law upon approval of the Governor at 4:25 p.m. on the 19th day of June, 2013.

Session Law 2013-143 **S.B. 36**

AN ACT TO MAKE CERTAIN TECHNICAL, CLARIFYING, AND CONFORMING CHANGES TO THE ADMINISTRATIVE PROCEDURE ACT, AS RECOMMENDED BY THE JOINT LEGISLATIVE ADMINISTRATIVE PROCEDURE OVERSIGHT COMMITTEE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 150B-21.2(c) reads as rewritten:

"(c) Notice of Text. – A notice of the proposed text of a rule must include all of the following:

(1) The text of the proposed rule.

(2) A short explanation of the reason for the proposed ~~rule and a link to the agency's Web site containing the information required by G.S. 150B-19.1(c).~~ rule.

(2a) A link to the agency's Web site containing the information required by G.S. 150B-19.1(c).

(3) A citation to the law that gives the agency the authority to adopt the rule.

(4) The proposed effective date of the rule.

(5) The date, time, and place of any public hearing scheduled on the rule.

(6) Instructions on how a person may demand a public hearing on a proposed rule if the notice does not schedule a public hearing on the proposed rule and subsection (e) of this section requires the agency to hold a public hearing on the proposed rule when requested to do so.

(7) The period of time during which and the person within the agency to whom written comments may be submitted on the proposed rule.

(8) If a fiscal note has been prepared for the rule, a statement that a copy of the fiscal note can be obtained from the agency.

~~(9) The procedure by which a person can object to a proposed rule and the requirements for subjecting a proposed rule to the legislative review process.~~"

SECTION 1.1. G.S. 150B-19.1(c) reads as rewritten:

"(c) Each agency subject to this Article shall post on its Web site, no later than the publication date of the notice of text in the North Carolina Register, all of the following:

(1) The text of a proposed rule.

(2) An explanation of the proposed rule and the reason for the proposed rule.

(3) The federal certification required by subsection (g) of this section.

(4) Instructions on how and where to submit oral or written comments on the proposed ~~rule.~~rule, including a description of the procedure by which a person can object to a proposed rule and subject the proposed rule to legislative review.

(5) Any fiscal note that has been prepared for the proposed rule.

If an agency proposes any change to a rule or fiscal note prior to the date it proposes to adopt a rule, the agency shall publish the proposed change on its Web site as soon as practicable after the change is drafted. If an agency's staff proposes any such change to be presented to the rule-making agency, the staff shall publish the proposed change on the agency's Web site as soon as practicable after the change is drafted."

SECTION 2. G.S. 150B-21.7 reads as rewritten:

"§ **150B-21.7. Effect of transfer of duties or termination of agency on rules.**

(a) When a law that authorizes an agency to adopt a rule is repealed and another law gives the same or another agency substantially the same authority to adopt a rule, the rule remains in effect until the agency with authority over the rule amends or repeals the rule. When a law that authorizes an agency to adopt a rule is repealed and another law does not give the same or another agency substantially the same authority to adopt a rule, a rule adopted under the repealed law is repealed as of the date the law is repealed. The agency that adopted the rule shall notify the Codifier of Rules that the rule is repealed pursuant to this subsection.

(b) When an executive order abolishes part or all of an agency and transfers a function of that agency to another agency, a rule concerning the transferred function remains in effect until the agency to which the function is transferred amends or repeals the rule. When an executive order abolishes part or all of an agency and does not transfer a function of that agency to another agency, a rule concerning a function abolished by the executive order is repealed as of the effective date of the executive order. The agency that adopted the rule shall notify the Codifier of Rules that the rule is repealed pursuant to this subsection.

(c) ~~The Director of Fiscal Research of the General Assembly must notify the Codifier of Rules when a rule is repealed under this section.~~When notified of a rule repealed under this section, the Codifier of Rules must enter the repeal of the rule in the North Carolina Administrative Code."

SECTION 3. G.S. 150B-21.20(a) reads as rewritten:

"(a) Authority. – After consulting with the agency that adopted the rule, the Codifier of Rules may revise the form of a rule submitted for inclusion in the North Carolina Administrative Code ~~within 10 business days after the rule is submitted~~ to do one or more of the following:

(1) Rearrange the order of the rule in the Code or the order of the subsections, subdivisions, or other subparts of the rule.

(2) Provide a catch line or heading for the rule or revise the catch line or heading of the rule.

(3) Reletter or renumber the rule or the subparts of the rule in accordance with a uniform system.

(4) Rearrange definitions and lists.

(5) Make other changes in arrangement or in form that do not change the substance of the rule and are necessary or desirable for a clear and orderly arrangement of the rule.

(6) Omit from the published rule a map, a diagram, an illustration, a chart, or other graphic material, if the Codifier of Rules determines that the Office of

Administrative Hearings does not have the capability to publish the material or that publication of the material is not practicable. When the Codifier of Rules omits graphic material from the published rule, the Codifier must insert a reference to the omitted material and information on how to obtain a copy of the omitted material."

SECTION 4. G.S. 150B-45(a) reads as rewritten:

"(a) Procedure. – To obtain judicial review of a final decision under this Article, the person seeking review must file a petition within 30 days after the person is served with a written copy of the decision. The petition must be filed as follows:

(1) Contested tax cases. – A petition for review of a final decision in a contested tax case arising under G.S. 105-241.15 must be filed in the Superior Court of Wake County.

(2) Other final decisions. – A petition for review of any other final decision under this Article must be filed in the ~~Superior Court of Wake County or in the~~ superior court of the county where the person aggrieved by the administrative decision ~~resides.~~resides, or in the case of a person residing outside the State, in the county where the contested case which resulted in the final decision was filed."

SECTION 5. Section 4 of this act becomes effective October 1, 2013, and applies to petitions for judicial review filed on or after that date. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 13th day of June, 2013.

Became law upon approval of the Governor at 4:25 p.m. on the 19th day of June, 2013.

Session Law 2013-144 **S.B. 124**

AN ACT TO MAKE IT A CRIMINAL OFFENSE TO DISCHARGE A FIREARM WITHIN AN ENCLOSURE WITH THE INTENT TO INCITE FEAR.

The General Assembly of North Carolina enacts:

SECTION 1. Article 8 of Chapter 14 of the General Statutes is amended by adding a new section to read:

"**§ 14-34.10. Discharge firearm within enclosure to incite fear.**

Unless covered under some other provision of law providing greater punishment, any person who willfully or wantonly discharges or attempts to discharge a firearm within any occupied building, structure, motor vehicle, or other conveyance, erection, or enclosure with the intent to incite fear in another shall be punished as a Class F felon."

SECTION 2. This act becomes effective December 1, 2013, and applies to offenses committed on or after that date.

In the General Assembly read three times and ratified this the 13th day of June, 2013.

Became law upon approval of the Governor at 4:25 p.m. on the 19th day of June, 2013.

Session Law 2013-145 **S.B. 137**

AN ACT TO PROHIBIT THE REGULAR BUSINESS PRACTICE OF WAIVING REQUIRED MEDICAID AND HEALTH CHOICE RECIPIENT CO-PAYMENTS BY CERTAIN PROVIDERS.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 108C of the General Statutes is amended by adding a new section to read:

"**§ 108C-13. Certain waivers of Medicaid and Health Choice co-payments prohibited.**

(a) No provider that has obtained a permit pursuant to G.S. 90-85.21 or G.S. 90-85-21A shall waive the collection of co-payments owed by recipients of Medicaid and Health Choice, as required by the respective program, with the intent to induce recipients to purchase, lease, or order items or services from the permitted provider. For enforcement purposes, a permitted provider that waives a co-payment owed by a recipient of Medicaid or Health Choice is in violation of this subsection regardless of the monetary amount that is waived by the permitted provider. A permitted provider shall not be in violation of this subsection if the provider waives a co-payment owed by a recipient of Medicaid or Health Choice for any of the following reasons:

(1) The waiver is authorized under the Medical Assistance Program or the North Carolina Health Insurance Program for Children.

(2) The permitted provider determines on an individual basis that the collection of the co-payment amount would create a substantial financial hardship for the recipient, provided the waiver of co-payments is not a regular business practice of the provider. For the purposes of this subdivision, a provider shall be considered engaged in the regular business practice of waiving co-payments if the permitted provider holds himself or herself out to recipients as waiving required co-payments.

(3) The permitted provider has made a good-faith effort to collect the co-payment amount, but the permitted provider's reasonable collection efforts fail.

(4) The permitted provider is a health care facility regulated pursuant to Chapter 131E or Chapter 122C of the General Statutes or that is owned or operated by the State of North Carolina.

(b) A violation of this section shall result in suspension or termination by the Department of a permitted provider's participation in Medicaid and Health Choice in accordance with administrative sanctions and remedial measures established by the Department for violations of this section."

SECTION 2. This act becomes effective October 1, 2013, and applies to acts committed on or after that date.

In the General Assembly read three times and ratified this the 11th day of June, 2013.

Became law upon approval of the Governor at 4:25 p.m. on the 19th day of June, 2013.

Session Law 2013-146 **S.B. 156**

AN ACT TO CLARIFY THE LEGISLATIVE ETHICS COMMITTEE'S INVESTIGATIVE PROCEDURES AND TO MAKE OTHER TECHNICAL CHANGES AS RECOMMENDED BY THE LEGISLATIVE ETHICS COMMITTEE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 120-103.1 reads as rewritten:

"**§ 120-103.1. Investigations by the Committee.**

(a) Institution of Proceedings. – On its own motion, upon receipt by the Committee of a signed and sworn allegation of unethical conduct by a legislator, or upon receipt of a referral of a complaint from the State Ethics Commission under Chapter 138A of the General Statutes, the Committee shall conduct an investigation into any of the following:

(1) The application or alleged violation of Chapter 138A of the General Statutes and of this Article.

(2) Repealed by Session Laws 2007-348, s. 2, effective August 9, 2007.

(3) The alleged violation of the criminal law by a legislator while acting in the legislator's official capacity as a participant in the lawmaking process.

(a1) Complaints on Its Own Motion. – An investigation initiated by the Committee on its own motion instituted under subsection (a) of this section shall be treated as a complaint for purposes of this section and need not be sworn or verified. Any requirements under this section that require the Committee to notify the complainant shall not apply to complaints taken up by the Committee on its own motion. If the Committee is acting on a complaint referred to the Committee by the Commission where the Commission was acting on its own motion, the Committee shall be deemed to have satisfied the notice requirements by providing notice to the Commission. Any notice provided to the Commission under this section is confidential and shall not be disclosed by the Commission.

(a2) Notice of Allegation. – Upon receipt by the Committee of a complaint or the referral of a complaint, or upon the initiation by the Committee of an inquiry under subsection (a1) of this section, the Committee shall immediately provide written notice to the legislator who is the subject of the allegation or inquiry.

(b) Initial Consideration of a Complaint. – All of the following shall apply to the Committee's initial consideration of a complaint:

(1) The Committee may, in its sole discretion, request additional information to be provided by the complainant within a specified period of time of no less than seven business days.

(2) The Committee may decline to accept or further investigate a complaint if it determines that any of the following apply:

a. The complaint is frivolous or brought in bad faith.

b. The individuals and conduct complained of have already been the subject of a prior complaint.

c. The conduct complained of is primarily a matter more appropriately and adequately addressed and handled by other federal, State, or local agencies or authorities, including law enforcement authorities. If other agencies or authorities are conducting an investigation of the same actions or conduct involved in a complaint filed under this section, the Committee may stay its complaint investigation pending final resolution of the other investigation.

(3) Repealed by Session Laws 2009-549, s. 1, effective August 28, 2009.

(4) Notwithstanding any other provisions of this section, complaints filed with the Committee concerning the conduct of the Lieutenant Governor shall be referred to the State Ethics Commission under Chapter 138A of the General Statutes without investigation by the Committee.

(c) Investigation of Complaints. – The Committee shall investigate all complaints properly before the Committee in a timely manner. If the Committee receives a complaint or a referral of a complaint while the General Assembly is in Regular Session, the Committee shall proceed under this subsection ~~Within~~ within 10 business days of receiving ~~a~~ the complaint or ~~a referral~~ the referral. If the Committee receives a complaint or a referral of a complaint at any other time, the Committee shall proceed under this subsection within 20 business days of receiving the complaint or the referral. ~~of a complaint to the Committee,~~ Within the applicable time period, the Committee shall do at least one of the following:

(1) Dismiss the complaint.

(2) Initiate a preliminary investigation of the complaint.

(3) Refer the complaint for further investigation and a hearing in accordance with subsection (i) of this section.

(4) Make recommendations to the house in which the legislator who is the subject of the complaint is a member without further investigation, if either of the following apply:

a. ~~the~~ The referral is from the State Ethics Commission.

b. The referral alleges conduct that may be unethical but the Committee determines it does not have jurisdiction under subsection (a) of this section.

(c1) Preliminary Investigation. – The Committee may initiate a preliminary investigation if it determines that the complaint alleges facts sufficient to constitute a violation of matters over which the Committee has jurisdiction as set forth in subsection (a) of this section. In determining whether there is reason to believe that a violation has or may have occurred, a member of the Committee may take general notice of available information even if not formally provided to the Committee in the form of a complaint. The Committee may utilize the services of a hired investigator when conducting investigations. The Committee shall provide written notification of the initiation of ~~an~~ a preliminary investigation under this ~~section~~ subsection to the legislator who is the subject of the complaint within 10 days of the date of the Committee's decision to initiate an investigation. The ~~Commission~~ Committee shall conclude the preliminary inquiry within 20 business ~~days.~~days of initiating the preliminary investigation but may extend the amount of time if the Committee determines it does not have sufficient information to proceed under subsection (g) or (h) of this section.

(d) Repealed by Session Laws 2009-549, s. 1, effective August 28, 2009.

(e) Investigation by the Committee of Matters Other Than Complaints. – The Committee may investigate matters other than complaints properly ~~before~~within the jurisdiction of the Committee under subsection (a) of this section. For any investigation initiated under this subsection, the Committee may take any action it deems necessary or appropriate to further compliance with this Article, including the initiation of a complaint, the issuance of an advisory opinion under G.S. 120-104, or referral to appropriate law enforcement or other authorities pursuant to subdivision (j)(2) of this section.

(f) Legislator Cooperation with Investigation. – Legislators shall promptly and fully cooperate with the Committee in any Committee-related investigation. Failure to cooperate fully with the Committee in any investigation shall be grounds for sanctions under this section.

(g) Dismissal of Complaint After Preliminary Investigation. – If the Committee determines at the end of its preliminary investigation that the complaint does not allege facts sufficient to constitute a violation of matters over which the Committee has jurisdiction as set forth in subsection (a) of this section, the Committee shall dismiss the complaint and provide written notice of the dismissal to the individual who filed the complaint and to the legislator against whom the complaint was filed.

(h) Probable Cause ~~Determination.~~ Determination and Notice of Hearing. – If at the end of its preliminary investigation, the Committee determines that probable cause exists to proceed with further investigation into the conduct of a legislator, the Committee shall determine the charges that will be the basis for further investigation of the complaint and provide written notice to ~~the individual who filed the complaint and~~ the legislator that the Committee will conduct further investigation and the charges against the legislator. The legislator shall be given an opportunity to file a written response to the charges with the Committee.

~~(h1) Consideration of Response and Notice of Hearing. –~~ The Committee shall give full and fair consideration to the complaint and to the legislator's response to the complaint. ~~If~~Except as provided in subsection (h2) of this section, if the Committee determines that the complaint cannot be resolved without further investigation and a hearing, or if the legislator requests a public hearing, the Committee shall hold a hearing on the charges against the legislator. The Committee shall send a notice of the hearing to the complainant and to the legislator. The notice shall contain the charges against the legislator and the time and place for the hearing. The Committee shall begin the hearing no sooner than 15 days and no later than 90 days after the date of the notice of hearing.

(h2) Private Admonishment. – The Committee may issue a private admonishment without holding a hearing, subject to the requirements of subsection (k) of this section.

(i) Hearing. – All the following shall apply to any hearing on a complaint held by the Committee:

(1)-(3) Repealed by Session Laws 2009-549, s. 1, effective August 28, 2009.

(4) Oral evidence shall be taken only on oath or affirmation.

(5) The hearing shall be open to the public, except for matters that could otherwise be considered in closed session under G.S. 143-318.11, matters involving minors, or matters involving a personnel record. In any event, the deliberations by the ~~Commission~~ Committee on a complaint may be held in closed session.

(6) The legislator being investigated shall have the right to present evidence, call and examine witnesses, cross-examine witnesses, introduce exhibits, and be represented by counsel.

(j) Disposition of ~~Investigations.~~ Investigations After Hearing. – Except as permitted under subsections (b) and (g) of this section, after the hearing, the Committee shall dispose of the matter before the Committee under this section, in any of the following ways:

(1) If the Committee finds that the alleged violation is not established by clear and convincing evidence, the Committee shall dismiss the complaint.

(2) If the Committee finds that the alleged violation is established by clear and convincing evidence, the Committee shall do one or more of the following:

a. Issue a public or private admonishment to the legislator.

b. Refer the matter to the Attorney General for investigation and referral to the district attorney for possible prosecution or the appropriate house for appropriate action, or both, if the Committee finds substantial evidence of a violation of a criminal statute.

c. Refer the matter to the appropriate house for appropriate action, which may include censure and expulsion.

(3) If the Committee issues an admonishment as provided in subdivision (2)a. of this subsection, the legislator affected may, upon written request to the Committee, have the matter referred as provided under subdivision (2)c. of this subsection.

(k) Effect of Dismissal or Private Admonishment. – If the Committee dismisses a complaint or issues a private admonishment prior to commencing a hearing under subsection (i) of this section, the Committee shall retain its records or findings in confidence, unless the legislator under inquiry requests in writing that the records and findings be made public. If the Committee later finds that a legislator's subsequent unethical activities were similar to and the subject of an earlier private admonishment, then the Committee may make public the earlier admonishment and the records and findings related to it.

(l) Confidentiality. – ~~Except as provided under subsection (k) of this section, the~~ The complaint, response, records, and findings of the Committee connected to an inquiry under this section shall be confidential and not matters of public record, except as otherwise provided in this section or when the legislator under inquiry requests in writing that the complaint, response, and findings be made public. Once a hearing under subsection (i) of this section commences the complaint, response, Committee's report to the house, and all other documents offered at the hearing in conjunction with the complaint, that are not otherwise privileged or confidential under law, shall be public records. If no hearing is held, at such time as the Committee recommends sanctions to the house of which the legislator is a member, the complaint, response, and Committee's report to the house shall be made public.

(m) Concurrent Jurisdiction. – Any action or lack of action by the Committee under this section shall not limit the right of each house of the General Assembly to discipline or to expel its members.

(n) Reports. – The Committee shall publish annual statistics on complaints filed with or considered by the Committee, including the number of complaints filed, the number of complaints dismissed, the number of complaints resulting in admonishment, the number of complaints referred to the appropriate house for appropriate action, the number of complaints referred for criminal prosecution, and the number and age of complaints pending action by the Committee."

SECTION 2. G.S. 120-104(e) reads as rewritten:

"(e) The Committee may interpret this Article and Chapter 138A of the General Statutes as it applies to legislators, except the Lieutenant Governor, and these interpretations are binding on all legislators upon publication."

SECTION 3. Section 2 of this act becomes effective January 1, 2007, and applies to Advisory Opinions issued by the Legislative Ethics Committee on or after that date. The remainder of the act is effective when it becomes law.

In the General Assembly read three times and ratified this the 11th day of June, 2013.

Became law upon approval of the Governor at 4:25 p.m. on the 19th day of June, 2013.

Session Law 2013-147 **H.B. 850**

AN ACT TO PROVIDE THAT A PERSON WHO ALERTS AN OFFICER OF THE PRESENCE OF A HYPODERMIC NEEDLE OR OTHER SHARP OBJECT POSSESSED BY THE PERSON PRIOR TO A SEARCH BY THE OFFICER SHALL NOT BE CHARGED WITH POSSESSION OF DRUG PARAPHERNALIA FOR POSSESSION OF THE NEEDLE OR OTHER SHARP OBJECT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 90-113.22 is amended by adding a new subsection to read:

"(c) Prior to searching a person, a person's premises, or a person's vehicle, an officer may ask the person whether the person is in possession of a hypodermic needle or other sharp object that may cut or puncture the officer or whether such a hypodermic needle or other sharp object is on the premises or in the vehicle to be searched. If there is a hypodermic needle or other sharp object on the person, on the person's premises, or in the person's vehicle and the person alerts the officer of that fact prior to the search, the person shall not be charged with or prosecuted for possession of drug paraphernalia for the needle or sharp object. The exemption under this subsection does not apply to any other drug paraphernalia that may be present and found during the search. For purposes of this subsection, the term "officer" includes "criminal justice officers" as defined in G.S. 17C-2(3) and a "justice officer" as defined in G.S. 17E-2(3)."

SECTION 2. This act becomes effective December 1, 2013, and applies to offenses committed on or after that date.

In the General Assembly read three times and ratified this the 13th day of June, 2013.

Became law upon approval of the Governor at 4:25 p.m. on the 19th day of June, 2013.

Session Law 2013-148 **H.B. 879**

AN ACT PROVIDING THAT JURORS WHO SERVE THEIR FULL TERM OF SERVICE ON A GRAND JURY SHALL NOT BE REQUIRED TO SERVE AGAIN AS A GRAND JUROR OR AS A JUROR FOR A PERIOD OF SIX YEARS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 9-3 reads as rewritten:

"§ **9-3. Qualifications of prospective jurors.**

All persons are qualified to serve as jurors and to be included on the master jury list who are citizens of the State and residents of the county, who have not served as jurors during the preceding two ~~years,~~years or who have not served a full term of service as grand jurors during the preceding six years, who are 18 years of age or over, who are physically and mentally competent, who can understand the English language, who have not been convicted of a felony or pleaded guilty or nolo contendere to an indictment charging a felony (or if convicted of a felony or having pleaded guilty or nolo contendere to an indictment charging a felony have had their citizenship restored pursuant to law), and who have not been adjudged non compos mentis. Persons not qualified under this section are subject to challenge for cause."

SECTION 2. G.S. 9-7 reads as rewritten:

"§ **9-7. Notation on master jury list of names of jurors who have served; retention.**

(a) The names of persons summoned for jury service and the date or dates on which each person served shall be noted on the master jury list. This information shall be retained for two years, and persons shall be exempt from jury service for a period of two years from the date on which they were discharged from their prior ~~service.~~service, except as provided in subsection (b) of this section.

(b) The names of persons summoned for jury service who served a full term on the grand jury pursuant to G.S. 15A-622, the date or dates on which each person served, and a notation that the person served the full term of service as a grand juror shall be noted on the master list. This information shall be retained for six years, and persons shall be exempt from jury service for a period of six years from the date on which they were discharged from their prior service."

SECTION 3. G.S. 15A-622 reads as rewritten:

"§ **15A-622. Formation and organization of grand juries; other preliminary matters.**

…

(i) Any grand juror who serves the full term of service under subsection (b) or subsection (h) of this section shall not be required to serve again as a grand juror or as a juror for a period of six years."

SECTION 4. This act becomes effective January 1, 2014.

In the General Assembly read three times and ratified this the 13th day of June, 2013.

Became law upon approval of the Governor at 4:25 p.m. on the 19th day of June, 2013.

Session Law 2013-149 **H.B. 892**

AN ACT TO AMEND THE ADMINISTRATIVE PROCEDURE ACT TO ELIMINATE THE REQUIREMENT THAT AN AGENCY PREPARE A FISCAL NOTE WHEN REPEALING A RULE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 150B-21.4 is amended by adding a new subsection to read:

"(d) If an agency proposes the repeal of an existing rule, the agency is not required to prepare a fiscal note on the proposed rule change as provided by this section."

SECTION 2. This act is effective when it becomes law and applies to all proposed rules published in the North Carolina Register on or after that date.

In the General Assembly read three times and ratified this the 13th day of June, 2013.

Became law upon approval of the Governor at 4:25 p.m. on the 19th day of June, 2013.

Session Law 2013-150 **S.B. 207**

AN ACT TO PROTECT THE FISCAL HEALTH OF NORTH CAROLINA'S WATER AND SEWER SYSTEMS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 159-181 is amended by adding a new subsection to read as follows:

"(d) The Local Government Commission shall have authority to impound the books and records associated with the water and/or sewer enterprise system of any unit of local government or public authority, assume full control of all its affairs, or take any lesser actions deemed necessary by the Commission when, for three consecutive fiscal years, the audited financial statements of the unit or public authority demonstrate that the unit or public authority meets any one of the following three criteria: (i) the enterprise system experienced negative working capital; (ii) the enterprise system experienced a quick ratio of less than 1.0; or (iii) the unit or public authority experienced a net loss of revenue from operations in the enterprise system using the modified accrual budgetary basis of accounting. Before the Commission assumes full control of an enterprise system as described in this subsection, it must find that the impact of items (i) through (iii) threatens the financial stability of the unit or public authority, and that the unit or public authority has failed to make corrective changes in its operation of the enterprise system after having received notice and warning from the Commission. The notice and warning may occur prior to the expiration of the three-year period. When the Commission takes action under this section, the Commission is vested with the powers of the governing board as the Commission shall deem necessary, which may include all powers of the governing board as to the operation of the enterprise system, including, but not limited to, setting rates, negotiating contracts, collecting payments that are due, suspending service to nonpaying customers, resolving disputes with third parties, and transferring the ownership of the enterprise system. For purposes of this subsection, the term "working capital" means current assets, such as cash, inventory, and accounts receivable, less current liabilities, determined in accordance with generally accepted accounting principles, and the phrase "quick ratio of less than 1.0" means that the ratio of liquid assets, cash and receivables, to current liabilities is less than 1.0."

SECTION 2. This act becomes effective July 1, 2013.

In the General Assembly read three times and ratified this the 11th day of June, 2013.

Became law upon approval of the Governor at 4:26 p.m. on the 19th day of June, 2013.

Session Law 2013-151 **S.B. 211**

AN ACT AUTHORIZING CITIES TO PROVIDE ANNUAL NOTICE TO CHRONIC VIOLATORS OF PUBLIC NUISANCE ORDINANCES BY REGULAR MAIL AND POSTING.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 160A-200.1 reads as rewritten:

"§ **160A-200.1. Annual notice to chronic violators of public nuisance ordinance.**

A city may notify a chronic violator of the city's public nuisance ordinance that, if the violator's property is found to be in violation of the ordinance, the city shall, without further notice in the calendar year in which notice is given, take action to remedy the violation, and the expense of the action shall become a lien upon the property and shall be collected as unpaid taxes. The notice shall be sent by registered or certified mail. When service is attempted by registered or certified mail, a copy of the notice may also be sent by regular mail. Service shall be deemed sufficient if the registered or certified mail is unclaimed or refused, but the regular

mail is not returned by the post office within 10 days after the mailing. If service by regular mail is used, a copy of the notice shall be posted in a conspicuous place on the premises affected. A chronic violator is a person who owns property whereupon, in the previous calendar year, the city gave notice of violation at least three times under any provision of the public nuisance ordinance."

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

In the General Assembly read three times and ratified this the 11th day of June, 2013.

Became law upon approval of the Governor at 4:26 p.m. on the 19th day of June, 2013.

Session Law 2013-152 **S.B. 222**

AN ACT TO REVISE THE NORTH CAROLINA CONTROLLED SUBSTANCES REPORTING SYSTEM ACT, AS RECOMMENDED BY THE CHILD FATALITY TASK FORCE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 90-113.72 reads as rewritten:

"§ **90-113.72. Definitions.**

The following definitions apply in this Article:

(1) "Commission" means the Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services established under Part 4 of Article 3 of Chapter 143B of the General Statutes.

(2) "Controlled substance" means a controlled substance as defined in G.S. 90-87(5).

(3) "Department" means the Department of Health and Human Services.

(4) "Dispenser" means a person who delivers a Schedule II through V controlled substance to an ultimate user in North Carolina, but does not include any of the following:

a. A licensed hospital or long-term care pharmacy that dispenses such substances for the purpose of inpatient administration.

~~b. A person authorized to administer such a substance pursuant to Chapter 90 of the General Statutes.~~

c. A wholesale distributor of a Schedule II through V controlled substance.

d. A person licensed to practice veterinary medicine pursuant to Article 11 of Chapter 90 of the General Statutes.

(5) "Ultimate user" means a person who has lawfully obtained, and who possesses, a Schedule II through V controlled substance for the person's own use, for the use of a member of the person's household, or for the use of an animal owned or controlled by the person or by a member of the person's household."

SECTION 2. G.S. 90-113.73 reads as rewritten:

"§ **90-113.73. Requirements for controlled substances reporting system.**

(a) The Department shall establish and maintain a reporting system of prescriptions for all Schedule II through V controlled substances. Each dispenser shall submit the information in accordance with transmission methods and frequency established by rule by the Commission. The Department may issue a waiver to a dispenser ~~that~~ who is unable to submit prescription information by electronic means. The waiver may permit the dispenser to submit prescription information by paper form or other means, provided all information required of electronically submitted data is submitted. The dispenser shall report the information required under this section ~~on a monthly basis for the first 12 months of the Controlled Substances Reporting~~

~~System's operation, and twice monthly thereafter, until January 2, 2010, at which time dispensers shall report no later than seven days~~ no later than the close of business three business days after the day when the prescription ~~is dispensed~~was delivered, beginning the next day after the delivery date; however, dispensers are encouraged to report the information no later than 24 hours after the prescription was delivered. The information shall be submitted in a format as determined annually by the Department based on the format used in the majority of the states operating a controlled substances reporting system.

(b) The Commission shall adopt rules requiring dispensers to report the following information. The Commission may modify these requirements as necessary to carry out the purposes of this Article. The dispenser shall report:

(1) The dispenser's DEA number.

(2) The name of the patient for whom the controlled substance is being dispensed, and the patient's:

a. Full address, including city, state, and zip code,

b. Telephone number, and

c. Date of birth.

(3) The date the prescription was written.

(4) The date the prescription was filled.

(5) The prescription number.

(6) Whether the prescription is new or a refill.

(7) Metric quantity of the dispensed drug.

(8) Estimated days of supply of dispensed drug, if provided to the dispenser.

(9) National Drug Code of dispensed drug.

(10) Prescriber's DEA number.

(11) Method of payment for the prescription.

(c) A dispenser shall not be required to report instances in which a controlled substance is provided directly to the ultimate user and the quantity provided does not exceed a 48-hour supply."

SECTION 3. G.S. 90-113.74 reads as rewritten:

"§ **90-113.74. Confidentiality.**

(a) Prescription information submitted to the Department is privileged and confidential, is not a public record pursuant to G.S. 132-1, is not subject to subpoena or discovery or any other use in civil proceedings, and except as otherwise provided below may only be used for investigative or evidentiary purposes related to violations of State or federal law and regulatory activities. Except as otherwise provided by this section, prescription information shall not be disclosed or disseminated to any person or entity by any person or entity authorized to review prescription information.

(b) The Department may use prescription information data in the controlled substances reporting system only for purposes of implementing this Article in accordance with its provisions.

(b1) The Department may review the prescription information data in the controlled substances reporting system and upon review may:

(1) Notify practitioners that a patient may have obtained prescriptions for controlled substances in a manner that may represent abuse, diversion of controlled substances, or an increased risk of harm to the patient.

(2) Report information regarding the prescribing practices of a practitioner to the agency responsible for licensing, registering, or certifying the practitioner pursuant to rules adopted by the agency as set forth below in subsection (b2) of this section.

(b2) In order to receive a report pursuant to subdivision (2) of subsection (b1) of this section, an agency responsible for licensing, registering, or certifying a practitioner with prescriptive or dispensing authority shall adopt rules setting the criteria by which the Department may report the information to the agency. The criteria for reporting established by rule shall not establish the standard of care for prescribing or dispensing, and it shall not be a basis for disciplinary action by an agency that the Department reported a practitioner to an agency based on the criteria.

(c) The Department shall release data in the controlled substances reporting system to the following persons only:

(1) Persons authorized to prescribe or dispense controlled substances for the purpose of providing medical or pharmaceutical care for their patients. A person authorized to receive data pursuant to this paragraph may delegate the authority to receive the data to other persons working under his or her direction and supervision, provided the Department approves the delegation.

(2) An individual who requests the individual's own controlled substances reporting system information.

(3) Special agents of the North Carolina State Bureau of Investigation who are assigned to the Diversion & Environmental Crimes Unit and whose primary duties involve the investigation of diversion and illegal use of prescription ~~medication and~~medication. SBI agents assigned to the Diversion & Environmental Crimes Unit may then provide this information to other SBI agents who are engaged in a bona fide specific investigation related to enforcement of laws governing licit drugs. The SBI shall notify the Office of the Attorney General of North Carolina of each request for inspection of records maintained by the Department.

(4) Primary monitoring authorities for other states pursuant to a specific ongoing investigation involving a designated person, if information concerns the dispensing of a Schedule II through V controlled substance to an ultimate user who resides in the other state or the dispensing of a Schedule II through V controlled substance prescribed by a licensed health care practitioner whose principal place of business is located in the other state.

(5) To a ~~court~~sheriff or designated deputy sheriff or a police chief or a designated police investigator who is assigned to investigate the diversion and illegal use of prescription medication or pharmaceutical products identified in Article 5 of this Chapter of the General Statutes as Schedule II through V controlled substances and who is engaged in a bona fide specific investigation related to the enforcement of laws governing licit drugs pursuant to a lawful court order ~~in a criminal action.~~specifically issued for that purpose.

(6) The Division of Medical Assistance for purposes of administering the State Medical Assistance Plan.

(7) Licensing boards with jurisdiction over health care disciplines pursuant to an ongoing investigation by the licensing board of a specific individual licensed by the board.

(8) Any county medical examiner appointed by the Chief Medical Examiner pursuant to G.S. 130A-382 and the Chief Medical Examiner, for the purpose of investigating the death of an individual.

(d) The Department may provide data to public or private entities for statistical, research, or educational purposes only after removing information that could be used to identify individual patients who received prescription medications from dispensers.

(e) In the event that the Department finds patterns of prescribing medications that are unusual, the Department shall inform the Attorney General's Office of its findings. The Office of the Attorney General shall review the Department's findings to determine if the findings should be reported to the SBI and the appropriate sheriff for investigation of possible violations of State or federal law relating to controlled substances.

(f) The Department shall purge from the controlled substances reporting system database all information more than six years old.

(g) Nothing in this Article shall prohibit a person authorized to prescribe or dispense controlled substances pursuant to Article 1 of Chapter 90 of the General Statutes from disclosing or disseminating data regarding a particular patient obtained under subsection (c) of this section to another person (i) authorized to prescribe or dispense controlled substances pursuant to Article 1 of Chapter 90 of the General Statutes and (ii) authorized to receive the same data from the Department under subsection (c) of this section.

(h) Nothing in this Article shall prevent persons licensed or approved to practice medicine or perform medical acts, tasks, and functions pursuant to Article 1 of Chapter 90 of the General Statutes from retaining data received pursuant to subsection (c) of this section in a patient's confidential health care record."

SECTION 4. G.S. 90-113.75 reads as rewritten:

"§ **90-113.75. Civil penalties; other remedies; immunity from liability.**

(a) A person who intentionally, knowingly, or negligently releases, obtains, or attempts to obtain information from the system in violation of a provision of this ~~section~~ Article or a rule adopted pursuant to this ~~section~~ Article shall be assessed a civil penalty by the Department not to exceed ~~five thousand dollars ($5,000)~~ten thousand dollars ($10,000) per violation. The clear proceeds of penalties assessed under this section shall be deposited to the Civil Penalty and Forfeiture Fund in accordance with Article 31A of Chapter 115C of the General Statutes. The Commission shall adopt rules establishing the factors to be considered in determining the amount of the penalty to be assessed.

(b) In addition to any other remedies available at law, an individual whose prescription information has been disclosed in violation of this ~~section~~ Article or a rule adopted pursuant to this Article may bring an action against any person or entity who has intentionally, knowingly, or negligently released confidential information or records concerning the individual for either or both of the following:

(1) Nominal damages of one thousand dollars ($1,000). In order to recover damages under this subdivision, it shall not be necessary that the plaintiff suffered or was threatened with actual damages.

(2) The amount of actual damages, if any, sustained by the individual.

(c) ~~A health care provider licensed, or an~~ An entity permitted access to data under this ~~Chapter~~ Article that, in good faith, makes a report or transmits data required or allowed by this Article is immune from civil or criminal liability that might otherwise be incurred or imposed as a result of making the report or transmitting the data."

SECTION 5. G.S. 90-5.2 is amended by adding a new subsection to read:

"(a1) The Board shall make e-mail addresses and facsimile numbers reported pursuant to G.S. 90-5.2(a)(7) available to the Department of Health and Human Services for use in the North Carolina Controlled Substance Reporting System established by Article 5E of this Chapter."

SECTION 6. Sections 1 and 2 of this act become effective on January 1, 2014, and apply to prescriptions delivered on or after that date. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 13th day of June, 2013.

Became law upon approval of the Governor at 4:26 p.m. on the 19th day of June, 2013.

Session Law 2013-153 **S.B. 239**

AN ACT TO MAKE VARIOUS REVISIONS TO THE NORTH CAROLINA BUSINESS CORPORATION ACT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 55-6-21(a) reads as rewritten:

"(a) The powers granted in this section to the board of directors may be reserved to the shareholders by the articles of incorporation. Unless the articles of incorporation or bylaws provide otherwise, the powers granted in this section to the board of directors may be delegated, within limits prescribed by the board of directors, to one or more officers of the corporation who are designated by the board of directors."

SECTION 2. G.S. 55-6-24(a) reads as rewritten:

"(a) A corporation may issue rights, options, or warrants for the purchase of shares of the corporation. The board of ~~directors~~directors, or officers of the corporation who are designated by the board of directors pursuant to G.S. 55-6-21(a), shall determine the terms upon which the rights, options, or warrants are issued, their form and content, and the consideration for which the shares are to be issued."

SECTION 3. G.S. 55-7-05(a) reads as rewritten:

"(a) A corporation shall notify shareholders of the date, time, and place of each annual and special shareholders' meeting no fewer than 10 nor more than 60 days before the meeting date. If the board of directors has authorized participation by means of remote communication pursuant to G.S. 55-7-09 for any class or series of shareholders, the notice to such class or series of shareholders shall describe the means of remote communication to be used. Unless this Chapter or the articles of incorporation require otherwise, the corporation is required to give notice only to shareholders entitled to vote at the meeting."

SECTION 4. G.S. 55-7-08 is repealed.

SECTION 5. Article 7 of Chapter 55 of the General Statutes is amended by adding a new section to read:

"**§ 55-7-09. Remote participation in meetings.**

(a) To the extent authorized by a corporation's board of directors, shareholders of any class or series designated by the board of directors may participate in any meeting of shareholders by means of remote communication. Participation by means of remote communication shall be subject to such guidelines and procedures as the board of directors adopts and shall be in conformity with subsection (b) of this section.

(b) Shareholders participating in a shareholders' meeting by means of remote communication shall be deemed present and may vote at such a meeting if the corporation has implemented reasonable measures to do all of the following:

(1) Verify that each person participating remotely is a shareholder.

(2) Provide each shareholder participating remotely a reasonable opportunity to participate in the meeting and to vote on matters submitted to the shareholders, including an opportunity to communicate and read or hear the proceedings of the meeting, substantially concurrently with such proceedings."

SECTION 6. G.S. 55-7-20(c) reads as rewritten:

"(c) The corporation shall make the shareholders' list available at the meeting, and any shareholder, personally or by or with his representative, is entitled to inspect the list at any time during the meeting or any adjournment. The corporation is not required to make the list available through electronic or other means of remote communication to a shareholder or proxy attending the meeting by remote communication pursuant to ~~G.S. 55-7-08.~~G.S. 55-7-09."

SECTION 7. Article 8 of Chapter 55 of the General Statutes is amended by adding a new section to read:

"**§ 55-8-26. Submission of matters for shareholder vote.**

A corporation may agree to submit a matter to a vote of its shareholders even if, after approving the matter, the board of directors determines it no longer recommends the matter."

SECTION 8. G.S. 55-10-03 reads as rewritten:

"**§ 55-10-03. Amendment by board of directors and shareholders.**

…

(b) Except as provided in G.S. 55-10-02, 55-10-07, and 55-14A-01, after adopting the proposed amendment the board of directors ~~must~~shall submit the amendment to the shareholders for their approval. The board of directors ~~must~~shall also transmit to the shareholders a recommendation that the shareholders approve the amendment, unless ~~the board of directors determines that, because of conflict of interest or other special circumstances, it should not make such a recommendation, in which event the board of directors must communicate the basis for that determination to the shareholders with the amendment.~~one of the following circumstances exist, in which event the board of directors shall communicate the basis for not recommending approval of the amendment to the shareholders at the time it submits the amendment to the shareholders:

(1) The board of directors determines that, because of conflict of interest or other special circumstances, it should not make a recommendation that the shareholders approve the amendment.

(2) G.S. 55-8-26 applies.

…

(e) Unless this Chapter, the articles of incorporation, a bylaw adopted by the shareholders, or the board of directors (acting pursuant to subsection (c)) require a greater vote or a vote by voting groups, the amendment to be adopted must be approved ~~by:~~by all of the following:

(1) A majority of the votes entitled to be cast on the amendment by any voting group with respect to which the amendment would create appraisal ~~rights; and~~rights.

(2) The votes required by G.S. 55-7-25 and G.S. 55-7-26 by every other voting group entitled to vote on the amendment."

SECTION 9. G.S. 55-11-03 reads as rewritten:

"**§ 55-11-03. Action on plan.**

(a) After adopting a plan of merger or share exchange, the board of directors of each corporation party to the merger, and the board of directors of the corporation whose shares will be acquired in the share exchange, shall submit the plan of merger (except as provided in subsection (g)) or share exchange for approval by its shareholders.

(b) ~~For~~The following requirements shall be met for a plan of merger or share exchange to be approved:

(1) The board of directors ~~must~~shall recommend to the shareholders that the plan of merger or share exchange ~~to the shareholders,~~be approved, unless ~~the board of directors determines that because of conflict of interest or other special circumstances it should make no recommendation, in which event the board of directors must communicate the basis for its lack of a recommendation to the shareholders with the plan; and~~one of the following circumstances exist, in which event the board of directors shall communicate the basis for not recommending approval of the plan of merger or share exchange to the shareholders at the time it submits the plan of merger or share exchange to the shareholders:

a. The board of directors determines that, because of conflict of interest or other special circumstances, it should not make a recommendation that the shareholders approve the plan of merger or share exchange.

b. G.S. 55-8-26 applies.

(2) The shareholders entitled to vote must approve the ~~plan.~~plan of merger or share exchange.

…

(e) Unless this Chapter, the articles of incorporation, a bylaw adopted by the shareholders, or the board of directors (acting pursuant to subsection (c)) require a greater vote, the plan of merger or share exchange to be authorized must be approved by each voting group entitled to vote separately on the plan by a majority of all the votes entitled to be cast on the plan by that voting group and, for the purpose of Article 9 or any provision in the articles of incorporation or bylaws adopted prior to July 1, 1990, a merger shall be deemed to include a share exchange. If any shareholder of a merging corporation has or will have personal liability for any existing or future obligation of the surviving corporation in the merger solely as a result of owning one or more shares in the surviving corporation, then, in addition to the requirements of this subsection, authorization of the plan of merger by the merging corporation shall require the affirmative vote or written consent of that shareholder.

(f) Separate voting by voting groups is ~~required:~~required for the following:

(1) On a plan of merger if the plan contains a provision that, if contained in a proposed amendment to articles of incorporation, would require action by one or more separate voting groups on the proposed amendment under G.S. 55-10-04, except where the consideration to be received in exchange for the shares of that group consists solely of ~~cash;~~cash.

(2) On a plan of share exchange by each class or series of shares to be acquired in the exchange, with each class or series constituting a separate voting group.

…."

SECTION 10. G.S. 55-11-04 reads as rewritten:

"§ **55-11-04. Merger ~~with subsidiary.~~between parent and subsidiary or between subsidiaries.**

(a) Subject to Article 9, a parent corporation owning shares of a domestic or foreign subsidiary corporation that carry at least ninety percent (90%) of the ~~outstanding shares~~voting power of each class and series of ~~a~~the outstanding shares of the subsidiary corporation that have the current power to vote in the election of directors may merge the subsidiary into itself or into another such subsidiary without approval of the shareholders of the parent corporation unless the articles of incorporation of the parent corporation require approval of the shareholders or the plan of merger contains one or more amendments to the articles of incorporation of the parent corporation for which shareholder approval is required by G.S. 55-10-03, and without approval of the board of directors or shareholders of the subsidiary corporation unless the articles of incorporation of the subsidiary corporation require approval of the shareholders of the subsidiary ~~corporation.~~corporation, or if the subsidiary is a foreign corporation, approval by the subsidiary's board of directors or shareholders is required by the laws under which the subsidiary is organized. Subject to Article 9, a parent corporation owning shares of a domestic or foreign subsidiary corporation that carry at least ninety percent (90%) of the ~~outstanding shares~~voting power of each class and series of ~~a~~the outstanding shares of the subsidiary corporation that have the current power to vote in the election of directors may merge itself into the subsidiary corporation without approval of the board of directors or shareholders of the subsidiary corporation unless the articles of incorporation of the subsidiary corporation provide ~~otherwise or~~otherwise, the plan of merger contains one or more amendments to the articles of incorporation of the subsidiary corporation for which shareholder approval is required by ~~G.S. 55-10-03.~~G.S. 55-10-03, or, if the subsidiary is a foreign corporation, approval by the subsidiary's board of directors or shareholders is required by the

laws under which the subsidiary is organized. Except as otherwise provided in this subsection, the provisions of G.S. 55-11-01 and G.S. 55-11-03 apply to any merger described in this subsection.

(b) If a merger is consummated without approval of the subsidiary corporation's shareholders, the surviving corporation shall, within 10 days after the effective date of the merger, notify each shareholder of the subsidiary corporation as of the effective date of the merger, that the merger has become effective.

(c) Repealed by Session Laws 2005, c. 268, s. 21.

(d) Repealed by Session Laws 2005, c. 268, s. 21.

(e) Repealed by Session Laws 2005, c. 268, s. 21.

(f) The provisions of ~~G.S. 55-13-02(c)~~G.S. 55-13-02(b) do not apply to subsidiary corporations that are parties to mergers consummated under this section."

SECTION 11. G.S. 55-11A-11 reads as rewritten:

"§ **55-11A-11. Plan of conversion.**

(a) The converting domestic corporation shall approve a written plan of conversion ~~containing:~~containing all of the following:

(1) The name of the converting domestic ~~corporation;~~corporation.

(2) The name of the resulting business entity into which the domestic corporation shall convert, its type of business entity, and the state or country whose laws govern its organization and internal ~~affairs;~~affairs.

(3) The terms and conditions of the ~~conversion; and~~conversion.

(4) The manner and basis for converting the shares of the domestic corporation into interests, obligations, or securities of the resulting business entity or into cash or other property in whole or in part.

(a1) The plan of conversion may contain other provisions relating to the conversion.

(a2) The provisions of the plan of conversion, other than the provisions required by subdivisions (1) and (2) of subsection (a) of this section, may be made dependent on facts objectively ascertainable outside the plan of conversion if the plan of conversion sets forth the manner in which the facts will operate upon the affected provisions. The facts may include any of the following:

(1) Statistical or market indices, market prices of any security or group of securities, interest rates, currency exchange rates, or similar economic or financial data.

(2) A determination or action by the converting domestic corporation or by any other person, group, or body.

(3) The terms of, or actions taken under, an agreement to which the converting domestic corporation is a party, or any other agreement or document.

(b) ~~For~~The following requirements shall be met for a plan of conversion to be approved:

(1) The board of directors shall recommend to the shareholders that the plan of conversion ~~to the shareholders,~~be approved, unless ~~the board of directors determines that because of conflict of interest or other special circumstances it should make no recommendation, in which event the board of directors shall communicate the basis for its lack of a recommendation to the shareholders with the plan; and~~one of the following circumstances exist, in which event the board of directors shall communicate the basis for not recommending approval of the plan of conversion to the shareholders at the time it submits the plan of conversion to the shareholders:

a. The board of directors determines that, because of conflict of interest or other special circumstances, it should not make a recommendation that the shareholders approve the plan of conversion.

b. G.S. 55-8-26 applies.

(2) The shareholders entitled to vote shall approve the ~~plan.~~plan of conversion.

…."

SECTION 12. G.S. 55-12-01 reads as rewritten:

"§ **55-12-01. ~~Sale~~Disposition of assets ~~in regular course of business~~not requiring shareholder approval and mortgage of assets.**

(a) A mortgage of or other security interest in all or any part of the property of a corporation may be made by authority of the board of directors without approval of the shareholders, unless otherwise provided in the articles of incorporation or in bylaws adopted by the shareholders.

(b) Unless otherwise provided in the articles of incorporation or in bylaws adopted by the shareholders, a corporation may, on the terms and conditions and for the consideration determined by the board of directors, and without approval by the ~~shareholders:~~shareholders, do any of the following:

(1) Sell, lease, exchange, or otherwise dispose of all, or substantially all, of its property in the usual and regular course of ~~business; or~~business.

(2) Transfer any or all of its property to a corporation or an unincorporated entity all the shares or ownership interests of which are owned by the corporation.

(3) Sell, lease, exchange, or otherwise dispose of any of its property, not in the usual and regular course of business, if the sale, lease, exchange, or other disposition is of less than all, or substantially all, of the corporation's property. If the sale, lease, exchange, or other disposition would leave the corporation with a continuing business activity that represented at least twenty-five percent (25%) of total assets at the end of the most recently completed fiscal year and at least twenty-five percent (25%) of either (i) income from continuing operations before taxes or (ii) revenues from continuing operations for that fiscal year, in each case of the corporation and its subsidiaries on a consolidated basis, the sale, lease, exchange, or other disposition will conclusively be deemed to be of less than all, or substantially all, of the corporation's property."

SECTION 13. G.S. 55-12-02 reads as rewritten:

"§ **55-12-02. ~~Sale~~Disposition of assets ~~other than in regular course of business.~~requiring shareholder approval.**

…

(b) ~~For~~The following requirements shall be met for a transaction to be authorized:

(1) The board of directors ~~must~~shall recommend to the shareholders that the proposed transaction ~~to the shareholders~~be approved unless ~~the board of directors determines that because of conflict of interest or other special circumstances it should make no recommendation, in which event the board of directors must communicate the basis for its lack of a recommendation to the shareholders with the submission of the proposed transaction; and~~one of the following circumstances exist, in which event the board of directors shall communicate the basis for not recommending approval of the proposed transaction to the shareholders at the time it submits the proposed transaction to the shareholders:

a. The board of directors determines that, because of conflict of interest or other special circumstances, it should not make a recommendation that the shareholders approve the proposed transaction.

b. G.S. 55-8-26 applies.

(2) The shareholders entitled to vote must approve the ~~transaction.~~proposed transaction.

…."

SECTION 14. G.S. 55-14-02(b) reads as rewritten:

"(b) ~~For~~The following requirements shall be met for a proposal to dissolve to be adopted:

(1) The board of directors ~~must~~shall recommend ~~dissolution to the shareholders~~to the shareholders that the proposal to dissolve be approved unless ~~the board of directors determines that because of conflict of interest or other special circumstances it should make no recommendation, in which event the board of directors must communicate the proposal and the basis for its lack of a recommendation to the shareholders; and~~one of the following circumstances exist, in which event the board of directors shall communicate the basis for not recommending approval of the proposal to dissolve to the shareholders at the time it submits the proposal to dissolve to the shareholders:

a. The board of directors determines that, because of conflict of interest or other special circumstances, it should not make a recommendation that the shareholders approve the proposal to dissolve.

b. G.S. 55-8-26 applies.

(2) The shareholders entitled to vote must approve the proposal to dissolve as provided in subsection (e)."

SECTION 15. The Revisor of Statutes may cause to be printed all relevant portions of the Official Comments to the Model Business Corporation Act and all explanatory comments of the drafters of this act as the Revisor deems appropriate.

SECTION 16. This act becomes effective January 1, 2014.

In the General Assembly read three times and ratified this the 10th day of June, 2013.

Became law upon approval of the Governor at 4:26 p.m. on the 19th day of June, 2013.

Session Law 2013-154 **S.B. 306**

AN ACT TO EXCLUDE THE ADMINISTRATION OF A LETHAL INJECTION FROM THE PRACTICE OF MEDICINE; TO CODIFY THE LAW THAT PROHIBITS REGULATORY BOARDS FROM SANCTIONING HEALTH CARE PROFESSIONALS FOR ASSISTING IN THE EXECUTION PROCESS; TO AMEND THE LAW ON THE ADMINISTRATION OF A LETHAL INJECTION; TO REQUIRE THE SETTING OF AN EXECUTION DATE IF ANY OF THE EVENTS WHICH ARE PROVIDED BY STATUTE HAVE OCCURRED; TO ELIMINATE THE PROCESS BY WHICH A DEFENDANT MAY USE STATISTICS TO HAVE A SENTENCE OF DEATH REDUCED TO LIFE IN PRISON WITHOUT PAROLE; TO REQUIRE PERIODIC REPORTS ON THE TRAINING AND AVAILABILITY OF PERSONNEL TO CARRY OUT A DEATH SENTENCE; AND TO REQUIRE PERIODIC REPORTS ON THE STATUS OF PENDING POSTCONVICTION CAPITAL CASES.

The General Assembly of North Carolina enacts:

SECTION 1.(a) Article 19 of Chapter 15 of the General Statutes is amended by adding a new section to read:

"**§ 15-188.1. Health care professional assistance.**

(a) Any assistance rendered with an execution under this Article by any licensed health care professional, including, but not limited to, physicians, nurses, and pharmacists, shall not be cause for any disciplinary or corrective measures by any board, commission, or other authority created by the State or governed by State law which oversees or regulates the practice of health care professionals, including, but not limited to, the North Carolina Medical Board, the North Carolina Board of Nursing, and the North Carolina Board of Pharmacy.

(b) The infliction of the punishment of death by administration of the required lethal substances under this Article shall not be construed to be the practice of medicine."

SECTION 1.(b) G.S. 90-1.1(5) reads as rewritten:

"(5) The practice of medicine or surgery. – ~~The~~ Except as otherwise provided by this subdivision, the practice of medicine or surgery, for purposes of this Article, includes any of the following acts:

a. Advertising, holding out to the public, or representing in any manner that the individual is authorized to practice medicine in this State.

b. Offering or undertaking to prescribe, order, give, or administer any drug or medicine for the use of any other individual.

c. Offering or undertaking to prevent or diagnose, correct, prescribe for, administer to, or treat in any manner or by any means, methods, or devices any disease, illness, pain, wound, fracture, infirmity, defect, or abnormal physical or mental condition of any individual, including the management of pregnancy or parturition.

d. Offering or undertaking to perform any surgical operation on any individual.

e. Using the designation "Doctor," "Doctor of Medicine," "Doctor of Osteopathy," "Doctor of Osteopathic Medicine," "Physician," "Surgeon," "Physician and Surgeon," "Dr.," "M.D.," "D.O.," or any combination thereof in the conduct of any occupation or profession pertaining to the prevention, diagnosis, or treatment of human disease or condition, unless the designation additionally contains the description of or reference to another branch of the healing arts for which the individual holds a valid license in this State or the use of the designation "Doctor" or "Physician" is otherwise specifically permitted by law.

f. The performance of any act, within or without this State, described in this subdivision by use of any electronic or other means, including the Internet or telephone.

The administration of required lethal substances or any assistance whatsoever rendered with an execution under Article 19 of Chapter 15 of the General Statutes does not constitute the practice of medicine or surgery."

SECTION 1.(c) G.S. 90-85.38(b) reads as rewritten:

"(b) The Board, in accordance with Chapter 150B of the General Statutes, may suspend, revoke, or refuse to grant or renew any permit for the same conduct as stated in subsection (a). The administration of required lethal substances or any assistance whatsoever rendered with an execution under Article 19 of Chapter 15 of the General Statutes does not constitute the practice of pharmacy under this Article, and any assistance rendered with an execution under Article 19 of Chapter 15 of the General Statutes shall not be the cause for disciplinary action under this Article."

SECTION 1.(d) G.S. 90-171.20(4) reads as rewritten:

"(4) "Nursing" is a dynamic discipline which includes the assessing, caring, counseling, teaching, referring and implementing of prescribed treatment in the maintenance of health, prevention and management of illness, injury, disability or the achievement of a dignified death. It is ministering to;

assisting; and sustained, vigilant, and continuous care of those acutely or chronically ill; supervising patients during convalescence and rehabilitation; the supportive and restorative care given to maintain the optimum health level of individuals, groups, and communities; the supervision, teaching, and evaluation of those who perform or are preparing to perform these functions; and the administration of nursing programs and nursing services. For purposes of this Article, the administration of required lethal substances or any assistance whatsoever rendered with an execution under Article 19 of Chapter 15 of the General Statutes does not constitute nursing."

SECTION 2. G.S. 15-194 reads as rewritten:

"§ **15-194. Time for execution.**

(a) In sentencing a capital defendant to a death sentence pursuant to G.S. 15A-2000(b), the sentencing judge need not specify the date and time the execution is to be carried out by the Division of Adult Correction of the Department of Public Safety. ~~The Secretary of Public Safety shall immediately schedule a date for the execution of the original death sentence not less than 30 days nor more than 60 days from the date of receiving written notification from the Attorney General of North Carolina or the district attorney who prosecuted the case of any one of the following:~~ The Attorney General of North Carolina shall provide written notification to the Secretary of the Department of Public Safety of the occurrence of any of the following not more than 90 days from that occurrence:

(1) The United States Supreme Court has filed an opinion upholding the sentence of death following completion of the initial State and federal postconviction proceedings, if any;

(2) The mandate issued by the Supreme Court of North Carolina on direct appeal pursuant to N.C.R. App. P. 32(b) affirming the capital defendant's death sentence and the time for filing a petition for writ of certiorari to the United States Supreme Court has expired without a petition being filed;

(3) The capital defendant, if indigent, failed to timely seek the appointment of counsel pursuant to G.S. 7A-451(c), or failed to file a timely motion for appropriate relief as required by G.S. 15A-1415(a);

(4) The superior court denied the capital defendant's motion for appropriate relief, but the capital defendant failed to file a timely petition for writ of certiorari to the Supreme Court of North Carolina pursuant to N.C.R. App. P. 21(f);

(5) The Supreme Court of North Carolina denied the capital defendant's petition for writ of certiorari pursuant to N.C.R. App. P. 21(f), or, if certiorari was granted, upheld the capital defendant's death sentence, but the capital defendant failed to file a timely petition for writ of certiorari to the United States Supreme Court; or

(6) Following State postconviction proceedings, if any, the capital defendant failed to file a timely petition for writ of habeas corpus in the appropriate federal district court, or failed to timely appeal or petition an adverse habeas corpus decision to the United States Court of Appeals for the Fourth Circuit or the United States Supreme Court.

The Secretary of the Department of Public Safety shall immediately schedule a date for the execution of the original death sentence not less than 15 days or more than 120 days from the date of receiving written notification from the Attorney General under this section.

The Secretary shall send a certified copy of the document fixing the date to the clerk of superior court of the county in which the case was tried or, if venue was changed, in which the defendant was indicted. The certified copy shall be recorded in the minutes of the court. The Secretary shall also send certified copies to the capital defendant, the capital defendant's attorney, the district attorney who prosecuted the case, and the Attorney General of North Carolina.

(b) The Attorney General shall submit a written report to the Joint Legislative Oversight Committee on Justice and Public Safety by April 1, 2014, and thereafter on October 1 of each year, on the status of all pending postconviction capital cases. Alternatively, the Chairs of the Joint Legislative Oversight Committee on Justice and Public Safety may direct that the reports required under this subsection be made on other dates consistent with the Committee's schedule."

SECTION 3.(a) G.S. 15-188 reads as rewritten:

"§ **15-188. Manner and place of execution.**

In accordance with G.S. 15-187, the mode of executing a death sentence must in every case be by administering to the convict or felon ~~a lethal quantity of an ultrashort-acting barbiturate in combination with a chemical paralytic agent until the convict or felon is dead;~~ an intravenous injection of a substance or substances in a lethal quantity sufficient to cause death and until the person is dead, and that procedure shall be determined by the Secretary of the Department of Public Safety, who shall ensure compliance with the federal and State constitutions; and when any person, convict or felon shall be sentenced by any court of the State having competent jurisdiction to be so executed, the punishment shall only be inflicted within a permanent death chamber which the superintendent of the State penitentiary is hereby authorized and directed to provide within the walls of the North Carolina penitentiary at Raleigh, North Carolina. The superintendent of the State penitentiary shall also cause to be provided, in conformity with this Article, the necessary appliances for the infliction of the punishment of death and qualified personnel to set up and prepare the injection, administer the preinjections, insert the IV catheter, and to perform other tasks required for this procedure in accordance with the requirements of this Article."

SECTION 3.(b) Procedures and substances utilized to carry out a death sentence in place before the effective date of this act are not abated or affected by this act; however, it shall be within the discretion of the Secretary whether to continue, change, or modify such procedures or substances as authorized by law.

SECTION 4. G.S. 15-190 reads as rewritten:

"§ **15-190. Person or persons to be designated by warden to execute sentence; supervision of execution; who shall be present.**

(a) Some guard or guards or other reliable person or persons to be named and designated by the warden from time to time shall cause the person, convict or felon against whom the death sentence has been so pronounced to be executed as provided by this Article and all amendments thereto. The execution shall be under the general supervision and control of the warden of the penitentiary, who shall from time to time, in writing, name and designate the guard or guards or other reliable person or persons who shall cause the person, convict or felon against whom the death sentence has been pronounced to be executed as provided by this Article and all amendments thereto. At such execution there shall be present the warden or deputy warden or some person designated by the warden in the warden's place, and ~~the surgeon or physician of the penitentiary.~~a licensed physician. Four respectable citizens, two members of the victim's family, the counsel and any relatives of such person, convict or felon and a minister or member of the clergy or religious leader of the person's choosing may be present if they so desire. The identities, including the names, residential addresses, residential telephone numbers, and social security numbers, of witnesses or persons designated to carry out the execution shall be confidential and exempted from Chapter 132 of the General Statutes and are not subject to discovery or introduction as evidence in any proceeding. The Senior Resident Superior Court Judge for Wake County may order disclosure of names made confidential by this section after making findings that support a conclusion that disclosure is necessary to a proper administration of justice.

(b) The warden shall report to the Joint Legislative Oversight Committee on Justice and Public Safety by April 1, 2014, and thereafter on October 1 of each year, on the status of the persons required by subsection (a) of this section to be named and designated by the warden to execute death sentences under this Article. The report shall confirm that the required persons are properly trained and ready to serve as an execution team. Alternatively, the Chairs of the Joint Legislative Oversight Committee on Justice and Public Safety may direct that the reports required under this subsection be made on other dates consistent with the Committee's schedule."

SECTION 5.(a) Article 101 of Chapter 15A of the General Statutes is repealed.

SECTION 5.(b) The intent and purpose of this section, and its sole effect, is to remove the use of statistics to prove purposeful discrimination in a specific case. Upon repeal of Article 101 of Chapter 15A of the General Statutes, a capital defendant retains all of the rights which the State and federal constitutions provide to ensure that the prosecutors who selected a jury and who sought a capital conviction did not do so on the basis of race, that the jury that hears his or her case is impartial, and that the trial was free from prejudicial error of any kind. These rights are protected through multiple avenues of appeal, including direct appeal to the North Carolina Supreme Court, and discretionary review to the United States Supreme Court; a postconviction right to file a motion for appropriate relief at the trial court level where claims of racial discrimination may be heard; and again at the federal level through a petition of habeas corpus. A capital defendant prior to the passage of Article 101 of Chapter 15A of the General Statutes had the right to raise the issue of whether a prosecutor sought the death penalty on the basis of race, whether the jury was selected on the basis of race, or any other matter which evidenced discrimination on the basis of race. All these same rights, existing prior to the enactment of Article 101 of Chapter 15A of the General Statutes, remain the law of this State after its repeal.

SECTION 5.(c) Upon request of a district attorney, the Attorney General shall assume primary responsibility on behalf of that district attorney for the litigation in superior court or an appellate court of any claims or issues resulting from a petition for relief that has been or may be filed under the provisions of Article 101 of Chapter 15A of the General Statutes or any issues or matters relating to the repeal of Article 101 of Chapter 15A of the General Statutes, as provided in this act.

SECTION 5.(d) Except as otherwise provided in this subsection, this section is retroactive and applies to any motion for appropriate relief filed pursuant to Article 101 of Chapter 15A of the General Statutes prior to the effective date of this act. All motions filed pursuant to Article 101 of Chapter 15A of the General Statutes prior to the effective date of this act are void. This section does not apply to a court order resentencing a petitioner to life imprisonment without parole pursuant to the provisions of Article 101 of Chapter 15A of the General Statutes prior to the effective date of this act if the order is affirmed upon appellate review and becomes a final Order issued by a court of competent jurisdiction. This section is applicable in any case where a court resentenced a petitioner to life imprisonment without parole pursuant to the provisions of Article 101 of Chapter 15A of the General Statutes prior to the effective date of this act, and the Order is vacated upon appellate review by a court of competent jurisdiction.

SECTION 6. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 13th day of June, 2013.

Became law upon approval of the Governor at 4:27 p.m. on the 19th day of June, 2013.

Session Law 2013-155 **S.B. 387**

AN ACT TO (1) MAKE TECHNICAL AND CONFORMING CHANGES PERTAINING TO THE RENAMING OF THE NORTH CAROLINA FOREST SERVICE AND TO MAKE OTHER CHANGES IN THE FOREST SERVICE STATUTES AND (2) PROVIDE A RIGHT OF ENTRY FOR THE COMMISSIONER OF AGRICULTURE TO ENFORCE THE LAWS RELATED TO BEDDING.

The General Assembly of North Carolina enacts:

PART I. FOREST SERVICE CHANGES

SECTION 1. G.S. 1-339.17(c1) reads as rewritten:

"(c1) When the public sale is a sale of timber by sealed bid, the notice shall also be given in writing, not less than 21 days before the date on which bids are opened, to a reasonable number of prospective timber buyers, which in all cases shall include the timber buyers listed in the office of the ~~Division of Forest Resources~~ North Carolina Forest Service of the Department of Agriculture and Consumer Services for the county or counties in which the timber to be sold is located."

SECTION 2. G.S. 20-81.12(b35) reads as rewritten:

"(b35) First in Forestry. – The Division must receive 300 or more applications for the First in Forestry plate before the plate may be developed. The Division shall transfer quarterly one-half of the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of the First in Forestry plates to the ~~Division of Forest Resources~~North Carolina Forest Service of the Department of Agriculture and Consumer Services for a State forests and forestry education program and shall transfer quarterly one-half of the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of the First in Forestry plates to the Forest Education and Conservation Foundation for their programs."

SECTION 3. G.S. 77-13 reads as rewritten:

"§ **77-13. Obstructing streams a misdemeanor.**

If any person, firm, or corporation shall fell any tree, or put any obstruction, except for the purposes of utilizing water as a motive power, in any branch, creek, stream, or other natural passage for water, whereby the natural flow of water through such passage is lessened or retarded, or whereby the navigation of such stream may be impeded, delayed, or prevented, the person, firm, or corporation so offending shall be guilty of a Class 2 misdemeanor. In addition to any fine or imprisonment imposed, the court may, in its discretion, order the person, firm, or corporation so offending to remove the obstruction and restore the affected waterway to an undisturbed condition, or allow authorized employees of the enforcing agency to enter upon the property and accomplish the removal of the obstruction and the restoration of the waterway to an undisturbed condition, in which case the costs of the removal and restoration shall be paid to the enforcing agency by the offending party. Nothing in this section shall prevent the erection of fish dams or hedges across any stream which do not extend across more than two thirds of its width at the point of obstruction. If the fish dams or hedges extend more than two thirds of the width of any stream, the said penalties shall attach. This section may be enforced by marine fisheries inspectors and wildlife protectors. Within the bounds of any county or municipality, this section may also be enforced by any law enforcement officer having territorial jurisdiction, or by the county engineer. This section may also be enforced by specially commissioned forest law-enforcement officers of the Department of ~~Environment and Natural Resources~~Agriculture and Consumer Services for offenses occurring in woodlands. For purposes of this section, the term "woodlands" means all forested areas, including swamp and timber lands, cutover lands, and second-growth stands in previously cultivated sites."

SECTION 4. G.S. 77-14 reads as rewritten:

"§ **77-14. Obstructions in streams and drainage ditches.**

If any person, firm or corporation shall fell any tree or put any slabs, stumpage, sawdust, shavings, lime, refuse or any other substances in any creek, stream, river or natural or artificial drainage ravine or ditch, or in any other outlet which serves to remove water from any land whatsoever whereby the drainage of said land is impeded, delayed or prevented, the person, firm or corporation so offending shall be guilty of a Class 2 misdemeanor: Provided, however, nothing herein shall prevent the construction of any dam or weir not otherwise prohibited by any valid local or State statute or regulation. In addition to any fine or imprisonment imposed, the court may, in its discretion, order the person, firm, or corporation so offending to remove the obstruction and restore the affected waterway to an undisturbed condition, or allow authorized employees of the enforcing agency to enter upon the property and accomplish the removal of the obstruction and the restoration of the waterway to an undisturbed condition, in which case the costs of the removal and restoration shall be paid to the enforcing agency by the offending party. This section may be enforced by marine fisheries inspectors and wildlife protectors. Within the boundaries of any county or municipality this section may also be enforced by any law enforcement officer having territorial jurisdiction, or by the county engineer. This section may also be enforced by specially commissioned forest law-enforcement officers of the Department of ~~Environment and Natural Resources~~Agriculture and Consumer Services for offenses occurring in woodlands. For purposes of this section, the term "woodlands" means all forested areas, including swamp and timber lands, cutover lands and second-growth stands on previously cultivated sites."

SECTION 5. G.S. 97-2 reads as rewritten:

"§ **97-2. Definitions.**

When used in this Article, unless the context otherwise requires:

…

(2) Employee. – The term "employee" means every person engaged in an employment under any appointment or contract of hire or apprenticeship, express or implied, oral or written, including aliens, and also minors, whether lawfully or unlawfully employed, but excluding persons whose employment is both casual and not in the course of the trade, business, profession, or occupation of his employer, and as relating to those so employed by the State, the term "employee" shall include all officers and employees of the State, including such as are elected by the people, or by the General Assembly, or appointed by the Governor to serve on a per diem, part-time or fee basis, either with or without the confirmation of the Senate; as relating to municipal corporations and political subdivisions of the State, the term "employee" shall include all officers and employees thereof, including such as are elected by the people. The term "employee" shall include members of the North Carolina National Guard while on State active duty under orders of the Governor and members of the North Carolina State Defense Militia while on State active duty under orders of the Governor. The term "employee" shall include deputy sheriffs and all persons acting in the capacity of deputy sheriffs, whether appointed by the sheriff or by the governing body of the county and whether serving on a fee basis or on a salary basis, or whether deputy sheriffs serving upon a full-time basis or a part-time basis, and including deputy sheriffs appointed to serve in an emergency, but as to those so appointed, only during the continuation of the emergency. The sheriff shall furnish to the board of county commissioners a complete list of all deputy sheriffs named or appointed by him immediately after their appointment and notify the board of commissioners of any changes made therein promptly after such changes are made. Any reference to an employee who has been injured shall, when the employee is dead, include also ~~his~~ the employee's legal representative, dependents, and other persons to whom compensation may be payable: Provided, further, that any

employee, as herein defined, of a municipality, county, or of the State of North Carolina, while engaged in the discharge of the employee's ~~his~~ official duty outside the jurisdictional or territorial limits of the municipality, county, or the State of North Carolina and while acting pursuant to authorization or instruction from any superior officer, shall have the same rights under this Article as if such duty or activity were performed within the territorial boundary limits of ~~his~~ their employer.

Every executive officer elected or appointed and empowered in accordance with the charter and bylaws of a corporation shall be considered as an employee of such corporation under this Article.

Any such executive officer of a corporation may, notwithstanding any other provision of this Article, be exempt from the coverage of the corporation's insurance contract by such corporation's specifically excluding such executive officer in such contract of insurance, and the exclusion to remove such executive officer from the coverage shall continue for the period such contract of insurance is in effect, and during such period such executive officers thus exempted from the coverage of the insurance contract shall not be employees of such corporation under this Article.

All county agricultural extension service employees who do not receive official federal appointments as employees of the United States Department of Agriculture and who are field faculty members with professional rank as designated in the memorandum of understanding between the North Carolina Agricultural Extension Service, North Carolina State University, A & T State University, and the boards of county commissioners shall be deemed to be employees of the State of North Carolina. All other county agricultural extension service employees paid from State or county funds shall be deemed to be employees of the county board of commissioners in the county in which the employee is employed for purposes of workers' compensation.

The term "employee" shall also include members of the Civil Air Patrol currently certified pursuant to G.S. 143B-491(a) [G.S. 143B-1031(a)] when performing duties in the course and scope of a State-approved mission pursuant to Article 11 of Chapter 143B [Subpart C of Part 5 of Article 13 of Chapter 143B] of the General Statutes.

"Employee" shall not include any person performing voluntary service as a ski patrolman who receives no compensation for such services other than meals or lodging or the use of ski tow or ski lift facilities or any combination thereof.

Any sole proprietor or partner of a business or any member of a limited liability company may elect to be included as an employee under the workers' compensation coverage of such business if he is actively engaged in the operation of the business and if the insurer is notified of his election to be so included. Any such sole proprietor or partner or member of a limited liability company shall, upon such election, be entitled to employee benefits and be subject to employee responsibilities prescribed in this Article.

"Employee" shall include an authorized pickup firefighter of the ~~Division of Forest Resources~~North Carolina Forest Service of the Department of Agriculture and Consumer Services when that individual is engaged in emergency fire suppression activities for the ~~Division of Forest Resources.~~North Carolina Forest Service. As used in this section, "authorized pickup firefighter" means an individual who has completed required fire suppression training as a wildland firefighter and who is available as needed by the ~~Division of Forest Resources~~ North Carolina

Forest Service for emergency fire suppression activities, including immediate dispatch to wildfires and standby for initial attack on fires during periods of high fire danger.

It shall be a rebuttable presumption that the term "employee" shall not include any person performing services in the sale of newspapers or magazines to ultimate consumers under an arrangement whereby the newspapers or magazines are to be sold by that person at a fixed price and the person's compensation is based on the retention of the excess of the fixed price over the amount at which the newspapers or magazines are charged to the person.

(3) Employer. – The term "employer" means the State and all political subdivisions thereof, all public and quasi-public corporations therein, every person carrying on any employment, and the legal representative of a deceased person or the receiver or trustee of any person. The board of commissioners of each county of the State, for the purposes of this law, shall be considered as "employer" of all deputy sheriffs serving within such county, or persons serving or performing the duties of a deputy sheriff, whether such persons are appointed by the sheriff or by the board of commissioners and whether serving on a fee basis or salary basis. Each county is authorized to insure its compensation liability for deputy sheriffs to the same extent it is authorized to insure other compensation liability for employees thereof. For purposes of this Chapter, when an authorized pickup firefighter of the ~~Division of Forest Resources~~ North Carolina Forest Service of the Department of Agriculture and Consumer Services is engaged in emergency fire suppression activities for the ~~Division of Forest Resources,~~North Carolina Forest Service, that individual's employer is the ~~Division of Forest Resources.~~North Carolina Forest Service.

…

(5) Average Weekly Wages. – "Average weekly wages" shall mean the earnings of the injured employee in the employment in which ~~he~~ the employee was working at the time of the injury during the period of 52 weeks immediately preceding the date of the injury, including the subsistence allowance paid to veteran trainees by the United States government, provided the amount of said allowance shall be reported monthly by said trainee to the trainee's~~his~~ employer, divided by 52; but if the injured employee lost more than seven consecutive calendar days at one or more times during such period, although not in the same week, then the earnings for the remainder of such 52 weeks shall be divided by the number of weeks remaining after the time so lost has been deducted. Where the employment prior to the injury extended over a period of fewer than 52 weeks, the method of dividing the earnings during that period by the number of weeks and parts thereof during which the employee earned wages shall be followed; provided, results fair and just to both parties will be thereby obtained. Where, by reason of a shortness of time during which the employee has been in the employment of his employer or the casual nature or terms of his employment, it is impractical to compute the average weekly wages as above defined, regard shall be had to the average weekly amount which during the 52 weeks previous to the injury was being earned by a person of the same grade and character employed in the same class of employment in the same locality or community.

But where for exceptional reasons the foregoing would be unfair, either to the employer or employee, such other method of computing average weekly wages may be resorted to as will most nearly approximate the

amount which the injured employee would be earning were it not for the injury.

Wherever allowances of any character made to an employee in lieu of wages are specified part of the wage contract, they shall be deemed a part of his earnings.

Where a minor employee, under the age of 18 years, sustains a permanent disability or dies leaving dependents surviving, the compensation payable for permanent disability or death shall be calculated, first, upon the average weekly wage paid to adult employees employed by the same employer at the time of the accident in a similar or like class of work which the injured minor employee would probably have been promoted to if not injured, or, second, upon a wage sufficient to yield the maximum weekly compensation benefit. Compensation for temporary total disability or for the death of a minor without dependents shall be computed upon the average weekly wage at the time of the accident, unless the total disability extends more than 52 weeks, and then the compensation may be increased in proportion to ~~his~~ the employee's expected earnings.

In case of disabling injury or death to a volunteer fireman; member of an organized rescue squad; an authorized pickup firefighter, as defined in subdivision (2) of this section, when that individual is engaged in emergency fire suppression activities for the ~~Division of Forest Resources;~~North Carolina Forest Service; a duly appointed and sworn member of an auxiliary police department organized pursuant to G.S. 160A-282; or senior members of the State Civil Air Patrol functioning under Article 11 of Chapter 143B [Subpart C of Part 5 of Article 13 of Chapter 143B] of the General Statutes, under compensable circumstances, compensation payable shall be calculated upon the average weekly wage the volunteer fireman, member of an organized rescue squad, authorized pickup firefighter of the ~~Division of Forest Resources,~~North Carolina Forest Service; when that individual is engaged in emergency fire suppression activities for the ~~Division of Forest Resources,~~North Carolina Forest Service, member of an auxiliary police department, or senior member of the State Civil Air Patrol was earning in the employment wherein he principally earned his livelihood as of the date of injury. Provided, however, that the minimum compensation payable to a volunteer fireman, member of an organized rescue squad, an authorized pickup firefighter of the ~~Division of Forest Resources~~North Carolina Forest Service of the Department of Agriculture and Consumer Services, when that individual is engaged in emergency fire suppression activities for the ~~Division of Forest Resources,~~North Carolina Forest Service, a sworn member of an auxiliary police department organized pursuant to G.S. 160A-282, or senior members of the State Civil Air Patrol shall be sixty-six and two-thirds percent (66 2/3%) of the maximum weekly benefit established in G.S. 97-29.

…."

SECTION 6. G.S. 105-259(b)(41) reads as rewritten:

"(41) To furnish the ~~Division of Forest Resources~~North Carolina Forest Service of the Department of Agriculture and Consumer Services pertinent contact and financial information concerning companies that are involved in the primary processing of timber products so that the Commissioner of Agriculture is able to comply with G.S. 106-1029 under the Primary Forest Product Assessment Act."

SECTION 7. G.S. 105-277.7(a)(2) reads as rewritten:

"(2) A representative of the ~~Division of Forest Resources~~North Carolina Forest Service of the Department of Agriculture and Consumer Services, designated by the Director of that Division."

SECTION 8. G.S. 105-296(j) reads as rewritten:

"(j) The assessor must annually review at least one eighth of the parcels in the county classified for taxation at present-use value to verify that these parcels qualify for the classification. By this method, the assessor must review the eligibility of all parcels classified for taxation at present-use value in an eight-year period. The period of the review process is based on the average of the preceding three years' data. The assessor may request assistance from the Farm Service Agency, the Cooperative Extension Service, the ~~Division of Forest Resources~~North Carolina Forest Service of the Department of Agriculture and Consumer Services, or other similar organizations.

The assessor may require the owner of classified property to submit any information, including sound management plans for forestland, needed by the assessor to verify that the property continues to qualify for present-use value taxation. The owner has 60 days from the date a written request for the information is made to submit the information to the assessor. If the assessor determines the owner failed to make the information requested available in the time required without good cause, the property loses its present-use value classification and the property's deferred taxes become due and payable as provided in G.S. 105-277.4(c). If the property loses its present-use value classification for failure to provide the requested information, the assessor must reinstate the property's present-use value classification when the owner submits the requested information within 60 days after the disqualification unless the information discloses that the property no longer qualifies for present-use value classification. When a property's present-use value classification is reinstated, it is reinstated retroactive to the date the classification was revoked and any deferred taxes that were paid as a result of the revocation must be refunded to the property owner. The owner may appeal the final decision of the assessor to the county board of equalization and review as provided in G.S. 105-277.4(b1).

In determining whether property is operating under a sound management program, the assessor must consider any weather conditions or other acts of nature that prevent the growing or harvesting of crops or the realization of income from cattle, swine, or poultry operations. The assessor must also allow the property owner to submit additional information before making this determination."

SECTION 9. G.S. 106-202.14(b)(3) reads as rewritten:

"(3) The ~~Division of Forest Resources,~~North Carolina Forest Service of the Department of Agriculture and Consumer Services;"

SECTION 10. G.S. 106-860(d)(11) reads as rewritten:

"(11) The ~~Director~~ Assistant Commissioner of the ~~Division of Forest Resources~~North Carolina Forest Service of the Department of Agriculture and Consumer Services or the ~~Director's~~ Assistant Commissioner's designee."

SECTION 11. G.S. 106-878 reads as rewritten:

"§ **106-878. Applications of proceeds from sale of products.**

…

(c) Forest Seedling Nursery Program Fund. – The Forest Seedling Nursery Program Fund is created within the Department of Agriculture and Consumer Services, ~~Division of Forest Resources,~~North Carolina Forest Service, as a special revenue fund. Except as provided in subsection (b) of this section, this Fund shall consist of receipts from the sale of seed and seedlings as authorized in G.S. 106-877 and any gifts, bequests, or grants for the benefit of this Fund. No General Fund appropriations shall be credited to this Fund. Any balance remaining in this Fund at the end of any fiscal year shall not revert. The Department may use this Fund only to develop, improve, repair, maintain, operate, or otherwise invest in the Forest Seedling Nursery Program.

(d) Bladen Lakes State Forest Fund. – The Bladen Lakes State Forest Fund is created within the Department of Agriculture and Consumer Services, ~~Division of Forest Resources,~~North Carolina Forest Service, as a special revenue fund. This Fund shall consist of receipts from the sale of forest products from Bladen Lakes State Forest as authorized in G.S. 106-877 and any gifts, bequests, or grants for the benefit of this Fund. No General Fund appropriations shall be credited to this Fund. Any balance remaining in this Fund at the end of any fiscal year shall not revert. The Department may use this Fund only to develop, improve, repair, maintain, operate, or otherwise invest in the Bladen Lakes State Forest."

SECTION 12. G.S. 106-887(a) reads as rewritten:

"(a) DuPont State Forest is designated as a State Recreational Forest. The Department shall manage DuPont State Recreational Forest: (i) primarily for natural resource preservation, scenic enjoyment and recreational purposes, including horseback riding, hiking, bicycling, hunting, and fishing; (ii) so as to provide an exemplary model of scientifically sound, ecologically based natural resource management for the social and economic benefit of the forest's diverse community of users; and (iii) consistent with the grant agreement between the Natural Heritage Trust Fund and the ~~Division of Forest Resources,~~North Carolina Forest Service, which grant designates a portion of the forest as a North Carolina Nature Preserve. In addition, the Department may use the forest for the demonstration of different forest management and resource protection techniques for local landowners, natural resource professionals, students, and other forest visitors."

SECTION 13. G.S. 106-903 reads as rewritten:

"§ **106-903. Overtime compensation for forest fire fighting.**

The Department shall, within funds appropriated to the Department, provide overtime compensation to the professional employees of the ~~Division of Forest Resources~~North Carolina Forest Service involved in fighting forest fires."

SECTION 14. Article 79 of Chapter 106 of the General Statutes reads as rewritten:

"Article 79.

"~~Fire Fighters on Standby Duty.~~Firefighters on On-Call Status.

"§ **106-955. Definitions.**

As used in this Article:

(1) ~~"Fire fighter"~~"Firefighter" means an employee of the ~~Division of Forest Resources~~North Carolina Forest Service of the Department of Agriculture and Consumer Services who engages in fire suppression ~~duties.~~duties or engages in emergency response duties pursuant to G.S. 166A-19.77.

(2) "Fire suppression duties" means involvement in on-site fire suppression, participation in ~~Project Fire~~Incident Management Team while it is mobilized, Operations Room duty during on-going fires or when required by high readiness plans, mop-up activities to secure fire sites, scouting and detecting forest fires, performance of standby duty, and any other activity that directly contributes to the detection, response to, and control of fires."

"§ **106-956. ~~Standby duty.~~On-call.**

(a) ~~Standby duty~~On-call is time during which a ~~fire fighter~~firefighter is required to ~~remain within 25 miles of his duty station and~~ be available to return to the duty station ~~on call.~~or respond to an emergency within 30 minutes. The Department of Agriculture and Consumer Services shall provide each ~~fire fighter~~firefighter ~~on standby duty~~in on-call status with an electronic ~~paging~~ communication device that makes the wearer accessible to ~~his~~ the firefighter's duty station.

(b) Notwithstanding subsection (a) of this section, ~~for at least two out of~~after 14 consecutive days that a ~~fire fighter~~firefighter is on duty, the Department of Agriculture and Consumer Services shall permit the ~~fire fighter~~firefighter to be ~~more than 25 miles from his duty station~~off duty for two days so long as the ~~fire fighter~~firefighter gives the Department of Agriculture and Consumer Services a ~~telephone number~~means of contact where ~~he~~ the ~~fire fighter~~firefighter can be ~~reached;~~reached. ~~each month, the days the fire fighter is permitted to~~

~~be more than 25 miles from his duty station shall include one full weekend.~~ On the days the ~~fire fighter~~firefighter is permitted to be ~~more than 25 miles from his duty station,~~off duty, the Department of Agriculture and Consumer Services may ~~call him~~contact the firefighter only when there is a bona fide emergency."

SECTION 15. G.S. 106-966(1) reads as rewritten:

"(1) "Certified prescribed burner" means an individual who has successfully completed a certification program approved by the ~~Division of Forest Resources~~North Carolina Forest Service of the Department of Agriculture and Consumer Services."

SECTION 16. G.S. 106-968 reads as rewritten:

"§ **106-968. Prescribed burning.**

(a) Prior to conducting a prescribed burning, the landowner shall obtain a prescription for the prescribed burning prepared by a certified prescribed burner and filed with the ~~Division of Forest Resources,~~North Carolina Forest Service of the Department of Agriculture and Consumer Services. A copy of the prescription shall be provided to the landowner. A copy of this prescription shall be in the possession of the responsible burner on site throughout the duration of the prescribed burning. The prescription shall include:

(1) The landowner's name and address.
(2) A description of the area to be burned.
(3) A map of the area to be burned.
(4) An estimate in tons of the fuel located on the area.
(5) The objectives of the prescribed burning.
(6) A list of the acceptable weather conditions and parameters for the prescribed burning sufficient to minimize the likelihood of smoke damage and fire escaping onto adjacent areas.
(7) The name of the certified prescribed burner responsible for conducting the prescribed burning.
(8) A summary of the methods that are adequate for the particular circumstances involved to be used to start, control, and extinguish the prescribed burning.
(9) Provision for reasonable notice of the prescribed burning to be provided to nearby homes and businesses to avoid effects on health and property.

…

(c) Prior to conducting a prescribed burning, the landowner or the landowner's agent shall obtain an open-burning permit under Article 78 of this Chapter from the ~~Division of Forest Resources,~~North Carolina Forest Service of the Department of Agriculture and Consumer Services. This open-burning permit must remain in effect throughout the period of the prescribed burning. The prescribed burning shall be conducted in compliance with all the following:

(1) The terms and conditions of the open-burning permit under Article 78 of this Chapter.
(2) The State's air pollution control statutes under Article 21 and Article 21B of Chapter 143 of the General Statutes and any rules adopted pursuant to these statutes.
(3) Any applicable local ordinances relating to open burning.
(4) The voluntary smoke management guidelines adopted by the ~~Division of Forest Resources,~~North Carolina Forest Service of the Department of Agriculture and Consumer Services.
(5) Any rules adopted by the ~~Division of Forest Resources,~~North Carolina Forest Service of the Department of Agriculture and Consumer Services, to implement this Article."

SECTION 17. G.S. 106-969 reads as rewritten:

"§ **106-969. Adoption of rules.**

The ~~Division of Forest Resources,~~North Carolina Forest Service of the Department of Agriculture and Consumer ~~Services,~~Services may adopt rules that govern prescribed burning under this Article."

SECTION 18. G.S. 113-291.10(a)(3) reads as rewritten:

"(3) The ~~Director~~ Assistant Commissioner of the ~~Division of Forest Resources~~North Carolina Forest Service of the Department of Agriculture and Consumer Services, or a designee;"

SECTION 19. G.S. 143-116.8 reads as rewritten:

"§ **143-116.8. Motor vehicle laws applicable to State parks and forests road system.**

(a) Except as otherwise provided in this section, all the provisions of Chapter 20 of the General Statutes relating to the use of highways and public vehicular areas of the State and the operation of vehicles thereon are made applicable to the State parks and forests road system. For the purposes of this section, the term "State parks and forests road system" shall mean the streets, alleys, roads, public vehicular areas and driveways of the State parks, State forests, State recreation areas, State lakes, and all other lands administered by the Department of Environment and Natural ~~Resources.~~Resources or the Department of Agriculture and Consumer Services. This term shall not be construed, however, to include streets that are a part of the State highway system. Any person violating any of the provisions of Chapter 20 of the General Statutes hereby made applicable in the State parks and forests road system shall, upon conviction, be punished in accordance with ~~Chapter 20.~~Chapter 20 of the General Statutes. Nothing herein contained shall be construed as in any way interfering with the ownership and control of the State parks ~~and forests~~ road system by the Department of Environment and Natural ~~Resources.~~Resources and the forests road system by the Department of Agriculture and Consumer Services.

(b) (1) It shall be unlawful for a person to operate a vehicle in the State parks ~~and forests~~ road system at a speed in excess of twenty-five miles per hour (25 mph). When the Secretary of Environment and Natural Resources determines that this speed is greater than reasonable and safe under the conditions found to exist in the State parks ~~and forests~~ road system, the Secretary may establish a lower reasonable and safe speed limit. No speed limit established by the Secretary pursuant to this provision shall be effective until posted in the part of the system ~~sought to be affected.~~where the limit is intended to apply.

(1a) It shall be unlawful for a person to operate a vehicle in the State forests road system at a speed in excess of 25 miles per hour. When the Commissioner of Agriculture determines that this speed is greater than reasonable and safe under the conditions found to exist in the State forests road system, the Commissioner may establish a lower reasonable and safe speed limit. No speed limit established by the Commissioner pursuant to this provision shall be effective until posted in the part of the system where the limit is intended to apply.

…

(4) The Secretary may designate any part of the State parks road system and the Commissioner may designate any part of the State forests road system for one-way traffic and shall erect appropriate signs giving notice thereof. It shall be a violation of G.S. 20-165.1 for any person to willfully drive or operate any vehicle on any part of the State parks and forests road system so designated except in the direction indicated.

(5) The Secretary shall have power, equal to the power of local authorities under G.S. 20-158 and G.S. 20-158.1, to place vehicle control signs and signals and yield-right-of-way signs in the State parks ~~and forests~~ road system; the Secretary also shall have power to post such other signs and markers and mark the roads in accordance with Chapter 20 of the General Statutes as the

Secretary may determine appropriate for highway safety and traffic control. The failure of any vehicle driver to obey any vehicle control sign or signal, or any yield-right-of-way sign placed under the authority of this section in the State parks ~~and forests~~ road system shall be an infraction and shall be punished as provided in G.S. 20-176.

(5a) The Commissioner shall have power, equal to the power of local authorities under G.S. 20-158 and G.S. 20-158.1, to place vehicle control signs and signals and yield right-of-way signs in the State forests road system. The Commissioner also shall have power to post such other signs and markers and mark the roads in accordance with Chapter 20 of the General Statutes as the Commissioner may determine appropriate for highway safety and traffic control. The failure of any vehicle driver to obey any vehicle control sign or signal or any yield right-of-way sign placed under the authority of this section in the State forests road system shall be an infraction and shall be punished as provided in G.S. 20-176.

(c) The Secretary of Environment and Natural Resources may, by rule, regulate parking and establish parking areas, and provide for the removal of illegally parked motor vehicles on the State parks ~~and forests road system.~~ road system, and the Commissioner of Agriculture may, by rule, regulate and establish parking areas and provide for the removal of illegally parked motor vehicles on the State forests road system. Any rule of the Secretary or the Commissioner shall be consistent with the provisions of G.S. 20-161, 20-161.1, and 20-162. Any removal of illegally parked motor vehicles shall be in compliance with Article 7A of ~~Chapter 20.~~Chapter 20 of the General Statutes.

(d) A violation of the rules issued by the Secretary of Environment and Natural Resources or the Commissioner of Agriculture under subsection (c) of this section is an infraction pursuant to G.S. 20-162.1, and shall be punished as therein provided. These rules may be enforced by the Commissioner of Motor Vehicles, the Highway Patrol, forest law enforcement officers, or other law enforcement officers of the State, counties, cities or other municipalities having authority under Chapter 20 of the General Statutes to enforce laws or rules on travel or use or operation of vehicles or the use or protection of the highways of the State.

(e) The provisions of Chapter 20 of the General Statutes are applicable at all times to the State parks and forests road system, including closing hours, regardless of the fact that during closing hours the State parks and forests road system is not open to the public as a matter of right."

SECTION 20. G.S. 143-166.2(d) reads as rewritten:

"(d) The term "law-enforcement officer", "officer", or "fireman" shall mean a sheriff and all law-enforcement officers employed full-time, permanent part-time, or temporarily by a sheriff, the State of North Carolina or any county or municipality thereof, whether paid or unpaid; and all full-time custodial employees and probation and parole officers of the Division of Adult Correction of the Department of Public Safety; and all full time institutional and full-time, permanent part-time, and temporary detention employees of the Division of Juvenile Justice of the Department of Public Safety and full-time, permanent part-time, and temporary detention officers employed by any sheriff, county or municipality, whether paid or unpaid. The term "firemen" shall mean both "eligible firemen" as defined in G.S. 58-86-25 and all full-time, permanent part-time and temporary employees of the ~~Division of Forest Resources,~~North Carolina Forest Service of the Department of Agriculture and Consumer ~~Services,~~Services during the time they are actively engaged in ~~fire-fighting~~firefighting activities; or engaged in emergency response activities pursuant to ~~G.S. 155A-19.77;~~G.S. 166A-19.77; and shall mean all full-time employees of the North Carolina Department of Insurance during the time they are actively engaged in ~~fire-fighting~~firefighting activities, during the time they are training ~~fire-fighters~~firefighters or rescue squad workers, and during the time they are engaged in activities as members of the

State Emergency Response Team, when the Team has been activated; and shall mean all otherwise eligible persons who, while actively engaged as firefighters or rescue squad workers, are acting in the capacity of a fire or rescue instructor outside their own department or squad. The term "rescue squad worker" shall mean a person who is dedicated to the purpose of alleviating human suffering and assisting anyone who is in difficulty or who is injured or becomes suddenly ill by providing the proper and efficient care or emergency medical services. In addition, this person must belong to an organized rescue squad which is eligible for membership in the North Carolina Association of Rescue Squads, Inc., and the person must have attended a minimum of 36 hours of training and meetings in the last calendar year. Each rescue squad belonging to the North Carolina Association of Rescue Squads, Inc., must file a roster of those members meeting the above requirements with the State Treasurer on or about January 1 of each year, and this roster must be certified to by the secretary of said association. In addition, the term "rescue squad worker" shall mean a member of an ambulance service certified by the Department of Health and Human Services pursuant to Article 7 of Chapter 131E of the General Statutes. The Department of Health and Human Services shall furnish a list of ambulance service members to the State Treasurer on or about January 1 of each year. The term "Civil Air Patrol members" shall mean those senior members of the North Carolina Wing-Civil Air Patrol 18 years of age or older and currently certified pursuant to G.S. 143B-1031. The term "fireman" shall also mean county fire marshals when engaged in the performance of their county duties. The term "rescue squad worker" shall also mean county emergency services coordinators when engaged in the performance of their county duties."

SECTION 21. G.S. 143-166.7 reads as rewritten:

"§ **143-166.7. Applicability of Article.**

The provisions of this Article shall apply and be in full force and effect with respect to any law-enforcement officer, fireman, rescue squad worker or senior Civil Air Patrol member killed in the line of duty on or after May 13, 1975. The provisions of this Article shall apply with respect to full-time, permanent part-time and temporary employees of [the] ~~Division of Forest Resources,~~North Carolina Forest Service of the Department of Agriculture and Consumer ~~Services,~~Services killed in [the] line of duty on or after July 1, 1975. The provisions of this Article shall apply to county fire marshals and emergency services coordinators killed in the line of duty on and after July 1, 1988."

SECTION 22. G.S. 143-214.25A(a) reads as rewritten:

"(a) The Division of Water Quality of the Department shall develop a program to train and certify individuals to determine the presence of surface waters that would require the application of rules adopted by the Commission for the protection of riparian buffers. The Division may train and certify employees of the Division as determined by the Director of the Division of Water Quality; employees of units of local government to whom responsibility for the implementation and enforcement of the riparian buffer protection rules is delegated pursuant to G.S. 143-214.23; and Registered Foresters under Chapter 89B of the General Statutes who are employees of the ~~Division of Forest Resources~~North Carolina Forest Service of the Department of Agriculture and Consumer Services as determined by the Assistant Commissioner ~~Director~~ of the ~~Division of Forest Resources.~~North Carolina Forest Service. The Director of the Division of Water Quality may review the determinations made by individuals who are certified pursuant to this section, may override a determination made by an individual certified under this section, and, if the Director of the Division of Water Quality determines that an individual is failing to make correct determinations, revoke the certification of that individual."

SECTION 23. G.S. 143A-65.1 reads as rewritten:

"§ **143A-65.1. ~~Division of Forest Resources.~~North Carolina Forest Service.**

The Department of Agriculture and Consumer Services shall have charge of the work of forest maintenance, forest fire prevention, reforestation, and the protection of lands and water supplies by the preservation of forests; it shall also have the care of State forests and State recreational forests."

SECTION 24. G.S. 166A-19.77 reads as rewritten:

"§ **166A-19.77. ~~Division of Forest Resources~~North Carolina Forest Service designated as emergency response agency.**

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

(1) Supporting the ~~Division~~ North Carolina Forest Service in responding to all-risk incidents.

(2) Receipt of any applicable State or federal funding.

(3) Training of other State and local agencies in emergency management.

(4) Any other emergency response roles for which the ~~Division~~ North Carolina Forest Service has special training or qualifications."

PART II. CHANGES PERTAINING TO BEDDING LAW/RIGHT OF ENTRY

SECTION 25. G.S. 106-65.105 is amended by adding a new subsection to read:

"§ **106-65.105. Enforcement by the Department of Agriculture and Consumer Services.**

…

(e) The Commissioner of Agriculture shall have the right of entry upon the premises of any place where entry is necessary to enforce the provisions of this Article or the rules adopted by the Board of Agriculture. If consent for entry is not obtained, an administrative search and inspection warrant shall be obtained pursuant to G.S. 15-27.2."

PART III. EFFECTIVE DATE

SECTION 26. This act becomes effective July 1, 2013.

In the General Assembly read three times and ratified this the 10th day of June, 2013.

Became law upon approval of the Governor at 4:27 p.m. on the 19th day of June, 2013.

Session Law 2013-156 **S.B. 411**

AN ACT TO PROVIDE THAT THE TRANSPORTATION ADVISORY COMMITTEES OF METROPOLITAN PLANNING ORGANIZATIONS AND RURAL TRANSPORTATION PLANNING ORGANIZATIONS ARE SUBJECT TO STANDARD ETHICS PROVISIONS.

The General Assembly of North Carolina enacts:

SECTION 1.(a) G.S. 136-202(e) is repealed.

SECTION 1.(b) G.S. 136-200.2 is amended by adding the following new subsections to read:

"(g) Ethics Provisions. – All individuals with voting authority serving on a metropolitan planning organization who are not members of the Board of Transportation shall do all of the following:

(1) Except as permitted under this subdivision, no MPO member acting in that capacity shall participate in an action if the member knows the member, the member's extended family, or any business with which the member is associated may incur a reasonably foreseeable financial benefit from the matter under consideration, which financial benefit would impair the MPO member's independence of judgment or from which it could reasonably be inferred that the financial benefit would influence the member's participation in the action. An MPO member may participate in an action of the MPO under any of the following circumstances:

a. When action is ministerial only and does not require the exercise of discretion.

b. When the committee records in its minutes that it cannot obtain a quorum in order to take the action because the MPO member is disqualified from acting, the MPO member may be counted for purposes of a quorum but shall otherwise abstain from taking any further action.

(2) An MPO member shall have an affirmative duty to promptly disclose in writing to the MPO any conflict of interest or potential conflict of interest under subdivision (1) of this subsection. All written disclosures shall be a public record under Chapter 132 of the General Statutes and attached to the minutes of the meeting in which any discussion or vote was taken by the MPO related to that disclosure.

(3) File a statement of economic interest with the State Ethics Commission in accordance with Article 3 of Chapter 138A of the General Statutes, for which the State Ethics Commission shall prepare a written evaluation relative to conflicts of interest and potential conflicts of interest and provide a copy of that evaluation to the MPO member. All statements of economic interest and all written evaluations by the Commission of those statements are public records as provided in G.S. 138A-23. The penalties for failure to file shall be as set forth in G.S. 138A-25(a) and (b).

(4) File, with and in the same manner as the statement of economic interest filed under subdivision (3) of this subsection, an additional disclosure of a list of all real estate owned wholly or in part by the MPO member, the MPO member's extended family, or a business with which the MPO member is associated within the jurisdiction of the MPO on which the MPO member is serving. All additional disclosures of real estate filed by MPO members are public records under Chapter 132 of the General Statutes.

(h) Confidential Information. – An MPO member shall not use or disclose any nonpublic information gained in the course of or by reason of serving as a member of the MPO in a way that would affect a personal financial interest of the MPO member, the MPO member's extended family, or a business with which the MPO member is associated.

(i) Definitions. – For purposes of this section, "extended family" shall have the same meaning as in G.S. 138A-3(13), "business with which associated" shall have the same meaning as in G.S. 138A-3(3), and "financial benefit" shall mean a direct pecuniary gain or loss or a direct pecuniary loss to a business competitor.

(j) Violations. – A violation of subdivision (1) of subsection (g) of this section shall be a Class 1 misdemeanor. An MPO member who knowingly conceals or knowingly fails to disclose information that is required to be disclosed on a required filing under subdivisions (3) or (4) of subsection (g) of this section shall be guilty of a Class 1 misdemeanor. An MPO member who provides false information on a required filing under subdivisions (3) or (4) of subsection (g) of this section knowing that the information is false is guilty of a Class H felony.

(k) All individuals with voting authority serving on an MPO who are members of the Board of Transportation shall comply with Chapter 138A of the General Statutes and G.S. 143A-350 while serving on the MPO."

SECTION 2.(a) G.S. 136-211(e) is repealed.

SECTION 2.(b) G.S. 136-211 is amended by adding the following new subsections to read:

"(f) Ethics Provisions. – All individuals with voting authority serving on a rural transportation planning organization who are not members of the Board of Transportation shall do all of the following:

(1) Except as permitted under this subdivision, no rural transportation planning organization member acting in that capacity shall participate in an action of

the rural transportation planning organization if the rural transportation planning organization member knows the rural transportation planning organization member, the rural transportation planning organization member's extended family, or any business with which the rural transportation planning organization member is associated may incur a reasonably foreseeable financial benefit from the matter under consideration, which financial benefit would impair the rural transportation planning organization member's independence of judgment or from which it could reasonably be inferred that the financial benefit would influence the rural transportation planning organization member's participation in the action of the rural transportation planning organization.

a. When action is ministerial only and does not require the exercise of discretion.

b. When the committee records in its minutes that it cannot obtain a quorum in order to take the action because the rural transportation planning organization member is disqualified from acting, the rural transportation planning organization member may be counted for purposes of a quorum but shall otherwise abstain from taking any further action.

(2) A rural transportation planning organization member shall have an affirmative duty to promptly disclose in writing to the rural transportation planning organization any conflict of interest or potential conflict of interest under subdivision (1) of this subsection. All written disclosures shall be a public record under Chapter 132 of the General Statutes and attached to the minutes of the meeting in which any discussion or vote was taken by the rural transportation planning organization related to that disclosure.

(3) File a statement of economic interest with the State Ethics Commission in accordance with Article 3 of Chapter 138A of the General Statutes for which the State Ethics Commission shall prepare a written evaluation relative to conflicts of interest and potential conflicts of interest and provide a copy of that evaluation to the rural transportation planning organization member. All statements of economic interest and all written evaluations by the Commission of those statements are public records as provided in G.S. 138A-23. The penalties for failure to file shall be as set forth in G.S. 138A-25(a) and (b).

(4) File, with and in the same manner as the statement of economic interest filed under subdivision (3) of this subsection, an additional disclosure of a list of all real estate owned wholly or in part by the rural transportation planning organization member, the rural transportation planning organization member's extended family, or a business with which the rural transportation planning organization member is associated within the jurisdiction of the rural transportation planning organization on which the rural transportation planning organization member is serving. All additional disclosures of real estate filed by members are public records under Chapter 132 of the General Statutes.

(g) Confidential Information. – A rural transportation planning organization member shall not use or disclose any nonpublic information gained in the course of or by reason of serving as a member of the rural transportation planning organization in a way that would affect a personal financial interest of the rural transportation planning organization member, the rural transportation planning organization member's extended family, or a business with which the rural transportation planning organization member is associated.

(i) Definitions. – For purposes of this section, "extended family" shall have the same meaning as in G.S. 138A-3(13), "business with which associated" shall have the same meaning

as in G.S. 138A-3(3), and "financial benefit" shall mean a direct pecuniary gain or loss or a direct pecuniary loss to a business competitor.

(j) Violations. – A violation of subdivision (1) of subsection (f) of this section shall be a Class 1 misdemeanor. A rural transportation planning organization member who knowingly conceals or knowingly fails to disclose information that is required to be disclosed on a required filing under subdivisions (3) or (4) of subsection (f) of this section shall be guilty of a Class 1 misdemeanor. A rural transportation planning organization member who provides false information on a required filing under subdivisions (3) or (4) of subsection (f) of this section knowing that the information is false is guilty of a Class H felony.

(k) All individuals with voting authority serving on a rural transportation planning organization who are members of the Board of Transportation shall comply with Chapter 138A of the General Statutes and G.S. 143A-350 while serving on the rural transportation planning organization."

SECTION 3. This act is effective when it becomes law. The State Ethics Commission may not require any individual serving on a metropolitan planning organization or rural transportation planning organization, who are not also members of the Board of Transportation, who has not yet complied with G.S. 138A-13 to complete ethics education as required by that statute, and may not apply Article 5 of Chapter 138A of the General Statutes to any of those individuals. The State Ethics Commission is authorized to destroy the statement of economic interest forms that were filed by individuals pursuant to G.S. 136-202(e) and G.S. 136-211(e) and any associated written evaluation of those forms if the filer does not have authority to give final approval for actions of the metropolitan planning organization or rural transportation planning organization on which the filer serves and is not otherwise a covered person required to file a statement of economic interest.

In the General Assembly read three times and ratified this the 11th day of June, 2013.

Became law upon approval of the Governor at 4:27 p.m. on the 19th day of June, 2013.

Session Law 2013-157 **S.B. 439**

AN ACT TO AMEND AND RESTATE THE NORTH CAROLINA LIMITED LIABILITY COMPANY ACT AND TO MAKE OTHER CONFORMING CHANGES.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 57C of the General Statutes is repealed.

SECTION 2. The General Statutes are amended by adding a new Chapter to read:

"**Chapter 57D.**

"**North Carolina Limited Liability Company Act.**

"Article 1.

"General Provisions.

"Part 1. Short Title; Reservation of Power; Definitions.

"**§ 57D-1-01. Short title.**

This Chapter is the "North Carolina Limited Liability Company Act" and may be cited by that name.

"**§ 57D-1-02. Governing law; jurisdiction of the superior courts; intent; reservation of power to amend or repeal.**

(a) This Chapter and any other applicable laws of this State govern (i) the internal affairs of every LLC, including the interpretation, construction, and enforcement of operating agreements and determining the rights and duties of interest owners, managers, and other company officials and (ii) any liability that interest owners or managers or other company officials may have for the liabilities of the LLC.

(b) The superior courts of this State have jurisdiction to enforce the provisions of this Chapter.

(c) The General Assembly may amend or repeal all or any part of this Chapter at any time, and all LLCs and the rights and duties of interest owners, managers, and other company officials subject to this Chapter will be subject to any such amendment or repeal. Except as otherwise provided in this Chapter, all amendments of this Chapter apply to all LLCs, foreign LLCs, interest owners, and managers and other company officials, including those LLCs and foreign LLCs in existence or person having such interests and status, at the time of the enactment of any such amendment.

(d) Each provision of this Chapter is severable, such that if any provision, including any clause of any provision, of this Chapter or application thereof to any person or in a particular context is held to be invalid, such invalidity will not affect other provisions or applications of this Chapter that can be given effect without the invalid provision or application.

"§ **57D-1-03. Definitions.**

Unless otherwise specifically provided, the following definitions apply in this Chapter:

(1) Approve. – With respect to a manager or other company official, member, or organizer and a decision or other action to be taken by the managers or other applicable company officials, members, or organizers, as the case may be, (i) the affirmative vote of that person at a meeting of the managers or other applicable company officials, members, or organizers, as applicable, or (ii) any other expression of assent to the action to be taken that is made in the manner or form required to establish the assent of the members to amendments of the operating agreement.

(2) Articles of organization. – The document filed under G.S. 57D-2-20 (or former G.S. 57C-2-20 for LLCs formed before January 1, 2014), for the purpose of forming an LLC, as amended or restated.

(3) Business. – Any lawful trade, investment, or other purpose or activity, whether or not conducted or undertaken for profit, except that the term "business," as used in Article 7 of this Chapter, or to which reference is otherwise made in this Chapter to a foreign LLC "transacting business" (or is authorized or required to be authorized to "transact business") in this State, has the same meaning in that context as applied in Article 15 of Chapter 55 of the General Statutes.

(4) Capital interest. – An interest owner's interest in or share of the owners' equity of the LLC which may be based on the method of accounting consistently applied under which the LLC maintains its financial records to be made available to the members under G.S. 57D-3-04(a)(2).

(5) Company official. – Any person exercising any management authority over the limited liability company whether the person is a manager or referred to as a manager, director, or officer or given any other title.

(6) Contribution amount. – The fair market value, net of liabilities assumed (or to which any property contributed to the LLC is subject, but not in excess of the fair market value of the property that is subject to the liability), or other consideration paid by the LLC, of contributions in any form described in G.S. 57D-4-01 made in respect of an economic interest, determined as of the time the contribution is made, reduced by any money or other property or services promised to be transferred or rendered to or on behalf of the LLC in respect of the economic interest that are discharged without performance.

(7) Corporation. – A domestic corporation or a foreign corporation as those terms are defined in G.S. 55-1-40.

(8) Debtor in bankruptcy. – A person who is the subject of either of the following:

a. An order for relief under Title 11 of the United States Code or a successor statute of general application.

b. A comparable order under federal, State, or foreign law governing insolvency.

(9) Distribution. – Except as provided in the last sentence of this definition of distribution with respect to G.S. 57D-4-05, 57D-4-06, and 57D-6-12, the direct or indirect transfer of money or other property to, or incurrence of indebtedness by, an LLC for the benefit of an interest owner in respect of the interest owner's ownership interest. The amount of a distribution is the fair market value of the property distributed, net of liabilities assumed, or other consideration paid by the interest owner (or to which any property distributed to the interest owner is subject, but not in excess of the fair market value of the property that is subject to the liability), determined as of the time the distribution is made. As used in G.S. 57D-4-05, 57D-4-06, and 57D-6-12, "distribution" does not include payments made to, or an account of, an interest owner that constitute compensation for services and does not include payments made in the ordinary course of business under a bona fide retirement plan or other benefits program.

(10) Economic interest. – The proprietary interest of an interest owner in the capital, income, losses, credits, and other economic rights and interests of a limited liability company, including the right of the owner of the interest to receive distributions from the limited liability company.

(11) Economic interest owner. – A person who owns an economic interest but is not a member.

(12) Entity. – A corporation, limited liability company, partnership (including a limited partnership), unincorporated association, trust, estate, government or governmental agency, instrumentality, or other entity.

(13) Foreign LLC. – An unincorporated entity organized under the law of (i) a state other than this State that is denominated thereunder as a limited liability company or (ii) a foreign jurisdiction other than a state, and the statute under which it is organized is substantially similar to the limited liability company statute of any state and is not more appropriately characterized as a corporation, partnership, or trust.

(14) Individual. – A human being.

(15) Interest owner. – A member or an economic interest owner.

(16) LLC. – An entity formed under this Chapter (or former Chapter 57C of the General Statutes) that has not become another entity or form of entity by merger, conversion, or other means.

(17) Liabilities, debts, and obligations. – Have the same meaning and are used interchangeably throughout this Chapter. Reference to "liabilities," "debts," or "obligations," whether individually or in any combination, means all liabilities, debts, and obligations, whether arising in contract, tort, or other applicable law.

(18) Limited liability company. – An LLC or foreign LLC.

(19) Limited partnership. – A domestic limited partnership or a foreign limited partnership as those terms are defined in G.S. 59-102.

(20) Manager. – Has the following meanings: (i) with respect to an LLC, any person designated as a manager as provided in the operating agreement or, if applicable, in G.S. 57D-3-20(d) and (ii) with respect to a foreign LLC, any person designated as a manager under the law of the jurisdiction in which the foreign LLC is organized.

(21) Member. – A person who has been admitted as a member of the LLC as provided in the operating agreement or G.S. 57D-3-01, who was a member

of the LLC immediately before the repeal of Chapter 57C of the General Statutes until the person ceases to be a member as provided in the operating agreement or G.S. 57D-3-02, or, with respect to a foreign LLC, a person who has been admitted as a member of the foreign LLC under the law of the jurisdiction in which the foreign LLC is organized until the person ceases to be a member under that law.

(22) Nonprofit corporation. – A domestic corporation or a foreign corporation as those terms are defined in G.S. 55A-1-40.

(23) Operating agreement. – Any agreement concerning the LLC or any ownership interest in the LLC to which each interest owner is a party or is otherwise bound as an interest owner. Subject to other controlling law, the operating agreement may be in any form, including written, oral, or implied, or any combination thereof. The operating agreement may specify the form that the operating agreement must take, in which case any purported amendment to the operating agreement or other agreement expressed in a nonconforming manner will not be deemed to be part of the operating agreement and will not be enforceable to the extent it would be part of the operating agreement if it were in proper form. Subject to G.S. 57D-2-21 and the other provisions of this Chapter governing articles of organization, the articles of organization are to be deemed to be, or be part of, the operating agreement. If the LLC has only one interest owner and no operating agreement to which another person is a party, then any document or record intended by the interest owner to serve as the operating agreement will be the operating agreement.

(24) Organizer. – A person who executes the articles of organization in the capacity of an organizer.

(25) Ownership interest. – All of an interest owner's rights and obligations as an interest owner in an LLC, including (i) any economic interest, (ii) any right to participate in the management or approve actions proposed by persons responsible for the management of the LLC, (iii) any right to bring a derivative action, and (iv) any right to inspect the books and records of or receive information from the LLC.

(26) Person. – An individual or an entity.

(27) Principal office. – The principal executive office of the limited liability company as stated in its most recent annual report filed by the Secretary of State or, if the limited liability company has never filed an annual report, in its articles of organization or application for a certificate of authority.

(28) Proceeding. – Any civil or criminal proceeding or other action pending before any court of law or other governmental body or agency or any arbitration proceeding.

(29) Professional service. – Has the meaning provided in G.S. 55B-2.

(30) Professional limited liability company. – A limited liability company subject to G.S. 57D-2-02.

(31) Record. – When used as a noun, information that is inscribed on a tangible medium or that is stated in an electronic or other medium and is retrievable in readable form.

(32) Secretary of State. – The Secretary of State of North Carolina.

(33) State. – A state, territory, or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico, and "this State" refers to the State of North Carolina.

(34) Transfer. – As a noun, the transfer of legal, equitable, or beneficial ownership by sale, exchange, assignment, gift, donation, grant, or other conveyance or disposition of any kind, whether voluntary or involuntary,

including transfers by operation of law or legal process and includes, with respect to the ownership interest of an interest owner for purposes of G.S. 57D-3-02(a)(3), any (i) appointment of a receiver, trustee, liquidator, custodian, or other similar official for that interest owner or all or any part of the property of that interest owner under any law of bankruptcy or insolvency; (ii) gift, donation, transfer by will or intestacy, or other similar type of transfer or disposition, whether during one's life or because of death; (iii) appointment of a personal or other legal representative or other person serving in a similar capacity of a deceased interest owner; (iv) appointment of a guardian or other person serving in a similar capacity of an interest owner who has been adjudicated to be incompetent by a court of competent jurisdiction; and (v) other transfer or disposition to a spouse or former spouse (including by reason of a separation agreement or divorce, equitable, community or marital property distribution, judicial decree, or other court order concerning the division or partition of property between spouses, former spouses, or other persons); and, as a verb, the act of making any transfer.

"**§§ 57D-1-04 through 57D-1-19: Reserved for future codification purposes.**

"Part 2. Filing Documents.

"**§ 57D-1-20. Filing requirements.**

(a) A document required or permitted by this Chapter to be filed by the Secretary of State must be filed as provided in Chapter 55D of the General Statutes.

(b) A document submitted on behalf of a limited liability company must be executed by one of the following:

(1) A manager or other company official.

(2) If the document is the articles of organization, a person acting in the capacity of an organizer or a member as provided in G.S. 57D-2-21(a)(2).

(3) If the LLC has never had any members, an organizer.

(4) If the LLC is in the hands of a receiver, trustee, or other court-appointed fiduciary, by that fiduciary.

"**§ 57D-1-21. Forms.**

(a) The Secretary of State may promulgate and furnish on request forms for the following:

(1) An application for a certificate of existence.

(2) A foreign LLC's application for a certificate of authority to transact business in this State.

(3) A foreign LLC's application for a certificate of withdrawal.

(b) If the Secretary of State so requires, use of the forms listed in subsection (a) of this section is mandatory.

(c) The Secretary of State may promulgate and furnish on request forms for other documents required or permitted to be filed by this Chapter, but their use is not mandatory.

"**§ 57D-1-22. Filing, service, and copying fees.**

(a) The Secretary of State shall collect the following fees when the documents described in this subsection are delivered to the Secretary of State for filing:

	Document	Fee
(1)	Articles of organization	$125.00
(2)	Application for reserved name	10.00
(3)	Notice of transfer of reserved name	10.00
(4)	Application for registered name	10.00
(5)	Application for renewal of registered name	10.00
(6)	Limited liability company's statement of change of registered agent or registered office or both	5.00
(7)	Agent's statement of change of registered office for each affected	5.00

	limited liability company	
(8)	Agent's statement of resignation	No fee
(9)	Designation of registered agent or registered office or both	5.00
(10)	Amendment of articles of organization	50.00
(11)	Restated articles of organization without amendment of articles	10.00
(12)	Restated articles of organization with amendment of articles	50.00
(13)	Articles of conversion (other than articles of conversion included as part of another document)	50.00
(14)	Articles of merger	50.00
(15)	Articles of dissolution	30.00
(16)	Cancellation of articles of dissolution	10.00
(17)	Certificate of administrative dissolution	No fee
(18)	Application for reinstatement following administrative dissolution	100.00
(19)	Certificate of reinstatement	No fee
(20)	Certificate of judicial dissolution	No fee
(21)	Application for certificate of authority	250.00
(22)	Application for amended certificate of authority	50.00
(23)	Application for certificate of withdrawal	10.00
(24)	Certificate of revocation of authority to transact business	No fee
(25)	Articles of correction	10.00
(26)	Application for certificate of existence or authorization (paper)	15.00
(27)	Application for certificate of existence or authorization (electronic)	10.00
(28)	Annual report	200.00
(29)	Any other document required or permitted to be filed by this Chapter	10.00

(b) The Secretary of State shall collect a fee of ten dollars ($10.00) each time process is served on the Secretary of State under this Chapter. The party to a proceeding causing service of process is entitled to recover this fee as costs if the party prevails in the proceeding.

(c) The Secretary of State shall collect the following fees for copying and certifying a copy of any filed document relating to a limited liability company:

(1) One dollar ($1.00) a page for copying.

(2) Fifteen dollars ($15.00) for a paper certificate.

(3) Ten dollars ($10.00) for an electronic certificate.

"**§ 57D-1-23. Execution by judicial act.**

Any person who is adversely affected by the failure or refusal of any person to execute and deliver to the Secretary of State for filing any document to be filed under this Chapter may petition the superior court in the county where the limited liability company's principal office or, if none in this State, its registered office is or was last located or, if there is no such office, in the County of Wake to direct the execution and delivery to the Secretary of State for filing of the document. If the court finds that it is proper for the document to be executed and delivered to the Secretary of State for filing and there has been failure or refusal by the applicable company officials to do so, it shall order the Secretary of State to make the filing.

"**§ 57D-1-24. Certificate of existence; certificate of authorization.**

(a) Anyone may apply to the Secretary of State for a certificate of existence for an LLC or a certificate of authorization for a foreign LLC.

(b) A certificate of existence or authorization sets forth the following:

(1) The limited liability company's name and, in the case of a foreign LLC, any different name that the foreign LLC is authorized under Article 3 of Chapter 55D of the General Statutes to use to transact business in this State, as provided in the foreign LLC's certificate of authority.

(2) That (i) the articles of organization for the LLC have been filed and are in effect and the date on which the filed articles of organization became effective or (ii) a certificate of authority has been issued to the foreign LLC

and is in effect and the date on which the certificate of authority became effective.

(3) That the articles of organization of an LLC or the certificate of authority of a foreign LLC are not suspended under G.S. 57D-1-32(a) (or for limited liability companies formed before January 1, 2014, former G.S. 57C-1-32(a)) for failure to answer interrogatories propounded by the Secretary of State or under G.S. 105-230 for failure to pay a tax or fee or file a report or return.

(4) That the LLC has not been administratively dissolved under G.S. 57D-6-06 (or for limited liability companies formed before January 1, 2014, former G.S. 57C-6-03) and no decree of judicial dissolution has been filed under G.S. 57D-6-05 (or, for limited liability companies formed before January 1, 2014, former G.S. 57C-6-02) or, with respect to a foreign LLC, no application for a certificate of withdrawal or a certificate of revocation has been filed under Article 7 of this Chapter (or, for limited liability companies formed before January 1, 2014, former Article 7 of Chapter 57C of the General Statutes).

(5) That, in the case of an LLC, articles of dissolution have not been filed nor have articles of merger or conversion been filed causing it to merge or convert into another entity or form of entity.

(6) Other facts of record in the Office of the Secretary of State pertaining to the limited liability company that may be requested by the applicant.

(c) A certificate of existence or authorization issued by the Secretary of State may be relied upon as conclusive evidence as to the accuracy of its contents.

"**§§ 57D-1-25 through 57D-1-29: Reserved for future codification purposes.**

"Part 3. Secretary of State.

"**§ 57D-1-30. Powers of the Secretary of State.**

The Secretary of State has the power necessary to perform the duties required by this Chapter.

"**§ 57D-1-31. Interrogatories by Secretary of State.**

The Secretary of State may propound to any limited liability company that the Secretary of State has reason to believe is subject to the provisions of this Chapter, and to any manager or other company official thereof, such written interrogatories as may be necessary and proper to enable the Secretary of State to ascertain whether the limited liability company has complied with all of the provisions of this Chapter applicable to it. Subject to applicable jurisdictional requirements, the interrogatories must be answered within 30 days after the mailing thereof, or within such additional time as the Secretary of State may fix, and the answers thereto must be full and complete and made in writing and under oath. If the interrogatories are directed to an individual, they must be answered by the individual, and if directed to a limited liability company, they must be answered by a manager or other company official thereof. The Secretary of State shall certify to the Attorney General for such action all interrogatories and answers thereto that disclose a violation of any of the provisions of this Chapter requiring or permitting action by the Attorney General.

"**§ 57D-1-32. Penalties imposed on limited liability companies for failure to answer interrogatories.**

(a) In addition to the recourse that the Secretary of State may have under G.S. 57D-6-06 and Part 3 of Article 7 of this Chapter to administratively dissolve an LLC or revoke the certificate of authority of the foreign LLC, if a limited liability company knowingly fails or refuses to answer truthfully and fully within the time prescribed in this Chapter interrogatories propounded by the Secretary of State in accordance with the provisions of this Chapter, the Secretary of State may suspend its articles of organization or its certificate of authority to do business in this State. The Secretary of State shall immediately notify by mail the limited liability company of its suspension. The powers, privileges, and franchises conferred on the

limited liability company by the articles of organization or the certificate of authority terminate upon their suspension. Any act performed or attempted to be performed during the period of suspension is invalid and of no effect unless and to the extent the Secretary of State reinstates the limited liability company.

(b) The Secretary of State shall reinstate a limited liability company upon the limited liability company fully complying with its obligations under G.S. 57D-1-31, paying all State taxes, fees, and penalties due from it (which total amount due may be computed, for years before and after the suspension, in the same manner as if the suspension had not taken place) and paying to the Secretary of State twenty-five dollars ($25.00) to cover the cost of reinstatement. Upon reinstatement of an LLC's articles of organization or a foreign LLC's certificate of authority by the Secretary of State, (i) the limited liability company may again exercise its rights, privileges, and franchises in this State, and (ii) the Secretary of State shall make the appropriate entry thereof on the records of the Secretary of State. The entry of reinstatement in the records of the Secretary of State relates back to and takes effect as of the date of the suspension by the Secretary of State, and the limited liability company may resume conducting its business as if the suspension had never occurred, subject to the rights of any person who relied, to that person's prejudice, on the suspension. The Secretary of State shall immediately notify by mail the limited liability company of the reinstatement.

(c) When the articles of organization or certificate of authority of a limited liability company have or has been suspended by the Secretary of State under subsection (a) of this section and the limited liability company has ceased to operate as a going concern, if there remains property held in the name of the limited liability company that is not disposed at the time of the suspension, or there remain future interests that may accrue to the limited liability company, its successor, or its interest owners, then any interested party may apply to the superior court for the appointment of a receiver. Application for the receiver may be made in a civil action to which all interest owners are made parties. The applicant may serve persons whom the applicant either is unable to locate or are unknown by publication made in the same manner as the publication of notice under G.S. 57D-6-11. A guardian ad litem may be appointed for any interest owners who are infants or incompetent. The receiver shall enter into a bond if the court requires one and shall give notice to creditors by publication or otherwise as the court may prescribe. Any creditor who fails to file a claim with the receiver within the time set will be barred of the right to participate in the distribution of the assets. The receiver may (i) sell the property interests of the limited liability company on such terms and in such manner as the court may order, (ii) apply the proceeds to the payments of any debt of the limited liability company, and (iii) distribute the remainder among the interest owners in accordance with the manner in which liquidating distributions are to be made by the limited liability company. Amounts due to any interest owner who is unknown or whose whereabouts are unknown are to be paid to the office of the clerk of the superior court and disbursed according to law. If the records of the limited liability company are lost or do not reflect the owners of the property interests, the court shall determine the owners from the best evidence available, and the receiver will be protected in acting in accordance with the court's finding. This proceeding is authorized for the sole purpose of providing a procedure for disposing of the assets of the limited liability company by payment of its debts and by the transfer to its interest owners, or their representatives, of their shares of the limited liability company's remaining assets.

(d) Each manager or other company official of a limited liability company who fails or refuses within the time prescribed by this Chapter to answer truthfully and fully interrogatories propounded to the manager or other company official by the Secretary of State in accordance with the provisions of this Chapter shall be guilty of a Class 1 misdemeanor.

"**§ 57D-1-33. Information disclosed by interrogatories.**

Interrogatories propounded by the Secretary of State and the answers thereto will not be open to public inspection nor shall the Secretary of State disclose any facts or information obtained therefrom, except to the extent applicable law requires the Secretary of State to make

the information public or the interrogatories or the answers thereto are required for evidence in any proceedings by this State.

"Article 2.

"Purposes, Powers, Formation, Annual Report, Name, Registered Office, and Agent.

"Part 1. Purposes and Powers.

"**§ 57D-2-01. Nature, purposes, duration, existence.**

(a) An LLC is an entity distinct from its interest owners.

(b) An LLC has perpetual duration.

(c) Subject to subsection (d) of this section, an LLC may engage in any lawful business.

(d) A limited liability company engaging in a business that is subject to regulation under another statute of this State may be formed or authorized to transact business under this Chapter if not precluded by the other statute and is otherwise subject to the application of the other statute, which in the case of a limited liability company rendering a professional service requires giving effect to G.S. 57D-2-02.

(e) After the dissolution of an LLC, the LLC continues its existence but shall wind up pursuant to G.S. 57D-6-07.

"**§ 57D-2-02. Professional limited liability companies.**

(a) Except as set forth in this subsection, a limited liability company may engage in rendering professional services only to the extent that it would be able to render those services were it a corporation, including, as applicable, complying with Chapter 55B of the General Statutes and the statutes referenced in the definition of "professional service" in G.S. 55B-2(6). Chapter 55B of the General Statutes and each statute referenced therein are deemed amended and to apply with such changes as are necessary to cause them to be applicable to limited liability companies in the same degree as for corporations but subject to any provisions contained herein pursuant to which limited liability companies, or their members, managers, and other company officials, are treated differently from corporations, or their shareholders, directors, and officers.

For purposes of applying the provisions, conditions, and limitations of Chapter 55B of the General Statutes and the statutes referenced therein to limited liability companies that engage in rendering professional services, unless the context specifically requires otherwise, the following rules of construction shall apply:

(1) References to Chapter 55 of the General Statutes are treated as references to this Chapter, and references to a "corporation" or "foreign corporation" are treated as references to an LLC or foreign LLC, respectively.

(2) References to "articles of incorporation" are treated as references to articles of organization.

(3) The persons executing the articles of organization of an LLC are treated in the same manner as the incorporators of a professional corporation.

(4) References to "directors" are treated as references to company officials having equal or greater authority in the management of a limited liability company as directors of a domestic corporation or foreign corporation, as the case may be.

(5) References to "officers" are treated as references to company officials whose authority to manage the limited liability company is equal to or greater than that exercised by officers of a domestic corporation.

(6) A professional limited liability company is not required to have more than one company official who would be treated as a director, officer, or both under Chapter 55B of the General Statutes.

(7) A manager or other company official who has the authority of both a director and an officer if the limited liability were a company or a corporation is to be treated as holding both positions for purposes of applying Chapter 55B of the General Statutes to the limited liability company.

(8) References to "shares" of a shareholder are treated as references to the ownership interest of an interest owner and, where the context so indicates or requires, a portion of an interest owner's ownership interest.

(9) References to "shareholders" are treated as references to interest owners.

(10) The name of a limited liability company that is to render a professional service and is subject to this section shall comply with Article 3 of Chapter 55D of the General Statutes and, in addition, shall contain the word "Professional" or the abbreviation "P.L.L.C." or "PLLC."

(b) Nothing in this Chapter abolishes, modifies, restricts, limits, or alters the law in this State applicable to the professional relationship and liabilities between the individual furnishing the professional services and the person receiving the professional services, the standards of professional conduct applicable to the rendering of the services, or any responsibilities, obligations, or sanctions imposed under applicable licensing statutes. A member, manager, or other company official of a professional limited liability company is not individually liable, directly or indirectly, including by indemnification, contribution, assessment, or otherwise, for debts, obligations, and liabilities of, or chargeable to, the professional limited liability company that arise from errors, omissions, negligence, malpractice, incompetence, or malfeasance committed by another member, manager, or other company official, employee, agent, or other representative of the professional limited liability company, except nothing in this Chapter affects the liability of a member, manager, or other company official of a professional limited liability company for his or her own errors, omissions, negligence, malpractice, incompetence, or malfeasance committed in the rendering of professional services.

"**§ 57D-2-03. Powers of the LLC.**

Unless this Chapter provides otherwise or the powers of the LLC are limited under the operating agreement, an LLC has the same powers as an individual or a domestic corporation to do all things necessary or convenient to carry out its business.

"**§§ 57D-2-04 through 57D-2-19: Reserved for future codification purposes.**

"Part 2. Formation; Articles of Organization; Amendment of Articles; Annual Report.

"**§ 57D-2-20. Formation.**

(a) One or more persons may cause an LLC to be formed by delivering executed articles of organization to the Secretary of State for filing in accordance with this Chapter and Chapter 55D of the General Statutes. An LLC may also be formed through the conversion of another eligible entity into an LLC pursuant to Part 2 of Article 9 of this Chapter.

(b) An LLC is formed at the time the articles of organization filed by the Secretary of State become effective. Filing of the articles of organization by the Secretary of State is conclusive proof that all conditions to the formation of the LLC have been satisfied except in a proceeding by the State to cancel or revoke the articles of organization or involuntarily dissolve the LLC.

(c) If initial members are not identified in the articles of organization of an LLC in the manner provided in G.S. 57D-3-01(a)(1), the organizer or organizers shall either identify the initial members of the LLC or dissolve the LLC. Unless otherwise provided in the articles of organization, all decisions to be made by the organizers require the approval of a majority of the organizers.

"**§ 57D-2-21. Articles of organization.**

(a) The articles of organization must include the following information:

(1) A name of the LLC that satisfies the provisions of G.S. 55D-20 and G.S. 55D-21.

(2) The name and address of each person executing the articles of organization and whether the person is executing the articles of organization in the capacity of a member or an organizer.

(3) The street address, and the mailing address if different from the street address, of the LLC's initial registered office, the county in which the initial

registered office is located, and the name of the LLC's initial registered agent at that address.

(4) The street address, and the mailing address if different from the street address, of the LLC's principal office, if any, and the county in which the principal office, if any, is located.

(5) If the LLC is to render professional services and is subject to G.S. 57D-2-02 as a professional limited liability company, the professional services to be rendered by the LLC.

(b) The articles of organization may include any other provision that is or may be included in an operating agreement.

"**§ 57D-2-22. Amendment of articles of organization.**

(a) An LLC may amend its articles of organization to add or change a provision that is required or permitted in the articles of organization or to delete a provision that is not required to be included in the articles of organization. Whether a provision is required or permitted in the articles of organization is determined as of the effective date of the amendment. The LLC shall amend or otherwise correct its articles of organization when (i) there is a change in the name of the LLC or (ii) they contain an inaccurate statement.

(b) Any amendment to the articles of organization must be approved by either of the following:

(1) All of the members.

(2) If no member of the LLC has been identified in the manner provided in this Chapter, a majority of the organizers.

"**§ 57D-2-23. Restated articles of organization.**

(a) An LLC may restate its articles of organization at any time.

(b) The restated articles of organization may include one or more amendments to the articles of organization. The restated articles of organization shall include a statement of the address of the current registered office and the name of the current registered agent of the LLC.

(c) An LLC restating its articles of organization must deliver to the Secretary of State for filing articles of restatement that include the following:

(1) The name of the LLC.

(2) Attached as an exhibit thereto, the text of the restated articles of organization.

(3) A statement that the restated articles of organization do not contain an amendment or, if the articles of organization do contain an amendment, a statement that there is an amendment that was duly adopted by the LLC.

(d) Restated articles of organization supersede the original articles of organization as theretofore amended.

(e) The Secretary of State may certify restated articles of organization as the articles of organization currently in effect without including the other information required by subsection (c) of this section.

"**§ 57D-2-24. Annual report for Secretary of State.**

(a) Excluding professional limited liability companies governed by G.S. 57D-2-02, each LLC and each foreign LLC authorized to transact business in this State must deliver to the Secretary of State for filing annual reports on a form prescribed by, and in the manner required by, the Secretary of State and as otherwise provided in subsection (b) of this section. Each annual report must specify the year for which the report applies and provide the information required by this subsection. The information must be current as of the date the limited liability company completes the report. If the information in the limited liability company's most recent annual report has not changed, the limited liability company may certify in its annual report that the information has not changed in lieu of restating the information.

The following information must be included in each annual report:

(1) The name of the limited liability company and, in the case of a foreign LLC, any different name that the foreign LLC is authorized under Article 3 of

Chapter 55D of the General Statutes to use to transact business in this State, as provided in the foreign LLC's certificate of authority.

(2) In the case of a foreign LLC, the name of the jurisdiction under whose law the foreign LLC is organized.

(3) The street address, and the mailing address if different from the street address, of the limited liability company's registered office in the State, the county in which the registered office is located, the name of its registered agent at that office, and a statement of any change of the registered office or registered agent.

(4) The address and telephone number of its principal office.

(5) The names, titles, and business addresses of the limited liability company's principal company officials.

(6) A brief description of the nature of its business.

(b) The Secretary of State must notify limited liability companies of the annual report filing requirement. The first annual report of a limited liability company is due to be delivered to the Secretary of State by April 15 of the year following (i) in the case of an LLC, the calendar year in which the LLC's articles of organization or articles of organization and conversion filed by the Secretary of State become effective or (ii) in the case of a foreign LLC, the calendar year in which the Secretary of State issues to the foreign LLC a certificate of authority to transact business in this State.

The limited liability company shall deliver an annual report by April 15 of each subsequent year until (i) in the case of an LLC, the effective date of its articles of dissolution filed by the Secretary of State or the effective date of either a certificate of dissolution for an LLC that is not reinstated under G.S. 57D-6-06(c) or a decree of dissolution that is filed by the Secretary of State as provided in G.S. 57D-6-05; (ii) in the case of a foreign LLC, the foreign LLC receives a certificate of withdrawal from the Secretary of State or the Secretary of State revokes the foreign LLC's certificate of authority under Part 3 of Article 7 of this Chapter; or (iii) in the case of either an LLC or foreign LLC, the effective date of a merger or conversion under Article 9 of this Chapter in which the limited liability company is a merging entity or a converting entity but not the surviving entity.

(c) If an annual report does not contain the information required by this section, the Secretary of State shall promptly notify the reporting limited liability company in writing and return the report to it for correction. If the report is corrected to contain the information required by this section and delivered to the Secretary of State within 30 days after the effective date of notice, it is deemed to be timely delivered.

(d) Amendments to any previously filed annual report may be delivered for filing by the Secretary of State at any time for the purpose of correcting, updating, or augmenting the information contained in the annual report.

"**§§ 57D-2-25 through 57D-2-29: Reserved for future codification purposes.**

"Part 3. Operating Agreement.

"**§ 57D-2-30. Scope, function, and limitations of operating agreements.**

(a) The operating agreement governs the internal affairs of an LLC and the rights, duties, and obligations of (i) the interest owners, and the rights of any other persons to become interest owners, in relation to each other, the LLC, and their ownership interests or rights to acquire ownership interests and (ii) the company officials in relation to each other, the LLC, and the interest owners. Subject to the limitations set forth in subsections (b), (c), (d), and (e) of this section, the provisions of this Chapter and common law will apply only to the extent contrary or inconsistent provisions are not made in, or are not otherwise supplanted, varied, disclaimed, or nullified by, the operating agreement. The provisions of the operating agreement are severable and each will apply to the extent it is valid and enforceable.

(b) The operating agreement may not supplant, vary, disclaim, or nullify the provisions of this Chapter or their application to the extent the provisions do any of the following:

(1) Concern the functions of, including the filings and payments to be made, and the manner in which they are to be made by or to the Secretary of State, the Attorney General, the courts, or any other governmental official, agency, or authority, including Article 1 of this Chapter, G.S. 57D-2-21(a), 57D-2-22(a), 57D-2-23, 57D-2-24, 57D-2-40, 57D-6-02(1), 57D-6-03(a) through (c), 57D-6-04, 57D-6-05, 57D-6-06, the last sentence of G.S. 57D-6-07(c), 57D-6-09, and 57D-10-01; except, the operating agreement may provide the forum in which disputes concerning the LLC or the rights and duties of interest owners and other parties to the operating agreement are to be resolved.

(2) Apply to persons who are not parties to or otherwise bound by the operating agreement, including the extent to which G.S. 57D-5-03 may be applicable to such persons or for which they may be entitled to recovery or other relief thereunder, or the extent to which G.S. 57D-1-02, 57D-6-08(1), 57D-6-10, 57D-6-11, 57D-6-12, and 57D-6-13 are applicable to creditors or such persons.

(3) Diminish the rights and protections of the LLC under G.S. 57D-4-05 and G.S. 57D-4-06.

(4) Diminish the rights and protections of members under G.S. 57D-3-04(a), except as permitted by and otherwise subject to subsections (b) through (f) of G.S. 57D-3-04.

(5) Eliminate the right of a member to bring a derivative action under Article 8 of this Chapter unless the operating agreement provides an alternative remedy, which may include the right to bring a direct action in lieu of a derivative action or modifying the procedures provided in Article 8 of this Chapter governing derivative actions.

(6) Eliminate the right of a member to bring an action to have the LLC judicially dissolved under clause (i) in G.S. 57D-6-02(2), unless the operating agreement provides an alternative remedy.

(7) Are set forth in this section, G.S. 57D-1-01, 57D-2-01(d), 57D-2-02, 57D-2-03, 57D-2-20, 57D-3-23, 57D-5-01, 57D-6-01, clause (ii) of 57D-6-02(2), 57D-6-07(b) and (f), and all sections and subsections of Article 9 of this Chapter other than G.S. 57D-9-21(b), (c), and (e), 57D-9-22(b), 57D-9-23(b), 57D-9-31(b) through (e), 57D-9-41(b), (d), and (f), and 57D-9-42(b).

(c) Oral or implied provisions in the operating agreement may not supplant, vary, disclaim, or nullify any contrary or inconsistent written provisions in the operating agreement to the detriment of the rights of persons who are not parties to the operating agreement to the extent that they reasonably rely on those written provisions in the operating agreement.

(d) In the event of a conflict between the operating agreement and a provision in any document of an LLC filed by the Secretary of State:

(1) The operating agreement shall prevail as to parties to the operating agreement and company officials.

(2) The document filed by the Secretary of State shall prevail as to persons who are not parties to the operating agreement and are not company officials to the extent that they reasonably rely on the document filed by the Secretary of State.

(e) Except as provided in or permitted by this Chapter or other applicable law, the laws of agency and contract, including the implied contractual covenant of good faith and fair dealing and the requirement that the terms of an operating agreement not be unconscionable at the time they are made, govern the administration and enforcement of operating agreements.

"**§ 57D-2-31. Parties to, and other persons subject to or having rights under, the operating agreement.**

(a) The LLC is deemed to be a party to the operating agreement and, therefore, is bound by and may enforce the provisions thereunder applicable to the LLC.

(b) A person who becomes an interest owner is deemed to assent to, and is bound by, and, subject to Article 5 of this Chapter, is entitled to the rights applicable to the interest owner's ownership interest provided under, and is otherwise deemed to be a party to, the operating agreement.

(c) A person need not be an interest owner to be a party to the operating agreement.

(d) An operating agreement may require amendments to the operating agreement be approved by persons who are not interest owners and may provide rights to persons who are not interest owners and not otherwise parties to the operating agreement.

(e) Any person bound by the operating agreement is bound by any amendment adopted, as provided in the operating agreement.

"**§ 57D-2-32. Remedies for breach of operating agreement or occurrence of identified events; reliance on operating agreement.**

(a) An operating agreement may subject interest owners and other persons who are parties to or otherwise bound by the operating agreement to specified remedies for breach of the operating agreement or the occurrence of a specified event. Such remedies may include the recovery of reasonable attorneys' fees, the assessment of interest without the assessment being subject to the laws of usury, and the imposition of penalties that would otherwise be unenforceable as stipulated or liquidated damages.

(b) Unless otherwise provided in the operating agreement, an interest owner or other person who is a party to or bound by the operating agreement will not be liable to the LLC or an interest owner or other person who is a party to the operating agreement for that person's reliance on the provisions of the operating agreement.

"Part 4. Registered Office and Registered Agent.

"**§ 57D-2-40. Registered office and registered agent.**

Each LLC must maintain a registered office and registered agent as required by Article 4 of Chapter 55D of the General Statutes and is subject to service on the Secretary of State under that Article.

"**§§ 57D-2-41 through 57D-2-49: Reserved for future codification purposes.**

"Article 3.

"Membership and Management.

"Part 1. Membership.

"**§ 57D-3-01. Admission of members; economic interest owners.**

(a) A person becomes a member through the following:

(1) In the case of a person executing the articles of organization in the capacity of a member as provided in G.S. 57D-2-21(a)(2), or otherwise being named in the articles of organization as a member, at the time the articles of organization become effective under G.S. 55D-13.

(2) In the case of a person acquiring an ownership interest from the LLC, (i) upon being identified as a member by the organizers as provided in G.S. 57D-2-20(c) or (ii) upon the unanimous approval of the members as provided in G.S. 57D-3-03(2).

(3) In the case of an economic interest owner, in the manner provided in G.S. 57D-5-04(a) or G.S. 57D-6-01(3).

(4) In the case of an eligible entity converting or merging into the LLC, as provided in the plan of conversion or plan of merger upon such plan becoming effective as provided in G.S. 57D-9-23(a)(5) or G.S. 57D-9-43(a)(6).

(b) A person becomes an economic interest owner through the following:

(1) In the case of a person acquiring an economic interest from the LLC, upon the unanimous approval of the members.

(2) In the case of a person acquiring an economic interest or portion thereof from an interest owner, as provided in G.S. 57D-5-02.

(3) In the case of an eligible entity converting or merging into the LLC, as provided in the plan of conversion or plan of merger upon such plan becoming effective as provided in G.S. 57D-9-23(a)(5) or G.S. 57D-9-43(a)(6).

(c) To be a member a person need not make or have the obligation to make any contributions to the LLC or share in any profits or losses of, or distributions from, the LLC or otherwise own an economic interest in the LLC.

"**§ 57D-3-02. Cessation of membership.**

(a) A person ceases to be a member upon the occurrence of any of the following events:

(1) The person does any of the following:

a. Becomes a debtor in bankruptcy.

b. Executes an assignment for the benefit of creditors, including the execution of a deed of trust or deed of assignment for the benefit of creditors causing all debts of the person to become due and payable under G.S. 23-1.

c. Petitions for, consents to, or acquiesces in the appointment of a trustee, receiver, or liquidator of the person or all or substantially all of the person's property.

(2) In the case of an individual, the person's death or being adjudicated by a court of competent jurisdiction as incompetent to manage his or her person or property.

(3) In the case of a member with an economic interest, the transfer or abandonment of the person's entire economic interest, excluding the liquidation of a member's economic interest in connection with the dissolution and winding up of the LLC under G.S. 57D-6-08(2), regardless of whether the transferee is or becomes a member.

(4) The person abandoning all of the rights of his ownership interest except his economic interest, or any portion thereof.

(b) Upon the occurrence of any of the events described in subdivisions (1) and (2) of subsection (a) of this section with respect to a member, that person or that person's estate, as applicable, will automatically become an economic interest owner entitled only to the economic interest attributable to the person's ownership interest, but that person or that person's estate, as applicable, and any other person who ceases to be a member shall remain liable to the LLC for any obligation the person may have under G.S. 57D-4-02, 57D-4-06, and 57D-6-12(a)(2).

"**§ 57D-3-03. Approval of members.**

The approval of all members is required to do any of the following:

(1) Adopt or amend an operating agreement.

(2) Admit any person as a member.

(3) Other than in the ordinary course of business, transfer in one transaction or a series of related transactions all or substantially all of the assets of the LLC prior to the dissolution of the LLC.

(4) Dissolve the LLC under circumstances other than those for which the LLC may be dissolved under Article 6 of this Chapter.

(5) Convert the LLC into a different eligible entity under Article 9 of this Chapter.

(6) Merge the LLC with or into another eligible entity under Article 9 of this Chapter.

"**§ 57D-3-04. Information Rights.**

(a) Subject to the other provisions of this section, each member may inspect and copy or otherwise obtain from the LLC any of the following:

(1) A copy of the articles of organization and any other writing constituting all or part of the operating agreement, including any executed power of attorney under which all or any part of the operating agreement was adopted, that are in effect or were in effect at any time during any of the LLC's preceding four fiscal years.

(2) Either, as the LLC may elect, (i) a copy of any federal, state, or local income tax returns of the LLC, including any amendments and supplements made to those returns, filed with taxing authorities that pertain to any of the LLC's preceding four fiscal years or (ii) financial statements of the LLC of the type described in subsections (a) and (b) of G.S. 55-16-20 that pertain to any of the LLC's preceding four fiscal years.

(3) A list of the names and last known business, residence, or mailing addresses of the LLC's current interest owners, their status as members or economic interest owners, the date on which each became an interest owner, and, if applicable, the dates on which a person's status as a member changed to that of an economic interest owner or the person's status as an economic interest owner changed to that of a member.

(4) Information, the type and detail of which may be prescribed by the operating agreement, from which (i) the member's capital interest may be ascertained and (ii) unless and to the extent the operating agreement does not provide otherwise, each of the other interest owners' capital interests may be ascertained, including the amount of money and a description and statement of the agreed value of any other property or services that each person who has been an interest owner has paid or otherwise transferred or has agreed to pay or otherwise transfer, and the extent to which that agreement by the interest owner has been fulfilled, to or for the benefit of the LLC in exchange for a capital interest.

(5) Information from which the status of the business and the financial condition of the LLC may be ascertained.

(b) Inspection rights and rights to copy LLC records may be exercised through a member's agent.

(c) In connection with any member, manager, or other company official exercising management or other control rights or performing that person's duties to the LLC or the members, the LLC shall provide that person with, or access to, all information related to the applicable matter that is known by the LLC and is material to the proper exercise and performance of those rights and duties.

(d) To exercise inspection and other information rights, a member must sign and deliver written notice of exercise to the LLC at least seven days before the date on which the inspection is to take place. That notice must state (i) the records or other information to be inspected and copied or otherwise provided by the LLC and (ii) the purpose for, and intended use of, the information. Within the period provided in the exercise notice, the LLC shall either comply with the member's demand or deliver written notice to the member of the extent to which the LLC declines to make available any of the demanded information and the reasons for that decision.

(e) The exercise of a member's rights to inspect and copy the LLC's records is to take place at the LLC's principal office, or other location or locations selected by the LLC, during the LLC's regular hours of operation unless the LLC directs otherwise. The LLC may require a member to pay the labor, material, and other costs it incurs or would otherwise incur to comply with the member's demand to inspect and copy the LLC's records.

(f) The LLC (i) need not disclose to any member or any agent or representative of a member any information related to any other interest owner, except to the extent required by subdivision (3) of subsection (a) of this section, but subject to the restrictions that may be imposed under clauses (ii) and (iii) of this subsection, or is not otherwise related to the

member's ownership interest; (ii) may impose conditions, restrictions, limitations, and standards on the exercise of a member's inspection and other information rights, including redacting names and other confidential information, providing summaries of documents, or requiring the member to enter an agreement to not disclose and otherwise maintain the confidentiality of the information provided; and (iii) need not disclose or otherwise make available to a member, manager, or other company official trade secrets or other confidential information of a nature that its disclosure could adversely affect the LLC, to the extent that the managers or other applicable company officials determine the information cannot be adequately safeguarded by other means, until either there no longer is a risk that its disclosure will adversely affect the LLC or the LLC becomes able to protect itself in some other way.

"**§§ 57D-3-05 through 57D-3-19: Reserved for future codification purposes.**

"Part 2. Managers.

"**§ 57D-3-20. Management; managers.**

(a) The management of an LLC and its business is vested in the managers.

(b) Each manager has equal rights to participate in the management of the LLC and its business. Management decisions approved by a majority of the managers are controlling. The managers may make management decisions without a meeting and without notice.

(c) Subject to the direction and control of a majority of the managers as provided in G.S. 57D-3-20(b), each manager may act on behalf of the LLC in the ordinary course of the LLC's business.

(d) All members by virtue of their status as members are managers of the LLC, together with any other person or persons who may be designated as a manager in, or in the manner provided in, the operating agreement. If the operating agreement provides or otherwise contemplates that members are not necessarily managers by virtue of their status as members, then those persons designated as managers in, or in the manner provided in, the operating agreement will be managers. The operating agreement may provide that the LLC is to be managed by one or more company officials who are not designated as managers. All members will be managers for any period during which the LLC would otherwise not have any managers or other company officials.

(e) A person shall continue to serve as a manager until the earliest of the following occurs: (i) the person's resignation as a manager; (ii) any event described in G.S. 57D-3-02(a) with respect to the person, substituting therein the term "manager" in lieu of the term "member" for purposes of this subsection; or (iii) that person, or the member or all of a class or group of less than all of the members who appointed the person to be a manager, ceases to be a member.

"**§ 57D-3-21. Duties of company officials; standards of conduct.**

(a) The managers shall manage the LLC and conduct the LLC's business in accordance with the operating agreement.

(b) Each manager shall discharge that person's duties (i) in good faith, (ii) with the care an ordinary prudent person in a like position would exercise under similar circumstances, and (iii) subject to the operating agreement, in a manner the manager believes to be in the best interests of the LLC. In discharging such duties, a manager is entitled to rely on information, opinions, reports, or statements, including financial statements or other financial data, if prepared or presented by any person or group of persons the manager believes to be reliable and competent in such matters and the manager does not have actual knowledge concerning the matter in question that makes such reliance unwarranted.

(c) A manager is not liable to the LLC for any act or omission as a manager if the manager acts in compliance with this section.

"**§ 57D-3-22. Delegation of authority of managers and other company officials.**

The managers having general power to manage the LLC may delegate authority to act on behalf of the LLC to persons other than managers. The delegation of authority may be general or limited to specific matters. No such delegation of authority will cause any manager to cease to be a manager or cause the person to whom authority is so delegated to be a manager. Any

duties of the managers will apply with respect to their delegation to, and direction and control of, any person to whom they delegate any of their responsibilities.

"**§ 57D-3-23. Application to company officials.**

G.S. 57D-3-20(e), 57D-3-21, and 57D-3-22 shall apply to company officials who are not managers by substituting the term "company official" in lieu of the term "manager" in each place where the term appears in those provisions.

"Part 3. Liability.

"**§ 57D-3-30. Liability of members, managers, and other company officials to third parties.**

A person who is an interest owner, manager, or other company official is not liable for the obligations of the LLC solely by reason of being an interest owner, manager, or other company official.

"**§ 57D-3-31. Indemnification.**

(a) An LLC shall indemnify a person who is wholly successful on the merits or otherwise in the defense of any proceeding to which the person was a party because the person is or was a member, a manager, or other company official if the person also is or was an interest owner at the time to which the claim relates, acting within the person's scope of authority as a manager, member, or other company official against expenses incurred by the person in connection with the proceeding.

(b) An LLC shall reimburse a person who is or was a member for any payment made and indemnify the person for any obligation, including any judgment, settlement, penalty, fine, or other cost, incurred or borne in the authorized conduct of the LLC's business or preservation of the LLC's business or property, whether acting in the capacity of a manager, member, or other company official if, in making the payment or incurring the obligation, the person complied with the duties and standards of conduct (i) under G.S. 57D-3-21, as modified or eliminated by the operating agreement or (ii) otherwise imposed by this Chapter or other applicable law.

"Article 4.

"Contributions and Distributions.

"**§ 57D-4-01. Form of contributions.**

An interest owner may make contributions to the LLC in any form, including (i) money or other property, services rendered, or any other direct or indirect benefit to the LLC and (ii) promissory notes or other obligations to transfer money or other property, perform services, or provide any other direct or indirect benefits to the LLC.

"**§ 57D-4-02. Liability for contributions.**

If an interest owner has contributed a promissory note or other obligation to transfer money or other property, to perform services, or to provide other benefits to the LLC and the interest owner would but for this section be excused from the performance of that obligation by reason of the interest owner's death or disability or other supervening impossibility or impracticability of performance under contract or other applicable law, the LLC may require the interest owner to pay to the LLC an amount of money equal to the value of the unperformed portion of the promised performance or exercise remedies available under other applicable law.

"**§ 57D-4-03. Interim distributions.**

Distributions to interest owners before the dissolution and winding up of the LLC or, as provided in G.S. 57D-6-08(2), after the dissolution of the LLC, may be made at such times and in such amounts as determined by the LLC in proportion to the ratios that the aggregate contribution amounts of the interest owners bear to one another, determined immediately before the time that the distributions are to be made.

"**§ 57D-4-04. Distribution in kind.**

An LLC may distribute property other than money if the interest owners receive interests of identical character in, or units of identical character of, such property in the same proportions as if the distribution were being made in money equal to the net value of the property being distributed.

"**§ 57D-4-05. Restrictions on making distributions.**

(a) No distribution may be made by an LLC if, after giving effect to the distribution, either of the following would occur:

(1) The LLC would not be able to pay its debts as they become due in the ordinary course of business.

(2) The LLC's total liabilities would exceed the value of the LLC's assets.

(b) For purposes of subsection (a) of this section, the following apply:

(1) An LLC may determine the value of its assets, the amount of its liabilities, and the time payments of its liabilities are to be made using accounting practices and principles that are reasonable under the circumstances.

(2) The amount of a liability for which the creditor's recourse is limited to specific collateral will not exceed the value of the collateral.

(c) Except as provided in subsection (e) of this section, the effect of a distribution under subsection (a) of this section is measured (i) in the case of any distribution of indebtedness as of the date the indebtedness is distributed and (ii) in all other cases, either as of the date the distribution is authorized if the distribution occurs within 120 days after the date authorization is made or as of the date the distribution is made if payment occurs more than 120 days after the date authorization is made.

(d) Except as provided in subsection (e) of this section, an LLC's indebtedness issued as a distribution made in accordance with this section is a liability of the LLC to be paid under the law applicable to debtors and creditors.

(e) An LLC's indebtedness issued as a distribution is not a liability of the LLC for purposes of subsection (a) of this section if its terms provide that payment of principal and interest are to be made only to the extent that at the time of such payment a distribution to interest owners could then be made under this section. Subsection (a) of this section applies to each payment of principal or interest made under any indebtedness described in the preceding sentence and not to the issuance of the indebtedness.

"**§ 57D-4-06. Liability for wrongful distributions.**

(a) If a distribution is made in violation of G.S. 57D-4-05, then each manager or other company official who alone or with other company officials had the authority to and did approve the distribution is personally liable to the LLC but not any other person for the amount of the distribution that exceeds the amount that could have been distributed without violating G.S. 57D-4-05 only if it is established that the company official did not act in compliance with G.S. 57D-3-21, without regard to any modification or elimination of such duties and standards of conduct under the operating agreement. Except as otherwise provided in G.S. 57D-11-03(d), a proceeding under this subsection is barred unless it is commenced within two years after the distribution.

(b) Each manager or other company official held liable under subsection (a) of this section for a wrongful distribution is entitled to the following:

(1) Contribution from each other manager or other company official who could be held liable under subsection (a) of this section for the wrongful distribution.

(2) Reimbursement from each interest owner for the amount the interest owner received knowing that the distribution was made in violation of G.S. 57D-4-05.

"**§ 57D-4-07. Right to distribution.**

An interest owner who is entitled to receive a distribution has the status of and is entitled to all remedies available to a creditor of the LLC with respect to the distribution.

"Article 5.

"Transfer of Ownership Interests; Withdrawal.

"**§ 57D-5-01. Nature of ownership interest.**

An ownership interest is personal property.

"**§ 57D-5-02. Transfer of economic interests.**

An economic interest is transferable in whole or in part. The transfer of an economic interest or portion thereof does not entitle the transferee to become or exercise any rights of a member other than to receive the economic interest or the portion thereof assigned to the transferee.

"**§ 57D-5-03. Rights of judgment creditor.**

(a) On application to a court of competent jurisdiction by any judgment creditor of an interest owner, the court may charge the economic interest of an interest owner with the payment of the unsatisfied amount of the judgment with interest. To the extent so charged, the judgment creditor has only the right to receive the distributions that otherwise would be paid to the interest owner with respect to the economic interest.

(b) A charging order is a lien on the judgment debtor's economic interest to the extent provided in this section from the time that such charging order is served upon the LLC in accordance with Rule 4(j)(8) of the Rules of Civil Procedure. If more than one charging order is properly served upon the LLC with respect to an economic interest, the liens shall have priority in the order in which the charging orders were served, except that a charging order in favor of a judgment creditor that has previously delivered to the LLC garnishment process relating to an economic interest pursuant to G.S. 1-440.25 shall relate back to the date of service of the garnishment process.

(c) This Chapter does not deprive any interest owner of a right, including any benefit of any exemption law applicable to the interest owner's ownership interest.

(d) The entry of a charging order is the exclusive remedy by which a judgment creditor of an interest owner may satisfy the judgment from or with the judgment debtor's ownership interest.

"**§ 57D-5-04. Certain rights and liabilities of economic interest owners and transferors of ownership interests.**

(a) An economic interest owner may become a member only with that person's approval and through any of the following:

(1) As provided in the operating agreement.

(2) By the approval of the members as provided in G.S. 57D-3-03(2).

(3) In the manner permitted under G.S. 57D-6-01(3) if the LLC ceases to have any members.

(b) Except as provided in the following sentence of this subsection, a transferee of an ownership interest or portion thereof who is or becomes a member has to the extent transferred to the transferee (i) the rights and powers and is subject to the restrictions and liabilities of a member under the operating agreement and this Chapter with respect to the transferred ownership interest and (ii) is liable for any obligations of the transferor to make contributions under G.S. 57D-4-02 with respect to the transferred ownership interest. A transferee of an ownership interest or portion thereof is not liable for obligations of the transferor under G.S. 57D-4-06 or obligations that are unknown to the transferee at the time the transferee became a member.

(c) Whether or not a transferee of an ownership interest or portion thereof is or becomes a member, (i) the transferor is not released from liability that the transferor may have under G.S. 57D-4-02, G.S. 57D-4-06, or under the operating agreement and (ii) the transferee takes the ownership interest subject to those liabilities.

"**§ 57D-5-05. No right to voluntarily withdraw capital or terminate obligations.**

Except as otherwise required by this Chapter or other applicable law, an interest owner may not (i) withdraw or compel the company to purchase or otherwise liquidate all or any portion of the equity owner's capital interest or (ii) extinguish, abandon, or otherwise diminish the interest owner's obligations in respect of the interest owner's ownership interest.

"Article 6.
"Dissolution.

"**§ 57D-6-01. Dissolution.**

An LLC is dissolved upon the occurrence of any of the following:

(1) An event causing the LLC to dissolve under the operating agreement.

(2) If the LLC never had a member, as approved by the organizers under G.S. 57D-2-20(c).

(3) If the LLC ever had a member, the 90th day after the day on which the LLC ceases to have any members, unless within that 90-day period one or more persons are admitted as a member or members by the person, including the former member, owning or otherwise controlling the ownership interest of the last member.

(4) Entry of a decree of judicial dissolution under G.S. 57D-6-05.

(5) Subject to G.S. 57D-6-06(c), the filing by the Secretary of State of a certificate of dissolution under G.S. 57D-6-06.

"**§ 57D-6-02. Grounds for judicial dissolution.**

The superior court may dissolve an LLC in a proceeding brought by either of the following:

(1) The Attorney General, if it is established that (i) the LLC obtained its articles of organization through fraud or (ii) the LLC continued to exceed or abuse the authority conferred on it by law 20 or more days after the date the Attorney General delivered to the LLC written notice of the LLC's unauthorized acts.

(2) A member, if it is established that (i) it is not practicable to conduct the LLC's business in conformance with the operating agreement and this Chapter or (ii) liquidation of the LLC is necessary to protect the rights and interests of the member.

"**§ 57D-6-03. Procedure for judicial dissolution.**

(a) A proceeding under G.S. 57D-6-02 to dissolve an LLC is to be brought against the LLC. The party bringing the dissolution proceeding may not join an interest owner or company official as a party to the proceeding unless and to the extent relief is sought against the interest owner or company official for that person's own actions.

(b) Venue for a proceeding brought under G.S. 57D-6-02 to dissolve an LLC lies in (i) the county in this State where the LLC's principal office is located, which the party bringing the dissolution proceeding may assume to be the principal place of business disclosed in the LLC's most recent annual report or, if no annual report for the LLC has ever been filed by the Secretary of State, as provided in the LLC's articles of organization or (ii) if the LLC has no principal office in this State, and the most recent filings of the Secretary of State do not state that the LLC's principal office is located in this State, the county in this State where those filings state the LLC's registered office is or was last located.

(c) In connection with a proceeding brought under G.S. 57D-6-02 to dissolve an LLC, the court may issue injunctions, appoint one or more persons to serve as receiver with powers and duties the court may grant under G.S. 57D-6-04, or take other action required to manage the LLC and its assets.

(d) In any proceeding brought by a member under clause (ii) of G.S. 57D-6-02(2) in which the court determines that dissolution is necessary, the court will not order dissolution if after the court's decision the LLC or one or more other members elect to purchase the ownership interest of the complaining member at its fair value in accordance with any procedures the court may provide.

"**§ 57D-6-04. Receivership.**

(a) The court in a proceeding brought under G.S. 57D-6-02 to dissolve an LLC, or in a proceeding brought under G.S. 57D-6-07(c), may appoint one or more persons to serve as a receiver to manage the business of the LLC pending the court's decision on dissolution and if dissolution is decreed by the court to wind up the LLC. Before appointing a person to serve as a

receiver of an LLC, the court shall hold a hearing on the subject after delivering notice, or causing the party who brought the dissolution proceeding to deliver notice, of the hearing to all parties and any other interested persons designated by the court.

(b) The court may require the receiver to post bond with or without sureties in an amount the court directs.

(c) The court shall describe the powers and duties of the receiver in its appointing order, which the court from time to time may amend. The powers may include the authority to do any of the following:

(1) Dispose of all or any portion of the assets of the LLC wherever located, at a public or private sale.

(2) Sue and defend in the receiver's own name as receiver of the LLC.

(3) Exercise all of the powers of the LLC to the extent necessary to manage the business of the LLC or wind up the LLC following dissolution.

(d) The court may order the LLC to compensate the receiver and reimburse the receiver's expenses, including the fees and expenses of attorneys and other professionals retained by the receiver.

"**§ 57D-6-05. Decree of judicial dissolution.**

(a) If after a hearing the court determines that one or more grounds for judicial dissolution described in G.S. 57D-6-02 exist and the alternative to judicial dissolution under G.S. 57D-6-03(d) is not applicable, it may enter a decree dissolving the LLC and the clerk of the court shall deliver a certified copy of the decree to the Secretary of State for filing.

(b) After entering the decree of dissolution, the court shall direct the winding up of the LLC in accordance with G.S. 57D-6-07 and G.S. 57D-6-08 and may direct notification of claimants in accordance with G.S. 57D-6-10, 57D-6-11, and 57D-6-13.

"**§ 57D-6-06. Administrative dissolution.**

(a) The Secretary of State may administratively dissolve an LLC if the Secretary of State determines that the LLC has done any of the following:

(1) The LLC has not paid within 60 days after they are due any penalties, fees, or other payments due under this Chapter.

(2) The LLC does not deliver its annual report to the Secretary of State on or before the 60th day after it is due.

(3) The LLC has been without a registered agent or registered office in this State for 60 days or more.

(4) The LLC has not notified the Secretary of State within 60 days that its registered agent or registered office has been changed, that its registered agent has resigned, or that its registered office has been discontinued.

(5) The LLC knowingly fails or refuses to answer completely and accurately within the time prescribed in this Chapter interrogatories propounded by the Secretary of State in accordance with the provisions of this Chapter.

(b) If the Secretary of State determines that one or more grounds exist under subsection (a) of this section for dissolving an LLC, the Secretary of State shall mail the LLC notice of that determination. If, within 60 days after the notice is mailed, the LLC does not correct each ground for dissolution or demonstrate to the satisfaction of the Secretary of State that each ground does not exist, the Secretary of State shall administratively dissolve the LLC by signing a certificate of dissolution that recites the ground or grounds for dissolution and the effective date of the dissolution. The Secretary of State shall file the original certificate of dissolution and mail a copy to the LLC.

(c) An LLC administratively dissolved under this section may apply to the Secretary of State for reinstatement. The procedures for reinstatement and for the appeal of any denial of the LLC's application for reinstatement are the same as those applicable to a domestic corporation under G.S. 55-14-22, 55-14-23, and 55-14-24. If, at the time the LLC applies for reinstatement, the name of the LLC is not distinguishable from the name of another entity authorized to be used under G.S. 55D-21, then the LLC must change its name to a name that is distinguishable

on the records of the Secretary of State from the name of the other entity before the Secretary of State may prepare a certificate of reinstatement. The effect of reinstatement of an LLC is the same as for a domestic corporation under G.S. 55-14-22.

"**§ 57D-6-07. Winding up.**

(a) After its dissolution, an LLC shall wind up. The winding up may include continuing the business of the LLC for a period of time.

(b) Subject to subsection (c) of this section, the managers or other applicable company officials shall wind up the LLC after its dissolution. If the dissolved LLC has no managers or other applicable company officials, the person, including a former member, owning or otherwise controlling the ownership interest of the person who was the last member of the LLC may serve or appoint one or more persons to serve as manager to wind up the LLC.

(c) On application of the person, including a former member, owning or otherwise controlling the ownership interest of the last member, the superior court may wind up the LLC or appoint a receiver under G.S. 57D-6-04 to wind up the LLC. Venue for a proceeding on such application lies in (i) the county in this State where the LLC's principal office is located, which the person bringing the dissolution proceeding may assume to be the principal place of business disclosed in the LLC's most recent annual report or, if no annual report has ever been filed for the LLC by the Secretary of State, as provided in the LLC's articles of organization or (ii) if the LLC has no principal office in this State and the most recent filings of the Secretary of State do not state that the LLC's principal office is located in this State, the county in this State where those filings state the LLC's registered office is or was last located. The court shall order notice of the proceeding be given by the person making the application to all interested persons designated by the court.

(d) The person or persons charged with winding up the LLC shall collect the LLC's assets, dispose of the LLC's properties that will not be distributed in kind, discharge or make provision for discharging the LLC's liabilities, and distribute the LLC's remaining assets as provided in G.S. 57D-6-08(2).

(e) The dissolution of the LLC does not transfer title to the LLC's assets, prevent transfer of ownership interests, or subject its managers or other company officials to standards of conduct different from those prescribed in Article 3 of this Chapter.

(f) The dissolution of the LLC does not prevent commencement of a proceeding by or against the LLC in its own name, abate or suspend a proceeding by or against the LLC, or terminate the authority of the registered agent of the LLC.

"**§ 57D-6-08. Marshaling of assets.**

During the winding up of an LLC, the LLC's assets are to be applied as follows:

(1) First to creditors, including interest owners, managers, and other company officials who are creditors in satisfaction, whether by payment or making provision for payment of all liabilities of the LLC.

(2) The balance to the interest owners as distributions made in the manner provided in G.S. 57D-4-03.

"**§ 57D-6-09. Articles of dissolution.**

Upon dissolution of an LLC, the LLC shall deliver articles of dissolution to the Secretary of State for filing. The articles of dissolution must provide the following information:

(1) The name of the LLC.

(2) The effective date of the dissolution.

(3) Any other information the LLC elects to provide.

"**§ 57D-6-10. Known claims against dissolved LLC.**

(a) A dissolved LLC for which articles of dissolution, a certificate of dissolution, or a decree of dissolution filed by the Secretary of State has become effective may dispose of known claims against it by notifying claimants in writing of the dissolution. The notice must do the following:

(1) Describe information that must be included in a claim.
(2) Provide an address where claims may be sent.
(3) State the deadline, which may not be fewer than 120 days from the date of the notice, by which the dissolved LLC must receive the claim.
(4) State that the claim will be barred if not received by the deadline.

(b) A claim against the dissolved LLC is barred if either of the following occurs:
(1) The LLC does not receive the claim by the deadline from a claimant who received notice under subsection (a) of this section.
(2) A claimant whose claim was rejected by written notice from the dissolved LLC does not commence a proceeding in a proper forum to enforce the claim within 90 days from the date of receipt of the rejection notice.

(c) For purposes of this section, "claim" does not include a contingent liability or a claim based on an event occurring after dissolution.

"**§ 57D-6-11. Unknown and certain other claims against dissolved LLC.**

(a) A dissolved LLC for which articles of dissolution, a certificate of dissolution, or a decree of dissolution filed by the Secretary of State has become effective may publish notice of its dissolution and request that persons with claims against the LLC present them in accordance with the notice. The notice must meet the following requirements:
(1) Be published one time in a newspaper of general circulation in the county in this State where the LLC's principal office is or was last located, or, if the LLC never had a principal office in this State, the county in this State where the LLC's registered office is or was last located.
(2) Describe the information that must be included in a claim and provide an address where the claim may be sent.
(3) State that a claim against the LLC will be barred unless a proceeding to enforce the claim is commenced in a proper forum within five years after the publication of the notice.

(b) If the dissolved LLC publishes a newspaper notice in accordance with subsection (a) of this section, the claim of each of the following claimants is barred unless the claimant commences a proceeding in a proper forum to enforce the claim against the dissolved LLC within five years after the publication date of the newspaper notice:
(1) A claimant who did not receive written notice under G.S. 57D-6-10.
(2) A claimant whose claim was timely sent to the dissolved LLC but not acted on.
(3) A claimant whose claim is contingent or based on an event occurring after the effective date of the filing by the Secretary of State of the articles of dissolution.

"**§ 57D-6-12. Enforcement of claims.**

(a) A claim against a dissolved LLC under G.S. 57D-6-10 or G.S. 57D-6-11 may be enforced against either of the following:
(1) Against the dissolved LLC to the extent of its undistributed assets, including coverage under any insurance policy.
(2) Except as provided in G.S. 57D-6-13(d), against the interest owners of the dissolved LLC in proportion to but not in excess of the distributions, if any, made to each interest owner following the LLC's dissolution.

(b) G.S. 57D-6-10 and G.S. 57D-6-11 do not extend any applicable period of limitation.

"**§ 57D-6-13. Court proceedings for contingent claims.**

(a) A dissolved LLC that has published a notice under G.S. 57D-6-11 may file an application with the superior court of the county in this State where the LLC's principal office is or was last located or, if the LLC never had a principal office in this State, the county in this State where the LLC's registered office is or was last located for a determination of the amount and form of security to be provided for payment of claims that are contingent or have not been made known to the dissolved LLC or that are based on an event occurring after dissolution but

that, based on the facts known to the dissolved LLC, are estimated to arise after dissolution. Provisions need not be made for any claim that is or is anticipated to be barred under G.S. 57D-6-11(b).

(b) Within 10 days after the filing of the application, the dissolved LLC shall deliver notice of the proceeding to each claimant holding a claim described in subsection (a) of this section whose contingent claim is shown on the records of the dissolved LLC.

(c) The court may appoint a guardian ad litem to represent all claimants whose identities are unknown in any proceeding brought under this section. The dissolved LLC shall pay the fees and expenses of the guardian, including expert witness fees.

(d) Provision by the dissolved LLC for security in the amount and the form ordered by the court under subsection (a) of this section satisfies the dissolved LLC's obligations with respect to claims described in subsection (a) of this section, and the claims may not be enforced against an interest owner who receives assets in liquidation of the LLC.

"Article 7.

"Foreign LLCs.

"Part 1. Certificate of Authority.

"**§ 57D-7-01. Authority to transact business.**

(a) A foreign LLC may not transact business in this State until it obtains a certificate of authority from the Secretary of State.

(b) Without excluding other activities that may not constitute transacting business in this State, a foreign LLC is not considered to be transacting business in this State for the purposes of this Chapter by reason of conducting in this State any one or more of the following activities:

(1) Maintaining or defending any proceeding or effecting the settlement thereof or the settlement of claims or disputes.

(2) Holding meetings of its members, managers, or other company officials or carrying on other activities concerning its internal affairs.

(3) Maintaining bank accounts or borrowing money in this State, with or without providing security for repayment or other performance and without regard to the frequency of such transactions.

(4) Maintaining offices or agencies for the exchange or other transfer and registration of all or any class or portion of its membership or other equity or beneficial ownership interests or securities, or appointing and maintaining trustees or depositories with relation to its membership or other equity or beneficial ownership interests or securities.

(5) Soliciting or procuring orders, whether by mail or through employees or agents or otherwise, where the orders require acceptance to be made outside of the territory of this State to become binding contracts.

(6) Making or investing in loans with or without security, including servicing of mortgages or deeds of trust through independent agencies within the territory of this State, conducting foreclosure proceedings and selling or acquiring property in foreclosure sales, and managing or renting property acquired in foreclosure sales in connection with and in furtherance of efforts to sell and otherwise liquidate such property, provided no office or agency of the foreign LLC is maintained in this State.

(7) Taking security for or collecting debts due the foreign LLC or enforcing any rights the foreign LLC may have in property subject to or otherwise providing security with respect to the repayment or other performance of the debt obligations.

(8) Transacting business in interstate commerce.

(9) Conducting an isolated transaction completed within a period of six months but not repeated transactions of a similar nature.

(10) Selling property or services through independent contractors.

(11) Owning real or personal property.

"**§ 57D-7-02. Consequences of transacting business without authority.**

(a) No foreign LLC transacting business in this State without permission obtained through a certificate of authority may maintain any proceeding in any court of this State unless the foreign LLC has obtained a certificate of authority prior to trial. An issue arising under this subsection must be raised by motion and determined by the trial judge prior to trial.

(b) A foreign LLC failing to obtain a certificate of authority as required by this Chapter is liable to this State for the years, including any partial year, during which it transacted business in this State without a certificate of authority in an amount equal to all fees and taxes that would have been imposed by law on the foreign LLC had it duly applied for and received such permission, plus interest and all penalties imposed by law for failure to pay such fees and taxes. In addition, the foreign LLC is liable for a civil penalty of ten dollars ($10.00) for each day, but not to exceed a total of one thousand dollars ($1,000) for each year, including any partial year it transacts business in this State without a certificate of authority. The Attorney General may bring actions to recover all amounts due this State under the provisions of this subsection. The clear proceeds of civil penalties provided for in this subsection shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.

(c) Notwithstanding subsection (a) of this section, the failure of a foreign LLC to obtain a certificate of authority does not impair the validity of its acts or prevent it from defending any proceeding in this State.

(d) The Secretary of State shall require every foreign LLC transacting business in this State to comply with the provisions of this Chapter. The Secretary of State may conduct such investigations as may be necessary to ascertain compliance by foreign LLCs with this Chapter.

"**§ 57D-7-03. Application for certificate of authority.**

(a) A foreign LLC may apply for a certificate of authority to transact business in this State by delivering an application to the Secretary of State for filing. The application must provide the following information:

(1) The name of the foreign LLC and, if different, a name that satisfies the requirements of Article 3 of Chapter 55D of the General Statutes.

(2) The name of the jurisdiction under whose law it is organized.

(3) The street address, and the mailing address if different from the street address, of its principal office, if any, and the county in which the principal office, if any, is located.

(4) The street address, and the mailing address if different from the street address, of its registered office in this State and the name of its registered agent at that office.

(5) The names, titles, and business addresses of the foreign LLC's principal company officials.

(b) A foreign LLC shall deliver with the completed application for the certificate of authority a certificate of existence or a document of similar import duly authenticated by the Secretary of State or other official having custody of limited liability company records in the jurisdiction under whose law it is organized.

(c) If the Secretary of State finds that the application conforms to law, the Secretary of State when all taxes, fees, and other payments have been tendered as prescribed in this Chapter, shall do the following:

(1) File the application and the certificate of existence or a document of similar import as described in subsection (b) of this section, as provided in G.S. 55D-15.

(2) Issue a certificate of authority to transact business in this State to which the Secretary of State shall affix the exact or conformed copy of the application.

(3) Send to the foreign LLC or its representative the certificate of authority, together with the exact or conformed copy of the application affixed thereto.

"**§ 57D-7-04. Amended certificate of authority.**

(a) A foreign LLC authorized to transact business in this State shall obtain an amended certificate of authority from the Secretary of State if it changes either of the following:

(1) Its name.

(2) The jurisdiction of its organization.

(b) A foreign LLC may apply for an amended certificate of authority by delivering an application to the Secretary of State for filing that sets forth the following:

(1) The name of the foreign LLC and if different the name provided in the foreign LLC's certificate of authority that the foreign LLC is authorized to use to transact business in this State.

(2) The name of the jurisdiction under whose law it is organized.

(3) The date it was originally authorized to transact business in this State.

(4) A statement of the change or changes being made.

(c) Except for the content of the application, the requirements of G.S. 57D-7-03 for obtaining an original certificate of authority apply to obtaining an amended certificate under this section.

"**§ 57D-7-05. Effect of certificate of authority.**

(a) A certificate of authority authorizes the foreign LLC to which it is issued to transact business in this State subject to the right of the State to revoke the certificate as provided in this Chapter. A foreign LLC may qualify in this State as executor, administrator, or guardian, or as trustee under the will of any person domiciled in this State at the time of that person's death only in accordance with applicable provisions of Article 24 of Chapter 53 of the General Statutes.

(b) A foreign LLC qualifying as testamentary trustee or executor under the provisions of this section shall appoint a process agent and file such appointment with the court as required by G.S. 28A-4-2(4).

(c) Except as otherwise provided by this Chapter, a foreign LLC with a valid certificate of authority has the same but no greater rights and has the same but no greater privileges as, and is subject to the same duties, restrictions, penalties, and liabilities now or later imposed on, an LLC of like character.

"**§ 57D-7-06. Registered office and registered agent of foreign LLC.**

Each foreign LLC authorized to transact business in this State must maintain a registered office and registered agent as required by Article 4 of Chapter 55D of the General Statutes and is subject to service on the Secretary of State under that Article.

"**§§ 57D-7-07 through 57D-7-19: Reserved for future codification purposes.**

"Part 2. Withdrawal.

"**§ 57D-7-20. Withdrawal of foreign LLC.**

(a) A foreign LLC authorized to transact business in this State may not withdraw from this State until it obtains a certificate of withdrawal from the Secretary of State.

(b) A foreign LLC authorized to transact business in this State may apply for a certificate of withdrawal by delivering an application to the Secretary of State for filing. The application must state the following:

(1) The name of the foreign LLC and if different the name provided in the foreign LLC's certificate of authority that the foreign LLC is authorized to use to transact business in this State.

(2) The name of the jurisdiction under whose law it is organized.

(3) That the foreign LLC is not transacting business in this State and that it surrenders its authority to transact business in this State.

(4) That the foreign LLC revokes the authority of its registered agent to accept service of process and consents to service of process in any proceeding based on any cause of action arising in this State, or arising out of business transacted in this State, during the time the foreign LLC was authorized to

transact business in this State, being made on such foreign LLC by service thereof on the Secretary of State.

(5) A mailing address to which the Secretary of State may mail a copy of any process served on the Secretary of State under subdivision (4) of this subsection.

(6) A commitment to deliver to the Secretary of State for filing a statement of any subsequent change in its mailing address.

(c) If the Secretary of State finds that the application conforms to law, the Secretary of State shall do the following:

(1) File the application for the certificate of withdrawal as provided in G.S. 55D-15.

(2) Issue a certificate of withdrawal to which the Secretary of State shall affix the exact or conformed copy of the application.

(3) Send to the foreign LLC or its representative the certificate of withdrawal together with the exact or conformed copy of the application affixed thereto.

(d) After the withdrawal of the foreign LLC is effective, service of process on the Secretary of State in accordance with subsection (b) of this section may be made by delivering to the Secretary of State, or to any clerk authorized by the Secretary of State to accept service of process, duplicate copies of that process and the fee required by G.S. 57D-1-22(b). Upon receipt of process in the manner provided in this subsection, the Secretary of State shall mail a copy of the process by registered or certified mail, return receipt requested, to the foreign LLC at the mailing address designated pursuant to subsection (b) of this section.

"**§ 57D-7-21. Withdrawal of foreign LLC by reason of a merger, consolidation, or conversion; qualification of successor.**

(a) Whenever a foreign LLC authorized to transact business in this State ceases its separate existence as a result of a statutory merger, consolidation, or other reorganization permitted by the law of the jurisdiction under which it is organized, or converts into another type of entity as permitted by that law, the surviving or resulting entity shall apply for a certificate of withdrawal for the foreign LLC by delivering to the Secretary of State for filing a copy of the articles of merger, consolidation, or other reorganization or conversion or a certificate reciting the facts of the merger, consolidation, or other reorganization or conversion, duly authenticated by the Secretary of State or other official having custody of limited liability company records in the jurisdiction under the law of which the foreign LLC was organized. If the surviving or resulting entity is not authorized to transact business in this State, the application for the certificate of withdrawal must state, and therefore modify the information described below that otherwise is required to be provided under G.S. 57D-7-20(b) to the extent of conflict, the following:

(1) The name of the foreign LLC and, if different, the name provided in the foreign LLC's certificate of authority that the foreign LLC is authorized to use to transact business in this State.

(2) The name of the jurisdiction under whose law it is organized.

(3) The type of entity and name of the surviving or resulting entity.

(4) That the surviving or resulting entity is not transacting business in this State and the foreign LLC surrenders its authority to transact business in this State.

(5) That the surviving or resulting entity revokes the authority of the foreign LLC's registered agent to accept service of process and consents to service of process in any proceeding based on any cause of action arising in this State, or arising out of business transacted in this State, during the time the foreign LLC was authorized to transact business in this State, being made on the surviving or resulting entity by service thereof on the Secretary of State.

(6) A mailing address to which the Secretary of State may mail a copy of any process served on the Secretary of State under subdivision (5) of this subsection.

(7) A commitment to deliver to the Secretary of State for filing a statement of any subsequent change in the surviving or resulting entity's mailing address.

(b) If the Secretary of State finds that the articles or certificate described in subsection (a) of this section relating to the merger, consolidation, or other reorganization or conversion and the application for the certificate of withdrawal conform to law, the Secretary of State shall do the following:

(1) File the articles or certificate and the application for the certificate of withdrawal as provided in G.S. 55D-15.

(2) Issue a certificate of withdrawal.

(3) Send to the surviving or resulting entity or its representative the certificate of withdrawal, together with the exact or conformed copy of the application, if required, affixed thereto.

(c) After the withdrawal of the foreign LLC is effective, service of process on the Secretary of State in accordance with subsection (a) of this section is to be made by delivering to the Secretary of State or to any clerk authorized by the Secretary of State to accept service of process duplicate copies of process and the fee required by G.S. 57D-1-22(b). Upon receipt of process in the manner provided in this subsection, the Secretary of State shall immediately mail a copy of the process by registered or certified mail, return receipt requested, to the surviving or resulting entity at the mailing address designated pursuant to subsection (a) of this section.

"**§ 57D-7-22. Authority of Attorney General.**

The Attorney General may maintain an action to restrain a foreign LLC from transacting business in this State in violation of this Article.

"**§§ 57D-7-23 through 57D-7-29: Reserved for future codification purposes.**

"Part 3. Revocation of Certificate of Authority.

"**§ 57D-7-30. Grounds for revocation.**

(a) The Secretary of State may commence a proceeding under G.S. 57D-7-31 to revoke the certificate of authority of a foreign LLC authorized to transact business in this State if any of the following occurs:

(1) The foreign LLC is delinquent in delivering its annual report.

(2) The foreign LLC does not pay within 60 days after they are due any penalties, fees, or other payments due under this Chapter.

(3) The foreign LLC is without a registered agent or registered office in this State for 60 days or more.

(4) The foreign LLC does not inform the Secretary of State under G.S. 55D-31 or G.S. 55D-32 that its registered agent or registered office has changed, that its registered agent has resigned, or that its registered office has been discontinued within 60 days of the change, resignation, or discontinuance.

(5) A company official or agent of the foreign LLC signed a document that the company official or agent knew was false in any material respect with intent that the document be delivered to the Secretary of State for filing.

(6) The Secretary of State receives a duly authenticated certificate from the Secretary of State or other official having custody of the records of the limited liability companies in the state or country under whose law the foreign LLC is organized stating that it has been dissolved or merged into another entity.

(7) The foreign LLC is exceeding the authority conferred upon it by this Chapter.

(8) The foreign LLC knowingly fails or refuses to answer truthfully and fully within the time prescribed in this Chapter interrogatories propounded by the Secretary of State in accordance with the provisions of this Chapter.

(b) Nothing herein repeals or modifies any provision of the Revenue Act relating to the suspension of the certificate of authority of foreign LLCs for failure to comply with the provisions thereof.

"**§ 57D-7-31. Procedure for and effect of revocation.**

(a) If the Secretary of State determines that one or more grounds exist under G.S. 57D-7-30 for revocation of a certificate of authority, the Secretary of State shall mail to the foreign LLC written notice of that determination.

(b) If the foreign LLC does not correct each ground for revocation or demonstrate to the satisfaction of the Secretary of State that each ground determined by the Secretary of State does not exist within 60 days after notice is mailed, the Secretary of State may revoke the foreign LLC's certificate of authority by signing a certificate of revocation that recites the ground or grounds for revocation and its effective date. The Secretary of State shall file the original of the certificate and mail a copy to the foreign LLC.

(c) The authority of a foreign LLC to transact business in this State ceases on the date shown on the certificate revoking its certificate of authority.

(d) The Secretary of State's revocation of a foreign LLC's certificate of authority appoints the Secretary of State as the foreign LLC's agent for service of process in any proceeding based on a cause of action arising in this State or arising out of business transacted in this State during the time the foreign LLC was authorized to transact business in this State. The Secretary of State shall then proceed in accordance with G.S. 55D-33.

(e) Revocation of a foreign LLC's certificate of authority does not terminate the authority of the registered agent of the foreign LLC.

(f) The foreign LLC will not be granted a new certificate of authority until each ground for revocation has been substantially corrected to the satisfaction of the Secretary of State.

"**§ 57D-7-32. Appeal from revocation.**

(a) A foreign LLC may appeal the Secretary of State's revocation of its certificate of authority to the Superior Court of Wake County within 30 days after the certificate of revocation is mailed to the foreign LLC by the Secretary of State. The appeal is commenced by filing a petition with the court and with the Secretary of State requesting the court to set aside the revocation. Copies of the foreign LLC's certificate of authority and the Secretary of State's certificate of revocation are to be attached to the petition. No service of process on the Secretary of State is required except for the filing of the petition as set forth in this subsection. The appeal to the superior court will be determined by a judge of the superior court upon such further evidence, notice, and opportunity to be heard, if any, as the court may deem appropriate under the circumstances. The foreign LLC will have the burden of establishing that it is entitled to have the revocation set aside.

(b) Upon consideration of the petition and any response made by the Secretary of State, the court may prior to entering final judgment order the Secretary of State to set aside the revocation or may take any other action the court considers appropriate.

(c) The court's final decision may be appealed as in other civil proceedings.

"**§ 57D-7-33. Inapplicability of Administrative Procedure Act.**

The Administrative Procedure Act shall not apply to any proceeding or appeal provided for in G.S. 57D-7-30 through G.S. 57D-7-32.

"Article 8.

"Derivative Actions.

"**§ 57D-8-01. Member derivative actions.**

(a) Subject to the provisions of G.S. 57D-8-02 and G.S. 57D-8-03, a member may bring a derivative action if the following conditions are met:

(1) Either (i) the member was a member of the LLC at the time of the act or omission for which the proceeding is brought or (ii) all or any portion of the member's ownership interest devolves by operation of law from an ownership interest that was owned by a member at that time.

(2) The member made written demand on the LLC to take suitable action, and either (i) the LLC notified the member that the member's demand was rejected, (ii) 90 days have expired from the date the demand was made, or (iii) irreparable injury to the LLC would result by waiting for the expiration of the 90-day period.

(b) For purposes of this Article, a "derivative action" or a "derivative proceeding" is a proceeding brought in the superior court of this State in the right of an LLC or, to the extent provided in G.S. 57D-8-06, in the right of a foreign LLC, to recover a judgment in favor of the LLC or, if applicable, the foreign LLC.

"**§ 57D-8-02. Stay of proceedings.**

If the LLC commences an inquiry into the allegations set forth in the demand or complaint, the court may stay a derivative proceeding.

"**§ 57D-8-03. Dismissal.**

(a) The court shall dismiss a derivative proceeding on motion of the LLC if one of the groups specified in subsection (b) or (f) of this section determines after conducting an inquiry upon which its conclusions are based that the maintenance of the derivative proceeding is not in the best interest of the LLC.

(b) The inquiry and determination with respect to the demanded action is to be made either (i) pursuant to subsection (f) of this section or (ii) by either of the following:

(1) A majority vote or other approval of those persons who have the authority individually or collectively to cause the LLC to bring an action in the superior court of this State for the recovery or other remedy sought in the derivative action and are independent.

(2) A majority vote of a committee composed of two or more independent persons appointed by a majority vote or other approval of those persons described in subdivision (b)(1) of this section.

(c) For purposes of this section, none of the following factors by itself will necessarily preclude a person from being considered to be independent:

(1) The nomination or election of the person by persons who are defendants in the derivative proceeding or against whom action is demanded.

(2) The naming of the person as a defendant in the derivative proceeding or as a person against whom action is demanded.

(3) The approval by the person of the act being challenged in the derivative proceeding or demand if the act resulted in no personal benefit to the person.

(d) If a derivative proceeding is commenced after a determination has been made rejecting a demand by a member, the complaint must allege particular facts that if proved would preclude the court from dismissing the derivative proceeding under subsection (a) of this section. Defendants may make a motion to dismiss a complaint under subsection (a) of this section for failure to comply with this subsection. Prior to the court's ruling on such a motion to dismiss, the plaintiff may engage in discovery only to the extent it is germane and necessary to develop facts that establish that the dismissal of the derivative proceeding under subsection (a) of this section is unwarranted.

(e) If a majority of the persons having the authority to cause the LLC to bring a proceeding in the superior court of this State for the recovery or other remedy sought in the derivative action are independent, then the plaintiff will have the burden of proving that the requirements of subsection (a) of this section have not been met, but if a majority of such persons are not independent, then the LLC has the burden of proving that the requirements of subsection (a) of this section have been met.

(f) The court may appoint a panel composed of one or more independent persons on motion of the LLC to make a determination whether the maintenance of the derivative proceeding is in the best interest of the LLC. The plaintiff has the burden of proving that the requirements of subsection (a) of this section have not been met.

"§ **57D-8-04. Discontinuance or settlement.**

(a) A derivative proceeding may not be discontinued or settled without the court's approval. If the court determines that a proposed discontinuance or settlement will substantially affect the interests of the LLC's members, the court shall direct that notice be given to the members who would be affected.

(b) The court shall determine the manner and form of the notice and the manner in which costs of the notice will be borne.

"§ **57D-8-05. Payment of expenses.**

On termination of the derivative proceeding, the court may do any of the following:

(1) Order the LLC to pay the plaintiff's expenses, including attorneys' fees, incurred in the proceeding if it finds that the proceeding has resulted in a substantial benefit to the LLC.

(2) Order the plaintiff to pay any defendant's expenses, including attorneys' fees, incurred in defending the proceeding if it finds that the proceeding was commenced or maintained without cause or for an improper purpose.

(3) Order a party to pay an opposing party's expenses, including attorneys' fees, incurred as a result of the filing of a pleading, motion, or other paper, if the court after inquiry finds that the pleading, motion, or other paper was not well grounded in fact or was not warranted by existing law or a good-faith argument for the extension, modification, or reversal of existing law and that it was interposed for an improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation.

"§ **57D-8-06. Applicability to foreign LLCs.**

In any derivative proceeding in the right of a foreign LLC, the matters covered by this Article will be governed by the law of the jurisdiction of the foreign LLC's organization except for the matters governed by G.S. 57D-8-02, 57D-8-04, and 57D-8-05.

"§ **57D-8-07. Privileged communications.**

In any derivative proceeding, no member is entitled to obtain or have access to any communication within the scope of the LLC's attorney-client privilege that could not be obtained by, or would not be accessible to, a party in a proceeding other than on behalf of the LLC.

"Article 9.

"Conversion and Merger.

"Part 1. Definitions.

"§ **57D-9-01. Definitions.**

Unless otherwise specifically provided, the following definitions apply in this Article:

(1) Articles of organization and conversion. – The document filed by the Secretary of State under G.S. 57D-9-22 for the purpose of converting an eligible entity into an LLC.

(2) Converting entity. – An eligible entity that converts into another eligible entity pursuant to Part 2 or Part 3 of this Article 9.

(3) Converting LLC. – A converting entity that is an LLC.

(4) Eligible entity. – A corporation, including a professional corporation as defined in G.S. 55B-2 and a foreign professional corporation defined in G.S. 55B-16, a domestic or foreign nonprofit corporation, a limited liability company, a domestic or foreign limited partnership, a registered limited liability partnership or foreign limited liability partnership as defined in G.S. 59-32, or any other partnership as defined in G.S. 59-36, whether or not formed under the laws of this State.

(5) Merging entity. – An eligible entity that is a party to a merger.

(6) Merging LLC. – A merging entity that is an LLC.

(7) Surviving entity. – The eligible entity into which a converting entity converts or into which an eligible entity is merged.

"**§§ 57D-9-02 through 57D-9-19: Reserved for future codification purposes.**

"Part 2. Conversion to an LLC.

"**§ 57D-9-20. Conversion.**

An eligible entity other than an LLC may convert to an LLC if both of the following requirements are met:

(1) The conversion is permitted by the law governing the organization and internal affairs of the converting entity.

(2) The converting entity complies with the requirements of this Part and, to the extent applicable, the law governing its organization and internal affairs immediately before the conversion.

"**§ 57D-9-21. Plan of conversion.**

(a) The converting entity must approve a written plan of conversion containing the following:

(1) The name, type of entity, and jurisdiction whose law governs the organization and internal affairs of the converting entity immediately before the conversion.

(2) A statement that the converting entity will deliver to the Secretary of State for filing articles of organization and conversion for the purpose of converting the eligible entity into an LLC.

(3) The name the entity will have when the conversion becomes effective.

(4) The terms and conditions of the conversion.

(5) The manner and basis for converting the interests in the converting entity into ownership interests, obligations, or securities of the surviving entity or into cash or other property or any combination thereof.

(b) The plan of conversion may contain other provisions relating to the conversion.

(c) The provisions of the plan of conversion, other than the provisions required by subdivisions (1) and (2) of subsection (a) of this section, may be made dependent on facts objectively ascertainable outside the plan of conversion if the plan of conversion provides the manner in which the facts will operate on the affected provisions. The facts may include, for example, any of the following:

(1) Statistical or market indices, market prices of any security or group of securities, interest rates, currency exchange rates, or similar economic or financial data.

(2) A determination or action by the converting entity or by any other person, group, or body.

(3) The terms of, or actions taken under, an agreement to which the converting entity is a party or any other agreement or document.

(d) The plan of conversion must be approved in accordance with the law governing the organization and internal affairs of the converting entity immediately before the conversion.

(e) After a plan of conversion has been approved as provided in subsection (d) of this section, but before articles of conversion become effective, the plan of conversion may be amended or abandoned to the extent permitted by the law that governs the organization and internal affairs of the converting entity.

"**§ 57D-9-22. Filing of articles of organization and conversion by the converting entity.**

(a) After a plan of conversion has been approved by the converting entity as provided in G.S. 57D-9-21, the converting entity shall deliver articles of organization and conversion to the Secretary of State for filing. The articles of organization and conversion must contain (i) the information required by G.S. 57D-2-21 and (ii) the following information:

(1) The name, type of entity, and jurisdiction whose law governs the organization and internal affairs of the converting entity immediately before the conversion.

(2) A statement that the articles of organization and conversion are being submitted for the purpose of converting the eligible entity into an LLC.

(3) The name the entity will have when the conversion becomes effective.

(4) The mailing address of the converting entity immediately before the conversion and, if different, the mailing address it will have when the conversion becomes effective.

(5) A statement that a plan of conversion has been approved by the converting entity as required by law.

(b) If the plan of conversion is abandoned after the articles of organization and conversion have been delivered to the Secretary of State but before the articles of organization and conversion become effective, the converting entity must deliver to the Secretary of State for filing prior to the time the articles of organization and conversion become effective an amendment withdrawing such articles.

(c) Certificates of conversion must be registered as provided in G.S. 47-18.1.

"**§ 57D-9-23. Effective date; effects of conversion.**

(a) The conversion takes effect when the articles of organization and conversion of the converting entity filed by the Secretary of State become effective, at which time the following shall occur:

(1) The converting entity ceases its prior form of organization and continues in existence as the surviving entity.

(2) The title to all real estate and other property owned by the converting entity continues to be vested in the surviving entity without reversion or impairment.

(3) All liabilities of the converting entity continue as liabilities of the surviving entity.

(4) A proceeding pending by or against the converting entity remains pending by or against the surviving entity as if the conversion did not occur.

(5) The equity or beneficial ownership interests in the converting entity that are to be converted into ownership interests, obligations, or securities of the surviving entity or into the right to receive cash or other property are thereupon so converted, and the former holders of equity or beneficial ownership interests in the converting entity are entitled only to the rights provided, including by reference, in the plan of conversion and the surviving entity's operating agreement.

(b) The conversion does not affect the liability or absence of liability of an equity or beneficial owner of the converting entity for any acts, omissions, or obligations of the converting entity made or incurred prior to the effectiveness of the conversion. A conversion under this Part does not constitute a dissolution or termination of the converting entity.

"**§§ 57D-9-24 through 57D-9-29: Reserved for future codification purposes.**

"Part 3. Conversion of an LLC.

"**§ 57D-9-30. Conversion.**

An LLC may convert to a different eligible entity if both of the following requirements are met:

(1) The conversion is permitted by the law that will govern the organization and internal affairs of the surviving entity.

(2) The converting LLC complies with the requirements of this Part and to the extent applicable the law that will govern the organization and internal affairs of the surviving entity.

"**§ 57D-9-31. Plan of conversion.**

(a) The converting LLC must approve a written plan of conversion containing the following:

(1) The name of the converting LLC immediately before the conversion.

(2) The name the surviving entity will have, the type of entity it will be, and the jurisdiction whose law will govern its organization and internal affairs when the conversion becomes effective.

(3) The terms and conditions of the conversion.

(4) The manner and basis for converting the ownership interests in the converting LLC into interests, obligations, or securities of the surviving entity or into cash or other property or any combination thereof.

(b) The plan of conversion may contain other provisions pertaining to the conversion.

(c) The provisions of the plan of conversion, other than the provisions required by subdivisions (1) and (2) of subsection (a) of this section, may be made dependent on facts objectively ascertainable outside the plan of conversion if the plan of conversion provides the manner in which the facts will operate on the affected provisions. The facts may include, for example, any of the following:

(1) Statistical or market indices, market prices of any security or group of securities, interest rates, currency exchange rates, or similar economic or financial data.

(2) A determination or action by the converting LLC or by any other person, group, or body.

(3) The terms of, or actions taken under, an agreement to which the converting LLC is a party or any other agreement or document.

(d) The converting LLC shall provide a copy of the plan of conversion to each member of the converting LLC prior to its approval. Under G.S. 57D-3-03(5), all of the members of the converting LLC must approve the plan of conversion. In addition, any economic interest owner of the converting LLC who because of the conversion will become personally liable upon the conversion for liabilities of the surviving entity, whether arising before or after the conversion, must approve the plan of conversion.

(e) After a plan of conversion has been approved by the converting LLC as provided in subsection (d) of this section, but before the articles of conversion become effective, the plan of conversion may be amended or abandoned as follows:

(1) The plan of conversion may be amended as provided in the plan of conversion or, if not so provided, as approved by the converting LLC in the manner provided in subsection (d) of this section.

(2) The plan of conversion may be abandoned, subject to any contractual rights, as provided in the plan of conversion or if not so provided as approved by the converting LLC in the manner provided in subsection (d) of this section.

"**§ 57D-9-32. Articles of conversion.**

(a) After a plan of conversion has been approved by the converting LLC as provided in G.S. 57D-9-31, the converting LLC shall deliver articles of conversion to the Secretary of State for filing. The articles of conversion must contain the following information:

(1) The name of the converting LLC immediately before the conversion.

(2) The name the surviving entity will have, the type of entity it will be, and the jurisdiction whose law will govern its organization and internal affairs upon the conversion becoming effective.

(3) The mailing address of the converting LLC immediately before the conversion and, if different, the mailing address the surviving entity will have when the conversion becomes effective.

(4) A statement that a plan of conversion has been approved by the converting LLC as required by law.

(5) If the surviving entity is not authorized to transact business in this State, a statement that the surviving entity (i) consents to service of process in any proceeding based on any cause of action arising in respect of the converting LLC being made on the surviving entity by service on the Secretary of State and (ii) commits to deliver to the Secretary of State for filing a statement of any change in the surviving entity's mailing address to which the Secretary of State may mail a copy of process served on the Secretary of State.

(b) If the converting LLC is converting to an eligible entity whose formation, or whose status as a registered limited liability partnership as defined in G.S. 59-32, requires the filing of a document by the Secretary of State, then notwithstanding subsection (a) of this section, that document must be delivered to and filed by the Secretary of State with the articles of conversion.

(c) If the plan of conversion is abandoned after the articles of conversion have been filed by the Secretary of State, but before the articles of conversion become effective, the converting LLC must deliver to the Secretary of State for filing prior to the time the articles of conversion become effective an amendment of the articles of conversion withdrawing the articles of conversion.

(d) The conversion takes effect in accordance with the law that will govern the organization and internal affairs of the surviving entity.

(e) Certificates of conversion must be registered as provided in G.S. 47-18.1.

"**§ 57D-9-33. Effects of conversion.**

(a) When the conversion takes effect, the following shall occur:

(1) The converting LLC ceases its prior form of organization and continues in existence as the surviving entity.

(2) The title to all real estate and other property owned by the converting LLC continues to be vested in the surviving entity without reversion or impairment.

(3) All liabilities of the converting LLC continue as liabilities of the surviving entity.

(4) A proceeding pending by or against the converting LLC remains pending by or against the surviving entity as if the conversion did not occur.

(5) The ownership interests in the converting LLC that are to be converted into equity or beneficial ownership interests, obligations, or securities of the surviving entity or into the right to receive cash or other property are thereupon so converted, and the former holders of ownership interests in the converting LLC are entitled only to the rights provided, including by reference, in the plan of conversion.

(b) The conversion does not affect the liability or absence of liability of any interest owner of the converting LLC for any acts, omissions, or obligations of the converting LLC made or incurred prior to the effectiveness of the conversion. A conversion under this Part does not constitute a dissolution or termination of the converting LLC.

(c) If the surviving entity is not a domestic corporation or a domestic limited partnership at the time the conversion takes effect, the surviving entity is deemed to consent to each of the following:

(1) That it may be served with process in this State in any proceeding to enforce any obligation of (i) the converting LLC, if before the conversion the converting LLC was subject to suit in this State on the obligation or (ii) the surviving entity arising from the conversion.

(2) That it has appointed the Secretary of State as its agent for service of process in any such proceeding. Service of process on the Secretary of State must be made by delivering to the Secretary of State or to any clerk authorized by the Secretary of State to accept service of process duplicate copies of the process and the fee required by G.S. 57D-1-22(b). Upon receipt of service of process on behalf of a surviving entity in the manner provided for in this section, the Secretary of State shall immediately mail a copy of the process by registered or certified mail, return receipt requested, to the surviving entity. If the surviving entity is authorized to transact business in this State, the address for mailing will be its principal office designated in the latest document filed by the Secretary of State that is authorized by law to designate the principal office or, if there is no principal office on file, its registered office. If the

surviving entity is not authorized to transact business in this State, the address for mailing will be the mailing address of the surviving entity provided under G.S. 57D-9-32(a)(3).

"**§§ 57D-9-34 through 57D-9-29: Reserved for future codification purposes.**

"Part 4. Merger.

"**§ 57D-9-40. Merger.**

An LLC may merge with one or more other eligible entities if both of the following requirements are met:

(1) The merger is permitted by the law governing the organization and internal affairs of each other merging entity.

(2) Each merging entity complies with the requirements of this Part and to the extent applicable the law other than this Part governing the organization and internal affairs of each merging entity.

"**§ 57D-9-41. Plan of merger.**

(a) Each merging entity must approve a written plan of merger containing the following:

(1) The name, type of entity, and jurisdiction whose law governs the organization and internal affairs of each merging entity immediately before the merger.

(2) The name of the surviving entity.

(3) The terms and conditions of the merger.

(4) The manner and basis for converting the interests in each merging entity into interests, obligations, or securities of the surviving entity or into cash or other property or any combination thereof.

(5) If the surviving entity is an LLC, any amendments to its articles of organization that are to be made in connection with the merger.

(b) The plan of merger may contain other provisions pertaining to the merger.

(c) The provisions of the plan of merger, other than the provisions referred to in subdivisions (1), (2), and (5) of subsection (a) of this section, may be made dependent on facts objectively ascertainable outside the plan of merger if the plan of merger provides the manner in which the facts will operate on the affected provisions. The facts may include, for example, any of the following:

(1) Statistical or market indices, market prices of any security or group of securities, interest rates, currency exchange rates, or similar economic or financial data.

(2) A determination or action by the merging LLC or by any other person, group, or body.

(3) The terms of or actions taken under an agreement to which the merging LLC is a party, or any other agreement or document.

(d) A merging LLC shall provide a copy of the plan of merger to each member of the merging LLC prior to its approval. Under G.S. 57D-3-03(6), all of the members of the merging LLC must approve the plan of merger. In addition, any economic interest owner of the merging LLC who because of the merger will become personally liable upon the merger for liabilities of the merging LLC, any other merging entity, or the surviving entity, whether arising before or after the merger, must approve the plan of merger.

(e) The plan of merger must be approved in accordance with the law governing the organization and internal affairs of each merging entity.

(f) After a plan of merger has been approved, but before the articles of merger become effective, the plan of merger may be amended or abandoned as follows:

(1) The plan of merger may be amended as provided in the plan of merger or if not so provided in the manner provided in subsections (d) and (e) of this section.

(2) The plan of merger may be abandoned, subject to any contractual rights, as provided in the plan of merger or if not so provided in the manner provided in subsections (d) and (e) of this section.

"**§ 57D-9-42. Articles of merger.**

(a) After a plan of merger has been approved by each merging entity as provided in G.S. 57D-9-41, the surviving entity shall deliver articles of merger to the Secretary of State for filing. The articles of merger shall state the following:

(1) The name, type of entity, and jurisdiction whose law governs the organization and internal affairs of each merging entity immediately before the merger.

(2) The name of the surviving entity.

(3) The mailing address of each merging entity immediately before the merger and the mailing address the surviving entity will have when the merger becomes effective.

(4) If the surviving entity is an LLC, any amendment to its articles of organization as provided in the plan of merger.

(5) A statement that the plan of merger has been approved by each merging entity in the manner required by law.

(6) If the surviving entity is not authorized to transact business in this State, a statement that the surviving entity (i) consents to service of process in any proceeding based on any cause of action arising in respect of a merging LLC being made on the surviving entity by service on the Secretary of State and (ii) commits to deliver to the Secretary of State for filing a statement of any change in the surviving entity's mailing address to which the Secretary of State may mail a copy of process served on the Secretary of State.

(b) If the plan of merger is amended after the articles of merger have been filed, but before the articles of merger become effective, and any statement in the articles of merger becomes incorrect as a result of the amendment, the surviving entity shall deliver to the Secretary of State for filing prior to the time the articles of merger become effective an amendment to the articles of merger correcting the incorrect statement. If the articles of merger are abandoned after the articles of merger are filed but before the articles of merger become effective, the surviving entity shall deliver to the Secretary of State for filing prior to the time the articles of merger become effective an amendment to the articles of merger stating that they have been abandoned.

(c) A merger takes effect when the articles of merger become effective, which in the case of a merging LLC is when the articles of merger filed by the Secretary of State become effective.

(d) Certificates of merger must be registered as provided in G.S. 47-18.1.

"**§ 57D-9-43. Effects of merger.**

(a) When the merger takes effect, the following shall occur:

(1) Each merging entity other than the surviving entity merges into the surviving entity, and the separate existence of each merging entity other than the surviving entity ceases.

(2) The title to all real estate and other property owned by each merging entity is vested in the surviving entity without reversion or impairment.

(3) The surviving entity has all liabilities of each merging entity.

(4) A proceeding pending by or against any merging entity remains pending by or against such merging entity as if the merger did not occur, or the surviving entity may be substituted in the proceeding for a merging entity whose separate existence ceases in the merger.

(5) If an LLC is the surviving entity, its articles of organization will be amended to the extent provided in the articles of merger.

(6) The equity or beneficial ownership interests in, and the obligations and securities of, each merging entity that are to be converted into interests, obligations, or securities of the surviving entity or into the right to receive cash or other property are thereupon so converted, and the former holders of the equity and beneficial ownership interests are entitled only to the rights provided to them in the plan of merger or, in the case of former holders of shares in a domestic corporation, any rights they may have under Article 13 of Chapter 55 of the General Statutes.

(7) If the surviving entity is not a domestic corporation, the surviving entity is deemed to agree that it will promptly pay to the dissenting shareholders of any merging entity that is a domestic corporation the amount, if any, to which they are entitled under Article 13 of Chapter 55 of the General Statutes and otherwise to comply with the requirements of Article 13 of Chapter 55 of the General Statutes as if it were a domestic corporation.

(b) The merger does not affect the liability or absence of liability of any holder of an interest in a merging entity for any acts, omissions, or obligations of any merging entity made or incurred prior to the effectiveness of the merger. The cessation of the separate existence of a merging entity in the merger does not constitute a dissolution or termination of the merging entity.

(c) If the surviving entity is not a domestic eligible entity when the merger takes effect, the surviving entity is deemed to consent to each of the following:

(1) That it may be served with process in this State in any proceeding to enforce (i) any obligation of a domestic merging entity if before the merger the domestic merging entity was subject to suit in this State on the obligation, (ii) the rights of dissenting shareholders of any merging domestic corporation under Article 13 of Chapter 55 of the General Statutes, and (iii) any obligation of the surviving entity arising from the merger.

(2) That it has appointed the Secretary of State as its agent for service of process in any such proceeding. Service of process on the Secretary of State is made by delivering to the Secretary of State or to any clerk authorized by the Secretary of State to accept service of process duplicate copies of such process and the fee required by G.S. 57D-1-22(b). Upon receipt of service of process on behalf of a surviving entity in the manner provided for in this section, the Secretary of State shall immediately mail a copy of the process by registered or certified mail, return receipt requested, to the surviving entity. If the surviving entity is authorized to transact business in this State, the address for mailing will be its principal office designated in the latest document filed by the Secretary of State that is authorized by law to designate the principal office or, if there is no principal office on file, its registered office. If the surviving entity is not authorized to transact business in this State, the address for mailing will be the mailing address of the surviving entity provided under G.S. 57D-9-42(a).

"**§§ 57D-9-44 through 57D-9-49: Reserved for future codification purposes.**

"Article 10.

"Miscellaneous.

"**§ 57D-10-01. Purpose; public policy.**

(a) This Chapter is to be applied to promote its purposes and policies.

(b) The purpose of this Chapter is to provide a flexible framework under which one or more persons may organize and manage one or more businesses as they determine to be appropriate with minimum prescribed formalities or constraints.

(c) It is the policy of this Chapter to give the maximum effect to the principle of freedom of contract and the enforceability of operating agreements.

"**§ 57D-10-02. Rules of construction; coordination with other law.**

(a) Unless displaced by this Chapter, the rules of law and equity supplement this Chapter.

(b) The rule that statutes in derogation of the common law are to be strictly construed does not apply to this Chapter.

(c) This Chapter modifies, limits, and supersedes the federal Electronic Signatures in Global and National Commerce Act, 15 U.S.C. § 7001 et seq., but does not modify, limit, or supersede section 101(c) of that act, 15 U.S.C. § 7001(c), or authorize electronic delivery of any of the notices described in section 103(b) of that act, 15 U.S.C. § 7003(b).

(d) G.S. 25-9-406 and G.S. 25-9-408 do not apply to any ownership interest or any portion thereof, including any economic interest. To the extent of any conflict or inconsistency between this subsection and G.S. 25-9-406 and G.S. 25-9-408, this subsection prevails. Accordingly, neither G.S. 25-9-406 nor G.S. 25-9-408 will render invalid, unenforceable, or ineffective any contrary or inconsistent provision contained in an operating agreement.

(e) In this Chapter, unless otherwise specified or indicated by the context, including as may otherwise be provided in the operating agreement under Part 3 of Article 2 of this Chapter, without the need for repetitious use of qualifiers, further statement, or clarification in the text of any provision of this Chapter, the following rules of construction shall apply:

(1) The provisions of this Chapter are to be applied in a manner that is reasonable under the circumstances.

(2) References to "members," "interest owners," "managers," "company officials," "operating agreement," "articles of organization," and other terms that relate to limited liability companies are deemed to refer to an LLC or foreign LLC as the context indicates.

(3) The words "this Chapter," "hereof," "hereby," "hereunder," "herein," and words of similar impact are to be read to refer to Chapter 57D of the General Statutes as a whole and not to any particular provision of this Chapter.

(4) The word "including" is to be read as if it is followed by the words "without limitation" and, therefore, denotes examples that are only illustrative and does not narrow or limit the scope of the standard, concept, or other applicable subject being described or illustrated.

(5) The words "or" and "any" are not exclusive.

(6) The captions and headings of provisions of this Chapter are for convenience of reference only and are not to be construed as part of this Chapter or serve to limit or expand the scope of the provisions.

(f) Action validly taken pursuant to one provision of this Chapter is not rendered invalid solely because it is substantively the same or similar to an action that could be taken pursuant to some other provision of this Chapter but fails to satisfy one or more requirements prescribed by that other provision.

(g) An operating agreement that provides for the application of the law of this State is governed by and will be construed under the laws of this State in accordance with its terms.

"**§§ 57D-10-04 through 57D-10-09: Reserved for future codification purposes.**

"Article 11.

"Transition Provisions.

"**§ 57D-11-01. Applicability of act.**

The provisions of this Chapter apply to every LLC, whether formed on, before, or after January 1, 2014, and the interest owners of every LLC, except to the extent expressly excepted by this Chapter.

"**§ 57D-11-02. Application to qualified foreign LLCs.**

A foreign LLC authorized to transact business in this State immediately before the repeal of Chapter 57C of the General Statutes is subject to this Chapter but is not required to obtain a

new certificate of authority to transact business under this Chapter. The certificate of authority of such a foreign LLC issued under former Chapter 57C of the General Statutes before its repeal is to be deemed to have been issued under this Chapter.

"§ **57D-11-03. Saving provisions.**

(a) The existence of LLCs formed before January 1, 2014, shall not be impaired by the repeal of Chapter 57C of the General Statutes or the enactment of this Chapter, by any change made by this Chapter in the requirements for the formation of LLCs, nor by any amendment or repeal by this Chapter of the laws under which they were formed or created, and, except as otherwise expressly provided in this Chapter, the repeal of former Chapter 57C of the General Statutes shall not affect any liability or penalty incurred under the provisions of that Chapter prior to its repeal.

(b) Any proceeding commenced before January 1, 2014, may be completed in accordance with the law then in effect.

(c) An LLC dissolved before January 1, 2014, may wind up or complete its winding up, as the case may be, pursuant to Article 6 and other applicable provisions of this Chapter.

(d) A proceeding under G.S. 57D-4-06(a) in respect of an LLC formed before January 1, 2014, will not be barred if it is commenced no later than (i) two years after the distribution or (ii) the earlier of January 1, 2016, or three years after the distribution.

(e) References in the articles of organization or operating agreement of an LLC made before January 1, 2014, to provisions of Chapter 57C of the General Statutes are to be deemed, to the extent applicable or the context does not clearly indicate otherwise, to be made to the corresponding provisions of this Chapter."

SECTION 3. G.S. 55-1-40 reads as rewritten:

"§ **55-1-40. Chapter definitions.**

In this Chapter unless otherwise specifically provided:

…

(6b) "Domestic limited liability company" has the same meaning as the term "LLC" in ~~G.S. 57C-1-03.~~G.S. 57D-1-03.

…

(10a) "Foreign limited liability company" has the same meaning as the term "foreign LLC" in ~~G.S. 57C-1-03.~~G.S. 57D-1-03.

…."

SECTION 4. G.S. 55A-1-40 reads as rewritten:

"§ **55A-1-40. Chapter definitions.**

In this Chapter unless otherwise specifically provided:

…

(8a) "Domestic limited liability company" has the same meaning as the term "LLC" in ~~G.S. 57C-1-03.~~G.S. 57D-1-03.

…

(11a) "Foreign limited liability company" has the same meaning as the term "foreign LLC" in ~~G.S. 57C-1-03.~~G.S. 57D-1-03.

…."

SECTION 5. G.S. 55A-11-02(a) reads as rewritten:

"(a) Without the prior approval of the superior court in a proceeding in which the Attorney General has been given written notice, a charitable or religious corporation may merge only ~~with:~~with any of the following:

(1) A charitable or religious ~~corporation;~~corporation.

(2) A foreign corporation that would qualify under this Chapter as a charitable or religious ~~corporation;~~corporation.

(3) A wholly owned foreign or domestic corporation (business or nonprofit) which is not a charitable or religious corporation, or an unincorporated entity, provided the charitable or religious corporation is the survivor in the

merger and continues to be a charitable or religious corporation after the ~~merger; or~~merger.

(4) A business or nonprofit corporation (foreign or domestic) other than a charitable or religious corporation, or an unincorporated entity, provided that: (i) on or prior to the effective date of the merger, assets with a value equal to the greater of the fair market value of the net tangible and intangible assets (including goodwill) of the charitable or religious corporation or the fair market value of the charitable or religious corporation if it were to be operated as a business concern are transferred or conveyed to one or more persons who would have received its assets under G.S. 55A-14-03(a)(1) and (2) had it dissolved; (ii) it shall return, transfer or convey any assets held by it upon condition requiring return, transfer or conveyance, which condition occurs by reason of the merger, in accordance with such condition; and (iii) the merger is approved by a majority of directors of the charitable or religious corporation who are not and will not become members, as "member" is defined in G.S. 55A-1-40(16) or ~~G.S. 57C-1-03,~~G.S. 57D-1-03, partners, limited partners, or shareholders in or directors, managers, officers, employees, agents, or consultants of the survivor in the merger.

…."

SECTION 6. G.S. 55D-1 reads as rewritten:

"§ **55D-1. Applicable definitions.**

The following definitions apply in this Chapter:

…

(5) "Foreign limited liability company" ~~is defined in G.S. 57C-1-03(8).~~has the same meaning as the term "foreign LLC" in G.S. 57D-1-03.

…

(10) "Limited liability company" or "domestic limited liability company" ~~is defined in G.S. 57C-1-03(11).~~has the same meaning as the term "LLC" in G.S. 57D-1-03.

…."

SECTION 7. G.S. 55D-10 reads as rewritten:

"§ **55D-10. Filing requirements.**

(a) To be entitled to filing by the Secretary of State under Chapter 55, 55A, 55B, ~~57C,~~57D, or 59 of the General Statutes, a document must satisfy the requirements of this section, and of any other section of the General Statutes that adds to or varies these requirements.

(b) The document must meet all of the following requirements:

(1) The document must be one that is required or permitted by Chapter 55, 55A, 55B, ~~57C,~~57D, or 59 of the General Statutes to be filed in the office of the Secretary of State.

(2) The document must contain the information required by Chapter 55, 55A, 55B, ~~57C,~~57D, or 59 of the General Statutes for that document. It may contain other information as well.

(3) The document must be typewritten, printed, or in an electronic form acceptable to the Secretary of State.

(4) The document must be in the English language. A name need not be in English if written in English letters or Arabic or Roman numerals, and the certificate of ~~existence~~existence or a document of similar import required of foreign corporations, foreign nonprofit corporations, foreign limited liability companies, and foreign limited liability partnerships need not be in English if accompanied by a reasonably authenticated English translation.

(5) A document submitted by an entity must be executed by a person authorized to execute documents (i) under G.S. 55-1-20 if the entity is a domestic or foreign corporation, (ii) under G.S. 55A-1-20 if the entity is a domestic or foreign nonprofit corporation, (iii) under ~~G.S. 57C-1-20~~G.S. 57D-1-20 if the entity is a domestic or foreign limited liability company, (iv) under G.S. 59-204 if the entity is a domestic or foreign limited partnership, or (v) under G.S. 59-35.1 if the entity is any other partnership as defined in G.S. 59-36 whether or not formed under the laws of the State.

…."

SECTION 8. G.S. 55D-13(c) reads as rewritten:

"(c) Except as provided in G.S. 55-2-03(b), 55A-2-03(b), and ~~57C-2-20(b),~~57D-2-20(b), the fact that a document has become effective under this section does not determine its validity or invalidity or the correctness or incorrectness of the information contained in the document."

SECTION 9. G.S. 55D-15 reads as rewritten:

"§ **55D-15. Filing duty of Secretary of State.**

(a) If a document delivered to the office of the Secretary of State for filing satisfies the requirements of this Chapter and of Chapter 55, 55A, 55B, ~~57C,~~57D, or 59 of the General Statutes, the Secretary of State shall file it. Documents filed with the Secretary of State under this Chapter may be maintained by the Secretary either in their original form or in photographic, microfilm, optical disk media, or other reproduced form. The Secretary may make reproductions of documents filed under this Chapter, or under any predecessor law, by photographic, microfilm, optical disk media, or other means of reproduction, and may destroy the originals of those documents reproduced.

…

(d) The Secretary of State's duty is to review and file documents that satisfy the requirements of this Chapter and of Chapter 55, 55A, 55B, ~~57C,~~57D, or 59 of the General Statutes. The Secretary of State's filing or refusing to file a document does not do any of the following:

(1) Except as provided in G.S. 55-2-03(b), 55A-2-03(b), or ~~57C-2-20(b),~~57D-2-20(b), affect the validity or invalidity of the document in whole or part.

(2) Relate to the correctness or incorrectness of information contained in the document.

(3) Create a presumption that the document is valid or invalid or that information contained in the document is correct or incorrect."

SECTION 10. G.S. 55D-17 reads as rewritten:

"§ **55D-17. Evidentiary effect of copy of filed document.**

A certificate attached to a copy of a document filed by the Secretary of State, bearing the Secretary of State's signature and the seal of office (both of which may be in facsimile or in any electronic form approved by the Secretary of State) and certifying that the copy is a true copy of the document, is conclusive evidence that the original document is on file with the Secretary of State. A photographic, microfilm, optical disk media, or other reproduced copy of a document filed under this Chapter, Chapter 55, 55A, 55B, ~~57C,~~57D, or 59 of the General Statutes, or any predecessor law, when certified by the Secretary, shall be considered an original for all purposes and is admissible in evidence in like manner as an original."

SECTION 11. G.S. 55D-20 reads as rewritten:

"§ **55D-20. Name requirements.**

(a) In addition to the requirements of any other applicable section of the General Statutes:

(1) The name of a corporation must contain the word "corporation", "incorporated", "company", or "limited", or the abbreviation "corp.", "inc.", "co.", or "ltd.".

(2) The name of a limited liability company must contain the words "limited liability company" or the abbreviation "L.L.C." or "LLC", or the combination "ltd. liability co.", "limited liability co.", or "ltd. liability company". Notwithstanding the prior sentence, any limited liability company whose name contained the words "low-profit limited liability company" or the abbreviation "L3C" pursuant to subdivision (6) of this subsection prior to its repeal on January 1, 2014, may continue to use that name unless the limited liability company amends its articles of organization to change its name.

(3) The name of a limited partnership that is not a limited liability limited partnership must contain the words "limited partnership", the abbreviation "L.P." or "LP", or the combination "ltd. partnership".

(4) The name of a limited liability limited partnership must contain the words "registered limited liability limited partnership" or "limited liability limited partnership" or the abbreviation "L.L.L.P.", "R.L.L.L.P.", "LLLP", or "RLLLP".

(5) A registered limited liability partnership's name must contain the words "registered limited liability partnership" or "limited liability partnership" or the abbreviation "L.L.P.", "R.L.L.P.", "LLP" or "RLLP".

~~(6) The name of a low-profit limited liability company must contain the words "low-profit limited liability company" or the abbreviation "L3C".~~

(b) In addition to the requirements of subsection (a) of this section, the name of a limited partnership shall not contain the name of a limited partner unless (i) it is also the name of a general partner or the corporate name of a corporate general partner, or (ii) the business of the limited partnership has been carried on under that name before the admission of that limited partner.

(c) The name of a corporation, nonprofit corporation, or limited liability company shall not contain language stating or implying that the entity is organized for a purpose other than that permitted by G.S. 55-3-01, 55A-3-01, or ~~57C-2-01~~57D-2-01 and by its articles of incorporation or organization.

(d) The use of assumed names or fictitious names, as provided for in Chapter 66, is not affected by this Chapter or by Chapter 55, 55A, ~~57C,~~57D, or 59 of the General Statutes.

(e) The filing of any document, the reservation or registration of any name under this Chapter or under Chapter 55, 55A, 55B, ~~57C,~~57D, or 59 of the General Statutes, or the issuance of a certificate of authority to transact business or conduct affairs or a statement of foreign registration does not authorize the use in this State of a name in violation of the rights of any third party under the federal trademark act, the trademark act of this State, or other statutory or common law, and is not a defense to an action for violation of any of those rights."

SECTION 12. G.S. 55D-21(d) reads as rewritten:

"(d) Except as otherwise provided in this subsection, the name of a corporation dissolved under Article 14 of Chapter 55 of the General Statutes, of a nonprofit corporation dissolved under Article 14 of Chapter 55A of the General Statutes, of a limited liability company dissolved under Article 6 of Chapter ~~57C~~57D of the General Statutes, of a limited partnership dissolved under Part 8 of Article 5 of Chapter 59 of the General Statutes, or of a limited liability partnership whose registration as a limited liability partnership has been cancelled under G.S. 59-84.2 or revoked under G.S. 59-84.4, may not be used by another entity until one of the following occurs:

…."

SECTION 13. G.S. 55D-22(b) reads as rewritten:

"(b) If a foreign corporation, foreign nonprofit corporation, foreign limited liability company, or foreign limited partnership authorized to transact business or conduct affairs in this State, or a foreign limited liability partnership maintaining a statement of foreign registration, changes its name to one that does not satisfy the requirements of this Article, it

may not transact business or conduct affairs in this State under the changed name until it adopts a name satisfying the requirements of this Article and obtains an amended certificate of authority or statement of foreign registration under G.S. 55-15-04, 55A-15-04, ~~57C-7-05,~~57D-7-04, 59-91, or 59-905, as applicable."

SECTION 14. G.S. 55D-31(c) reads as rewritten:

"(c) A domestic corporation, limited liability company, limited liability limited partnership, registered limited liability partnership, foreign corporation, foreign limited liability company, or foreign limited liability partnership may change its registered office or registered agent by including in its annual report required by G.S. 55-16-22, ~~57C-2-23,~~57D-2-24, 59-84.4, or 59-210 the information and any written consent required by subsection (a) of this section."

SECTION 15. G.S. 59-32 reads as rewritten:

"§ **59-32. Definition of terms.**

As used in this Chapter, except as otherwise defined in Article 5 of this Chapter for purposes of that Article, unless the context otherwise requires:

…

(4b) "Domestic limited liability company" has the same meaning as ~~in G.S. 57C-1-03.~~the term "LLC" in G.S. 57D-1-03.

…

(4f) "Foreign limited liability company" has the same meaning as ~~in G.S. 57C-1-03.~~the term "foreign LLC" in G.S. 57D-1-03.

…."

SECTION 16. G.S. 59-102 reads as rewritten:

"§ **59-102. Definitions.**

As used in this Article, unless the context otherwise requires:

…

(3b) "Domestic limited liability company" has the same meaning as ~~in G.S. 57C-1-03.~~the term "LLC" in G.S. 57D-1-03.

…

(4b) "Foreign limited liability company" has the same meaning as ~~in G.S. 57C-1-03.~~the term "foreign LLC" in G.S. 57D-1-03.

…."

SECTION 17. G.S. 66-260(11)n. reads as rewritten:

"(11) "Telephonic seller" or "seller" means a person who, directly or through salespersons, causes a telephone solicitation or attempted telephone solicitation to occur. "Telephonic seller" and "seller" do not include any of the following:

…

n. A foreign corporation, limited liability company, or limited partnership that has obtained and maintained a certificate of authority to transact business or conduct affairs in this State pursuant to Chapter 55, 55A, or ~~57C~~57D or Article 5 of Chapter 59 of the General Statutes and that only transacts business or conducts affairs in this State using the name set forth in the certificate of authority.

…."

SECTION 18. G.S. 66-352(a) reads as rewritten:

"(a) Notice of Franchise. – A person who intends to provide cable service over a cable system in an area must file a notice of franchise with the Secretary before providing the service. A person who files a notice of franchise must pay a fee in the amount set in ~~G.S. 57C-1-22~~G.S. 57D-1-22 for filing articles of organization."

SECTION 19. G.S. 66-353 reads as rewritten:

"§ **66-353. Annual service report.**

A holder of a State-issued franchise must file an annual service report with the Secretary. The report must be filed on or before July 31 of each year. The report must be accompanied by

a fee in the amount set in ~~G.S. 57C-1-22~~G.S. 57D-1-22 for filing an annual report. The report must include all of the following:

…."

SECTION 20. G.S. 87-10.1 reads as rewritten:

"§ **87-10.1. Licensing of nonresidents.**

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

(1) Delinquent income tax debt. – The amount of income tax due as stated in a final notice of assessment issued to a taxpayer by the Secretary of Revenue when the taxpayer no longer has the right to contest the amount.

(2) Foreign corporation. – Defined in G.S. 55-1-40.

(3) Foreign entity. – A foreign corporation, a foreign limited liability company, or a foreign partnership.

(4) Foreign limited liability company. – ~~Defined in G.S. 57C-1-03.~~Has the same meaning as the term "foreign LLC" in G.S. 57D-1-03.

(5) Foreign partnership. – Either of the following that does not have a permanent place of business in this State:

a. A foreign limited partnership as defined in G.S. 59-102.

b. A general partnership formed under the laws of a jurisdiction other than this State.

(b) Licensing. – The Board shall not issue a certificate of license for a foreign corporation unless the corporation has obtained a certificate of authority from the Secretary of State pursuant to Article 15 of Chapter 55 of the General Statutes. The Board shall not issue a certificate of license for a foreign limited liability company unless the company has obtained a certificate of authority from the Secretary of State pursuant to Article 7 of Chapter ~~57C~~57D of the General Statutes.

…."

SECTION 21. G.S. 87-22.2 reads as rewritten:

"§ **87-22.2. Licensing of nonresidents.**

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

(1) Delinquent income tax debt. – The amount of income tax due as stated in a final notice of assessment issued to a taxpayer by the Secretary of Revenue when the taxpayer no longer has the right to contest the amount.

(2) Foreign corporation. – Defined in G.S. 55-1-40.

(3) Foreign entity. – A foreign corporation, a foreign limited liability company, or a foreign partnership.

(4) Foreign limited liability company. – ~~Defined in G.S. 57C-1-03.~~Has the same meaning as the term "foreign LLC" in G.S. 57D-1-03.

(5) Foreign partnership. – Either of the following that does not have a permanent place of business in this State:

a. A foreign limited partnership as defined in G.S. 59-102.

b. A general partnership formed under the laws of a jurisdiction other than this State.

(b) Licensing. – The Board shall not issue a license for a foreign corporation unless the corporation has obtained a certificate of authority from the Secretary of State pursuant to Article 15 of Chapter 55 of the General Statutes. The Board shall not issue a license for a foreign limited liability company unless the company has obtained a certificate of authority from the Secretary of State pursuant to Article 7 of Chapter ~~57C~~57D of the General Statutes.

…."

SECTION 22. G.S. 87-44.2 reads as rewritten:

"§ **87-44.2. Licensing of nonresidents.**

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

(1) Delinquent income tax debt. – The amount of income tax due as stated in a final notice of assessment issued to a taxpayer by the Secretary of Revenue when the taxpayer no longer has the right to contest the amount.
(2) Foreign corporation. – Defined in G.S. 55-1-40.
(3) Foreign entity. – A foreign corporation, a foreign limited liability company, or a foreign partnership.
(4) Foreign limited liability company. – ~~Defined in G.S. 57C-1-03.~~Has the same meaning as the term "foreign LLC" in G.S. 57D-1-03.
(5) Foreign partnership. – Either of the following that does not have a permanent place of business in this State:
a. A foreign limited partnership as defined in G.S. 59-102.
b. A general partnership formed under the laws of a jurisdiction other than this State.

(b) Licensing. – The Board shall not issue a license for a foreign corporation unless the corporation has obtained a certificate of authority from the Secretary of State pursuant to Article 15 of Chapter 55 of the General Statutes. The Board shall not issue a license for a foreign limited liability company unless the company has obtained a certificate of authority from the Secretary of State pursuant to Article 7 of Chapter ~~57C~~57D of the General Statutes.

…."

SECTION 23. G.S. 89C-18.1 reads as rewritten:

"§ **89C-18.1. Licensing of nonresidents.**

(a) Definitions. – The following definitions apply in this section:
(1) Delinquent income tax debt. – The amount of income tax due as stated in a final notice of assessment issued to a taxpayer by the Secretary of Revenue when the taxpayer no longer has the right to contest the amount.
(2) Foreign corporation. – Defined in G.S. 55-1-40.
(3) Foreign entity. – A foreign corporation, a foreign limited liability company, or a foreign partnership.
(4) Foreign limited liability company. – ~~Defined in G.S. 57C-1-03.~~Has the same meaning as the term "foreign LLC" in G.S. 57D-1-03.
(5) Foreign partnership. – Either of the following that does not have a permanent place of business in this State:
a. A foreign limited partnership as defined in G.S. 59-102.
b. A general partnership formed under the laws of a jurisdiction other than this State.

(b) Licensing. – The Board shall not renew a certificate of licensure for a foreign corporation unless the corporation has obtained a certificate of authority from the Secretary of State pursuant to Article 15 of Chapter 55 of the General Statutes. The Board shall not renew a certificate of licensure for a foreign limited liability company unless the company has obtained a certificate of authority from the Secretary of State pursuant to Article 7 of Chapter ~~57C~~57D of the General Statutes.

…."

SECTION 24. G.S. 89F-6 reads as rewritten:

"§ **89F-6. Corporate, limited liability company, partnership, or sole proprietorship practice of soil science.**

A corporation organized under Chapter 55B of the General Statutes, a limited liability company organized under Chapter ~~57C~~57D of the General Statutes, a partnership, or a sole proprietorship may engage in the practice of soil science in this State. A licensed soil scientist shall be in responsible charge of all practice of soil science by the corporation, limited liability company, partnership, or sole proprietorship."

SECTION 25. G.S. 105-114.1(a)(4) reads as rewritten:

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

…

(4) Governing law. – ~~A limited liability company's governing law is determined under G.S. 57C-6-05 or G.S. 57C-7-01, as applicable.~~The law under which a limited liability company is organized.

…."

SECTION 26. G.S. 105-122.1 reads as rewritten:

"§ **105-122.1. Credit for additional annual report fees paid by limited liability companies subject to franchise tax.**

A limited liability company subject to tax under this Article is allowed a credit against the tax imposed by this Article equal to the difference between the annual report fee for corporations under G.S. 55-1-22(a)(23) and the annual report fee for limited liability companies under ~~G.S. 57C-1-22(a).~~G.S. 57D-1-22. The credit allowed by this section may not exceed the amount of tax imposed by this Article for the taxable year reduced by the sum of all credits allowed, except payments of tax made by or on behalf of the taxpayer."

SECTION 27. G.S. 105-130.2(11) reads as rewritten:

"(11) Limited liability company. – Either a domestic limited liability company organized under Chapter ~~57C~~57D of the General Statutes or a foreign limited liability company authorized by that Chapter to transact business in this State that is classified for federal income tax purposes as a corporation. As applied to a limited liability company that is a corporation under this Part, the term "shareholder" means a member of the limited liability company and the term "corporate officer" means a member or manager of the limited liability company."

SECTION 28. G.S. 105-134.1(7a) reads as rewritten:

"(7a) Limited liability company. – Either a domestic limited liability company organized under Chapter ~~57C~~57D of the General Statutes or a foreign limited liability company authorized by that Chapter to transact business in this State that is classified for federal income tax purposes as a partnership. As applied to a limited liability company that is a partnership under this Part, the term "partner" means a member of the limited liability company."

SECTION 29. G.S. 105-163.1(8) reads as rewritten:

"(8) Nonresident entity. – Any of the following:

a. A foreign limited liability company, ~~as defined in G.S. 57C-1-03,~~defined using the same definition for the term "foreign LLC" in G.S. 57D-1-03, that has not obtained a certificate of authority from the Secretary of State pursuant to Article 7 of Chapter ~~57C~~57D of the General Statutes.

b. A foreign limited partnership as defined in G.S. 59-102 or a general partnership formed under the laws of any jurisdiction other than this State, unless the partnership maintains a permanent place of business in this State.

c. A foreign corporation, as defined in G.S. 55-1-40, that has not obtained a certificate of authority from the Secretary of State pursuant to Article 15 of Chapter 55 of the General Statutes."

SECTION 30. G.S. 117-18.1(a)(4) reads as rewritten:

"(a) Electric membership corporations may form, organize, acquire, hold, dispose of, and operate any interest up to and including full controlling interest in separate business entities that provide energy services and products, telecommunications services and products, water, and wastewater collection and treatment, so long as those other business entities meet all of the following conditions:

…

(4) They are organized and operated pursuant to Chapter 55 or Chapter ~~57C~~57D of the General Statutes.

…."

SECTION 31. G.S. 25-9-406(i) reads as rewritten:

"(i) Inapplicability. – This section does not apply to an assignment of a health-care-insurance ~~receivable.~~receivable or an interest in a partnership or limited liability company. Subsection (f) of this section does not apply to an assignment or transfer of, or the creation, attachment, perfection, or enforcement of a security interest in, a right the transfer of which is prohibited or restricted by any of the following statutes to the extent that the statute is inconsistent with subsection (f) of this section:

(1) North Carolina Structured Settlement Act (Article 44B of Chapter 1 of the General Statutes).
(2) North Carolina Crime Victims Compensation Act (Chapter 15B of the General Statutes).
(3) North Carolina Consumer Finance Act (Article 15 of Chapter 53 of the General Statutes).
(4) North Carolina Firemen's and Rescue Squad Workers' Pension Fund (Article 86 of Chapter 58 of the General Statutes).
(5) Employment Security Law (Chapter 96 of the General Statutes).
(6) North Carolina Workers' Compensation Fund Act (Article 1 of Chapter 97 of the General Statutes).
(7) Programs of Public Assistance (Article 2 of Chapter 108A of the General Statutes).
(8) North Carolina State Lottery Act (Chapter 18C of the General Statutes)."

SECTION 32. G.S. 25-9-408(f) reads as rewritten:

"(f) Inapplicability. – This section does not apply to an assignment of an interest in a partnership or limited liability company. Subsection (c) of this section does not apply to an assignment or transfer of, or the creation, attachment, perfection, or enforcement of a security interest in, a right the transfer of which is prohibited or restricted by any of the following statutes to the extent that the statute is inconsistent with subsection (c) of this section:

(1) North Carolina Structured Settlement Act (Article 44B of Chapter 1 of the General Statutes).
(2) North Carolina Crime Victims Compensation Act (Chapter 15B of the General Statutes).
(3) North Carolina Consumer Finance Act (Article 15 of Chapter 53 of the General Statutes).
(4) North Carolina Firemen's and Rescue Squad Workers' Pension Fund (Article 86 of Chapter 58 of the General Statutes).
(5) Employment Security Law (Chapter 96 of the General Statutes).
(6) North Carolina Workers' Compensation Fund Act (Article 1 of Chapter 97 of the General Statutes).
(7) Programs of Public Assistance (Article 2 of Chapter 108A of the General Statutes).
(8) North Carolina State Lottery Act (Chapter 18C of the General Statutes)."

SECTION 33. The Revisor of Statutes may cause to be printed all relevant portions of the explanatory comments of the drafters of this act as the Revisor deems appropriate.

SECTION 34. Except as otherwise provided, this act becomes effective January 1, 2014.

In the General Assembly read three times and ratified this the 13th day of June, 2013.

Became law upon approval of the Governor at 4:27 p.m. on the 19th day of June, 2013.

Session Law 2013-158 **S.B. 443**

AN ACT TO PROVIDE FOR THE DISPOSITION OF FIREARMS BY LAW ENFORCEMENT AGENCIES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 15-11.1(b1) reads as rewritten:

"(b1) Notwithstanding subsections (a) and (b) of this section or any other provision of law, if the property seized is a firearm and the district attorney determines the firearm is no longer necessary or useful as evidence in a criminal trial, the district attorney, after notice to all parties known or believed by the district attorney to have an ownership or a possessory interest in the firearm, including the defendant, shall apply to the court for an order of disposition of the firearm. The judge, after hearing, may order the disposition of the firearm in one of the following ways:

…

(3) By ordering the firearm turned over to be destroyed by the sheriff of the county in which the firearm was seized or by his duly authorized ~~agent.~~ agent if the firearm does not have a legible, unique identification number or is unsafe for use because of wear, damage, age, or modification. The sheriff shall maintain a record of the destruction of the firearm.

…

This subsection (b1) is not applicable to seizures pursuant to G.S. 113-137 of firearms used only in connection with a violation of Article 22 of Chapter 113 of the General Statutes or any local wildlife hunting ordinance."

SECTION 2. G.S. 15-11.2 reads as rewritten:

"§ **15-11.2. Disposition of unclaimed firearms not confiscated or seized as trial evidence.**

(a) Definition. – For purposes of this section, the term "unclaimed firearm" means a firearm that is found or received by a law enforcement agency and that remains unclaimed by the person who may be entitled to it for a period of 30 days after the publication of the notice required by subsection (b) of this section. The term does not include a firearm that is seized and disposed of pursuant to G.S. 15-11.1 or a firearm that is confiscated and disposed of pursuant to G.S. 14-269.1.

(b) Published Notice of Unclaimed Firearm. – When a law enforcement agency finds or receives a firearm and the firearm remains unclaimed for a period of 180 days, the agency shall publish at least one notice in a newspaper published in the county in which the agency is located. The notice shall include all of the following:

(1) A statement that the firearm is unclaimed and is in the custody of the law enforcement agency.

(2) A statement that the firearm may be sold or otherwise disposed of unless the firearm is claimed within 30 days of the date of the publication of the notice.

(3) A brief description of the firearm and any other information that the chief or head of the law enforcement agency may consider necessary or advisable to reasonably inform the public about the firearm.

~~(c) If the firearm remains unclaimed for a period of 30 days after the publication of the notice, then the person who found the firearm and turned it over to the law enforcement agency may claim the firearm provided the person satisfies the custodial law enforcement agency holding the firearm that the person is qualified under State and federal law to possess the firearm and also presents a pistol permit issued in accordance with Article 52A of Chapter 14 of the General Statutes.~~

(d) If the firearm remains unclaimed for a period of 30 days after the publication of the ~~notice and the person who found the firearm does not claim it as provided by subsection (c) of this section,~~ notice, then the head or chief of the law enforcement agency ~~may apply to the~~

~~appropriate district court for an order of disposition of the unclaimed firearm. The application shall be written.~~

~~(e) Disposition of Firearm. – The judge, after hearing, may order the disposition~~ shall order the disposition of the firearm in one of the following ways:

(1) By ~~ordering the firearm turned over to be~~ having the firearm destroyed if the firearm does not have a legible, unique identification number or is unsafe for use because of wear, damage, age, or modification and will not be disposed of pursuant to subdivision (3) of this subsection. The head or chief of the law enforcement agency shall ~~destroyed by the sheriff of the county in which the law enforcement agency applying for the order of disposition is located or by the sheriff's duly authorized agent. The sheriff shall~~ maintain a record of the destruction of the firearm.

(2) By ~~ordering the firearm turned over to the law enforcement agency applying for the disposition of the firearm for (i) the official use of the agency or (ii)~~ sale, trade, or exchange by the agency to a federally licensed firearm dealer in accordance with all applicable State and federal firearm ~~laws.~~ laws or by sale of the firearm at a public auction to persons licensed as firearms collectors, dealers, importers, or manufacturers. The ~~court may order a disposition~~ head or chief of the law enforcement agency shall dispose of the firearm pursuant to this ~~subsection~~ subdivision only if the firearm has a legible, unique identification number.

(3) By maintaining the firearm for training or experimental purposes or transferring the firearm to a museum or historical society.

(f) Disbursement of Proceeds of Sale. – If the law enforcement agency sells the ~~firearm,~~ firearm pursuant to subdivision (2) of subsection (e) of this section, then the proceeds of the sale shall be retained by the law enforcement agency and used for law enforcement purposes. The receiving law enforcement agency shall maintain a record and inventory of all firearms received pursuant to this ~~section.~~section, as well as the disposition of the firearm, including any funds received from a sale of a firearm or any firearms or other property received in exchange or trade of a firearm."

SECTION 3. G.S. 14-269.1(4) reads as rewritten:

"(4) By ordering such weapon turned over to the sheriff of the county in which the trial is held or his duly authorized agent to be ~~destroyed.~~ destroyed if the firearm does not have a legible, unique identification number or is unsafe for use because of wear, damage, age, or modification. The sheriff shall maintain a record of the destruction thereof."

SECTION 4. This act becomes effective September 1, 2013, and applies to any firearm found or received by a local law enforcement agency on or after that date and to any judicial order for the disposition of any firearm on or after that date.

In the General Assembly read three times and ratified this the 13th day of June, 2013.

Became law upon approval of the Governor at 4:27 p.m. on the 19th day of June, 2013.

Session Law 2013-159 **S.B. 452**

AN ACT TO INCREASE THE JURISDICTIONAL AMOUNTS IN THE GENERAL COURT OF JUSTICE, TO MAKE ARBITRATION MANDATORY IN CERTAIN CIVIL CASES, AND TO PROVIDE GUIDANCE TO THE COURT FOR THE ASSESSMENT OF COURT COSTS AND ATTORNEYS' FEES IN SMALL CLAIMS MATTERS WHEN AN ARBITRATOR'S DECISION IN FAVOR OF THE APPELLEE IS AFFIRMED ON APPEAL.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 7A-210 reads as rewritten:

"§ **7A-210. Small claim action defined.**

For purposes of this Article a small claim action is a civil action wherein:

(1) The amount in controversy, computed in accordance with G.S. 7A-243, does not exceed ~~five thousand dollars ($5,000);~~ten thousand dollars ($10,000); and

(2) The only principal relief prayed is monetary, or the recovery of specific personal property, or summary ejectment, or any combination of the foregoing in properly joined claims; and

(3) The plaintiff has requested assignment to a magistrate in the manner provided in this Article.

The seeking of the ancillary remedy of claim and delivery or an order from the clerk of superior court for the relinquishment of property subject to a lien pursuant to G.S 44A-4(a) does not prevent an action otherwise qualifying as a small claim under this Article from so qualifying."

SECTION 2. G.S. 7A-243 reads as rewritten:

"§ **7A-243. Proper division for trial of civil actions generally determined by amount in controversy.**

Except as otherwise provided in this Article, the district court division is the proper division for the trial of all civil actions in which the amount in controversy is ~~ten thousand dollars ($10,000)~~twenty-five thousand dollars ($25,000) or less; and the superior court division is the proper division for the trial of all civil actions in which the amount in controversy exceeds ~~ten thousand dollars ($10,000).~~twenty-five thousand dollars ($25,000).

For purposes of determining the amount in controversy, the following rules apply whether the relief prayed is monetary or nonmonetary, or both, and with respect to claims asserted by complaint, counterclaim, cross-complaint or third-party complaint:

(1) The amount in controversy is computed without regard to interest and costs.

(2) Where monetary relief is prayed, the amount prayed for is in controversy unless the pleading in question shows to a legal certainty that the amount claimed cannot be recovered under the applicable measure of damages. The value of any property seized in attachment, claim and delivery, or other ancillary proceeding, is not in controversy and is not considered in determining the amount in controversy.

(3) Where no monetary relief is sought, but the relief sought would establish, enforce, or avoid an obligation, right or title, the value of the obligation, right, or title is in controversy. Where the owner or legal possessor of property seeks recovery of property on which a lien is asserted pursuant to G.S. 44A-4(a) the amount in controversy is that portion of the asserted lien which is disputed. The judge may require by rule or order that parties make a good faith estimate of the value of any nonmonetary relief sought.

(4) a. Except as provided in subparagraph c of this subdivision, where a single party asserts two or more properly joined claims, the claims are aggregated in computing the amount in controversy.

b. Except as provided in subparagraph c, where there are two or more parties properly joined in an action and their interests are aligned, their claims are aggregated in computing the amount in controversy.

c. No claims are aggregated which are mutually exclusive and in the alternative, or which are successive, in the sense that satisfaction of one claim will bar recovery upon the other.

d. Where there are two or more claims not subject to aggregation the highest claim is the amount in controversy.

(5) Where the value of the relief to a claimant differs from the cost thereof to an opposing party, the higher amount is used in determining the amount in controversy."

SECTION 3. G.S. 7A-37.1 reads as rewritten:

"§ **7A-37.1. Statewide court-ordered, nonbinding arbitration in certain civil actions.**

(a) The General Assembly finds that court-ordered, nonbinding arbitration may be a more economical, efficient and satisfactory procedure to resolve certain civil actions than by traditional civil litigation and therefore authorizes court-ordered nonbinding arbitration as an alternative civil procedure, subject to these provisions.

(b) The Supreme Court of North Carolina may adopt rules governing this procedure and may supervise its implementation and operation through the Administrative Office of the Courts. These rules shall ensure that no party is deprived of the right to jury trial and that any party dissatisfied with an arbitration award may have trial de novo.

(c) ~~This~~ Except as otherwise provided in rules promulgated by the Supreme Court of North Carolina pursuant to subsection (b) of this section, this procedure ~~may~~shall be employed in all civil actions where claims do not exceed ~~fifteen thousand dollars ($15,000), except that it shall not be employed in actions in which the sole claim is an action on an account, including appeals from magistrates on such actions.~~twenty-five thousand dollars ($25,000), unless all parties to the action waive arbitration under this section.

(c1) ~~In~~Except as provided in subsection (c2) of this section, in cases referred to nonbinding arbitration as provided in this section, a fee of one hundred dollars ($100.00) shall be assessed per arbitration, to be divided equally among the parties, to cover the cost of providing arbitrators. Fees assessed under this section shall be paid to the clerk of superior court in the county where the case was filed and remitted by the clerk to the State Treasurer.

(c2) In appeals in small claims actions under Article 19 of Chapter 7A of the General Statutes, if (i) the arbitrator finds in favor of the appellee, (ii) the arbitrator's decision is appealed for trial de novo under G.S. 7A-229, and (iii) the arbitrator's decision is affirmed on appeal, then the court shall consider the fact that the arbitrator's decision was affirmed as a significant factor in favor of assessing all court costs and attorneys' fees associated with the case in both the original action and the two appeals, including the arbitration fee assessed under subsection (c1) of this section, against the appellant.

(d) This procedure may be implemented in a judicial district, in selected counties within a district, or in any court within a district, if the Director of the Administrative Office of the Courts, and the cognizant Senior Resident Superior Court Judge or the Chief District Court Judge of any court selected for this procedure, determine that use of this procedure may assist in the administration of justice toward achieving objectives stated in subsection (a) of this section in a judicial district, county, or court. The Director of the Administrative Office of the Courts, acting upon the recommendation of the cognizant Senior Resident Superior Court Judge or Chief District Court Judge of any court selected for this procedure, may terminate this procedure in any judicial district, county, or court upon a determination that its use has not accomplished objectives stated in subsection (a) of this section.

(e) Arbitrators in this procedure shall have the same immunity as judges from civil liability for their official conduct."

SECTION 4. Notwithstanding the provisions of G.S. 7A-243 as amended by this act, from August 1, 2013, until June 30, 2015, either the district court or the superior court is the proper division for trial of civil actions in which the amount in controversy is between ten thousand dollars ($10,000) and twenty-five thousand dollars ($25,000).

SECTION 5. G.S. 6-21.1(a) reads as rewritten:

"(a) In any personal injury or property damage suit, or suit against an insurance company under a policy issued by the defendant insurance company in which the insured or beneficiary is the plaintiff, instituted in a court of record, upon findings by the court (i) that there was an unwarranted refusal by the defendant to negotiate or pay the claim which constitutes the basis of such suit, (ii) that the amount of damages recovered is ~~twenty thousand dollars ($20,000)~~

twenty-five thousand dollars ($25,000) or less, and (iii) that the amount of damages recovered exceeded the highest offer made by the defendant no later than 90 days before the commencement of trial, the presiding judge may, in the judge's discretion, allow a reasonable attorneys' fees to the duly licensed attorneys representing the litigant obtaining a judgment for damages in said suit, said attorneys' fees to be taxed as a part of the court costs. The attorneys' fees so awarded shall not exceed ten thousand dollars ($10,000)."

SECTION 6. This act becomes effective August 1, 2013, and applies to actions filed on or after that date.

In the General Assembly read three times and ratified this the 13th day of June, 2013.

Became law upon approval of the Governor at 4:27 p.m. on the 19th day of June, 2013.

Session Law 2013-160 **S.B. 468**

AN ACT TO SPECIFY THAT WHEN APPLIANCE INSTALLERS ARE LICENSED TO PERFORM ALL ASPECTS OF AN INSTALLATION, JUST ONE PERMIT AND INSPECTION WILL BE REQUIRED.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 153A-357 reads as rewritten:

"§ **153A-357. Permits.**

(a) ~~No~~ Except as provided in subsection (a1) of this section, no person may commence or proceed with any of the following without first securing from the inspection department with jurisdiction over the site of the work each permit required by the State Building Code and any other State or local law or local ordinance or regulation applicable to the work:

(1) The construction, reconstruction, alteration, repair, movement to another site, removal, or demolition of any building.

(2) The installation, extension, or general repair of any plumbing system except that in any one- or two-family dwelling unit a permit shall not be required for the connection of a water heater that is being replaced, provided that the work is performed by a person licensed under G.S. 87-21, who personally examines the work at completion and ensures that a leak test has been performed on the gas piping, and provided the energy use rate or thermal input is not greater than that of the water heater which is being replaced, there is no change in fuel, energy source, location, capacity, or routing or sizing of venting and piping, and the replacement is installed in accordance with the current edition of the State Building Code.

(3) The installation, extension, alteration, or general repair of any heating or cooling equipment system.

(4) The installation, extension, alteration, or general repair of any electrical wiring, devices, appliances, or equipment except that in any one- or two-family dwelling unit a permit shall not be required for repair or replacement of electrical lighting fixtures or devices, such as receptacles and lighting switches, or for the connection of an existing branch circuit to an electric water heater that is being replaced, provided that all of the following requirements are met:

a. With respect to electric water heaters, the replacement water heater is placed in the same location and is of the same or less capacity and electrical rating as the original.

b. With respect to electrical lighting fixtures and devices, the replacement is with a fixture or device having the same voltage and the same or less amperage.

c. The work is performed by a person licensed under G.S. 87-43.

d. The repair or replacement installation meets the current edition of the State Building Code, including the State Electrical Code.

A permit shall be in writing and shall contain a provision that the work done shall comply with the State Building Code and all other applicable State and local laws and local ordinances and regulations. Nothing in this section shall require a county to review and approve residential building plans submitted to the county pursuant to Section R-110 of Volume VII of the North Carolina State Building Code; provided that the county may review and approve such residential building plans as it deems necessary. No permit may be issued unless the plans and specifications are identified by the name and address of the author thereof; and if the General Statutes of North Carolina require that plans for certain types of work be prepared only by a registered architect or registered engineer, no permit may be issued unless the plans and specifications bear the North Carolina seal of a registered architect or of a registered engineer. If a provision of the General Statutes of North Carolina or of any ordinance requires that work be done by a licensed specialty contractor of any kind, no permit for the work may be issued unless the work is to be performed by such a duly licensed contractor. No permit issued under Articles 9 or 9C of G.S. Chapter 143 shall be required for any construction, installation, repair, replacement, or alteration costing five thousand dollars ($5,000) or less in any single-family residence or farm building unless the work involves: the addition, repair or replacement of load bearing structures; the addition (excluding replacement of same size and capacity) or change in the design of plumbing; the addition, replacement or change in the design of heating, air conditioning, or electrical wiring, devices, appliances, or equipment; the use of materials not permitted by the North Carolina Uniform Residential Building Code; or the addition (excluding replacement of like grade of fire resistance) of roofing. Violation of this section constitutes a Class 1 misdemeanor.

(a1) A county shall not require more than one permit for the complete installation or replacement of any natural gas, propane gas, or electrical appliance on an existing structure when the installation or replacement is performed by a person licensed under G.S. 87-21 or G.S. 87-43. The cost of the permit for such work shall not exceed the cost of any one individual trade permit issued by that county, nor shall the county increase the costs of any fees to offset the loss of revenue caused by this provision.

…."

SECTION 2. G.S. 160A-417 reads as rewritten:

"§ **160A-417. Permits.**

(a) ~~No~~ Except as provided in subsection (a1) of this section, no person shall commence or proceed with any of the following without first securing from the inspection department with jurisdiction over the site of the work any and all permits required by the State Building Code and any other State or local laws applicable to the work:

(1) The construction, reconstruction, alteration, repair, movement to another site, removal, or demolition of any building or structure.

(2) The installation, extension, or general repair of any plumbing system except that in any one- or two-family dwelling unit a permit shall not be required for the connection of a water heater that is being replaced, provided that the work is performed by a person licensed under G.S. 87-21, who personally examines the work at completion and ensures that a leak test has been performed on the gas piping, and provided the energy use rate or thermal input is not greater than that of the water heater which is being replaced, there is no change in fuel, energy source, location, capacity, or routing or sizing of venting and piping, and the replacement is installed in accordance with the current edition of the State Building Code.

(3) The installation, extension, alteration, or general repair of any heating or cooling equipment system.

(4) The installation, extension, alteration, or general repair of any electrical wiring, devices, appliances, or equipment except that in any one- or two-family dwelling unit a permit shall not be required for repair or replacement of electrical lighting fixtures or devices, such as receptacles and lighting switches, or for the connection of an existing branch circuit to an electric water heater that is being replaced, provided that all of the following requirements are met:

a. With respect to electric water heaters, the replacement water heater is placed in the same location and is of the same or less capacity and electrical rating as the original.

b. With respect to electrical lighting fixtures and devices, the replacement is with a fixture or device having the same voltage and the same or less amperage.

c. The work is performed by a person licensed under G.S. 87-43.

d. The repair or replacement installation meets the current edition of the State Building Code, including the State Electrical Code.

A permit shall be in writing and shall contain a provision that the work done shall comply with the State Building Code and all other applicable State and local laws. Nothing in this section shall require a city to review and approve residential building plans submitted to the city pursuant to Section R-110 of Volume VII of the North Carolina State Building Code; provided that the city may review and approve such residential building plans as it deems necessary. No permits shall be issued unless the plans and specifications are identified by the name and address of the author thereof, and if the General Statutes of North Carolina require that plans for certain types of work be prepared only by a registered architect or registered engineer, no permit shall be issued unless the plans and specifications bear the North Carolina seal of a registered architect or of a registered engineer. When any provision of the General Statutes of North Carolina or of any ordinance requires that work be done by a licensed specialty contractor of any kind, no permit for the work shall be issued unless the work is to be performed by such a duly licensed contractor. No permit issued under Articles 9 or 9C of Chapter 143 shall be required for any construction, installation, repair, replacement, or alteration costing five thousand dollars ($5,000) or less in any single family residence or farm building unless the work involves: the addition, repair or replacement of load bearing structures; the addition (excluding replacement of same size and capacity) or change in the design of plumbing; the addition, replacement or change in the design of heating, air conditioning, or electrical wiring, devices, appliances, or equipment; the use of materials not permitted by the North Carolina Uniform Residential Building Code; or the addition (excluding replacement of like grade of fire resistance) of roofing. Violation of this section shall constitute a Class 1 misdemeanor.

(a1) A city shall not require more than one permit for the complete installation or replacement of any natural gas, propane gas, or electrical appliance on an existing structure when the installation or replacement is performed by a person licensed under G.S. 87-21 or G.S. 87-43. The cost of the permit for such work shall not exceed the cost of any one individual trade permit issued by that city, nor shall the city increase the costs of any fees to offset the loss of revenue caused by this provision.

…."

SECTION 3. This act becomes effective July 1, 2013.

In the General Assembly read three times and ratified this the 13th day of June, 2013.

Became law upon approval of the Governor at 4:27 p.m. on the 19th day of June, 2013.

Session Law 2013-161 **S.B. 486**

AN ACT REQUIRING HOSPITALS TO PROVIDE PARENTS OF NEWBORNS WITH EDUCATIONAL INFORMATION ABOUT PERTUSSIS DISEASE AND AVAILABLE VACCINE PROTECTIONS IN ORDER TO BETTER PROTECT NEWBORNS AGAINST PERTUSSIS DISEASE.

The General Assembly of North Carolina enacts:

SECTION 1. Article 5 of Chapter 131E of the General Statutes is amended by adding a new section to read:

"**§ 131E-79.2. Educating parents of newborns regarding pertussis disease.**

(a) Each hospital licensed under this Article shall provide to the parents of newborns delivered at the hospital free, medically accurate educational information about pertussis disease and the availability of the tetanus-diphtheria and pertussis (Tdap) vaccine to protect against pertussis disease. The hospital shall provide this educational information to parents during the postpartum period and prior to the mother's discharge from the hospital. As used in this section, "postpartum period" means the period of time between the mother's admittance to the hospital for delivery of the newborn child through the first few hours after childbirth.

(b) The educational information provided to parents pursuant to this section shall include, at a minimum, the most current recommendations of the Centers for Disease Control and Prevention's Advisory Committee on Immunization Practices regarding the use of tetanus-toxoid-diphtheria-acellular pertussis (Tdap) vaccine to reduce the burden of pertussis in infants.

(c) Nothing in this section shall be construed to require a hospital to provide or pay for any vaccination against pertussis disease."

SECTION 2. This act becomes effective October 1, 2013.

In the General Assembly read three times and ratified this the 11th day of June, 2013.

Became law upon approval of the Governor at 4:28 p.m. on the 19th day of June, 2013.

Session Law 2013-162 **S.B. 489**

AN ACT TO MODIFY THE MAXIMUM INTEREST RATE ALLOWED AND TO MAKE VARIOUS AMENDMENTS TO THE NORTH CAROLINA CONSUMER FINANCE ACT TO ENSURE CONTINUED ACCESS TO CREDIT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 53-166(a) reads as rewritten:

"(a) Scope. – No person shall engage in the business of lending in amounts of ~~ten thousand dollars ($10,000)~~fifteen thousand dollars ($15,000) or less and contract for, exact, or receive, directly or indirectly, on or in connection with any such loan, any charges whether for interest, compensation, consideration, or expense, or any other purpose whatsoever, which in the aggregate are greater than permitted by Chapter 24 of the General Statutes, except as provided in and authorized by this Article, and without first having obtained a license from the Commissioner. The word "lending" as used in this section, shall include, but shall not be limited to, endorsing or otherwise securing loans or contracts for the repayment of loans."

SECTION 2. G.S. 53-172(a) reads as rewritten:

"(a) No licensee shall conduct the business of making loans under this Article within any office, suite, room, or place of business in which any other business is solicited or transacted.

Installment paper dealers as defined in G.S. 105-83, ~~and~~ the collection by a licensee of loans legally made in North ~~Carolina,~~Carolina or another state by another government regulated lender or lending agency, and the collection by a licensee of claims of, payments to, or payments for an insurance company licensed in North Carolina and arising in any way from

a nonfiling or nonrecording insurance policy approved by the Commissioner of Insurance shall not be considered as being any other business within the meaning of this section."

SECTION 3. G.S. 53-173 reads as rewritten:

"§ **53-173. ~~Maximum rate of interest and fee; computation~~Computation of interest; application of payments; limitation on interest after judgment; limitation on interest after maturity of the loan.**

~~(a) Maximum Rate of Interest. – Every licensee under this section may make loans in installments not exceeding three thousand dollars ($3,000) in amount, at interest rates not exceeding thirty-six percent (36%) per annum on the outstanding principal balance of any loan not in excess of six hundred dollars ($600.00) and fifteen percent (15%) per annum on any remainder of such unpaid principal balance. Interest shall be contracted for and collected at the single simple interest rate applied to the outstanding balance that would earn the same amount of interest as the above rates for payment according to schedule.~~

~~(a1) Maximum Fee. – In addition to the interest authorized in subsection (a) of this section, a licensee making loans under this section may collect from the borrower a fee for processing the loan equal to five percent (5%) of the loan amount not to exceed twenty-five dollars ($25.00), provided that such charges may not be assessed more than twice in any 12-month period.~~

(b) Computation of Interest. – Interest on loans made pursuant to this section shall not be paid, deducted, or received in advance. Such interest shall not be compounded but interest on loans shall (i) be computed and paid only as a percentage of the unpaid principal balance or portion thereof and (ii) computed on the basis of the number of days actually elapsed; provided, however, if part or all of the consideration for a loan contract is the unpaid principal balance of a prior loan, then the principal amount payable under the loan contract may include any unpaid interest on the prior loan which have accrued within 90 days before the making of the new loan contract. For the purpose of computing interest, a day shall equal 1/365th of a year. ~~Any payment made on a loan shall be applied first to any accrued interest and then to principal, and any portion or all of the principal balance may be prepaid at any time without penalty.~~

(b1) Application of Payments. – Any payment made on a loan shall be applied first to late charges and other permissible charges under this Article, then to any accrued interest, and then to principal. Any portion or all of the principal balance may be prepaid at any time without penalty.

…."

SECTION 4. G.S. 53-176 reads as rewritten:

"§ **53-176. ~~Optional rates,~~Rates, maturities and amounts.**

(a) ~~In lieu of making loans in the amount and at the interest stated in G.S. 53-173 and for the terms stated in G.S. 53-180, a~~A licensee may ~~at any time elect to~~ make installment loans in ~~installments~~ aggregate amounts not exceeding ~~ten thousand dollars ($10,000)~~fifteen thousand dollars ($15,000) and which shall not be repayable in ~~less~~ fewer than ~~six~~12 months or more than ~~84~~96 months and which shall not be secured by deeds of trust or mortgages on real estate and which are repayable in substantially equal consecutive monthly payments and to charge and collect interest in connection therewith which shall not exceed the following actuarial rates:

(1) With respect to a loan not exceeding ~~seven thousand five hundred dollars ($7,500),~~ten thousand dollars ($10,000), thirty percent (30%) per annum on that part of the unpaid principal balance not exceeding ~~one thousand dollars ($1,000) and eighteen percent (18%) per annum on the remainder of the unpaid principal balance. Interest shall be contracted for and collected at the single simple interest rate applied to the outstanding balance that would earn the same amount of interest as the above rates for payment according to schedule.~~four thousand dollars ($4,000), twenty-four percent (24%) per annum on that part of the unpaid principal balance exceeding four thousand dollars ($4,000) but not exceeding eight thousand dollars ($8,000), and

eighteen percent (18%) per annum on that part of the remainder of the unpaid principal balance.

(2) With respect to a loan exceeding ~~seven thousand five hundred dollars ($7,500),~~ten thousand dollars ($10,000), eighteen percent (18%) per annum on the outstanding principal balance.

Interest shall be contracted for and collected at the single simple interest rate applied to the outstanding balance that would earn the same amount of interest as the above rates for payment according to schedule.

(b) In addition to the interest permitted in this section, a licensee may assess at closing a fee for processing the loan as agreed upon by the parties, not to exceed twenty-five dollars ($25.00) for loans up to two thousand five hundred dollars ($2,500) and one percent (1%) of the cash advance for loans above two thousand five hundred dollars ($2,500), not to exceed a total fee of forty dollars ($40.00), provided that such charges may not be assessed more than twice in any 12-month period.

(c) The provisions of G.S. 53-173(b), (b1), (c) and (d) and G.S. 53-180(b), (c), (d), (e), (f), (g), (h) and (i) shall apply to loans made pursuant to this section.

~~(d) Any licensee under this Article shall have the right to elect to make loans in accordance with this section by the filing of a written statement to that effect with the Commissioner and no sooner than 30 days from the date of such notification begin making loans regulated by this section. After such election a licensee may continue to make loans in accordance with this section unless the licensee notifies the Commissioner in writing of its intention to terminate such election on a date not sooner than 30 days from the notification.~~

(e) The due date of the first monthly payment shall not be more than 45 days following the disbursement of funds under any such installment loan. A borrower under this section may prepay all or any part of a loan made under this section without penalty. Except as otherwise provided for pursuant to G.S. 75-20(a), no more than twice in a 12-month period, a borrower may cancel a loan with the same licensee within three business days after disbursement of the loan proceeds without incurring or paying interest so long as the amount financed, minus any fees or charges, is returned to and received by the licensee within that time.

~~(f) No individual, partnership, or corporate licensee and no corporation which is the parent, subsidiary or affiliate of a corporate licensee that is making loans under this Article except as authorized in this section, shall be permitted to make loans under the provisions of this section. Any corporate licensee or individual or partnership licensee that elects to make loans in accordance with the provisions of this section shall be bound by that election with respect to all of its offices and locations in this State and all offices and locations in this State of its parent, subsidiary or affiliated corporate licensee, or with respect to all of his or their offices and locations in this State.~~"

SECTION 5. G.S. 53-177 reads as rewritten:

"§ **53-177. ~~Recording fees.~~Fees.**

(a) Recording Fees. – The licensee may collect from the borrower the amount of any fees necessary to file or record its security interest with any public official or agency of a county or the State as may be required pursuant to Article 9 of Chapter 25 of the General Statutes or G.S. 20-58 et seq. Upon full disclosure to the borrower on how the fees will be applied, such fees may either (i) be paid by the licensee to such public official or agency of the county or ~~State,~~State or (ii) in lieu of recording or filing, applied by the licensee to purchase nonfiling or nonrecording insurance on the instrument securing the ~~loan, or (iii) be retained by a licensee that elects to self insure against the loss of a security interest by reason of not filing or recording its security instrument: Provided,~~loan; provided, however, the amount collected by the licensee from the borrower for the purchase of a nonfiling or nonrecording insurance ~~policy, or for self insurance,~~policy shall be the premium amount for such insurance as fixed by the Commissioner of Insurance. Such premium shall be at least one dollar ($1.00) less than the cost of recording or filing a security interest. Provided further, a licensee shall not collect or permit to be collected any notary fee in connection with any loan made under this Article, nor

may a licensee collect any fee from the borrower for the cost of releasing a security interest except such fee as actually paid to any public official or agency of the county or State for such purpose.

(b) Late Fees. –

(1) A licensee may charge a late payment fee for any payment which remains past due for 10 days or more after the due date.

(2) No licensee may charge a late payment fee in an amount greater than fifteen dollars ($15.00) nor charge a late payment fee more than once with respect to a single late payment.

(3) If a late payment fee has been once imposed with respect to a particular late payment, no such fee shall be imposed with respect to any future payment which would have been timely and sufficient but for the previous default.

(c) Deferral Charges. – A licensee may, by agreement with the borrower, collect a deferral charge and defer the due date of all or part of one or more installments under an existing loan contract as permitted in the provisions of G.S. 25A-30.

(d) Insurance Policy. – If a licensee, in lieu of recording, collects a fee to purchase a nonfiling or nonrecording insurance policy as authorized under subsection (a) of this section, to be valid, any claim arising from such policy shall only be used to compensate the licensee for damages arising from failure to record or file its security interest in accordance with Article 9 of Chapter 25 of the General Statutes. Following payment of such claim, the licensee shall do the following:

(1) Properly credit the full claim amount posted to the balance of the loan effective the date the proceeds were received.

(2) Close the loan account and cease collection efforts on any loan that was paid in full by a claim.

(3) Provide the borrower written notice, unless otherwise prohibited by federal law, that (i) the claim has been partially paid or paid in full and (ii) to the extent the loan is subject to the insurance company's subrogation rights, instructions about direction of future payments.

(4) Cancel of record or properly credit, as appropriate, any judgments against the borrower arising from the loan and, if the judgment has been paid in part, file a certificate of partial satisfaction.

(5) Accurately report any account adjustments to any credit bureau used by the licensee."

SECTION 6. G.S. 53-180 reads as rewritten:

"§ **53-180. Limitations and prohibitions on practices and agreements.**

(a) Time and Payment Limitation. – ~~Except as otherwise provided in this Article, no licensee making a loan pursuant to G.S. 53-173 shall enter into any contract of loan under this Article providing for any scheduled repayment of principal more than 25 months from the date of making the contract if the cash advance is six hundred dollars ($600.00) or less; more than 37 months from the date of making the contract if the cash advance is in excess of six hundred dollars ($600.00) but not in excess of fifteen hundred dollars ($1,500); more than 49 months from the date of making the contract if the cash advance is in excess of fifteen hundred dollars ($1,500) but not in excess of two thousand five hundred dollars ($2,500); or more than 61 months if the cash advance is in excess of two thousand five hundred dollars ($2,500).~~ Every loan contract shall provide for repayment of the amount loaned in substantially equal installments, either of principal or of principal and charges in the aggregate, at approximately equal periodic intervals of time. Nothing contained herein shall prevent a loan being considered a new loan because the proceeds of the loan are used to pay an existing contract.

…

(c) Limitation on Default Provisions. – An agreement between a licensee and a borrower pursuant to a loan under this Article with respect to default by the borrower is enforceable only to the extent that (i) the borrower fails to make a payment as required by the ~~agreement,~~agreement or fails to maintain contractually required insurance coverage or (ii) the prospect of payment, performance, or realization of collateral is significantly endangered or impaired, the burden of establishing the prospect of a significant endangerment or impairment being on the licensee.

…

(e) Limitation on Attorney's Fees. – With respect to a loan made pursuant to the provisions of ~~G.S. 53-173,~~G.S. 53-176, the agreement may not provide for payment by the borrower of attorney fees.

…."

SECTION 7. Article 15 of Chapter 53 of the General Statutes is amended by adding a new section to read:

"**§ 53-180.1. Military service members limitation.**

(a) Definition. – For purposes of this section, the term "military service member" means a member of the Armed Forces who is either (i) on active duty under a call or order that does not specify a period of 30 days or fewer or (ii) on active Guard and Reserve Duty, as that term is defined in 10 U.S.C. § 101(d)(6).

(b) Verification; Requirements for Granting Loan. – Prior to making a loan under this Article, a licensee will confirm whether the borrower is a military service member and document this in the person's loan file. A licensee may not make a loan to a borrower who is a military service member with a rank of E4 or below ("covered member") unless the following requirements are met:

(1) The licensee notifies the borrower's company-level commander or equivalent designee of the covered member before the loan is consummated. Notification may occur verbally, by electronic means, United States mail, or other equivalent methods of notification. The notification method and date shall be recorded in writing and included in the loan file along with the name of the company-level commander or equivalent designee communicated with and the date of the communication with the company-level commander or equivalent designee.

(2) The licensee shall deposit in the United States mail a copy of the federal Truth in Lending Act, 15 U.S.C. § 1601, et seq., disclosures and the complete contract for the loan addressed to the borrower's company-level commander or equivalent designee of the covered member within five business days of the consummation of the loan.

(3) A covered member who has entered into a loan contract made pursuant to this Article may, within 30 days of entering into the loan contract, rescind the loan contract by returning to the licensee in cash or by certified bank check the amount advanced to or for the benefit of the covered member under the loan contract, and upon delivery of those funds to the licensee, the borrower shall have no further liability or obligations under the loan contract. Nothing in this provision shall be construed to restrict or eliminate any other penalties provided by State or federal law.

(4) The licensee shall give the covered member a separate disclosure that includes the statements and information required under G.S. 53-181(a). The licensee shall include the name and address of the North Carolina Commissioner of Banks, the Consumer Protection Division of the North Carolina Department of Justice, and the Consumer Financial Protection Bureau. The licensee may include internal compliance information on the same disclosure.

(5) Notwithstanding section 2 of Title 9 of the United States Code, 9 U.S.C. § 2, or any other federal or State law, rule, or regulation, no agreement to arbitrate any dispute involving the extension of consumer credit shall be enforceable against any covered member or dependent of such a member or any person who was a covered member or dependent of that member when the agreement was made.

(6) A licensee shall take reasonable precaution to prevent making loans in violation of this section. In the event that a licensee does not take reasonable precautions to identify covered members prior to making a loan, such loans granted to covered members shall have the interest rate on the loan adjusted to eight percent (8%) per annum.

(c) Penalties and Remedies. –

(1) The remedies and rights provided under this section are in addition to and do not preclude any remedy otherwise available under law to the person claiming relief under this section, including any incidental, consequential, or punitive damages.

(2) Any credit agreement, promissory note, or other contract prohibited under this section is null and void.

(3) Nothing in this section may be construed to limit or otherwise affect the applicability of section 207 of the Servicemembers Civil Relief Act, 50 U.S.C. App. § 527.

(d) Additional Restriction. – When a military servicemember has been deployed to a theater of combat, combat supporting role, an area where hostile fire and/or when Imminent Danger Pay is authorized to the servicemember, a licensee shall not contact the military servicemember or member's spouse by telephone or electronic mail for purposes of collecting on the loan upon receiving sufficient proof of the military servicemember's deployment. An official copy of the military service member's orders for deployment or written verification from the servicemember's commanding officer shall constitute sufficient proof."

SECTION 8. This act becomes effective July 1, 2013.

In the General Assembly read three times and ratified this the 11th day of June, 2013.

Became law upon approval of the Governor at 4:28 p.m. on the 19th day of June, 2013.

Session Law 2013-163 **S.B. 520**

AN ACT TO REQUIRE THAT HEARINGS OF THE INDUSTRIAL COMMISSION ARE RECORDED.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 97-85 reads as rewritten:

"§ **97-85. Review of award.**

(a) If application is made to the Commission within 15 days from the date when notice of the award shall have been given, the full Commission shall review the award, and, if good ground be shown therefor, reconsider the evidence, receive further evidence, rehear the parties or their representatives, and, if proper, amend the award: Provided, however, when application is made for review of an award, and such an award has been heard and determined by a commissioner of the North Carolina Industrial Commission, the commissioner who heard and determined the dispute in the first instance, as specified by G.S. 97-84, shall be disqualified from sitting with the full Commission on the review of such award, and the chairman of the Industrial Commission shall designate a deputy commissioner to take such commissioner's place in the review of the particular award. The deputy commissioner so designated, along with the two other commissioners, shall compose the full Commission upon review. Provided

further, the chairman of the Industrial Commission shall have the authority to designate a deputy commissioner to take the place of a commissioner on the review of any case, in which event the deputy commissioner so designated shall have the same authority and duty as does the commissioner whose place he occupies on such review.

(b) Unless waived by consent of the parties, all hearings of the full Commission shall be recorded. Court reporters, transcription personnel, or electronic or other mechanical devices may be utilized. If an electronic or other mechanical device is utilized, it shall be the duty of some person designated by the Commission to operate the device while a hearing is in progress, and the recording shall be preserved and may be transcribed, as required. If stenotype, shorthand, or stenomask equipment is used, the original tapes, notes, discs, or other records are the property of the State and the Commission shall keep them in its custody. The compensation and allowances of reporters shall be fixed by the Commission in a manner that is consistent with policies set by the Administrative Office of the Courts for the General Court of Justice."

SECTION 2. Nothing in this act shall be construed to obligate the General Assembly to appropriate funds to implement the provisions of this act.

SECTION 3. This act becomes effective August 1, 2013.

In the General Assembly read three times and ratified this the 11th day of June, 2013.

Became law upon approval of the Governor at 4:28 p.m. on the 19th day of June, 2013.

Session Law 2013-164 **S.B. 528**

AN ACT TO CLARIFY THAT PETIT JURORS ARE REQUIRED TO TAKE THE OATH SET FORTH IN THE NORTH CAROLINA CONSTITUTION AND TO PROVIDE CONSISTENCY BETWEEN THE STATUTES SETTING FORTH THE OATHS TO BE TAKEN BY PETIT JURORS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 9-14 reads as rewritten:

"§ **9-14. Jury sworn; judge decides competency.**

The clerk shall, at the beginning of court, swear all jurors who have not been selected as grand jurors. Each juror shall ~~swear or affirm that he will~~ take (i) the oath required by Section 7 of Article VI of the Constitution of North Carolina, by swearing or affirming to support and maintain the Constitution of the United States and the Constitution and laws of North Carolina not inconsistent therewith and (ii) the oath required under G.S. 11-11, by swearing or affirming to truthfully and without prejudice or partiality try all issues in criminal or civil actions that come before ~~him~~ the juror and ~~render~~ give true verdicts according to the evidence. Nothing herein shall be construed to disallow the usual challenges in law to the whole jury so sworn or to any juror; and if by reason of such challenge any juror is withdrawn from a jury being selected to try a case, his place on that jury shall be taken by another qualified juror. The presiding judge shall decide all questions as to the competency of jurors."

SECTION 2. G.S. 11-11 reads as rewritten:

"§ **11-11. Oaths of sundry persons; forms.**

The oaths of office to be taken by the several persons hereafter named shall be in the words following the names of said persons respectively, in all cases after taking the separate oath required by Article VI, Section 7 of the Constitution of North Carolina:

…

Oath for Petit Juror

You do solemnly swear (affirm) that you will truthfully and without prejudice or partiality try all issues in civil or criminal actions that come before you and give true verdicts according to the evidence, so help you, God.

…."

SECTION 3. This act becomes effective October 1, 2013, and applies to oaths taken on or after that date.

In the General Assembly read three times and ratified this the 11th day of June, 2013.

Became law upon approval of the Governor at 4:28 p.m. on the 19th day of June, 2013.

Session Law 2013-165 **S.B. 530**

AN ACT TO PROHIBIT THE DISTRIBUTION OF TOBACCO-DERIVED PRODUCTS AND VAPOR PRODUCTS TO MINORS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 14-313 reads as rewritten:

"Article 39.

"Protection of Minors.

"§ **14-313. Youth access to tobacco ~~products.~~products, tobacco-derived products, vapor products, and cigarette wrapping papers.**

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

(1) Distribute. – To sell, furnish, give, or provide tobacco products, including tobacco product ~~samples,~~ samples or cigarette wrapping ~~papers~~ papers, to the ultimate consumer.

(2) Proof of age. – A drivers license or other photographic identification that includes the bearer's date of birth that purports to establish that the person is 18 years of age or older.

(3) Sample. – A tobacco product distributed to members of the general public at no cost for the purpose of promoting the product.

(3a) Tobacco-derived product. – Any noncombustible product derived from tobacco that contains nicotine and is intended for human consumption, whether chewed, absorbed, dissolved, ingested, or by other means. This term does not include a vapor product or any product regulated by the United States Food and Drug Administration under Chapter V of the federal Food, Drug, and Cosmetic Act.

(4) Tobacco product. – Any product that contains tobacco and is intended for human consumption. For purposes of this section, the term includes a tobacco-derived product, vapor product, or components of a vapor product.

(5) Vapor product. – Any noncombustible product that employs a mechanical heating element, battery, or electronic circuit regardless of shape or size and that can be used to heat a liquid nicotine solution contained in a vapor cartridge. The term includes an electronic cigarette, electronic cigar, electronic cigarillo, and electronic pipe. The term does not include any product regulated by the United States Food and Drug Administration under Chapter V of the federal Food, Drug, and Cosmetic Act.

(b) Sale or distribution to persons under the age of 18 years. – If any person shall distribute, or aid, assist, or abet any other person in distributing tobacco products or cigarette wrapping papers to any person under the age of 18 years, or if any person shall purchase tobacco products or cigarette wrapping papers on behalf of a ~~person, less than~~person under the age of 18 years, the person shall be guilty of a Class 2 misdemeanor; provided, however, that it shall not be unlawful to distribute tobacco products or cigarette wrapping papers to an employee when required in the performance of the employee's duties. Retail distributors of tobacco products shall prominently display near the point of sale a sign in letters at least five-eighths of an inch high which states the following:

N.C. LAW STRICTLY PROHIBITS

THE PURCHASE OF TOBACCO ~~PRODUCTS~~PRODUCTS, TOBACCO-DERIVED PRODUCTS, VAPOR PRODUCTS, AND CIGARETTE WRAPPING PAPERS.

BY PERSONS UNDER THE AGE OF 18.

PROOF OF AGE REQUIRED.

Failure to post the required sign shall be an infraction punishable by a fine of twenty-five dollars ($25.00) for the first offense and seventy-five dollars ($75.00) for each succeeding offense.

A person engaged in the sale of tobacco products or cigarette wrapping papers shall demand proof of age from a prospective purchaser if the person has reasonable grounds to believe that the prospective purchaser is under 18 years of age. Failure to demand proof of age as required by this subsection is a Class 2 misdemeanor if in fact the prospective purchaser is under 18 years of age. Retail distributors of tobacco products or cigarette wrapping papers shall train their sales employees in the requirements of this law. Proof of any of the following shall be a defense to any action brought under this subsection:

(1) The defendant demanded, was shown, and reasonably relied upon proof of age in the case of a retailer, or any other documentary or written evidence of age in the case of a nonretailer.

(2) The defendant relied on the electronic system established and operated by the Division of Motor Vehicles pursuant to G.S. 20-37.02.

(3) The defendant relied on a biometric identification system that demonstrated (i) the purchaser's age to be at least the required age for the purchase and (ii) the purchaser had previously registered with the seller or seller's agent a drivers license, a special identification card issued under G.S. 20-377.7, a military identification card, or a passport showing the purchaser's date of birth and bearing a physical description of the person named on the card.

(b1) ~~Vending machines.~~Distribution of tobacco products. – Tobacco products shall not be distributed in vending machines; provided, however, vending machines distributing tobacco products are permitted (i) in any establishment which is open only to persons 18 years of age and older; or (ii) in any establishment if the vending machine is under the continuous control of the owner or licensee of the premises or an employee thereof and can be operated only upon activation by the owner, licensee, or employee prior to each purchase and the vending machine is not accessible to the public when the establishment is closed. The owner, licensee, or employee shall demand proof of age from a prospective purchaser if the person has reasonable grounds to believe that the prospective purchaser is under 18 years of age. Failure to demand proof of age as required by this subsection is a Class 2 misdemeanor if in fact the prospective purchaser is under 18 years of age. Proof that the defendant demanded, was shown, and reasonably relied upon proof of age shall be a defense to any action brought under this subsection. Vending machines distributing tobacco products in establishments not meeting the above conditions shall be removed prior to December 1, 1997. Vending machines distributing tobacco-derived products, vapor products, or components of vapor products in establishments not meeting the above conditions shall be removed prior to August 1, 2013. Any person distributing tobacco products through vending machines in violation of this subsection shall be guilty of a Class 2 misdemeanor.

(b2) Internet distribution of tobacco products. – A person engaged in the distribution of tobacco products through the Internet or other remote sales methods shall perform an age verification through an independent, third-party age verification service that compares information available from public records to the personal information entered by the individual

during the ordering process to establish that the individual ordering the tobacco products is 18 years of age or older.

(c) Purchase by persons under the age of 18 years. – If any person under the age of 18 years purchases or accepts receipt, or attempts to purchase or accept receipt, of tobacco products or cigarette wrapping papers, or presents or offers to any person any purported proof of age which is false, fraudulent, or not actually his or her own, for the purpose of purchasing or receiving any tobacco product or cigarette wrapping papers, the person shall be guilty of a Class 2 ~~misdemeanor.~~misdemeanor; provided, however, that it shall not be unlawful for an employee to purchase or accept receipt of tobacco products or cigarette wrapping papers when required in the performance of the employee's duties.

(d) ~~Send or assist~~Sending or assisting a person ~~less than~~ 18 years to purchase or receive tobacco ~~product.~~products or cigarette wrapping papers. – If any person shall send a person less than 18 years of age to purchase, acquire, receive, or attempt to purchase, acquire, or receive tobacco products or cigarette wrapping papers, or if any person shall aid or abet a person who is less than 18 years of age in purchasing, acquiring, or receiving or attempting to purchase, acquire, or receive tobacco products or cigarette wrapping papers, the person shall be guilty of a Class 2 misdemeanor; provided, however, persons under the age of 18 may be enlisted by police or local sheriffs' departments to test compliance if the testing is under the direct supervision of that law enforcement department and written parental consent is provided; provided further, that the Department of Health and Human Services shall have the authority, pursuant to a written plan prepared by the Secretary of Health and Human Services, to use persons under 18 years of age in annual, random, unannounced inspections, provided that prior written parental consent is given for the involvement of these persons and that the inspections are conducted for the sole purpose of preparing a scientifically and methodologically valid statistical study of the extent of success the State has achieved in reducing the availability of tobacco products to persons under the age of 18, and preparing any report to the extent required by section 1926 of the federal Public Health Service Act (42 USC § 300x-26).

(e) Statewide uniformity. – It is the intent of the General Assembly to prescribe this uniform system for the regulation of tobacco products and cigarette wrapping papers to ensure the eligibility for and receipt of any federal funds or grants that the State now receives or may receive relating to the provisions of G.S. 14-313. To ensure uniformity, no political subdivisions, boards, or agencies of the State nor any county, city, municipality, municipal corporation, town, township, village, nor any department or agency thereof, may enact ordinances, rules or regulations concerning the sale, distribution, display or promotion of (i) tobacco products or cigarette wrapping papers on or after September 1, ~~1995.~~1995, or (ii) tobacco-derived products or vapor products on or after August 1, 2013. This subsection does not apply to the regulation of vending machines, nor does it prohibit the Secretary of Revenue from adopting rules with respect to the administration of the tobacco products taxes levied under Article 2A of Chapter 105 of the General Statutes.

(f) Deferred prosecution. – Notwithstanding G.S. 15A-1341(a1), any person charged with a misdemeanor under this section shall be qualified for deferred prosecution pursuant to Article 82 of Chapter 15A of the General Statutes provided the defendant has not previously been placed on probation for a violation of this section and so states under oath."

SECTION 2. Nothing in this act shall be construed to affect the taxation of tobacco products, tobacco-derived products, vapor products, or components of a vapor product.

SECTION 3. If any provision of this act or its application is held invalid, the invalidity does not affect other provisions or applications of this act that can be given effect without the invalid provisions or applications, and to this end the provisions of this act are severable.

SECTION 4. This act becomes effective August 1, 2013, and applies to offenses committed on or after that date.

In the General Assembly read three times and ratified this the 13th day of June, 2013.

Became law upon approval of the Governor at 4:28 p.m. on the 19th day of June, 2013.

Session Law 2013-166 **S.B. 539**

AN ACT TO AUTHORIZE A COUNTY JURY COMMISSION TO OBTAIN DATE OF BIRTH INFORMATION FROM BOARDS OF ELECTIONS WHEN PREPARING THE MASTER JURY LIST AND TO ENSURE THE CONFIDENTIALITY OF THE DATES OF BIRTH OF PROSPECTIVE JURORS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 163-82.10B reads as rewritten:

"§ **163-82.10B. Confidentiality of date of birth.**

Boards of elections shall keep confidential the date of birth of every voter-registration applicant and registered voter, except in the following situations:

(1) When a voter has filed notice of candidacy for elective office under G.S. 163-106, 163-122, 163-123, or 163-294.2, or 163-323, has been nominated as a candidate under G.S. 163-98 or G.S. 163-114, or has otherwise formally become a candidate for elective office. The exception of this subdivision does not extend to an individual who meets the definition of "candidate" only by beginning a tentative candidacy by receiving funds or making payments or giving consent to someone else to receive funds or transfer something of value for the purpose of exploring a candidacy.

(2) When a voter is serving in an elective office.

(3) When a voter has been challenged pursuant to Article 8 of this Chapter.

(4) When a voter-registration applicant or registered voter expressly authorizes in writing the disclosure of that individual's date of birth.

(5) When requested by a county jury commission established pursuant to G.S. 9-1 for purposes of preparing the master jury list in that county pursuant to G.S. 9-2.

The disclosure of an individual's age does not constitute disclosure of date of birth in violation of this section.

The county board of elections shall give precinct officials access to a voter's date of birth where necessary for election administration, consistent with the duty to keep dates of birth confidential.

Disclosure of a date of birth in violation of this section shall not give rise to a civil cause of action. This limitation of liability does not apply to the disclosure of a date of birth in violation of this subsection as a result of gross negligence, wanton conduct, or intentional wrongdoing that would otherwise be actionable."

SECTION 2. G.S. 9-4(b) reads as rewritten:

"(b) Public access to juror information shall be limited to the alphabetized list of the names. The addresses and dates of birth of prospective jurors are confidential and not subject to disclosure without an order of the court."

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

In the General Assembly read three times and ratified this the 11th day of June, 2013.

Became law upon approval of the Governor at 4:29 p.m. on the 19th day of June, 2013.

Session Law 2013-167 **S.B. 542**

AN ACT TO REQUIRE LONG-TERM CARE FACILITIES TO REQUIRE APPLICANTS FOR EMPLOYMENT AND CERTAIN EMPLOYEES TO SUBMIT TO DRUG TESTING FOR CONTROLLED SUBSTANCES.

The General Assembly of North Carolina enacts:

SECTION 1. Article 5 of Chapter 131D of the General Statutes is amended by adding a new section to read:

"**§ 131D-45. Examination and screening for the presence of controlled substances required for applicants for employment in adult care homes.**

(a) An offer of employment by an adult care home licensed under this Article to an applicant is conditioned on the applicant's consent to an examination and screening for controlled substances. The examination and screening shall be conducted in accordance with Article 20 of Chapter 95 of the General Statutes. A screening procedure that utilizes a single-use test device may be used for the examination and screening of applicants and may be administered on-site. If the results of the applicant's examination and screening indicate the presence of a controlled substance, the adult care home shall not employ the applicant unless the applicant first provides to the adult care home written verification from the applicant's prescribing physician that every controlled substance identified by the examination and screening is prescribed by that physician to treat the applicant's medical or psychological condition. The verification from the physician shall include the name of the controlled substance, the prescribed dosage and frequency, and the condition for which the substance is prescribed. If the result of an applicant's or employee's examination and screening indicates the presence of a controlled substance, the adult care home may require a second examination and screening to verify the results of the prior examination and screening.

(b) An adult care home may require random examination and screening for controlled substances as a condition of continued employment. If the adult care home has reasonable grounds to believe that an employee is an abuser of a controlled substance, the adult care home may require that employee to undergo examination and screening for controlled substances as a condition of continued employment.

(c) An adult care home and an officer or employee of an adult care home that, in good faith, complies with this section is not liable for the failure of the adult care home to employ or continue the employment of an individual on the basis of the results of an examination and screening of the applicant or employee for controlled substances.

(d) An entity and officers and employees of an entity that perform controlled substance examination and screening in accordance with Article 20 of Chapter 95 of the General Statutes shall be immune from civil liability for conducting or failing to conduct the examination and screening if the examination and screening are requested and received in compliance with this section and with Article 20 of Chapter 95 of the General Statutes.

(e) The results of an examination and screening conducted at the request of an adult care home in accordance with this section are confidential and not a public record under Chapter 132 of the General Statutes. The adult care home shall maintain the confidentiality of all information related to the examination and screening of an applicant for employment or an individual currently employed by the adult care home.

(f) The adult care home shall pay expenses related to controlled substance examination and screening pursuant to this section, except examinee-requested retests. The examinee shall pay all reasonable expenses for retests of confirmed positive results."

SECTION 2. Part 1 of Article 6 of Chapter 131E of the General Statutes is amended by adding a new section to read:

"**§ 131E-114.4. Examination and screening for the presence of controlled substances required for applicants for employment in nursing homes.**

(a) An offer of employment by a nursing home licensed under this Part to an applicant is conditioned on the applicant's consent to an examination and screening for controlled substances. The examination and screening shall be conducted in accordance with Article 20 of Chapter 95 of the General Statutes. A screening procedure that utilizes a single-use test device may be used for the examination and screening of applicants and may be administered on-site. If the results of the applicant's examination and screening indicate the presence of a controlled substance, the nursing home shall not employ the applicant unless and until the applicant provides to the nursing home written verification from the applicant's prescribing physician that every controlled substance identified by the examination and screening is prescribed by that physician to treat the applicant's medical or psychological condition. The verification from the physician shall include the name of the controlled substance, the prescribed dosage and frequency, and the condition for which the substance is prescribed. If the result of an applicant's or employee's examination and screening indicates the presence of a controlled substance, the nursing home may require a second examination and screening to verify the results of the prior examination and screening.

(b) A nursing home may require random examination and screening for controlled substances as a condition of continued employment. If the nursing home has reasonable grounds to believe that an employee is an abuser of a controlled substance, the nursing home may require that employee to undergo examination and screening for controlled substances as a condition of continued employment.

(c) A nursing home and an officer or employee of a nursing home that, in good faith, comply with this section are not liable for the failure of the nursing home to employ or continue the employment of an individual on the basis of the results of an examination and screening of the applicant or employee for controlled substances.

(d) An entity and officers and employees of an entity that perform controlled substance examination and screening in accordance with Article 20 of Chapter 95 of the General Statutes shall be immune from civil liability for conducting or failing to conduct the examination and screening if the examination and screening are requested and received in compliance with this section and with Article 20 of Chapter 95 of the General Statutes.

(e) The results of an examination and screening conducted at the request of a nursing home in accordance with this section are confidential and not a public record under Chapter 132 of the General Statutes. The nursing home shall maintain the confidentiality of all information related to the examination and screening of an applicant for employment or an individual currently employed by the nursing home.

(f) The nursing home shall pay expenses related to controlled substance examination and screening pursuant to this section, except examinee-requested retests. The examinee shall pay all reasonable expenses for retests of confirmed positive results."

SECTION 3. This act becomes effective October 1, 2013.

In the General Assembly read three times and ratified this the 13th day of June, 2013.

Became law upon approval of the Governor at 4:29 p.m. on the 19th day of June, 2013.

Session Law 2013-168 **S.B. 545**

AN ACT PROVIDING FOR THE USE OF A MASTER METER FOR ELECTRIC AND NATURAL GAS SERVICE WHEN THE TENANT AND LANDLORD HAVE AGREED IN THE LEASE THAT THE COST OF THE SERVICES SHALL BE INCLUDED IN THE RENTAL PAYMENTS AND THE SERVICE SHALL BE IN THE LANDLORD'S NAME.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143-151.42(b) reads as rewritten:

"(b) The provisions of this section requiring that service and meters for each individual dwelling unit be in the name of the tenant or other occupant of the apartment or other dwelling unit shall not apply in either of the following ~~cases~~ circumstances:

(1) ~~where the~~ The Utilities Commission has approved an application under ~~G.S. 62-110(h).~~G.S. 62-110(h).

(2) The tenant and landlord have agreed in the lease that the cost of the electric service or natural gas service or both shall be included in the rental payments and the service shall be in the name of the landlord."

SECTION 2. This act is effective when it becomes law and applies to leases entered into, amended, or renewed, including leases that renew by inaction, on or after the effective date.

In the General Assembly read three times and ratified this the 13th day of June, 2013.

Became law upon approval of the Governor at 4:29 p.m. on the 19th day of June, 2013.

Session Law 2013-169 **S.B. 583**

AN ACT TO MAKE VARIOUS AMENDMENTS TO THE STATUTES THAT REGULATE SECONDARY METALS RECYCLERS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 66-420 reads as rewritten:

"§ **66-420. Definitions.**

The following definitions apply in this Part:

(1) Cash card system. — A system of payment ~~that captures a photograph of a payment recipient and~~ that provides payment in cash or in a form other than ~~cash.~~ cash and that when providing payment in the form of cash (i) captures a photograph of the seller at the time payment is received and (ii) uses an automated cash dispenser, including, but not limited to, an automated teller machine.

(1a) Copper. — Nonferrous metals, including, but not limited to, copper wire, copper clad steel wire, copper pipe, copper bars, copper sheeting, copper tubing and pipe fittings, and insulated copper wire. The term shall not include brass alloys, bronze alloys, lead, nickel, zinc, or items not containing a significant quantity of copper.

(2) Fixed site. — A site occupied by a secondary metals recycler as the owner of the site or as a lessee of the site under a lease or other rental agreement providing for occupation of the site by a nonferrous metals purchaser for a total duration of not less than 364 days.

(3) Law enforcement officer. — Any duly constituted law enforcement officer of the State or of any municipality or county.

(4) Nonferrous metals. — Metals not containing significant quantities of iron or steel, including, but not limited to, copper,~~copper wire, copper clad steel wire, copper pipe, copper bars, copper sheeting,~~ aluminum other than aluminum cans, a product that is a mixture of aluminum and copper, catalytic converters, lead-acid batteries, and stainless steel beer kegs or containers. The term shall not include precious metals as defined and regulated in Part 2 of this Article.

(5) Nonferrous metals purchaser. — A secondary metals recycler who purchases, gathers, or obtains nonferrous metals.

(6) Permit. — A permit issued pursuant to G.S. 66-426(a).

(7) Regulated metals property. — All ferrous and nonferrous metals.

(8) Secondary metals recycler. — Any person, firm, or corporation in the State:

a. That is engaged in the business of gathering or obtaining ferrous or nonferrous metals that have served their original economic purpose or is in the business of performing the manufacturing process by which ferrous metals or nonferrous metals are converted into raw material products consisting of prepared grades and having an existing or potential economic value; or

b. That has facilities for performing the manufacturing process by which ferrous metals or nonferrous metals are converted into raw material products consisting of prepared grades and having an existing or potential economic value, by methods including, but not limited to, the processing, sorting, cutting, classifying, cleaning, baling, wrapping, shredding, shearing, or changing the physical form or chemical content of the metals, but not including the exclusive use of hand tools."

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

In the General Assembly read three times and ratified this the 10th day of June, 2013.

Became law upon approval of the Governor at 4:29 p.m. on the 19th day of June, 2013.

Session Law 2013-170 **S.B. 584**

AN ACT TO EXPAND THE PROTECTION AGAINST FALSE LIENS TO INCLUDE THE IMMEDIATE FAMILY OF A PUBLIC OFFICER OR PUBLIC EMPLOYEE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 14-118.6(a) reads as rewritten:

"(a) It shall be unlawful for any person to present for filing in a public record or a private record generally available to the public a false lien or encumbrance against the real or personal property of a public ~~officer or public employee~~ officer, a public employee, or an immediate family member of the public officer or public employee on account of the performance of the public officer or public employee's official duties, knowing or having reason to know that the lien or encumbrance is false or contains a materially false, fictitious, or fraudulent statement or representation. For purposes of this subsection, the term "immediate family member" means a spouse or a child. Any person who violates this subsection shall be guilty of a Class I felony."

SECTION 2. This act becomes effective December 1, 2013, and applies to offenses committed on or after that date.

In the General Assembly read three times and ratified this the 10th day of June, 2013.

Became law upon approval of the Governor at 4:29 p.m. on the 19th day of June, 2013.

Session Law 2013-171 **S.B. 630**

AN ACT TO AMEND THE LAWS REGARDING DISPOSITION OF BLOOD EVIDENCE, ADMISSIBILITY OF REPORTS AFTER NOTICE AND DEMAND, AND EXPUNCTION OF DNA SAMPLES TAKEN UPON ARREST.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-139.1 is amended by adding a new section to read:

"(h) Disposition of Blood Evidence. – Notwithstanding any other provision of law, any blood or urine sample subject to chemical analysis for the presence of alcohol, a controlled

substance or its metabolite, or any impairing substance pursuant to this section may be destroyed by the analyzing agency 12 months after the case is filed or after the case is concluded in the trial court and not under appeal, whichever is later, without further notice to the parties. However, if a Motion to Preserve the evidence has been filed by either party, the evidence shall remain in the custody of the analyzing agency or the agency that collected the sample until dispositive order of a court of competent jurisdiction is entered."

SECTION 2. G.S. 8-58.20(f) reads as rewritten:

"(f) If the defendant's attorney of record, or the defendant if that person has no attorney, fails to file a written objection with the court to the use of the laboratory report and affidavit within the time allowed by this section, then the laboratory report and affidavit ~~may~~ shall be admitted in evidence in any proceeding without the testimony of the analyst subject to the presiding judge ruling otherwise at the proceeding when offered. If, however, a written objection is filed, this section does not apply and the admissibility of the evidence shall be determined and governed by the appropriate rules of evidence."

SECTION 3. G.S. 8-58.20(g)(5) reads as rewritten:

"(5) If the defendant's attorney of record, or the defendant if that person has no attorney, fails to file the written objection as provided in this subsection, then the statement ~~may~~ shall be admitted into evidence without the necessity of a personal appearance by the person signing the statement."

SECTION 4. G.S. 20-139.1(c1) reads as rewritten:

"(c1) Admissibility. – The results of a chemical analysis of blood or urine reported by the North Carolina State Crime Laboratory, the Charlotte, North Carolina, Police Department Laboratory, or any other laboratory approved for chemical analysis by the Department of Health and Human Services, are admissible as evidence in all administrative hearings, and in any court, without further authentication and without the testimony of the analyst. The results shall be certified by the person who performed the analysis. The provisions of this subsection may be utilized in any administrative hearing, but can only be utilized in cases tried in the district and superior court divisions, or in an adjudicatory hearing in juvenile court, if:

(1) The State notifies the defendant at least 15 business days before the proceeding at which the evidence would be used of its intention to introduce the report into evidence under this subsection and provides a copy of the report to the defendant, and

(2) The defendant fails to file a written objection with the court, with a copy to the State, at least five business days before the proceeding at which the report would be used that the defendant objects to the introduction of the report into evidence.

If the defendant's attorney of record, or the defendant if that person has no attorney, fails to file a written objection as provided in this subsection, then the report ~~may~~shall be admitted into evidence without the testimony of the analyst. Upon filing a timely objection, the admissibility of the report shall be determined and governed by the appropriate rules of evidence.

The report containing the results of any blood or urine test may be transmitted electronically or via facsimile. A copy of the affidavit sent electronically or via facsimile shall be admissible in any court or administrative hearing without further authentication. A copy of the report shall be sent to the charging officer, the clerk of superior court in the county in which the criminal charges are pending, the Division of Motor Vehicles, and the Department of Health and Human Services.

Nothing in this subsection precludes the right of any party to call any witness or to introduce any evidence supporting or contradicting the evidence contained in the report."

SECTION 5. G.S. 20-139.1(c3) reads as rewritten:

"(c3) Procedure for Establishing Chain of Custody Without Calling Unnecessary Witnesses. –

(1) For the purpose of establishing the chain of physical custody or control of blood or urine tested or analyzed to determine whether it contains alcohol, a

controlled substance or its metabolite, or any impairing substance, a statement signed by each successive person in the chain of custody that the person delivered it to the other person indicated on or about the date stated is prima facie evidence that the person had custody and made the delivery as stated, without the necessity of a personal appearance in court by the person signing the statement.

(2) The statement shall contain a sufficient description of the material or its container so as to distinguish it as the particular item in question and shall state that the material was delivered in essentially the same condition as received. The statement may be placed on the same document as the report provided for in subsection (c1) of this section.

(3) The provisions of this subsection may be utilized in any administrative hearing, but can only be utilized in cases tried in the district and superior court divisions, or in an adjudicatory hearing in juvenile court, if:

a. The State notifies the defendant at least 15 business days before the proceeding at which the statement would be used of its intention to introduce the statement into evidence under this subsection and provides a copy of the statement to the defendant, and

b. The defendant fails to file a written notification with the court, with a copy to the State, at least five business days before the proceeding at which the statement would be used that the defendant objects to the introduction of the statement into evidence.

If the defendant's attorney of record, or the defendant if that person has no attorney, fails to file a written objection as provided in this subsection, then the statement ~~may~~shall be admitted into evidence without the necessity of a personal appearance by the person signing the statement. Upon filing a timely objection, the admissibility of the report shall be determined and governed by the appropriate rules of evidence.

(4) Nothing in this subsection precludes the right of any party to call any witness or to introduce any evidence supporting or contradicting the evidence contained in the statement."

SECTION 6. G.S. 20-139.1(e1) reads as rewritten:

"(e1) Use of Chemical Analyst's Affidavit in District Court. – An affidavit by a chemical analyst sworn to and properly executed before an official authorized to administer oaths ~~is~~shall be admissible in evidence without further authentication and without the testimony of the analyst in any hearing or trial in the District Court Division of the General Court of Justice with respect to the following matters:

(1) The alcohol concentration or concentrations or the presence or absence of an impairing substance of a person given a chemical analysis and who is involved in the hearing or trial.

(2) The time of the collection of the blood, breath, or other bodily fluid or substance sample or samples for the chemical analysis.

(3) The type of chemical analysis administered and the procedures followed.

(4) The type and status of any permit issued by the Department of Health and Human Services that the analyst held on the date the analyst performed the chemical analysis in question.

(5) If the chemical analysis is performed on a breath-testing instrument for which regulations adopted pursuant to subsection (b) require preventive maintenance, the date the most recent preventive maintenance procedures were performed on the breath-testing instrument used, as shown on the maintenance records for that instrument.

The Department of Health and Human Services shall develop a form for use by chemical analysts in making this affidavit."

SECTION 7. G.S. 90-95(g) reads as rewritten:

"(g) Whenever matter is submitted to the North Carolina State Crime Laboratory, the Charlotte, North Carolina, Police Department Laboratory or to the Toxicology Laboratory, Reynolds Health Center, Winston-Salem for chemical analysis to determine if the matter is or contains a controlled substance, the report of that analysis certified to upon a form approved by the Attorney General by the person performing the analysis shall be admissible without further authentication and without the testimony of the analyst in all proceedings in the district court and superior court divisions of the General Court of Justice as evidence of the identity, nature, and quantity of the matter analyzed. Provided, however, the provisions of this subsection may be utilized by the State only if:

(1) The State notifies the defendant at least 15 business days before the proceeding at which the report would be used of its intention to introduce the report into evidence under this subsection and provides a copy of the report to the defendant, and

(2) The defendant fails to file a written objection with the court, with a copy to the State, at least five business days before the proceeding that the defendant objects to the introduction of the report into evidence.

If the defendant's attorney of record, or the defendant if that person has no attorney, fails to file a written objection as provided in this subsection, then the report ~~may~~shall be admitted into evidence without the testimony of the analyst. Upon filing a timely objection, the admissibility of the report shall be determined and governed by the appropriate rules of evidence.

Nothing in this subsection precludes the right of any party to call any witness or to introduce any evidence supporting or contradicting the evidence contained in the report."

SECTION 8. G.S. 90-95(g1) reads as rewritten:

"(g1) Procedure for establishing chain of custody without calling unnecessary witnesses.

(1) For the purpose of establishing the chain of physical custody or control of evidence consisting of or containing a substance tested or analyzed to determine whether it is a controlled substance, a statement signed by each successive person in the chain of custody that the person delivered it to the other person indicated on or about the date stated is prima facie evidence that the person had custody and made the delivery as stated, without the necessity of a personal appearance in court by the person signing the statement.

(2) The statement shall contain a sufficient description of the material or its container so as to distinguish it as the particular item in question and shall state that the material was delivered in essentially the same condition as received. The statement may be placed on the same document as the report provided for in subsection (g) of this section.

(3) The provisions of this subsection may be utilized by the State only if:

a. The State notifies the defendant at least 15 days before trial of its intention to introduce the statement into evidence under this subsection and provides the defendant with a copy of the statement, and

b. The defendant fails to notify the State at least five days before trial that the defendant objects to the introduction of the statement into evidence.

If the defendant's attorney of record, or the defendant if that person has no attorney, fails to file a written objection as provided in this subsection, then the statement shall be admitted into evidence without the necessity of a personal appearance by the person signing the statement. Upon filing a timely objection, the admissibility of the report shall be determined and governed by the appropriate rules of evidence.

(4) Nothing in this subsection precludes the right of any party to call any witness or to introduce any evidence supporting or contradicting the evidence contained in the statement."

SECTION 9. G.S. 15A-266.3A(k) reads as rewritten:

"(k) Within ~~30~~ 90 days of receipt of the verification form, the SBI shall:

(1) Determine whether the requirement of subdivision (2) of subsection (h) of this section has been met.

(2) If the requirement has been met, remove the defendant's DNA record and samples as required by subsection (h) of this section.

(3) Mail to the defendant, at the address specified in the verification form, a notice ~~either:~~doing either of the following:

a. Documenting expunction of the DNA record and destruction of the DNA ~~sample, or~~sample.

b. Notifying the defendant that the DNA record and sample do not qualify for expunction pursuant to subsection (h) of this section."

SECTION 10. Sections 2, 3, 4, 5, 6, 7, 8, and 9 of this act become effective December 1, 2013, and apply to proceedings held on or after that date and verification forms received by the SBI on or after that date. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 13th day of June, 2013.

Became law upon approval of the Governor at 4:29 p.m. on the 19th day of June, 2013.

Session Law 2013-172 **H.B. 140**

AN ACT TO ALLOW THE CITY OF LOWELL TO REGULATE UTILITY VEHICLES.

The General Assembly of North Carolina enacts:

SECTION 1. Section 1 of S.L. 2003-124, as amended by S.L. 2004-58, S.L. 2007-204, S.L. 2007-259, S.L. 2009-459, and S.L. 2011-171, reads as rewritten:

"**SECTION 1.** Notwithstanding the provisions of G.S. 20-50 and G.S. 20-54, the Towns of Beech Mountain, Cramerton, North Topsail Beach, and Seven Devils, and the ~~City~~Cities of Conover and Lowell may, by ordinance, regulate the operation of utility vehicles on any public street or road within the City or Town. By ordinance, the City or Town may require the registration of utility vehicles, specify the persons authorized to operate utility vehicles, and specify required equipment, load limits, and the hours and methods of operation of the utility vehicles."

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

In the General Assembly read three times and ratified this the 20th day of June, 2013.

Became law on the date it was ratified.

Session Law 2013-173 **H.B. 305**

AN ACT AMENDING THE CHARTER OF THE TOWN OF CHAPEL HILL TO AUTHORIZE THE TOWN TO PARTICIPATE IN ECONOMIC DEVELOPMENT PROJECTS THAT ARE NOT IN THE TOWN'S DOWNTOWN AREA.

The General Assembly of North Carolina enacts:

SECTION 1. Section 4.20 of the Charter of the Town of Chapel Hill, being Chapter 473 of the 1975 Session Laws, as amended, reads as rewritten:

"Sec. 4.20. Definition. As used in this Article 'economic development project' means an economic capital development project within a certain defined area or areas of the Town as established by the Town Council, comprised of one or more buildings or other improvements and including any public and/or private facilities.~~Said project may include programs or facilities for improving downtown development, 'pocket of poverty' or other federal or State assistance programs which the Town Council determines to be in need of economic capital development or revitalization and which qualify for capital assistance under applicable federal or State programs.~~"

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

In the General Assembly read three times and ratified this the 20th day of June, 2013.

Became law on the date it was ratified.

Session Law 2013-174 **H.B. 326**

AN ACT REQUIRING THE CONSENT OF RUTHERFORD COUNTY BEFORE LAND IN THE COUNTY MAY BE CONDEMNED OR ACQUIRED BY A UNIT OF LOCAL GOVERNMENT OUTSIDE THE COUNTY.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 153A-15(c) reads as rewritten:

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

SECTION 2. This act applies to Rutherford County only.

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

In the General Assembly read three times and ratified this the 20th day of June, 2013.

Became law on the date it was ratified.

Session Law 2013-175 **H.B. 354**

AN ACT AUTHORIZING TWO COUNTY COMMISSIONERS TO SERVE ON THE BOARD OF ASHEVILLE-BUNCOMBE TECHNICAL COMMUNITY COLLEGE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 115D-12(a) reads as rewritten:

"(a) Each community college established or operated pursuant to this Chapter shall be governed by a board of trustees consisting of 13 members, or of additional members if selected according to the special procedure prescribed by the third paragraph of this subsection, who shall be selected by the following agencies. No member of the General Assembly may be appointed to a local board of trustees for a community college.

Group One – four trustees, elected by the board of education of the public school administrative unit located in the administrative area of the institution. If there are two or more public school administrative units, whether city or county units, or both, located within the administrative area, the trustees shall be elected jointly by all of the boards of education of

those units, each board having one vote in the election of each trustee, except as provided in G.S. 115D-59. No board of education shall elect a member of the board of education or any person employed by the board of education to serve as a trustee, however, any such person currently serving on a board of trustees shall be permitted to fulfill the unexpired portion of the trustee's current term.

Group Two – four trustees, elected by the board of commissioners of the county in which the institution is located. Provided, however, if the administrative area of the institution is composed of two or more counties, the trustees shall be elected jointly by the boards of commissioners of all those counties, each board having one vote in the election of each trustee. Provided, also, the county commissioners of the county in which the community college has established a satellite campus may elect an additional two members if the board of trustees of the community college agrees. No more than one trustee from Group Two may be a member of a board of county ~~commissioners.~~ commissioners of a given county. Should the boards of education or the boards of commissioners involved be unable to agree on one or more trustees the senior resident superior court judge in the superior court district or set of districts as defined in G.S. 7A-41.1 where the institution is located shall fill the position or positions by appointment.

Group Three – four trustees, appointed by the Governor.

Group Four – the president of the student government or the chairman of the executive board of the student body of each community college established pursuant to G.S. 115D shall be an ex officio nonvoting member of the board of trustees of each said institution."

SECTION 2. This act applies only to Asheville-Buncombe Technical Community College.

SECTION 3. This act is effective when it becomes law and applies to appointments made on or after that date.

In the General Assembly read three times and ratified this the 20th day of June, 2013.

Became law on the date it was ratified.

Session Law 2013-176 **H.B. 408**

AN ACT TO PROHIBIT THE DISCHARGE OF A FIREARM OR BOW AND ARROW FROM THE RIGHT-OF-WAY IN BEAUFORT COUNTY.

The General Assembly of North Carolina enacts:

SECTION 1. It is unlawful to discharge a firearm or bow and arrow, or to attempt to discharge a firearm or bow and arrow, from, on, across, or over the roadway or right-of-way of any public road.

SECTION 2. Violation of the provisions of this act is punishable as a Class 3 misdemeanor.

SECTION 3. This act is enforceable by law enforcement officers of the Wildlife Resources Commission, by sheriffs and deputy sheriffs, and by other peace officers with general subject matter jurisdiction.

SECTION 4. This act applies only to Beaufort County.

SECTION 5. This act becomes effective October 1, 2013, and applies to offenses committed on or after that date.

In the General Assembly read three times and ratified this the 20th day of June, 2013.

Became law on the date it was ratified.

Session Law 2013-177 **H.B. 427**

AN ACT AMENDING THE CHARTER OF THE TOWN OF MIDDLESEX TO EXTEND THE TERM OF OFFICE OF THE MAYOR FROM TWO TO FOUR YEARS.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 44 of the 1961 Session Laws is repealed.

SECTION 2. Section 3 of the Charter of the Town of Middlesex, being Chapter 21 of the 1908 Private Laws, as amended by Chapter 350 of the Private Laws of 1913, Chapter 159 of the Public-Local Laws of 1931, Chapter 498 of the 1945 Session Laws, Chapter 1178 of the 1953 Session Laws, and Chapter 899 of the 1963 Session Laws, reads as rewritten:

"Section 3. ~~That the officers of said town shall consist of a mayor and five aldermen, who shall be styled the Board of Aldermen of Middlesex, and the said mayor and the aldermen shall be elected by the qualified voters of said town on the first Monday in June, one thousand nine hundred and nine, and biennially thereafter, under the same rules and regulations as are prescribed by the law for the holding of municipal elections; a constable and secretary and treasurer, to be chosen by the board of aldermen immediately after its organization, to hold office one year, or until their successors are duly elected and qualified. And until the first Monday in June, one thousand nine hundred and nine, E.T. Lewis shall fill the office of mayor, and A. F. manning, J.R.J. Finch, S.G. High and H.J. Morris shall act as aldermen of said town.~~Regular municipal elections shall be held in the Town of Middlesex in Nash County every two years and shall be conducted in accordance with the uniform municipal elections laws of North Carolina. In 2013, and quadrennially thereafter, two commissioners shall be elected for a four-year term, and each shall serve until the successor is duly elected and qualified. In 2015, and quadrennially thereafter, three commissioners shall be elected for a four-year term, and each shall serve until the successor is duly elected and qualified. In 2013, and quadrennially thereafter, the mayor shall be elected for a four-year term and shall serve until the successor is duly elected and qualified."

SECTION 3. The Town Attorney of the Town of Middlesex shall submit this act to the Attorney General of the United States for preclearance under section 5 of the Voting Rights Act of 1965 within 30 days of this act becoming law, as provided by G.S. 120-30.9F. If this act is not so submitted, the Attorney General of North Carolina shall submit it under G.S. 120-30.9I.

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

In the General Assembly read three times and ratified this the 20th day of June, 2013.

Became law on the date it was ratified.

Session Law 2013-178 **H.B. 562**

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

The General Assembly of North Carolina enacts:

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

"THE CHARTER OF THE TOWN OF CRAMERTON.

"ARTICLE I. INCORPORATION AND CORPORATE POWERS.

"Section 1.1. **Incorporation.** The Town of Cramerton shall continue to be a body politic and corporate under the name of "Town of Cramerton." The term "general law" is employed herein as defined in G.S. 160A-1.

"ARTICLE II. CORPORATE BOUNDARIES.

"Section 2.1. **Corporate Powers.** The Town shall have and continue to have all of the powers, duties, rights, privileges, and immunities conferred and imposed on towns and cities by the general law of North Carolina.

"Section 2.2. **Corporate Boundaries.** The corporate limits of the Town of Cramerton shall be and continue to be those existing at the time of the ratification of this revised Charter, and as the same may be altered from time to time in accordance with general law.

"ARTICLE III. GOVERNING BODY.

"Section 3.1. **Structuring of Governing Body.** The Board of Commissioners, hereinafter referred to as the "Board," and the Mayor shall be the governing body of the town.

"Section 3.2. **Board; Composition; Terms of Office.** The qualified voters of the entire Town shall elect the Board. The Board shall be composed of five members to serve staggered terms of four years and until their successors are elected and qualified. Two members of the Board shall be elected in 2013 and quadrennially thereafter for four-year terms, and three members shall be elected in 2015 and quadrennially thereafter for four-year terms.

"Section 3.3. **Mayor; Term of Office; Duties.** The Mayor shall be elected by the qualified voters of the Town in 2013 and quadrennially thereafter for a term of four years and shall serve until a successor is elected and qualified. The Mayor shall be the official head of the Town government and shall preside at meetings of the Board. The Mayor shall have the right to vote only when there is an equal division on any question or matter before the Board and shall exercise the powers and duties conferred by law and as directed by the Board.

"Section 3.4. **Mayor Pro Tempore.** In accordance with general law, the Board shall elect one of its members to act as Mayor Pro Tempore to perform the duties of the Mayor during the Mayor's absence or disability.

"Section 3.5. **Meetings.** In accordance with general law, the Board shall establish a suitable time and place for its regular meetings. Special and emergency meetings may be held as provided by general law.

"Section 3.6. **Quorum; Voting.** Official actions of the Board and all votes shall be taken in accordance with the applicable provisions of general law, particularly G.S. 160A-75. A quorum shall be a majority of the members elected to the Board present and voting.

"Section 3.7. **Compensation; Qualifications for Office; Vacancies.** The compensation, qualifications, and filling of vacancies of the Mayor and members of the Board shall be in accordance with general law, except that vacancies are filled for the remainder of the unexpired term.

"ARTICLE IV. ELECTIONS.

"Section 4.1. **Regular Municipal Elections.** Regular municipal elections shall be held in each odd-numbered year in accordance with the uniform municipal election laws of North Carolina. Elections shall be conducted on a nonpartisan basis and the results determined by a plurality as provided in G.S. 163-292.

"Section 4.2. **Special Elections and Referenda.** Special elections and referenda may be held only as provided by general law.

"ARTICLE V. ADMINISTRATION.

"Section 5.1. **Council-Manager Form.** The Town of Cramerton shall operate under a council-manager form of government as provided in Part 2 of Article 7 of Chapter 160A of the General Statutes.

"Section 5.2. **Town Attorney.** The Board shall appoint a Town Attorney licensed to practice law in North Carolina. It shall be the duty of the Town Attorney to represent the Town, advise Town officials, and perform other duties required by law or as the Board may direct.

"Section 5.3. **Town Clerk.** The Board shall appoint a Town Clerk to keep a journal of the proceedings of the Board, to maintain official records and documents, to give notice of meetings, and to perform such other clerk duties required by law or as the Board may direct.

"Section 5.4. **Tax Collector.** The Board shall appoint a Tax Collector to collect all taxes owed to the Town and perform those duties specified in G.S. 105-350 and such other duties as prescribed by law or assigned by the Board.

"Section 5.5. **Administrative Head Appointment.** The Town Manager may appoint other administration and department heads as permitted by Part 2 of Article 7 of Chapter 160A of the General Statutes, including assignment of administrative duties to the Town Clerk.

"Section 5.7. **Other Appointments.** The Town Manager may authorize other positions to be filled by appointment and organize the Town governance as deemed appropriate subject to requirements of general law.

"Section 5.8. **Residency.** Residency within the corporate limits of the Town is not required for any office under this Article."

SECTION 2. This act does not affect the terms of office of the current Mayor and Board of Commissioners of the Town of Cramerton.

SECTION 3. No action or proceeding by any nature (whether civil or criminal, judicial or administrative, or otherwise) pending at the effective date of this act by or against the Town of Cramerton or any of its departments or agencies shall be abated or otherwise affected by enactment of this act.

SECTION 4. The purpose of this act is to revise the Charter of the Town of Cramerton and to consolidate herein certain acts concerning the property, affairs, and government of the Town.

SECTION 5. Chapter 1061 of the Session Laws of 1967, having been consolidated into this act, is hereby repealed.

SECTION 6. This act does not affect the following:

(1) S.L. 2005-45 (weeded lot ordinance).

(2) G.S. 160A-58.1(b)(5) as it applies to the Town.

(3) G.S. 20-171.24 as it applies to the Town.

(4) S.L. 2009-429 (Occupancy Tax).

(5) S.L. 2003-124 as amended by S.L. 2011-171 (regulation of utility vehicles).

SECTION 7. All existing ordinances and resolutions of the Town of Cramerton and all existing rules and regulations of departments or agencies of the Town of Cramerton not inconsistent with the provisions of this act shall continue in full force and effect until repealed, modified, or amended.

SECTION 8. If any provision of this act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or application of this act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

SECTION 9. This act is effective when it becomes law. Those members of the Board serving on the date of ratification of this Charter shall complete the remainder of their terms, and their positions shall be filled as the terms expire.

In the General Assembly read three times and ratified this the 20th day of June, 2013.

Became law on the date it was ratified.

Session Law 2013-179 **H.B. 229**

AN ACT AUTHORIZING THE TOWNS OF HOLDEN BEACH AND OCEAN ISLE BEACH TO ACCUMULATE FUNDS IN A CAPITAL RESERVE FUND FOR THE PURPOSE OF CANAL DREDGING AND MAINTENANCE FOR A PERIOD OF TEN YEARS.

The General Assembly of North Carolina enacts:

SECTION 1. Section 6.1 of S.L. 2004-104 reads as rewritten:

"**SECTION 6.1.** Capital Reserve Fund. – If a municipality establishes a capital reserve fund under Chapter 159 of the General Statutes to build up funds for the purpose of providing the service under this act, it may delay providing the service until sufficient funds have accumulated, but in no case to exceed ~~five~~ 10 years."

SECTION 2. This act applies only to the Towns of Holden Beach and Ocean Isle Beach.

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

In the General Assembly read three times and ratified this the 24th day of June, 2013.

Became law on the date it was ratified.

Session Law 2013-180 **H.B. 234**

AN ACT TO CLARIFY THE DISTRIBUTION OF CERTAIN NET PROFITS FROM THE PENDER COUNTY BOARD OF ALCOHOLIC CONTROL FOR LAW ENFORCEMENT PURPOSES.

The General Assembly of North Carolina enacts:

SECTION 1. The introductory language of Section 3 of S.L. 2012-125 reads as rewritten:

"**SECTION 3.** Section 6 of Chapter 50 of the 1963 Session Laws, as rewritten by Section 1 of Chapter 277 of the 1973 Session Laws, reads as rewritten:"

SECTION 2. Section 6 of Chapter 50 of the 1963 Session Laws, as rewritten by Section 1 of Chapter 277 of the 1973 Session Laws, and as amended by Section 3 of S.L. 2012-125, reads as rewritten:

"**Sec. 6.** After deducting not less than five percent (5%) nor more than fifteen percent (15%) of total net profits as determined by quarterly audits to be expended for law ~~enforcement~~enforcement, in amounts determined by the Pender County Board of Alcoholic Control, and after providing for expenditure of a sum not less than two percent (2%) nor more than five percent (5%) of total future net profits, and current funds, to provide facilities, material for the care, education, rehabilitation, treatment of alcoholic, mental patients, for education of the general public on the excessive use of alcoholic beverages, or distribution to various Pender County Rescue Squads, at intervals and in amounts determined by the Pender County Board of Alcoholic Control, and after further payment to the general fund of Pender County of five percent (5%) of total net profits for use in mosquito control, the remaining total net profits from Alcoholic Beverage Control Stores shall, pursuant to G.S. 18B-805(e), be paid over on a quarterly basis as follows: sixty-five percent (65%) to the general fund of Pender County, and the remaining thirty-five percent (35%) shall be distributed as follows:

(1) Seventy percent (70%) of the remaining thirty-five percent (35%) shall be distributed to the Town of Burgaw and the Town of Surf City as follows:
   a. Forty percent (40%) of the seventy percent (70%) to the Town of Burgaw.
   b. Sixty percent (60%) of the seventy percent (70%) to the Town of Surf City.

(2) Thirty percent (30%) of the remaining thirty-five percent (35%) shall be distributed to each of the following municipalities according to each municipality's percentage of population within Pender County, as determined by the last decennial federal census:
   a. Town of Atkinson.
   b. Village of St. Helena.
   c. Town of Topsail Beach.
   d. Town of Watha."

SECTION 3. Chapter 107 of the 1981 Session Laws is repealed.

SECTION 4. This act becomes effective July 1, 2013.

In the General Assembly read three times and ratified this the 24th day of June, 2013.

Became law on the date it was ratified.

Session Law 2013-181 **H.B. 290**

AN ACT TO ALLOW THE BOARD OF COMMISSIONERS OF RUTHERFORD COUNTY TO SERVE EX OFFICIO AS THE RUTHERFORD COUNTY AIRPORT AUTHORITY.

The General Assembly of North Carolina enacts:

SECTION 1. Section 2 of Chapter 335 of the 1971 Session Laws reads as rewritten:

"**Sec. 2.** The Airport Authority shall consist of five (5) members who shall be appointed to staggered terms of four (4) years by the Rutherford County Board of Commissioners. All of the members shall be residents of the County. The terms of the initial five (5) members of the Airport Authority shall be as follows: two (2) members to be appointed to a term of four (4) years; three (3) members appointed for a term of two (2) years. Thereafter, all terms shall be for four (4) years. Each of the members and their successors so appointed shall take and subscribe before the Clerk of the Superior Court of Rutherford County, an oath of office and file same with the Rutherford County Board of Commissioners. Upon the occurrence of any vacancy on said Airport Authority, said vacancy shall be filled within sixty (60) days after notice thereof at a regular meeting of the Board of County Commissioners. Alternatively, at any time, the Board of Commissioners of Rutherford County may provide by resolution that the Board of Commissioners shall serve as the Airport Authority, but it shall serve as such without additional compensation."

SECTION 2. Section 7 of Chapter 335 of the 1971 Session Laws reads as rewritten:

"**Sec. 7.** Private property needed by said Airport Authority for any airport, landing field as facilities of same may be acquired by gift or devise, or may be acquired by private purchase or by the exercise of the power of eminent domain, pursuant to the provisions of Chapter ~~40~~ 40A of the General Statutes of North Carolina, as amended."

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

In the General Assembly read three times and ratified this the 26th day of June, 2013.

Became law on the date it was ratified.

Session Law 2013-182 **H.B. 294**

AN ACT TO ALLOW CERTAIN COUNTIES TO REMOVE ABANDONED VESSELS FROM NAVIGABLE WATERS.

The General Assembly of North Carolina enacts:

SECTION 1. This act applies to Brunswick and Dare Counties only.

SECTION 2. G.S. 153A-132 reads as rewritten:

"§ **153A-132. Removal and disposal of abandoned and junked motor vehicles.**

(a) Grant of Power. – A county may by ordinance prohibit the abandonment of motor vehicles on public grounds and private property within the county's ordinance-making jurisdiction and on county-owned property wherever located. The county may enforce the ordinance by removing and disposing of abandoned or junked motor vehicles according to the procedures prescribed in this section.

(b) Definitions. – "Motor vehicle" includes any machine designed or intended to travel over land or water by self-propulsion or while attached to self-propelled vehicle.

(1) An "abandoned motor vehicle" is one that:
   a. Is left on public grounds or county-owned property in violation of a law or ordinance prohibiting parking; or
   b. Is left for longer than 24 hours on property owned or operated by the county; or
   c. Is left for longer than two hours on private property without the consent of the owner, occupant, or lessee of the property; or
   d. Is left for longer than seven days on public grounds.

(2) A "junked motor vehicle" is an abandoned motor vehicle that also:
   a. Is partially dismantled or wrecked; or
   b. Cannot be self-propelled or moved in the manner in which it originally was intended to move; or
   c. Is more than five years old and appears to be worth less than one hundred dollars ($100.00); or
   d. Does not display a current license plate.

(c) Removal of Vehicles. – A county may remove to a storage garage or area an abandoned or junked motor vehicle found to be in violation of an ordinance adopted pursuant to this section. A vehicle may not be removed from private property, however, without the written request of the owner, lessee, or occupant of the premises unless the board of commissioners or a duly authorized county official or employee has declared the vehicle to be a health or safety hazard. Appropriate county officers and employees have a right, upon presentation of proper credentials, to enter on any premises within the county ordinance-making jurisdiction at any reasonable hour in order to determine if any vehicles are health or safety hazards. The county may require a person requesting the removal from private property of an abandoned or junked motor vehicle to indemnify the county against any loss, expense, or liability incurred because of the vehicle's removal, storage, or sale.

When an abandoned or junked motor vehicle is removed, the county shall give notice to the owner as required by G.S. 20-219.11(a) and (b).

(d) Hearing Procedure. – Regardless of whether a county does its own removal and disposal of motor vehicles or contracts with another person to do so, the county shall provide a hearing procedure for the owner. For purposes of this subsection, the definitions in G.S. 20-219.9 apply.

(1) If the county operates in such a way that the person who tows the vehicle is responsible for collecting towing fees, all provisions of Article 7A, Chapter 20, apply.

(2) If the county operates in such a way that it is responsible for collecting towing fees, it shall:
   a. Provide by contract or ordinance for a schedule of reasonable towing fees,
   b. Provide a procedure for a prompt fair hearing to contest the towing,
   c. Provide for an appeal to district court from that hearing,
   d. Authorize release of the vehicle at any time after towing by the posting of a bond or paying of the fees due, and
   e. Provide a sale procedure similar to that provided in G.S. 44A-4, 44A-5, and 44A-6, except that no hearing in addition to the probable cause hearing is required. If no one purchases the vehicle at the sale and if the value of the vehicle is less than the amount of the lien, the county may destroy it.

(e) and (f) Repealed by Session Laws 1983, c. 420, s. 10.

(g) No Liability. – No person nor any county may be held to answer in a civil or criminal action to any owner or other person legally entitled to the possession of an abandoned, junked, lost, or stolen motor vehicle for disposing of the vehicle as provided in this section.

(h) Exceptions. – This section does not apply to any vehicle in an enclosed building, to any vehicle on the premises of a business enterprise being operated in a lawful place and manner if the vehicle is necessary to the operation of the enterprise, or to any vehicle in an appropriate storage place or depository maintained in a lawful place and manner by the county.

(i) A county may by ordinance prohibit the abandonment of vessels in navigable waters within the county's ordinance-making jurisdiction, subject to the provisions of this subsection. The provisions of this section shall apply to abandoned vessels in the same manner that they apply to abandoned or junked motor vehicles, to the extent that the provisions may apply to abandoned vessels. For purposes of this subsection, an "abandoned vessel" is one that meets any of the following:

(1) A vessel that is moored, anchored, or otherwise located for more than 30 consecutive days in any 180 consecutive-day period without permission of the dock owner.

(2) A vessel that is in danger of sinking, has sunk, is resting on the bottom, or is located such that it is a hazard to navigation or is an immediate danger to other vessels.

Shipwrecks, vessels, cargoes, tackle, and other underwater archeological remains that have been in place for more than 10 years shall not be considered abandoned vessels and shall not be removed under the provisions of this section without the approval of the Department of Cultural Resources, which is the legal custodian of these properties pursuant to G.S. 121-22 and G.S. 121-23."

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

In the General Assembly read three times and ratified this the 26th day of June, 2013.

Became law on the date it was ratified.

Session Law 2013-183 **H.B. 817**

AN ACT TO STRENGTHEN THE ECONOMY THROUGH STRATEGIC TRANSPORTATION INVESTMENTS.

The General Assembly of North Carolina enacts:

STRATEGIC TRANSPORTATION INVESTMENTS

SECTION 1.1.(a) Chapter 136 of the General Statutes is amended by adding a new Article to read:

"Article 14B.

"Strategic Prioritization Funding Plan for Transportation Investments.

"**§ 136-189.10. Definitions.**

The following definitions apply in this Article:

(1) Statewide strategic mobility projects. – Includes only the following:

a. Interstate highways and future interstate highways approved by the federal government.

b. Routes on the National Highway System as of July 1, 2012, excluding intermodal connectors.

c. Highway routes on the United States Department of Defense Strategic Highway Network (STRAHNET).

d. Highway toll routes designated by State law or by the Department of Transportation, pursuant to its authority under State law.

e. Highway projects listed in G.S. 136-179, as it existed on July 1, 2012, that are not authorized for construction as of July 1, 2015.

f. Appalachian Development Highway System.

g. Commercial service airports included in the Federal Aviation Administration's National Plan of Integrated Airport Systems (NPIAS) that provide international passenger service or 375,000 or more enplanements annually, provided that the State's annual financial participation in any single airport project included in this subdivision may not exceed five hundred thousand dollars ($500,000).

h. Freight capacity and safety improvements to Class I freight rail corridors.

(2) Regional impact projects. – Includes only the following:

a. Projects listed in subdivision (1) of this section, subject to the limitations noted in that subdivision.

b. U.S. highway routes not included in subdivision (1) of this section.

c. N.C. highway routes not included in subdivision (1) of this section.

d. Commercial service airports included in the NPIAS that are not included in subdivision (1) of this section, provided that the State's annual financial participation in any single airport project included in this subdivision may not exceed three hundred thousand dollars ($300,000).

e. The State-maintained ferry system, excluding passenger vessel replacement.

f. Rail lines that span two or more counties not included in subdivision (1) of this section.

g. Public transportation service that spans two or more counties and that serves more than one municipality. Expenditures pursuant to this sub-subdivision shall not exceed ten percent (10%) of any distribution region allocation.

(3) Division needs projects. – Includes only the following:

a. Projects listed in subdivision (1) or (2) of this section, subject to the limitations noted in those subsections.

b. State highway routes not included in subdivision (1) or (2) of this section.

c. Airports included in the NPIAS that are not included in subdivision (1) or (2) of this section, provided that the State's total annual financial participation under this sub-subdivision shall not exceed eighteen million five hundred thousand dollars ($18,500,000).

d. Rail lines not included in subdivision (1) or (2) of this section.

e. Public transportation service not included in subdivision (1) or (2) of this section.

f. Multimodal terminals and stations serving passenger transit systems.

g. Federally funded independent bicycle and pedestrian improvements.

h. Replacement of State-maintained ferry vessels.

i. Federally funded municipal road projects.

(4) Distribution Regions. – The following Distribution Regions apply to this Article:

a. Distribution Region A consists of the following counties: Bertie, Camden, Chowan, Currituck, Dare, Edgecombe, Gates, Halifax, Hertford, Hyde, Johnston, Martin, Nash, Northampton, Pasquotank, Perquimans, Tyrrell, Washington, Wayne, and Wilson.

b. Distribution Region B consists of the following counties: Beaufort, Brunswick, Carteret, Craven, Duplin, Greene, Jones, Lenoir, New Hanover, Onslow, Pamlico, Pender, Pitt, and Sampson.

c. Distribution Region C consists of the following counties: Bladen, Columbus, Cumberland, Durham, Franklin, Granville, Harnett, Person, Robeson, Vance, Wake, and Warren.

d. Distribution Region D consists of the following counties: Alamance, Caswell, Davidson, Davie, Forsyth, Guilford, Orange, Rockingham, Rowan, and Stokes.

e. Distribution Region E consists of the following counties: Anson, Cabarrus, Chatham, Hoke, Lee, Mecklenburg, Montgomery, Moore, Randolph, Richmond, Scotland, Stanly, and Union.

f. Distribution Region F consists of the following counties: Alexander, Alleghany, Ashe, Avery, Caldwell, Catawba, Cleveland, Gaston, Iredell, Lincoln, Surry, Watauga, Wilkes, and Yadkin.

g. Distribution Region G consists of the following counties: Buncombe, Burke, Cherokee, Clay, Graham, Haywood, Henderson, Jackson, Macon, Madison, McDowell, Mitchell, Polk, Rutherford, Swain, Transylvania, and Yancey.

"**§ 136-189.11. Transportation Investment Strategy Formula.**

(a) Funds Subject to Formula. – The following sources of funds are subject to this section:

(1) Highway Trust Fund funds, in accordance with G.S. 136-176.

(2) Federal aid funds.

(b) Funds Excluded From Formula. – The following funds are not subject to this section:

(1) Federal congestion mitigation and air quality improvement program funds appropriated to the State by the United States pursuant to 23 U.S.C. § 104(b)(2) and 23 U.S.C. § 149.

(2) Funds received through competitive awards or discretionary grants through federal appropriations either for local governments, transportation authorities, transit authorities, or the Department.

(3) Funds received from the federal government that under federal law may only be used for Appalachian Development Highway System projects.

(4) Funds used in repayment of "GARVEE" bonds related to Phase I of the Yadkin River Veterans Memorial Bridge project.

(5) Funds committed to gap funding for toll roads funded with bonds issued pursuant to G.S. 136-176.

(6) Funds obligated for projects in the State Transportation Improvement Program that are scheduled for construction as of April 1, 2013, in State fiscal year 2012-2013, 2013-2014, or 2014-2015.

(7) Toll collections from a turnpike project under Article 6H of this Chapter and other revenue from the sale of the Authority's bonds or notes or project loans, in accordance with G.S. 136-89.192.

(8) Toll collections from the State-maintained ferry system collected under the authority of G.S. 136-82.

(9) Federal State Planning and Research Program funds.

(b1) Funds Excluded From Regional Impact Project Category. – Federal Surface Transportation Program-Direct Attributable funds expended on eligible projects in the Regional Impact Project category are excluded from that category.

(c) Funds With Alternate Criteria. – The following federal program activities shall be included in the applicable category of the Transportation Investment Strategy Formula set forth in subsection (d) of this section but shall not be subject to the prioritization criteria set forth in that subsection:

(1) Bridge replacement.
(2) Interstate maintenance.
(3) Highway safety improvement.

(d) Transportation Investment Strategy Formula. – Funds subject to the Formula shall be distributed as follows:

(1) Statewide Strategic Mobility Projects. – Forty percent (40%) of the funds subject to this section shall be used for Statewide Strategic Mobility Projects.

a. Criteria. – Transportation-related quantitative criteria shall be used by the Department to rank highway projects that address cost-effective Statewide Strategic Mobility needs and promote economic and employment growth. The criteria for selection of Statewide Strategic Mobility Projects shall utilize a numeric scale of 100 points, based on consideration of the following quantitative criteria:

1. Benefit cost.
2. Congestion.
3. Safety.
4. Economic competitiveness.
5. Freight.
6. Multimodal.
7. Pavement condition.
8. Lane width.
9. Shoulder width.

b. Project cap. – No more than ten percent (10%) of the funds projected to be allocated to the Statewide Strategic Mobility category over any five-year period may be assigned to any contiguous project or group of projects in the same corridor within a Highway Division or within adjoining Highway Divisions.

(2) Regional Impact Projects. – Thirty percent (30%) of the funds subject to this section shall be used for Regional Impact Projects and allocated by population of Distribution Regions based on the most recent estimates certified by the Office of State Budget and Management.

a. Criteria. – A combination of transportation-related quantitative criteria, qualitative criteria, and local input shall be used to rank Regional Impact Projects involving highways that address cost-effective needs from a region-wide perspective and promote economic growth. Local input is defined as the rankings identified by the Department's Transportation Division Engineers, Metropolitan Planning Organizations, and Rural Transportation Planning Organizations. The criteria utilized for selection of Regional Impact Projects shall be based thirty percent (30%) on local input and seventy percent (70%) on consideration of a numeric scale of 100 points based on the following quantitative criteria:

1. Benefit cost.
2. Congestion.
3. Safety.
4. Freight.
5. Multimodal.
6. Pavement condition.

7. Lane width.
8. Shoulder width.
9. Accessibility and connectivity to employment centers, tourist destinations, or military installations.

(3) Division Need Projects. – Thirty percent (30%) of the funds subject to this section shall be allocated in equal share to each of the Department divisions, as defined in G.S. 136-14.1, and used for Division Need Projects.

a. Criteria. – A combination of transportation-related quantitative criteria, qualitative criteria, and local input shall be used to rank Division Need Projects involving highways that address cost-effective needs from a Division-wide perspective, provide access, and address safety-related needs of local communities. Local input is defined as the rankings identified by the Department's Transportation Division Engineers, Metropolitan Planning Organizations, and Rural Transportation Planning Organizations. The criteria utilized for selection of Division Need Projects shall be based fifty percent (50%) on local input and fifty percent (50%) on consideration of a numeric scale of 100 points based on the following quantitative criteria, except as provided in sub-subdivision b. of this subdivision:
   1. Benefit cost.
   2. Congestion.
   3. Safety.
   4. Freight.
   5. Multimodal.
   6. Pavement condition.
   7. Lane width.
   8. Shoulder width.
   9. Accessibility and connectivity to employment centers, tourist destinations, or military installations.

b. Alternate criteria. – Funding from the following programs shall be included in the computation of each of the Department division equal shares but shall be subject to alternate quantitative criteria:
   1. Federal Surface Transportation Program-Direct Attributable funds expended on eligible projects in the Division Need Projects category.
   2. Federal Transportation Alternatives funds appropriated to the State.
   3. Federal Railway-Highway Crossings Program funds appropriated to the State.
   4. Projects requested from the Department in support of a time-critical job creation opportunity, when the opportunity would be classified as transformational under the Job Development Investment Grant program established pursuant to G.S. 143B-437.52, provided that the total State investment in each fiscal year for all projects funded under this sub-subdivision shall not exceed ten million dollars ($10,000,000) in the aggregate or two million dollars ($2,000,000) per project.
   5. Federal funds for municipal road projects.

c. Bicycle and pedestrian limitation. – The Department shall not provide financial support for independent bicycle and pedestrian improvement projects, except for federal funds administered by the

Department for that purpose. This sub-subdivision shall not apply to funds allocated to a municipality pursuant to G.S. 136-41.1 that are committed by the municipality as matching funds for federal funds administered by the Department and used for bicycle and pedestrian improvement projects. This limitation shall not apply to funds authorized for projects in the State Transportation Improvement Program that are scheduled for construction as of October 1, 2013, in State fiscal year 2012-2013, 2013-2014, or 2014-2015.

(4) Criteria for nonhighway projects. – Nonhighway projects subject to this subsection shall be evaluated through a separate prioritization process established by the Department that complies with all of the following:

a. The criteria used for selection of projects for a particular transportation mode shall be based on a minimum of four quantitative criteria.

b. Local input shall include rankings of projects identified by the Department's Transportation Division Engineers, Metropolitan Planning Organizations, and Rural Transportation Planning Organizations.

c. The criteria shall be based on a scale not to exceed 100 points that includes no bonus points or other alterations favoring any particular mode of transportation.

(e) Authorized Formula Variance. – The Department may vary from the Formula set forth in this section if it complies with the following:

(1) Limitation on variance. – The Department, in obligating funds in accordance with this section, shall ensure that the percentage amount obligated to Statewide Strategic Mobility Projects, Regional Impact Projects, and Division Need Projects does not vary by more than five percent (5%) over any five-year period from the percentage required to be allocated to each of those categories by this section. Funds obligated among distribution regions or divisions pursuant to this section may vary up to ten percent (10%) over any five-year period.

(2) Calculation of variance. – Each year the Secretary shall calculate the amount of Regional Impact and Division Need funds allocated in that year to each division and region, the amount of funds obligated, and the amount the obligations exceeded or were below the allocation. In the first variance calculation under this subdivision following the end of fiscal year 2015-2016, the target amounts obtained according to the Formula set forth in this section shall be adjusted to account for any differences between allocations and obligations reported for the previous year. In the first variance calculation under this subdivision following the end of fiscal year 2016-2017, the target amounts obtained according to the Formula set forth in this section shall be adjusted to account for any differences between allocations and obligations reported for the previous two fiscal years. In the first variance calculation under this subdivision following the end of fiscal year 2017-2018, the target amounts obtained according to the Formula set forth in this section shall be adjusted to account for any differences between allocations and obligations reported for the previous three fiscal years. In the first variance calculation under this subdivision following the end of fiscal year 2018-2019, the target amounts obtained according to the Formula set forth in this section shall be adjusted to account for any differences between allocations and obligations reported for the previous four fiscal years. The new target amounts shall be used to fulfill the requirements of subdivision (1) of this subsection for the next update of the Transportation Improvement

Program. The adjustment to the target amount shall be allocated by Distribution Region or Division, as applicable.

(f) Incentives for Local Funding and Highway Tolling. – The Department may revise highway project selection ratings based on local government funding initiatives and capital construction funding directly attributable to highway toll revenue. Projects authorized for construction after November 1, 2013, and contained in the 10-year Department of Transportation work program are eligible for a bonus allocation under this subsection.

(1) Definitions. – The following definitions apply in this subsection:

a. Bonus allocation. – The allocation obtained as a result of local government funding participation or highway tolling.

b. Local funding participation. – Non-State or nonfederal funds committed by local officials to leverage the commitment of State or federal transportation funds towards construction.

(2) Funds obtained from local government funding participation. – Upon authorization to construct a project with funds obtained by local government funding participation, the Department shall make available for allocation as set forth in subdivision (4) of this section an amount equal to one-half of the local funding commitment for other eligible highway projects that serve the local entity or entities that provided the local funding.

(3) Funds obtained through highway tolling. – Upon authorization to construct a project with funding from toll revenue, the Department shall make available for allocation an amount equal to one-half of the project construction cost derived from toll revenue bonds. The amount made available for allocation to other eligible highway projects shall not exceed two hundred million dollars ($200,000,000) of the capital construction funding directly attributable to the highway toll revenues committed in the Investment Grade Traffic and Revenue Study, for a project for which funds have been committed on or before July 1, 2015. The amount made available for allocation to other eligible highway projects shall not exceed one hundred million dollars ($100,000,000) of the capital construction funding directly attributable to the highway toll revenues committed in the Investment Grade Traffic and Revenue Study, for a project for which funds are committed after July 1, 2015. If the toll project is located in one or more Metropolitan Planning Organization or Rural Transportation Planning Organization boundaries, based on the boundaries in existence at the time of letting of the project construction contract, the bonus allocation shall be distributed proportionately to lane miles of new capacity within the Organization's boundaries. The Organization shall apply the bonus allocation only within those counties in which the toll project is located.

(4) Use of bonus allocation. – The Metropolitan Planning Organization, Rural Transportation Planning Organization, or the local government may choose to apply its bonus allocation in one of the three categories or in a combination of the three categories as provided in this subdivision.

a. Statewide Strategic Mobility Projects category. – The bonus allocation shall apply over the five-year period in the State Transportation Improvement Program in the cycle following the contractual obligation.

b. Regional Impact Projects category. – The bonus allocation is capped at ten percent (10%) of the regional allocation, or allocation to multiple regions, made over a five-year period and shall be applied over the five-year period in the State Transportation Improvement Program in the cycle following the contractual obligation.

c. Division Needs Projects category. – The bonus allocation is capped at ten percent (10%) of the division allocation, or allocation to multiple divisions, made over a five-year period and shall be applied over the five-year period in the State Transportation Improvement Program in the cycle following the contractual obligation.

(g) Reporting. – The Department shall publish on its Web site, in a link to the "Strategic Transportation Investments" Web site linked directly from the Department's home page, the following information in an accessible format as promptly as possible:

(1) The quantitative criteria used in each highway and nonhighway project scoring, including the methodology used to define each criteria, the criteria presented to the Board of Transportation for approval, and any adjustments made to finalize the criteria.

(2) The quantitative and qualitative criteria in each highway or nonhighway project scoring that is used in each region or division to finalize the local input score and shall include distinctions between Metropolitan Planning Organization and Rural Transportation Planning Organization scoring and methodologies.

(3) Notification of changes to the methodologies used to calculate quantitative criteria.

(4) The final quantitative formulas, including the number of points assigned to each criteria, used in each highway and nonhighway project scoring used to obtain project rankings in the Statewide, Regional, and Division categories. If the Department approves different formulas or point assignments regionally or by division, the final scoring for each area shall be noted.

(5) The project scorings associated with the release of the draft and final State Transportation Improvement Program."

SECTION 1.1.(b) Effective July 1, 2019, G.S. 136-189.11(e)(2), as enacted by subsection (a) of this section, reads as rewritten:

"(e) Authorized Formula Variance. – The Department may vary from the Formula set forth in this section if it complies with the following:

…

(2) Calculation of Variance. – Each year, the Secretary shall calculate the amount of Regional Impact and Division Need funds allocated in that year to each ~~division,~~division and region, the amount of funds obligated, and the amount the obligations exceeded or were below the allocation. ~~In the first variance calculation under this subdivision following the end of fiscal year 2015-16, the target amounts obtained according to the Formula set forth in this section shall be adjusted to account for any differences between allocations and obligations reported for the previous year. In the first variance calculation under this subdivision following the end of fiscal year 2016-17, the target amounts obtained according to the Formula set forth in this section shall be adjusted to account for any differences between allocations and obligations reported for the previous two fiscal years. In the first variance calculation under this subdivision following the end of fiscal year 2017-18, the target amounts obtained according to the Formula set forth in this section shall be adjusted to account for any differences between allocations and obligations reported for the previous three fiscal years. In the first variance calculation under this subdivision following the end of fiscal year 2018-19, the~~ The target amounts obtained according to the Formula set forth in this section shall be adjusted to account for any differences between allocations and obligations reported for the previous ~~four~~ five fiscal years. The new target amounts shall be used to fulfill the requirements of subdivision (1) of this subsection for the next update of the Transportation

Improvement Program. The adjustment to the target amount shall be allocated by Distribution Region or Division, as applicable."

SECTION 1.2. Strategic Prioritization Process Reporting. – The Department shall issue a draft revision to the State Transportation Improvement Program required by G.S. 143B-350(f)(4) no later than January 1, 2015. The Board of Transportation shall approve the revised State Transportation Improvement Program no later than July 1, 2015.

SECONDARY ROADS CHANGES

SECTION 2.1. G.S. 20-85 reads as rewritten:

"§ **20-85. Schedule of fees.**

…

(a1) One dollar ($1.00) of the fee imposed for any transaction assessed a fee under subdivision (a)(1), (a)(2), (a)(3), (a)(7), (a)(8), or (a)(9) of this section shall be credited to the North Carolina Highway Fund. The Division shall use the fees derived from transactions with the Division for technology improvements. The Division shall use the fees derived from transactions with commission contract agents for the payment of compensation to commission contract agents. An additional fifty cents (50¢) of the fee imposed for any transaction assessed a fee under subdivision (a)(1) of this section shall be credited to the Mercury Switch Removal Account in the Department of Environment and Natural Resources. ~~An additional fifty cents (50¢) of the fee imposed for any transaction assessed a fee under subdivision (a)(1) of this section shall be credited as follows:~~

~~(1) The first four hundred thousand dollars ($400,000) collected shall be credited to the Reserve for Visitor Centers in the Highway Fund.~~

~~(2) Any additional funds collected shall be credited to the Highway Trust Fund and, notwithstanding G.S. 136-176(b), shall be allocated and used for urban loop projects.~~

(a2) From the fees collected under subdivisions (a)(1) through (a)(9) of this section, the Department shall annually credit the sum of four hundred thousand dollars ($400,000) to the Reserve for Visitor Centers in the Highway Fund.

(b) Except as otherwise provided in ~~subsection (a1)~~subsections (a1) and (a2) of this section, the fees collected under subdivisions (a)(1) through (a)(9) of this section shall be credited to the North Carolina Highway Trust Fund. The fees collected under subdivision (a)(10) of this section shall be credited to the Highway Fund. ~~Fifteen dollars ($15.00) of each title fee credited to the Trust Fund under subdivision (a)(1) shall be added to the amount allocated for secondary roads under G.S. 136-176 and used in accordance with G.S. 136-44.5.~~

…."

SECTION 2.2.(a) G.S. 136-44.2 reads as rewritten:

"§ **136-44.2. Budget and appropriations.**

(a) The Director of the Budget shall include in the "Current Operations Appropriations Act" an enumeration of the purposes or objects of the proposed expenditures for each of the ~~construction and maintenance~~construction, maintenance, and improvement programs for that budget period for the State primary, secondary, State parks road systems, and other transportation systems. The State primary system shall include all portions of the State highway system located both inside and outside municipal corporate limits that are designated by N.C., U.S. or Interstate numbers. The State secondary system shall include all of the State highway system located both inside and outside municipal corporate limits that is not a part of the State primary system. The State parks system shall include all State parks roads and parking lots that are not also part of the State highway system. The transportation systems shall also include State-maintained, nonhighway modes of ~~transportation as well.~~transportation.

(b) All ~~construction and maintenance~~ construction, maintenance, and improvement programs for which appropriations are requested shall be enumerated separately in the budget. Programs that are entirely State funded shall be listed separately from those programs involving the use of federal-aid funds. Proposed appropriations of State matching funds for each of the

federal-aid construction programs shall be enumerated separately as well as the federal-aid funds anticipated for each program in order that the total construction requirements for each program may be provided for in the budget. Also, proposed State matching funds for the highway planning and research program shall be included separately along with the anticipated federal-aid funds for that purpose.

(c) Other program categories for which appropriations are requested, such as, but not limited to, maintenance, channelization and traffic control, bridge maintenance, public service and access road construction, transportation projects and systems, and ferry operations shall be enumerated in the budget.

(d) The Department of Transportation shall have all powers necessary to comply fully with provisions of present and future federal-aid acts. For purposes of this section, "federally eligible construction project" means any construction project except secondary road projects developed pursuant to G.S. 136-44.7 and 136-44.8 eligible for federal funds under any federal-aid act, whether or not federal funds are actually available.

(e) The "Current Operations Appropriations Act" shall also contain the proposed appropriations of State funds for use in each county for ~~maintenance and construction~~construction, maintenance, and improvement of secondary roads, to be allocated in accordance with G.S. 136-44.5 and 136-44.6. State funds appropriated for secondary roads shall not be transferred nor used except for the ~~construction and maintenance~~construction, maintenance, and improvement of secondary roads in the county for which they are allocated pursuant to G.S. 136-44.5 and 136-44.6.

…."

SECTION 2.2.(b) Effective July 1, 2014, G.S. 136-44.2, as rewritten by subsection (a) of this section, reads as rewritten:

"§ **136-44.2. Budget and appropriations.**

(a) The Director of the Budget shall include in the "Current Operations Appropriations Act" an enumeration of the purposes or objects of the proposed expenditures for each of the ~~construction, maintenance,~~ maintenance and improvement programs for that budget period for the State primary, secondary, State parks road systems, and other transportation systems. The State primary system shall include all portions of the State highway system located both inside and outside municipal corporate limits that are designated by N.C., U.S. or Interstate numbers. The State secondary system shall include all of the State highway system located both inside and outside municipal corporate limits that is not a part of the State primary system. The State parks system shall include all State parks roads and parking lots that are not also part of the State highway system. The transportation systems shall also include State-maintained, nonhighway modes of transportation.

(b) All ~~construction, maintenance,~~maintenance and improvement programs for which appropriations are requested shall be enumerated separately in the budget. Programs that are entirely State funded shall be listed separately from those programs involving the use of federal-aid funds. ~~Proposed appropriations of State matching funds for each of the federal-aid construction programs shall be enumerated separately as well as the federal-aid funds anticipated for each program in order that the total construction requirements for each program may be provided for in the budget. Also, proposed~~ Proposed State matching funds for the highway planning and research program shall be included separately along with the anticipated federal-aid funds for that purpose.

(c) Other program categories for which appropriations are requested, such as, but not limited to, maintenance, channelization and traffic control, bridge maintenance, public service and access road construction, transportation projects and systems, and ferry operations shall be enumerated in the budget.

(d) The Department of Transportation shall have all powers necessary to comply fully with provisions of present and future federal-aid acts. For purposes of this section, "federally eligible construction project" means any construction project except secondary road projects

developed pursuant to ~~G.S. 136-44.7 and 136-44.8~~G.S. 136-44.8 eligible for federal funds under any federal-aid act, whether or not federal funds are actually available.

(e) The "Current Operations Appropriations Act" shall also contain the proposed appropriations of State funds for use in each county for ~~construction, maintenance,~~ maintenance and improvement of secondary roads, to be allocated in accordance with ~~G.S. 136-44.5 and 136-44.6.~~G.S. 136-44.6. State funds appropriated for secondary roads shall not be transferred nor used except for the ~~construction, maintenance,~~ maintenance and improvement of secondary roads in the county for which they are allocated pursuant to ~~G.S. 136-44.5 and 136-44.6.~~G.S. 136-44.6.

…

(g) The Department of Transportation may provide for costs incurred or accrued for traffic control measures to be taken by the Department at major events which involve a high degree of traffic concentration on State highways, and which cannot be funded from regular budgeted items. This authorization applies only to events which are expected to generate 30,000 vehicles or more per day. The Department of Transportation shall provide for this funding by allocating and reserving up to one hundred thousand dollars ($100,000) before any other allocations from the appropriations for State maintenance for ~~primary, secondary, and urban~~primary and secondary road systems are made, based upon the same proportion as is appropriated to each system."

SECTION 2.3.(a) G.S. 136-44.2A reads as rewritten:

"§ **136-44.2A. Secondary road ~~improvement~~ construction program.**

There shall be annually allocated from the Highway Fund to the Department of Transportation for secondary road ~~improvement~~ construction programs developed pursuant to G.S. ~~136-44.7 and~~ 136-44.8, a sum provided by law. ~~equal to that allocation made from the Highway Fund under G.S. 136-41.1(a). In addition, as provided in G.S. 136-176(b)(4) and G.S. 20-85(b), revenue is annually allocated from the Highway Trust Fund for secondary road construction. Of the funds allocated from the Highway Fund, the sum of sixty-eight million six hundred seventy thousand dollars ($68,670,000) shall be allocated among the counties in accordance with G.S. 136-44.5(b). All funds allocated from the Highway Fund for secondary road improvements in excess of that amount shall be allocated among the counties in accordance with G.S. 136-44.5(c). All funds allocated from the Highway Trust Fund for secondary road improvement programs shall be allocated in accordance with G.S. 136-182.~~"

SECTION 2.3.(b) Effective July 1, 2014, G.S. 136-44.2A is repealed.

SECTION 2.4. G.S. 136-44.2C is repealed.

SECTION 2.5. Article 2A of Chapter 136 is amended by adding a new section to read:

"**§ 136-44.2D. Secondary unpaved road paving program.**

(a) The Department of Transportation shall expend funds allocated to the paving of unpaved secondary roads for the paving of unpaved secondary roads based on a statewide prioritization. The Department shall pave the eligible unpaved secondary roads that receive the highest priority ranking within this statewide prioritization. Nothing in this subsection shall be interpreted to require the Department to pave any unpaved secondary roads that do not meet secondary road system addition standards as set forth in G.S. 136-44.10 and G.S. 136-102.6. The Highway Trust Fund shall not be used to fund the paving of unpaved secondary roads."

SECTION 2.6.(a) G.S. 136-44.5 reads as rewritten:

"§ **136-44.5. Secondary roads; mileage study; allocation of funds.**

(a) Before July 1, in each calendar year, the Department of Transportation shall make a study of all State-maintained unpaved and paved secondary roads in the State. The study shall determine:

(1) The number of miles of unpaved State-maintained roads in each county eligible for paving and the total number of miles that are ineligible;

(2) The total number of miles of unpaved State-maintained roads in the State eligible for paving and the total number of miles that are ineligible; and

(3) The total number of paved State-maintained roads in each county, and the total number of miles of paved State-maintained roads in the State.

In this subsection, (i) ineligible unpaved mileage is defined as the number of miles of unpaved roads that have unavailable rights-of-way or for which environmental permits cannot be approved to allow for paving, and (ii) eligible unpaved mileage is defined as the number of miles of unpaved roads that have not been previously approved for paving by any funding source or has the potential to be programmed for paving when rights-of-way or environmental permits are secured. Except for federal-aid programs, the Department shall allocate all secondary road improvement funds on the basis of a formula using the study figures.

(b) ~~The first sixty-eight million six hundred seventy thousand dollars ($68,670,000) shall be allocated as follows: Each county shall receive a percentage of these funds, the percentage to be determined as a factor of the number of miles of paved and unpaved State-maintained secondary roads in the county divided by the total number of miles of paved and unpaved State-maintained secondary roads in the State, excluding those unpaved secondary roads that have been determined to be eligible for paving as defined in subsection (a) of this section. Beginning in fiscal year 2010-2011, allocations pursuant to this subsection shall be~~ The amounts appropriated by law for secondary road construction, excluding unpaved secondary road funds, shall be allocated among counties based on the total number of secondary miles in a county in proportion to the total State-maintained secondary road mileage.

~~(c) Funds allocated for secondary road construction in excess of sixty-eight million six hundred seventy thousand dollars ($68,670,000) shall be allocated to each county based on the percentage proportion that the number of miles in the county of State-maintained unpaved secondary roads bears to the total number of miles in the State of State-maintained unpaved secondary roads. In a county that has roads with eligible miles, these funds shall only be used for paving unpaved secondary road miles in that county. In a county where there are no roads eligible to be paved as defined in subsection (a) of this section, the funds may be used for improvements on the paved and unpaved secondary roads in that county. Beginning in fiscal year 2010-2011, allocations pursuant to this subsection shall be based on the total number of secondary miles in a county in proportion to the total State-maintained secondary road mileage.~~

~~(d) Copies of the Department study of unpaved and paved State-maintained secondary roads and copies of the individual county allocations shall be made available to newspapers having general circulation in each county.~~"

SECTION 2.6.(b) Effective July 1, 2014, G.S. 136-44.5 is repealed.

SECTION 2.6.(c) G.S. 136-44.6 reads as rewritten:

"§ **136-44.6. Uniformly applicable formula for the allocation of secondary roads maintenance and improvement funds.**

The Department of Transportation shall develop a uniformly applicable formula for the allocation of secondary roads maintenance and improvement funds for use in each county. The formula shall take into consideration the number of paved and unpaved miles of state-maintained secondary roads in each county and such other factors as experience may dictate. This section shall not apply to projects to pave unpaved roads under G.S. 136-44.2D."

SECTION 2.6.(d) Secondary Road Funding. – The sum of fifteen million dollars ($15,000,000) in nonrecurring funds for the 2013-2014 fiscal year is allocated from the Highway Fund for the secondary road construction program under G.S. 136-44.2A, as enacted by Section 2.3 of this act, and the sum of twelve million dollars ($12,000,000) in recurring funds for the 2013-2014 fiscal year is allocated from the Highway Fund for the paving of unpaved roads pursuant to G.S. 136-44.2D, as enacted by Section 2.5 of this act.

SECTION 2.7. G.S. 136-44.7 reads as rewritten:

"§ **136-44.7. Secondary roads; ~~annual work program.~~right-of-way acquisition.**

~~(a) The Department of Transportation shall be responsible for developing criteria for improvements and maintenance of secondary roads. The criteria shall be adopted by the Board~~

~~of Transportation before it shall become effective. The Department of Transportation shall be responsible for developing annual work programs for both construction and maintenance of secondary roads in each county in accordance with criteria developed. It shall reflect the long-range and immediate goals of the Department of Transportation. Projects on the annual construction program for each county shall be rated according to their priority based upon the secondary road criteria and standards which shall be uniform throughout the State. Tentative construction projects and estimated funding shall also be listed in accordance to priority. The annual construction program shall be adopted by the Board of Transportation before it shall become effective.~~

~~(b) When a secondary road in a county is listed in the first 10 secondary roads to be paved during a year on a priority list issued by the Department of Transportation under this section, the secondary road cannot be removed from the top 10 of that list or any subsequent list until it is paved. All secondary roads in a county shall be paved, insofar as possible, in the priority order of the list. When a secondary road in the top 10 of that list is removed from the list because it has been paved, the next secondary road on the priority list shall be moved up to the top 10 of that list and shall remain there until it is paved.~~

(c) When it is necessary for the Department of Transportation to acquire a right-of-way ~~in accordance with (a) and (b) of this section~~ in order to pave a secondary road or undertake a maintenance project, the Department shall negotiate the acquisition of the right-of-way for a period of up to six months. At the end of that period, if one or more property owners have not dedicated the necessary right-of-way and at least seventy-five percent (75%) of the property owners adjacent to the project and the owners of the majority of the road frontage adjacent to the project have dedicated the necessary property for the right-of-way and have provided funds required by Department rule to the Department to cover the costs of condemning the remaining property, the Department shall initiate condemnation proceedings pursuant to Article 9 of this Chapter to acquire the remaining property necessary for the project.

(d) The Division Engineer is authorized to reduce the width of a right-of-way to less than 60 feet to pave an unpaved secondary road with the allocated funds, provided that in all circumstances the safety of the public is not compromised and the minimum accepted design practice is satisfied."

SECTION 2.8.(a) G.S. 136-44.8 reads as rewritten:

"§ **136-44.8. Submission of secondary roads construction and unpaved roads paving programs to the Boards of County Commissioners.**

~~(a) The Department of Transportation shall post in the county courthouse a county map showing tentative secondary road paving projects rated according to the priority of each project in accordance with the criteria and standards adopted by the Board of Transportation. The map shall be posted at least two weeks prior to the public meeting of the county commissioners at which the Department of Transportation representatives are to meet and discuss the proposed secondary road construction program for the county as provided in subsection (c).~~

(a1) Representatives of the Department of Transportation shall provide to the board of county commissioners in each county the proposed secondary road construction program and, if applicable to that county, a list of roads proposed for the annual paving program approved by the Board of Transportation. If a paving priority list is presented, it shall include the priority rating of each secondary road paving project included in the proposed paving program according to the criteria and standards adopted by the Board of Transportation.

~~(b) The Department of Transportation shall provide a notice to the public of the public meeting of the board of county commissioners at which the annual secondary road construction program for the county proposed by the Department is to be presented to the board and other citizens of the county as provided in subsection (c). The notice shall be published in a newspaper published in the county or having a general circulation in the county once a week for two succeeding weeks prior to the meeting. The notice shall also advise that a county map is posted in the courthouse showing tentative secondary road paving projects rated according to the priority of each project.~~

~~(c) Representatives of the Department of Transportation shall meet with the board of county commissioners at a regular or special public meeting of the board of county commissioners for each county and present to and discuss with the board of county commissioners and other citizens present, the proposed secondary road construction program for the county. The presentation and discussion shall specifically include the priority rating of each tentative secondary road paving project included in the proposed construction program, according to the criteria and standards adopted by the Board of Transportation.~~

~~At the same meeting after the presentation and discussion of the annual secondary road construction program for the county or at a later meeting, the board of county commissioners may (i) concur in the construction program as proposed, or (ii) take no action, or (iii) make recommendations for deviations in the proposed construction program, except as to paving projects and the priority of paving projects for which the board in order to make recommendations for deviations, must vote to consider the matter at a later public meeting as provided in subsection (d).~~

~~(d) The board of county commissioners may recommend deviations in the paving projects and the priority of paving projects included in the proposed secondary road construction program only at a public meeting after notice to the public that the board will consider making recommendations for deviations in paving projects and the priority of paving projects included in the proposed annual secondary road construction program. Notice of the public meeting shall be published by the board of county commissioners in a newspaper published in the county or having a general circulation in the county. After discussion by the members of the board of county commissioners and comments and information presented by other citizens of the county, the board of county commissioners may recommend deviations in the paving projects and in the paving priority of secondary road projects included in the proposed secondary road construction program. Any recommendation made by the board of county commissioners for a deviation in the paving projects or in the priority for paving projects in the proposed secondary road construction program shall state the specific reason for each such deviation recommended.~~

(e) The Board of Transportation shall adopt the annual secondary construction program for each county after having given the board of county commissioners of each county an opportunity to review the proposed construction program and to make recommendations as provided in this section. The Board of Transportation shall consider such recommendations insofar as they are compatible with its general plans, standards, criteria and available funds, but having due regard to development plans of the county and to the maintenance and improvement needs of all existing roads in the county. ~~However, no consideration shall be given to any recommendation by the board of county commissioners for a deviation in the paving projects or in the priority for paving secondary road projects in the proposed construction program that is not made in accordance with subsection (d).~~

(f) The secondary road construction ~~program~~ and unpaved roads paving programs adopted by the Board of Transportation shall be followed by the Department of Transportation unless changes are approved by the Board of Transportation and notice of any changes is given to the board of county commissioners. ~~The Department of Transportation shall post a copy of the adopted program, including a map showing the secondary road paving projects rated according to the approved priority of each project, at the courthouse, within 10 days of its adoption by the Board of Transportation. The board of county commissioners may petition the Board of Transportation for review of any changes to which it does not consent and the determination of the Board of Transportation shall be final.~~ Upon request, the most recent secondary road construction and unpaved roads paving programs adopted shall be submitted to any member of the General Assembly. The Department of Transportation shall make the annual construction program for each county available to the newspapers having a general circulation in the county."

SECTION 2.8.(b) Effective July 1, 2014, G.S. 136-44.8, as rewritten by subsection (a) of this section, reads as rewritten:

"§ **136-44.8. Submission of unpaved secondary roads ~~construction and unpaved roads~~ paving programs to the Boards of County Commissioners.**

(a1) ~~Representatives~~ In each county having unpaved roads programmed for paving, representatives of the Department of Transportation shall annually provide to the board of county commissioners in ~~each county~~those counties ~~the proposed secondary road construction program and, if applicable to that county,~~ a list of roads proposed for the annual paving program approved by the Board of Transportation. ~~If a~~The paving priority list ~~is presented, it~~ shall include the priority rating of each secondary road paving project included in the proposed paving program according to the criteria and standards adopted by the Board of Transportation.

…

~~(e) The Board of Transportation shall adopt the annual secondary construction program for each county after having given the board of county commissioners of each county an opportunity to review the proposed construction program and to make recommendations as provided in this section. The Board of Transportation shall consider such recommendations insofar as they are compatible with its general plans, standards, criteria and available funds, but having due regard to development plans of the county and to the maintenance and improvement needs of all existing roads in the county.~~

(f) The ~~secondary road construction and~~ unpaved secondary roads paving programs adopted by the Board of Transportation shall be followed by the Department of Transportation unless changes are approved by the Board of Transportation and notice of any changes is given to the board of county commissioners. Upon request, the most recent unpaved secondary ~~road construction and unpaved~~ roads paving programs adopted shall be submitted to any member of the General Assembly. The Department of Transportation shall make the annual construction program for each affected county available to the newspapers having a general circulation in the county."

SECTION 2.9. G.S. 136-182 is repealed.

STATE AID TO MUNICIPALITIES/POWELL BILL CHANGES

SECTION 3.1. G.S. 136-41.1 reads as rewritten:

"§ **136-41.1. Appropriation to municipalities; allocation of funds generally; allocation to Butner.**

(a) There is annually appropriated out of the State Highway Fund a sum equal to ten and four-tenths percent (10.4%) of the net amount after refunds that was produced during the fiscal year by ~~a one-and three-fourths cents (1 3/4¢) tax on each gallon of motor fuel taxed~~ the tax imposed under Article 36C of Chapter 105 of the General Statutes and on the equivalent amount of alternative fuel taxed under Article 36D of that Chapter. One-half of the amount appropriated shall be allocated in cash on or before October 1 of each year to the cities and towns of the State in accordance with this section. The second one-half of the amount appropriated shall be allocated in cash on or before January 1 of each year to the cities and towns of the State in accordance with this section. ~~In addition, as provided in G.S. 136-176(b)(3), revenue is allocated and appropriated from the Highway Trust Fund to the cities and towns of this State to be used for the same purposes and distributed in the same manner as the revenue appropriated to them under this section from the Highway Fund. Like the appropriation from the Highway Fund, the appropriation from the Highway Trust Fund shall be based on revenue collected during the fiscal year preceding the date the distribution is made.~~

Seventy-five percent (75%) of the funds appropriated for cities and towns shall be distributed among the several eligible municipalities of the State in the percentage proportion that the population of each eligible municipality bears to the total population of all eligible municipalities according to the most recent annual estimates of population as certified to the Secretary of Revenue by the State Budget Officer. This annual estimation of population shall include increases in the population within the municipalities caused by annexations accomplished through July 1 of the calendar year in which these funds are distributed.

Twenty-five percent (25%) of said fund shall be distributed among the several eligible municipalities of the State in the percentage proportion that the mileage of public streets in each eligible municipality which does not form a part of the State highway system bears to the total mileage of the public streets in all eligible municipalities which do not constitute a part of the State highway system.

It shall be the duty of the mayor of each municipality to report to the Department of Transportation such information as it may request for its guidance in determining the eligibility of each municipality to receive funds under this section and in determining the amount of allocation to which each is entitled. Upon failure of any municipality to make such report within the time prescribed by the Department of Transportation, the Department of Transportation may disregard such defaulting unit in making said allotment.

The funds to be allocated under this section shall be paid in cash to the various eligible municipalities on or before October 1 and January 1 of each ~~year.~~year as provided in this section. Provided that eligible municipalities are authorized within the discretion of their governing bodies to enter into contracts for the purpose of maintenance, repair, construction, reconstruction, widening, or improving streets of such municipalities at any time after January 1 of any calendar year in total amounts not to exceed ninety percent (90%) of the amount received by such municipality during the preceding fiscal year, in anticipation of the receipt of funds under this section during the next fiscal year, to be paid for out of such funds when received.

The Department of Transportation may withhold each year an amount not to exceed one percent (1%) of the total amount appropriated for distribution under this section for the purpose of correcting errors in allocations: Provided, that the amount so withheld and not used for correcting errors will be carried over and added to the amount to be allocated for the following year.

The word "street" as used in this section is hereby defined as any public road maintained by a municipality and open to use by the general public, and having an average width of not less than 16 feet. In order to obtain the necessary information to distribute the funds herein allocated, the Department of Transportation may require that each municipality eligible to receive funds under this section submit to it a statement, certified by a registered engineer or surveyor of the total number of miles of streets in such municipality. The Department of Transportation may in its discretion require the certification of mileage on a biennial basis.

…."

SECTION 3.2. G.S. 136-181 is repealed.

SECTION 3.3. G.S. 136-41.3 reads as rewritten:

"§ **136-41.3. Use of funds; records and annual statement; excess accumulation of funds; contracts for maintenance, etc., of streets.**

(a) Uses of Funds. – The funds allocated to cities and towns under the provisions of G.S. 136-41.2 shall be expended by said cities and towns only for the purpose of maintaining, repairing, constructing, reconstructing or widening of any street or public thoroughfare including bridges, drainage, curb and gutter, and other necessary appurtenances within the corporate limits of the municipality or for meeting the municipality's proportionate share of assessments levied for such purposes, or for the planning, construction and maintenance of ~~bikeways located within the rights-of-way of public streets and highways,~~bikeways, greenways, or ~~for the planning, construction, and maintenance of sidewalks along public streets and highways.~~sidewalks.

(b) Records and Annual Statement. – Each municipality receiving funds by virtue of G.S. 136-41.1 and 136-41.2 shall maintain a separate record of accounts indicating in detail all receipts and expenditures of such funds. It shall be unlawful for any municipal employee or member of any governing body to authorize, direct, or permit the expenditure of any funds accruing to any municipality by virtue of G.S. 136-41.1 and 136-41.2 for any purpose not herein authorized. Any member of any governing body or municipal employee shall be personally liable for any unauthorized expenditures. On or before the first day of August each

year, the treasurer, auditor, or other responsible official of each municipality receiving funds by virtue of G.S. 136-41.1 and 136-41.2 shall file a statement under oath with the Secretary of Transportation showing in detail the expenditure of funds received by virtue of G.S. 136-41.1 and 136-41.2 during the preceding year and the balance on hand.

(c) Excess Accumulation of Funds Prohibited. – No funds allocated to municipalities pursuant to G.S. 136-41.1 and 136-41.2 shall be permitted to accumulate for a period greater than permitted by this section. Interest on accumulated funds shall be used only for the purposes permitted by the provisions of G.S. 136-41.3. Except as otherwise provided in this section, any municipality having accumulated an amount greater than the sum of the past 10 allocations made, shall have an amount equal to such excess deducted from the next allocation after receipt of the report required by this section. Such deductions shall be carried over and added to the amount to be allocated to municipalities for the following year. Notwithstanding the other provisions of this section, the Department shall adopt a policy to allow small municipalities to apply to the Department to be allowed to accumulate up to the sum of the past 20 allocations if a municipality's allocations are so small that the sum of the past 10 allocations would not be sufficient to accomplish the purposes of this section.

(d) Contracts for Maintenance and Construction. – In the discretion of the local governing body of each municipality receiving funds by virtue of G.S. 136-41.1 and 136-41.2 it may contract with the Department of Transportation to do the work of maintenance, repair, construction, reconstruction, widening or improving the streets in such municipality; or it may let contracts in the usual manner as prescribed by the General Statutes to private contractors for the performance of said street work; or may undertake the work by force account. The Department of Transportation within its discretion is hereby authorized to enter into contracts with municipalities for the purpose of maintenance, repair, construction, reconstruction, widening or improving streets of municipalities. And the Department of Transportation in its discretion may contract with any city or town which it deems qualified and equipped so to do that the city or town shall do the work of maintaining, repairing, improving, constructing, reconstructing, or widening such of its streets as form a part of the State highway system.

In the case of each eligible municipality, as defined in G.S. 136-41.2, having a population of less than 5,000, the Department of Transportation shall upon the request of such municipality made by official action of its governing body, on or prior to June 1, 1953, or June 1 in any year thereafter, for the fiscal year beginning July 1, 1953, and for the years thereafter do such street construction, maintenance, or improvement on nonsystem streets as the municipality may request within the limits of the current or accrued payments made to the municipality under the provisions of G.S. 136-41.1.

In computing the costs, the Department of Transportation may use the same rates for equipment, rental, labor, materials, supervision, engineering and other items, which the Department of Transportation uses in making charges to one of its own department or against its own department, or the Department of Transportation may employ a contractor to do the work, in which case the charges will be the contract cost plus engineering and inspection. The municipality is to specify the location, extent, and type of the work to be done, and shall provide the necessary rights-of-way, authorization for the removal of such items as poles, trees, water and sewer lines as may be necessary, holding the Department of Transportation free from any claim by virtue of such items of cost and from such damage or claims as may arise therefrom except from negligence on the part of the Department of Transportation, its agents, or employees.

If a municipality elects to bring itself under the provisions of the two preceding paragraphs, it shall enter into a two-year contract with the Department of Transportation and if it desires to dissolve the contract at the end of any two-year period it shall notify the Department of Transportation of its desire to terminate said contract on or before April 1 of the year in which such contract shall expire; otherwise, said contract shall continue for an additional two-year period, and if the municipality elects to bring itself under the provisions of the two preceding paragraphs and thereafter fails to pay its account to the Department of Transportation for the

fiscal year ending June 30, by August 1 following the fiscal year, then the Department of Transportation shall apply the said municipality's allocation under G.S. 136-41.1 to this account until said account is paid and the Department of Transportation shall not be obligated to do any further work provided for in the two preceding paragraphs until such account is paid.

Section 143-129 of the General Statutes relating to the procedure for letting of public contracts shall not be applicable to contracts undertaken by any municipality with the Department of Transportation in accordance with the provisions of the three preceding paragraphs.

(e) Permitted Offsets to Funding. – The Department of Transportation is authorized to apply a municipality's share of funds allocated to a municipality under the provisions of G.S. 136-41.1 to any of the following accounts of the municipality with the said Department of Transportation, which the municipality fails to pay:

(1) Cost sharing agreements for right-of-way entered into pursuant to G.S. 136-66.3, but not to exceed ten percent (10%) of any one year's allocation until the debt is repaid,

(2) The cost of relocating municipally owned waterlines and other municipally owned utilities on a State highway project which is the responsibility of the municipality,

(3) For any other work performed for the municipality by the Department of Transportation or its contractor by agreement between the Department of Transportation and the municipality, and

(4) For any other work performed that was made necessary by the construction, reconstruction or paving of a highway on the State highway system for which the municipality is legally responsible."

SECTION 3.4. G.S. 136-41.4 reads as rewritten:

"§ **136-41.4. Municipal use of allocated funds; election.**

(a) A municipality that qualifies for an allocation of funds pursuant to G.S. 136-41.1 shall have the ~~option~~ following options:

(1) ~~to accept~~Accept all or a portion of funds allocated to the ~~municipality, under that section, for the repair, maintenance, construction, reconstruction, widening, or improving of the municipality's streets.~~municipality for use as authorized by G.S. 136-41.3(a).

(2) Use some or all of its allocation to match federal funds administered by the Department for independent bicycle and pedestrian improvement projects within the municipality's limits, or within the area of any metropolitan planning organization or rural transportation planning organization.

(3) ~~or the municipality may elect~~Elect to have some or all of the allocation reprogrammed for any Transportation Improvement Project currently on the approved project list within the municipality's limits or within the area of any metropolitan planning organization or rural transportation planning organization.

(b) If a municipality chooses to have its allocation reprogrammed, the ~~minimum~~ amount that may be reprogrammed is an amount equal to that amount necessary to complete one full phase of the project selected by the municipality or an amount that, when added to the amount already programmed for the Transportation Improvement Project selected, would permit the completion of at least one full phase of the project. The restriction set forth in this subsection shall not apply to any bicycle or pedestrian projects."

SECTION 3.5. DOT Municipal Lane Mile Study. – The Department of Transportation shall collect lane mile data from each municipality eligible to receive funds under this section no later than December 1, 2013. The Department shall report to the Joint Legislative Transportation Oversight Committee no later than March 1, 2014, on at least three options to shift the distribution formula to include lane mile data. The report shall include advantages and disadvantages, fiscal impacts to each municipality, and any other technical

considerations in making such a change. The Joint Legislative Transportation Oversight Committee and the Fiscal Research Division shall include in its recommendations to the 2014 Session of the 2013 General Assembly a new distribution formula, if the Committee finds that a new formula is beneficial and practical.

CONFORMING CHANGES

SECTION 4.1. G.S. 105-187.9 reads as rewritten:

"§ **105-187.9. Disposition of tax proceeds.**

…

~~(b) **(Repealed effective July 1, 2013)** General Fund Transfer. – In each fiscal year, the State Treasurer shall transfer the amounts provided below from the taxes deposited in the Trust Fund to the General Fund. The transfer of funds authorized by this section may be made by transferring one-fourth of the amount at the end of each quarter in the fiscal year or by transferring the full amount annually on July 1 of each fiscal year, subject to the availability of revenue.~~

~~(1) The sum of twenty-six million dollars ($26,000,000).~~

~~(2) In addition to the amount transferred under subdivision (1) of this subsection, the sum of one million seven hundred thousand dollars ($1,700,000) shall be transferred in the 2001-2002 fiscal year. The amount distributed under this subdivision shall increase in the 2002-2003 fiscal year to the sum of two million four hundred thousand dollars ($2,400,000). In each fiscal year thereafter, the sum transferred under this subdivision shall be the amount distributed in the previous fiscal year plus or minus a percentage of this sum equal to the percentage by which tax collections under this Article increased or decreased for the most recent 12-month period for which data are available.~~

~~(c) **(Effective July 1, 2013)** Mobility Fund Transfer. – In each fiscal year, the State Treasurer shall transfer fifty-eight million dollars ($58,000,000) from the taxes deposited in the Trust Fund to the Mobility Fund. The transfer of funds authorized by this section may be made by transferring one-fourth of the amount at the end of each quarter in the fiscal year or by transferring the full amount annually on July 1 of each fiscal year, subject to the availability of revenue.~~"

SECTION 4.2. G.S. 136-18 reads as rewritten:

"§ **136-18. Powers of Department of Transportation.**

The said Department of Transportation is vested with the following powers:

…

(12a) The Department of Transportation shall have such powers as are necessary to establish, administer, and receive federal funds for a transportation infrastructure banking program as authorized by the Intermodal Surface Transportation Efficiency Act of 1991, Pub. L. 102-240, as amended, and the National Highway System Designation Act of 1995, Pub. L. 104-59, as amended. The Department of Transportation is authorized to apply for, receive, administer, and comply with all conditions and requirements related to federal financial assistance necessary to fund the infrastructure banking program. The infrastructure banking program established by the Department of Transportation may utilize federal and available State funds for the purpose of providing loans or other financial assistance to governmental units, including toll authorities, to finance the costs of transportation projects authorized by the above federal aid acts. Such loans or other financial assistance shall be subject to repayment and conditioned upon the establishment of such security and the payment of such fees and interest rates as the Department of Transportation may deem necessary. The Department of Transportation is authorized to apply a municipality's share of

funds allocated under G.S. 136-41.1 or G.S. 136-44.20 as necessary to ensure repayment of funds advanced under the infrastructure banking program. The Department of Transportation shall establish jointly, with the State Treasurer, a separate infrastructure banking account with necessary fiscal controls and accounting procedures. Funds credited to this account shall not revert, and interest and other investment income shall accrue to the account and may be used to provide loans and other financial assistance as provided under this subdivision. The Department of Transportation may establish such rules and policies as are necessary to establish and administer the infrastructure banking program. The infrastructure banking program authorized under this subdivision shall not modify the ~~regional distribution~~ formula for the distribution of funds established by ~~G.S. 136-17.2A.~~G.S. 136-189.11. Governmental units may apply for loans and execute debt instruments payable to the State in order to obtain loans or other financial assistance provided for in this subdivision. The Department of Transportation shall require that applicants shall pledge as security for such obligations revenues derived from operation of the benefited facilities or systems, other sources of revenue, or their faith and credit, or any combination thereof. The faith and credit of such governmental units shall not be pledged or be deemed to have been pledged unless the requirements of Article 4, Chapter 159 of the General Statutes have been met. The State Treasurer, with the assistance of the Local Government Commission, shall develop and adopt appropriate debt instruments for use under this subdivision. The Local Government Commission shall develop and adopt appropriate procedures for the delivery of debt instruments to the State without any public bidding therefor. The Local Government Commission shall review and approve proposed loans to applicants pursuant to this subdivision under the provisions of Articles 4 and 5, Chapter 159 of the General Statutes, as if the issuance of bonds was proposed, so far as those provisions are applicable. Loans authorized by this subdivision shall be outstanding debt for the purpose of Article 10, Chapter 159 of the General Statutes.

…."

SECTION 4.3. G.S. 136-17.2A is repealed.

SECTION 4.4. G.S. 136-44.50(a) reads as rewritten:

"(a) A transportation corridor official map may be adopted or amended by any of the following:

(1) The governing board of any local government for any thoroughfare included as part of a comprehensive plan for streets and highways adopted pursuant to G.S. 136-66.2 or for any proposed public transportation corridor included in the adopted long-range transportation plan.

(2) The Board of Transportation, or the governing board of any county, for any portion of the existing or proposed State highway system or for any public transportation corridor, to include rail, that is in the Transportation Improvement Program.

(3) Regional public transportation authorities created pursuant to Article 26 of Chapter 160A of the General Statutes or regional transportation authorities created pursuant to Article 27 of Chapter 160A of the General Statutes for any portion of the existing or proposed State highway system, or for any proposed public transportation corridor, or adjacent station or parking lot, included in the adopted long-range transportation plan.

(4) The North Carolina Turnpike Authority for any project being studied pursuant to G.S. 136-89.183.

(5) The Wilmington Urban Area Metropolitan Planning Organization for ~~any project that is within its urbanized boundary and identified in G.S. 136-179.~~Department projects R-3300 and U-4751.

Before a city adopts a transportation corridor official map that extends beyond the extraterritorial jurisdiction of its building permit issuance and subdivision control ordinances, or adopts an amendment to a transportation corridor official map outside the extraterritorial jurisdiction of its building permit issuance and subdivision control ordinances, the city shall obtain approval from the Board of County Commissioners."

SECTION 4.5. G.S. 136-66.3 reads as rewritten:

"§ **136-66.3. Local government participation in improvements to the State transportation system.**

…

~~(c1) No TIP Disadvantage for Participation. – If a county or municipality participates in a State transportation system improvement project, as authorized by this section, or by G.S. 136-51 and G.S. 136-98, the Department shall ensure that the local government's participation does not cause any disadvantage to any other project in the Transportation Improvement Program under G.S. 143B-350(f)(4).~~

(c2) Distribution of State Funds Made Available by County or Municipal Participation. – Any State or federal funds allocated to a project that are made available by county or municipal participation in a project contained in the Transportation Improvement Program under G.S. 143B-350(f)(4) shall ~~remain in the same funding region that the funding was allocated to under the distribution formula contained in G.S. 136-17.2A.~~be subject to G.S. 136-189.11.

~~(c3) Limitation on Agreements. – The Department shall not enter into any agreement with a county or municipality to provide additional total funding for highway construction in the county or municipality in exchange for county or municipal participation in any project contained in the Transportation Improvement Program under G.S. 143B-350(f)(4).~~

…

(e1) Reimbursement Procedure. – Upon request of the county or municipality, the Department of Transportation shall allow the local government a period of not less than three years from the date construction of ~~the project~~a project undertaken under subsection (e) of this section is initiated to reimburse the Department their agreed upon share of the costs necessary for the project. The Department of Transportation shall not charge a local government any interest during the initial three years.

…."

SECTION 4.6. G.S. 136-89.192 reads as rewritten:

"§ **136-89.192. ~~Equity distribution~~ Applicability of formula.**

Only those funds applied to a Turnpike Project from the State Highway Fund, State Highway Trust Fund, or federal-aid funds that might otherwise be used for other roadway projects within the State, and are otherwise already subject to the ~~distribution~~ formula under ~~G.S. 136-17.2A,~~ G.S. 136-189.11 shall be included in the ~~distribution~~ formula.

Other revenue from the sale of the Authority's bonds or notes, project loans, or toll collections shall not be included in the ~~distribution~~ formula."

SECTION 4.7. G.S. 136-175 reads as rewritten:

"§ **136-175. Definitions.**

The following definitions apply in this Article:

~~(1) Intrastate System. The network of major, multilane arterial highways composed of those routes, segments, or corridors listed in G.S. 136-178, and any other route added by the Department of Transportation under G.S. 136-178.~~

(2) Transportation Improvement Program. The schedule of major transportation improvement projects required by G.S. 143B-350(f)(4).

(3) Trust Fund. The North Carolina Highway Trust Fund."

SECTION 4.8. G.S. 136-176 reads as rewritten:

"§ **136-176. Creation, revenue sources, and purpose of North Carolina Highway Trust Fund.**

(a) A special account, designated the North Carolina Highway Trust Fund, is created within the State treasury. The Trust Fund consists of the following revenue:

(1) Motor fuel, alternative fuel, and road tax revenue deposited in the Fund under G.S. 105-449.125, 105-449.134, and 105-449.43, respectively.

(2) Motor vehicle use tax deposited in the Fund under G.S. 105-187.9.

(3) Revenue from the certificate of title fee and other fees payable under G.S. 20-85.

(4) Repealed by Session Laws 2001-424, s. 27.1.

(5) Interest and income earned by the Fund.

~~(a1) The Department shall use two hundred twenty million dollars ($220,000,000) in fiscal year 2001-2002, two hundred twelve million dollars ($212,000,000) in fiscal year 2002-2003, and two hundred fifty-five million dollars ($255,000,000) in fiscal year 2003-2004 of the cash balance of the Highway Trust Fund for the following purposes:~~

~~(1) For primary route pavement preservation. One hundred seventy million dollars ($170,000,000) in fiscal year 2001-2002, and one hundred fifty million dollars ($150,000,000) in each of the fiscal years 2002-2003 and 2003-2004. Up to ten percent (10%) of the amount for each of the fiscal years 2001-2002, 2002-2003, and 2003-2004 is available in that fiscal year, at the discretion of the Secretary of Transportation, for:~~

~~a. Highway improvement projects that further economic growth and development in small urban and rural areas, that are in the Transportation Improvement Program, and that are individually approved by the Board of Transportation; or~~

~~b. Highway improvements that further economic development in the State and that are individually approved by the Board of Transportation.~~

~~(2) For preliminary engineering costs not included in the current year Transportation Improvement Program. Fifteen million dollars ($15,000,000) in each of the fiscal years 2001-2002, 2002-2003, and 2003-2004. If any funds allocated by this subdivision, in the cash balance of the Highway Trust Fund, remain unspent on June 30, 2008, the Department may transfer within the Department up to twenty-nine million dollars ($29,000,000) of available funds to contract for freight transportation system improvements for the Global TransPark.~~

~~(3) For computerized traffic signal systems and signal optimization projects. Fifteen million dollars ($15,000,000) in each of the fiscal years 2001-2002, 2002-2003, and 2003-2004.~~

~~(4) For public transportation twenty million dollars ($20,000,000) in fiscal year 2001-2002, twenty-five million dollars ($25,000,000) in fiscal year 2002-2003, and seventy-five million dollars ($75,000,000) in fiscal year 2003-2004.~~

~~(5) For small urban construction projects. Seven million dollars ($7,000,000) in fiscal year 2002-2003.~~

~~Funds authorized for use by the Department pursuant to this subsection shall remain available to the Department until expended.~~

(a2) Repealed by Session Laws 2002-126, s. 26.4(b), effective July 1, 2002.

~~(a3) The Department may obligate three hundred million dollars ($300,000,000) in fiscal year 2003-2004 and four hundred million dollars ($400,000,000) in fiscal year 2004-2005 of the cash balance of the Highway Trust Fund for the following purposes:~~

~~(1) Six hundred thirty million dollars ($630,000,000) for highway system preservation, modernization, and maintenance, including projects to enhance safety, reduce congestion, improve traffic flow, reduce accidents, upgrade pavement widths and shoulders, extend pavement life, improve pavement smoothness, and rehabilitate or replace deficient bridges; and for economic development transportation projects recommended by local officials and approved by the Board of Transportation.~~

~~(2) Seventy million dollars ($70,000,000) for regional public transit systems, rural and urban public transportation system facilities, regional transportation and air quality initiatives, rail system track improvements and equipment, and other ferry, bicycle, and pedestrian improvements. For any project or program listed in this subdivision for which the Department receives federal funds, use of funds pursuant to this subdivision shall be limited to matching those funds.~~

~~Funds authorized for obligation and use by the Department pursuant to this subsection shall remain available to the Department until expended.~~

~~(a4) Project selection pursuant to subsection (a3) of this section shall be based on identified and documented need. Funds expended pursuant to subdivision (1) of subsection (a3) of this section shall be distributed in accordance with the distribution formula in G.S. 136-17.2A. No funds shall be expended pursuant to subsection (a3)(1) of this section on any project that does not meet Department of Transportation standards for road design, materials, construction, and traffic flow.~~

~~(a5) The Department shall report to the Joint Legislative Transportation Oversight Committee, on or before September 1, 2003, on its intended use of funds pursuant to subsection (a3) of this section. The Department shall report to the Joint Transportation Appropriations Subcommittee, on or before May 1, 2004, on its actual current and intended future use of funds pursuant to subsection (a3) of this section. The Department shall certify to the Joint Legislative Transportation Oversight Committee each year, on or before November 1, that use of the Highway Trust Fund cash balances for the purposes listed in subsection (a3) of this section will not adversely affect the delivery schedule of any Highway Trust Fund projects. If the Department cannot certify that the full amounts authorized in subsection (a3) of this section are available, then the Department may determine the amount that can be used without adversely affecting the delivery schedule and may proportionately apply that amount to the purposes set forth in subsection (a3) of this section.~~

(b) Funds in the Trust Fund are annually appropriated to the Department of Transportation to be allocated and used as provided in this subsection. A ~~sum, not to exceed four and eight-tenths percent (4.8%) of the amount of revenue deposited in the Trust Fund under subdivisions (a)(1), (2), and (3) of this section~~ sum, in the amount appropriated by law, may be used each fiscal year by the Department for expenses to administer the Trust Fund. Operation and project development costs of the North Carolina Turnpike Authority are eligible administrative expenses under this subsection. Any funds allocated to the Authority pursuant to this subsection shall be repaid by the Authority from its toll revenue as soon as possible, subject to any restrictions included in the agreements entered into by the Authority in connection with the issuance of the Authority's revenue bonds. Beginning one year after the Authority begins collecting tolls on a completed Turnpike Project, interest shall accrue on any unpaid balance owed to the Highway Trust Fund at a rate equal to the State Treasurer's average annual yield on its investment of Highway Trust Fund funds pursuant to G.S. 147-6.1. Interest earned on the unpaid balance shall be deposited in the Highway Trust Fund upon repayment. The sum up to the amount anticipated to be necessary to meet the State matching funds

requirements to receive federal-aid highway trust funds for the next fiscal year may be set aside for that purpose. The rest of the funds in the Trust Fund shall be allocated and used as ~~follows:~~specified in G.S. 136-189.11.

~~(1) Sixty-one and ninety-five hundredths percent (61.95%) to plan, design, and construct projects on segments or corridors of the Intrastate System as described in G.S. 136-178 and to pay debt service on highway bonds and notes that are issued under the State Highway Bond Act of 1996 and whose proceeds are applied to these projects.~~

~~(2) Twenty-five and five hundredths percent (25.05%) to plan, design, and construct the urban loops described in G.S. 136-180 and to pay debt service on highway bonds and notes that are issued under the State Highway Bond Act of 1996 and whose proceeds are applied to these urban loops.~~

~~(3) Six and one-half percent (6.5%) to supplement the appropriation to cities for city streets under G.S. 136-181.~~

~~(4) Six and one-half percent (6.5%) for secondary road construction as provided in G.S. 136-182 and to pay debt service on highway bonds and notes that are issued under the State Highway Bond Act of 1996 and whose proceeds are applied to secondary road construction.~~

The Department must administer funds allocated under ~~subdivisions (1), (2), and (4) of this subsection~~ this section in a manner that ensures that sufficient funds are available to make the debt service payments on bonds issued under the State Highway Bond Act of 1996 as they become due.

~~(b1) The Secretary may authorize the transfer of funds allocated under subdivisions (1) through (4) of subsection (b) of this section to other projects that are ready to be let and were to be funded from allocations to those subdivisions. The Secretary shall ensure that any funds transferred pursuant to this subsection are repaid promptly and in any event in no more than four years. The Secretary shall certify, prior to making any transfer pursuant to this subsection, that the transfer will not affect the delivery schedule of Highway Trust Fund projects in the current Transportation Improvement Program. No transfers shall be allowed that do not conform to the applicable provisions of the equity formula for distribution of funds, G.S. 136-17.2A. If the Secretary authorizes a transfer pursuant to this subsection, the Secretary shall report that decision to the next regularly scheduled meetings of the Joint Legislative Commission on Governmental Operations, the Joint Legislative Transportation Oversight Committee, and to the Fiscal Research Division.~~

(b2) **(Effective July 1, 2013)** There is annually appropriated to the North Carolina Turnpike Authority from the Highway Trust Fund the sum of ~~one hundred twelve million dollars ($112,000,000).~~forty-nine million dollars ($49,000,000). Of the amount allocated by this subsection, twenty-five million dollars ($25,000,000) shall be used to pay debt service or related financing costs and expenses on revenue bonds or notes issued for the construction of the Triangle Expressway, and twenty-four million dollars ($24,000,000) shall be used to pay debt service or related financing expenses on revenue bonds or notes issued for the construction of the ~~Monroe Connector/Bypass, twenty-eight million dollars ($28,000,000) shall be used to pay debt service or related financing expenses on revenue bonds or notes issued for the construction of the Mid-Currituck Bridge, and thirty-five million dollars ($35,000,000) shall be used to pay debt service or related financing expenses on revenue bonds or notes issued for the construction of the Garden Parkway.~~Monroe Connector/Bypass. The amounts appropriated to the Authority pursuant to this subsection shall be used by the Authority to pay debt service or related financing costs and expenses on revenue bonds or notes issued by the Authority to finance the costs of one or more Turnpike Projects, to refund such bonds or notes, or to fund debt service reserves, operating reserves, and similar reserves in connection therewith. The appropriations established by this subsection constitute an agreement by the State to pay the funds appropriated hereby to the Authority within the meaning of G.S. 159-81(4). Notwithstanding the foregoing, it is the intention of the General Assembly that the enactment

of this provision and the issuance of bonds or notes by the Authority in reliance thereon shall not in any manner constitute a pledge of the faith and credit and taxing power of the State, and nothing contained herein shall prohibit the General Assembly from amending the appropriations made in this subsection at any time to decrease or eliminate the amount annually appropriated to the Authority. Funds transferred from the Highway Trust Fund to the Authority pursuant to this subsection are not subject to the ~~equity~~ formula in ~~G.S. 136-17.2A.~~G.S. 136-189.11.

~~(c) If funds are received under 23 U.S.C. Chapter 1, Federal-Aid Highways, for a project for which funds in the Trust Fund may be used, the amount of federal funds received plus the amount of any funds from the Highway Fund that were used to match the federal funds may be transferred by the Secretary of Transportation from the Trust Fund to the Highway Fund and used for projects in the Transportation Improvement Program.~~

(d) A contract may be let for projects funded from the Trust Fund in anticipation of revenues pursuant to the cash-flow provisions of G.S. 143C-6-11 only for the two bienniums following the year in which the contract is let.

(e) **(Effective July 1, 2013)** Subject to ~~G.S. 136-17.2A and other funding distribution formulas, funds allocated under subdivisions (1), (3), and (4) of subsection (b) of this section may also~~ G.S. 136-189.11, funds may be used for fixed guideway projects, including providing matching funds for federal grants for fixed guideway projects."

SECTION 4.9. The following statutes are repealed:

(1) G.S. 136-177.
(2) G.S. 136-177.1.
(3) G.S. 136-178.
(4) G.S. 136-179.
(5) G.S. 136-180.
(6) G.S. 136-184.
(7) G.S. 136-185.
(8) G.S. 136-187.
(9) G.S. 136-188.
(10) G.S. 136-189.

TURNPIKE AUTHORITY CHANGES

SECTION 5.1. G.S. 136-89.183(a)(2) reads as rewritten:

"§ **136-89.183. Powers of the Authority.**

(a) The Authority shall have all of the powers necessary to execute the provisions of this Article, including the following:

…

(2) To study, plan, develop, and undertake preliminary design work on up to ~~eight~~ nine Turnpike Projects. At the conclusion of these activities, the Turnpike Authority is authorized to design, establish, purchase, construct, operate, and maintain the following projects:

a. Triangle Expressway, including segments also known as N.C. 540, Triangle Parkway, and the Western Wake Freeway in Wake and Durham ~~Counties, and Southeast Extension in Wake and Johnston Counties, except that no portion of the Southeast Extension shall be located north of an existing protected corridor established by the Department of Transportation circa 1995, except in the area of Interstate 40 East.~~Counties. The described segments constitute three projects.

~~b. Gaston East-West Connector, also known as the Garden Parkway.~~

c. Monroe Connector/Bypass.

~~d. Cape Fear Skyway.~~

~~e. A bridge of more than two miles in length going from the mainland to a peninsula bordering the State of Virginia, pursuant to G.S. 136-89.183A.~~

Any other project proposed by the Authority in addition to the projects listed in this ~~subdivision must be approved by the General Assembly prior to construction.~~subdivision requires prior consultation with the Joint Legislative Commission on Governmental Operations pursuant to G.S. 120-76.1 no less than 180 days prior to initiating the process required by Article 7 of Chapter 159 of the General Statutes.

~~A~~ With the exception of the four projects set forth in sub-subdivisions a. and c. of this subdivision, the Turnpike ~~Project~~ projects selected for construction by the Turnpike ~~Authority~~ Authority, prior to the letting of a contract for the project, shall meet the following conditions: (i) two of the projects must be ranked in the top 35 based on total score on the Department-produced list entitled "Mobility Fund Project Scores" dated June 6, 2012, and, in addition, may be subject to G.S. 136-18(39a); (ii) of the projects not ranked as provided in (i), one may be subject to G.S. 136-18(39a); (iii) the projects shall be included in any applicable locally adopted comprehensive transportation ~~plans and~~plans; (iv) the projects shall be shown in the current State Transportation Improvement ~~Plan prior to the letting of a contract for the Turnpike Project.~~Program; and (v) toll projects must be approved by all affected Metropolitan Planning Organizations and Rural Transportation Planning Organizations for tolling."

SECTION 5.2. G.S. 136-18 reads as rewritten:

"§ **136-18. Powers of Department of Transportation.**

The said Department of Transportation is vested with the following powers:

…

(39a) a. The Department of Transportation or Turnpike Authority, as applicable, may enter into ~~a partnership agreement~~ up to three agreements with a private entity as provided under subdivision (39) of this section for which the provisions of this section apply. ~~The pilot project allowed under this subdivision must be one that is a candidate for funding under the Mobility Fund, that is planned for construction through a public-private partnership, and for which a Request for Qualifications has been issued by the Department no later than June 30, 2012.~~

b. A private entity or its contractors must provide performance and payment security in the form and in the amount determined by the Department of Transportation. The form of the performance and payment security may consist of bonds, letters of credit, parent guaranties, or other instruments acceptable to the Department of Transportation.

c. Notwithstanding the provisions of G.S. 143B-426.40A, an agreement entered into under this subdivision may allow the private entity to assign, transfer, sell, hypothecate, and otherwise convey some or all of its right, title, and interest in and to such agreement, and any rights and remedies thereunder, to a lender, bondholder, or any other party. However, in no event shall any such assignment create additional debt or debt-like obligations of the State of North Carolina, the Department, or any other agency, authority, commission, or similar subdivision of the State to any lender, bondholder, entity purchasing a participation in the right to receive the payment, trustee, trust, or

any other party providing financing or funding of projects described in this section. The foregoing shall not preclude the Department from making any payments due and owing pursuant to an agreement entered into under this section.

d. ~~The Department of Transportation may fix, revise, charge, and collect tolls and fees to the same extent allowed under~~ Article 6H of Chapter 136 of the General ~~Statutes.~~Statutes shall apply to the Department of Transportation and to projects undertaken by the Department of Transportation under subdivision (39) of this section. The Department may assign its authority under that Article to fix, revise, charge, retain, enforce, and collect tolls and fees to the private entity.

e. Any contract under this subdivision or under Article 6H of this Chapter for the development, construction, maintenance, or operation of a project shall provide for revenue sharing, if applicable, between the private party and the Department, and revenues derived from such project may be used as set forth in G.S. 136-89.188(a), notwithstanding the provisions of G.S. 136-89.188(d). Excess toll revenues from a Turnpike project shall be used for the funding or financing of transportation projects within the corridor where the Turnpike Project is located. For purposes of this subdivision, the term "excess toll revenues" means those toll revenues derived from a Turnpike Project that are not otherwise used or allocated to the Authority or a private entity pursuant to this subdivision, notwithstanding the provisions of G.S. 136-89.188(d). For purposes of this subdivision, the term "corridor" means (i) the right-of-way limits of the Turnpike Project and any facilities related to the Turnpike Project or any facility or improvement necessary for the use, design, construction, operation, maintenance, repair, rehabilitation, reconstruction, or financing of a Turnpike Project; (ii) the right-of-way limits of any subsequent improvements, additions, or extension to the Turnpike Project and facilities related to the Turnpike projects, including any improvements necessary for the use, design, construction, operation, maintenance, repair, rehabilitation, reconstruction, or financing of those subsequent improvements, additions, or extensions to the Turnpike Project; and (iii) roads used for ingress or egress to the toll facility or roads that intersect with the toll facility, whether by ramps or separated grade facility, and located within one mile in any direction.

f. Agreements entered into under this subdivision shall comply with the following additional provisions:

1. The Department shall solicit proposals for agreements.
2. Agreement shall be limited to no more than 50 years from the date of the beginning of operations on the toll facility.
3. Notwithstanding the provisions of G.S. 136-89.183(a)(5), all initial tolls or fees to be charged by a private entity shall be reviewed by the Turnpike Authority Board. Prior to setting toll rates, either a set rate or a minimum and maximum rate set by the private entity, the private entity shall hold a public hearing on the toll rates, including an explanation of the toll setting methodology, in accordance with guidelines for the hearing developed by the Department. After tolls go into effect, the private entity shall report to the Turnpike Authority

Board 30 days prior to any increase in toll rates or change in the toll setting methodology by the private entity from the previous toll rates or toll setting methodology last reported to the Turnpike Authority Board.

4. Financial advisors and attorneys retained by the Department on contract to work on projects pursuant to this subsection shall be subject to State law governing conflicts of interest.

5. 60 days prior to the signing of a concession agreement subject to this subdivision, the Department shall report to the Joint Legislative Transportation Oversight Committee on the following for the presumptive concessionaire:

I. Project description.

II. Number of years that tolls will be in place.

III. Name and location of firms and parent companies, if applicable, including firm responsibility and stake, and assessment of audited financial statements.

IV. Analysis of firm selection criteria.

V. Name of any firm or individual under contract to provide counsel or financial analysis to the Department or Authority. The Department shall disclose payments to these contractors related to completing the agreement under this subdivision.

VI. Demonstrated ability of the project team to deliver the project, by evidence of the project team's prior experience in delivering a project on schedule and budget, and disclosure of any unfavorable outcomes on prior projects.

VII. Detailed description of method of finance, including sources of funds, State contribution amounts, including schedule of availability payments and terms of debt payments.

VIII. Information on assignment of risk shared or assigned to State and private partner.

IX. Information on the feasibility of finance as obtained in traffic and revenue studies.

6. The Turnpike Authority annual report under G.S. 136-89.193 shall include reporting on all revenue collections associated with projects subject to this subdivision under the Turnpike Authority.

7. The Department shall develop standards for entering into comprehensive agreements with private entities under the authority of this subdivision and report those standards to the Joint Legislative Transportation Oversight Committee on or before October 1, 2013.

…

(43) For the purposes of financing an agreement under subdivision (39a) of this section, the Department of Transportation may act as a conduit issuer for private activity bonds to the extent the bonds do not constitute a debt obligation of the State. The issuance of private activity bonds under this subdivision and any related actions shall be governed by The State and Local Government Revenue Bond Act, Article 5 of Chapter 159 of the General Statutes, with G.S. 159-88 satisfied by adherence to the requirements of ~~subdivisions (39) and~~ subdivision (39a) of this section."

SECTION 5.3. G.S. 136-89.183(a)(5) reads as rewritten:

"§ **136-89.183. Powers of the Authority.**

(a) The Authority shall have all of the powers necessary to execute the provisions of this Article, including the following:

…

(5) To fix, revise, charge, retain, enforce, and collect tolls and fees for the use of the Turnpike Projects. Prior to the effective date of any toll or fee for use of a Turnpike Facility, the Authority shall submit a description of the proposed toll or fee to the Board of Transportation, the Joint Legislative Transportation Oversight Committee and the Joint Legislative Commission on Governmental Operations for review.

…."

SECTION 5.4. G.S. 136-89.188 reads as rewritten:

"§ **136-89.188. Use of revenues.**

(a) Revenues derived from Turnpike Projects authorized under this Article shall be used only for the following:

(1) Authority administration ~~costs;~~costs.

(2) Turnpike Project development, right-of-way acquisition, design, construction, operation, ~~and maintenance;~~maintenance, reconstruction, rehabilitation, and replacement.~~and~~

(3) ~~debt~~ Debt service on the Authority's revenue bonds or related purposes such as the establishment of debt service reserve ~~funds.~~funds.

(4) Debt service, debt service reserve funds, and other financing costs related to any of the following:

a. A financing undertaken by a private entity under a partnership agreement with the entity for a Turnpike Project.

b. Private activity bonds issued under law related to a Turnpike Project.

c. Any federal or State loan, line of credit, or loan guarantee relating to a Turnpike Project.

(5) A return on investment of any private entity under a partnership agreement with the entity for a Turnpike Project.

(6) Any other uses granted to a private entity under a partnership agreement with the entity for a Turnpike Project.

(b) The Authority may use up to one hundred percent (100%) of the revenue derived from a Turnpike Project for debt service on the Authority's revenue bonds or for a combination of debt service and operation and maintenance expenses of the Turnpike Projects.

(c) The Authority shall use not more than five percent (5%) of total revenue derived from all Turnpike Projects for Authority administration costs.

(d) Notwithstanding the provisions of subsections (a) and (b) of this section, toll revenues generated from a converted segment of the State highway system previously planned for operation as a nontoll facility shall only be used for the funding or financing of the right of way acquisition, construction, expansion, operations, maintenance, and Authority administration costs associated with the converted segment or a contiguous toll facility."

SECTION 5.5. Part 1 of Article 6H of Chapter 136 of the General Statutes is amended by adding a new section to read:

"**§ 136-89.199. Designation of high-occupancy toll and managed lanes.**

Notwithstanding any other provision of this Article, the Authority may designate one or more lanes of any highway, or portion thereof, within the State, including lanes that may previously have been designated as HOV lanes under G.S. 20-146.2, as high-occupancy toll (HOT) or other type of managed lanes; provided, however, that such designation shall not reduce the number of existing general purpose lanes. In making such designations, the Authority shall specify the high-occupancy requirement or other conditions for use of such

lanes, which may include restricting vehicle types, access controls, or the payment of tolls for vehicles that do not meet the high-occupancy requirements or conditions for use."

SECTION 5.6. Part 2 of Article 6H of Chapter 136 of the General Statutes reads as rewritten:

"Part 2. Collection of Tolls on Turnpike Projects.

…

"§ **136-89.212. Payment of toll required for use of Turnpike project.**

(a) A motor vehicle that is driven on a Turnpike project is subject to a toll imposed by the Authority for the use of the project. If the toll is an open road toll, the person who is the registered owner of the motor vehicle is liable for payment of the toll unless the registered owner establishes that the motor vehicle was in the care, custody, and control of another person when it was driven on the Turnpike project.

(b) A person establishes that a motor vehicle was in the care, custody, and control of another person when it was driven on a Turnpike project by submitting to the Authority a sworn affidavit stating one of the following:

(1) The name and address of the person who had the care, custody, and control of the motor vehicle when it was driven. If the motor vehicle was leased or rented under a long-term lease or rental, as defined in G.S. 105-187.1, the affidavit must be supported by a copy of the lease or rental agreement or other written evidence of the agreement.

(2) The motor vehicle was stolen. The affidavit must be supported by an insurance or police report concerning the theft or other written evidence of the theft.

(3) The person transferred the motor vehicle to another person by sale or otherwise before it was driven on the Turnpike project. The affidavit must be supported by insurance information, a copy of the certificate of title, or other evidence of the transfer.

(c) If a person establishes that a motor vehicle was in the care, custody, and control of another person under subsection (b) of this section, the other person shall be liable for the payment of the toll, and the Authority may send a bill to collect and enforce the toll in accordance with this Article; provided, however, that such other person may contest such toll in accordance with this Article.

"§ **136-89.213. Administration of tolls and requirements for open road tolls.**

(a) Administration. – The Authority is responsible for collecting tolls on Turnpike projects. In exercising its authority under G.S. 136-89.183 to perform or procure services required by the Authority, the Authority may contract with one or more providers to perform part or all of the collection functions and may enter into agreements to exchange information, including confidential information under subsection (a1) of this section, that identifies motor vehicles and their owners with one or more of the following entities: the Division of Motor Vehicles of the Department of Transportation, another state, another toll operator, ~~or~~ a toll collection-related ~~organization.~~organization, or a private entity that has entered into a partnership agreement with the Authority pursuant to G.S. 136-89.183(a)(17). Further, the Authority may assign its authority to fix, revise, charge, retain, enforce, and collect tolls and fees under this Article to a private entity that has entered into a partnership agreement with the Authority pursuant to G.S. 136-89.183(a)(17).

…

(b) Open Road Tolls. – If a Turnpike project uses an open road tolling system, the Authority must operate a facility that is in the immediate vicinity of the Turnpike project ~~and that accepts~~or provide an alternate means to accept cash payment of the toll and must place signs on the Turnpike project that give drivers the following information:

(1) Notice that the driver is approaching a highway for which a toll is required. Signs providing this information must be placed before the toll is incurred.

(2) The methods by which the toll may be paid.

(3) ~~Directions~~ If applicable, directions to the nearby facility that accepts cash payment of the toll.

"§ **136-89.214. Bill for unpaid open road toll.**

(a) Bill. – If a motor vehicle travels on a Turnpike project that uses an open road tolling system and a toll for traveling on the project is not paid prior to travel or at the time of travel, the Authority must send a bill by first-class mail to the registered owner of the motor vehicle or the person who had care, custody, and control of the vehicle as established under G.S. 136-89.212(b) for the amount of the unpaid toll. The Authority must send the bill within 90 days after the travel ~~occurs.~~occurs, or within 90 days of receipt of a sworn affidavit submitted under G.S. 136-89.212(b) identifying the person who had care, custody, and control of the motor vehicle. If a bill is not sent within the required time, the Authority waives collection of the toll. The Authority must establish a billing period for unpaid open road tolls that is no shorter than 15 days. A bill for a billing period must include all unpaid tolls incurred by the same person during the billing period.

(b) Information on Bill. – A bill sent under this section must include all of the following information:

(1) The name and address of the registered owner of the motor vehicle that traveled on the Turnpike ~~project.~~project or of the person identified under G.S. 136-89.212(b).

(2) The date the travel occurred, the approximate time the travel occurred, and each segment of the Turnpike project on which the travel occurred.

(3) An image of the registration plate of the motor vehicle, if the Authority captured an electronic image of the motor vehicle when it traveled on the Turnpike project.

(4) The amount of the toll due and an explanation of how payment may be made.

(5) The date by which the toll must be paid to avoid the imposition of a processing fee under G.S. 136-89.215 and the amount of the processing fee.

(6) A statement that a vehicle owner who has unpaid tolls is subject to a civil penalty and may not renew the vehicle's registration until the tolls and civil penalties are paid.

(7) A clear and concise explanation of how to contest liability for the toll.

(8) If applicable, a copy of the affidavit submitted under G.S. 136-89.212(b) identifying the person with care, custody, and control of the motor vehicle.

"§ **136-89.215. Required action upon receiving bill for open road toll and processing fee for unpaid toll.**

(a) Action Required. – A person who receives a bill from the Authority for an unpaid open road toll must take one of the following actions within 30 days of the date of the bill:

(1) Pay the bill.

(2) Send a written request to the Authority for a review of the toll.

(b) Fee. – If a person does not take one of the actions required under subsection (a) of this section within the required time, the Authority may add a processing fee to the amount the person owes. The processing fee may not exceed six dollars ($6.00). A person may not be charged more than forty-eight dollars ($48.00) in processing fees in a 12-month period.

The Authority must set the processing fee at an amount that does not exceed the costs of collecting the unpaid toll.~~identifying the owner of a motor vehicle that is subject to an unpaid toll and billing the owner for the unpaid toll. The fee is a receipt of the Authority and must be applied to these costs.~~

…."

SECTION 5.7. DOT/Southeast Extension-Triangle Expressway. – The Department of Transportation shall strive to expedite the federal environmental impact statement process to define the route for the Southeast Extension of the Triangle Expressway Turnpike Project by

promptly garnering input from local officials and other stakeholders, accelerating any required State studies, promptly submitting permit applications to the federal government, working closely with the federal government during the permitting process, and taking any other appropriate actions to accelerate the environmental permitting process.

SECTION 5.8. Monitoring. – As part of its oversight of the Department of Transportation, the Joint Legislative Transportation Oversight Committee shall closely monitor the progress of the Southeast Extension of the Triangle Expressway Turnpike Project.

TRANSITION STUDY AND REPORTING REQUIREMENTS

SECTION 6.1. Formula Implementation Report. – The Department of Transportation shall report to the Joint Legislative Transportation Oversight Committee and the Fiscal Research Division no later than August 15, 2013, on the Department's recommended formulas that will be used in the prioritization process to rank highway and nonhighway projects. The Department of Transportation's Prioritization Office shall develop the prioritization processes and formulas for all modes of transportation. The report will include a statement on the process used by the Department to develop the formulas, include a listing of external partners consulted during this process, and include feedback from its 3.0 workgroup partners on the Department's proposed recommendations. The Department shall not finalize the formula without consulting with the Joint Legislative Transportation Oversight Committee. The Joint Legislative Transportation Oversight Committee has 30 days after the report is received to meet and consult on the Department's recommendations. If no meeting occurs within 30 days after the report is received, the consultation requirement will be met. If consultation occurs and a majority of members serving on the Committee request changes to the Department's recommended formulas for highway and nonhighway modes, the Department shall review the requests and provide to the Committee its response to the requested changes no later than October 1, 2013. A final report on the highway and intermodal formulas shall be submitted to the Joint Legislative Transportation Oversight Committee by January 1, 2014.

SECTION 6.2. State Transportation Improvement Program Transition Report. – The Department of Transportation shall submit transition reports to members of the Joint Legislative Transportation Oversight Committee, House of Representatives Appropriations Subcommittee on Transportation and the Senate Appropriations Committee on Department of Transportation, and the Fiscal Research Division on March 1, 2014, and November 1, 2014. The reports shall include information on the Department's transition to Strategic Prioritization, overview changes to the State Transportation Improvement Program (STIP) and other internal and external processes that feed into the STIP, and offer statutory and policy recommendations or items for consideration to the General Assembly that will enhance the prioritization process. The March 1, 2014, report shall also include an analysis of the distribution of tax and fee revenues between the Highway Fund and Highway Trust Fund and an analysis to determine if maintenance, construction, operations, administration, and capital expenditures are properly budgeted within the two funds and existing revenues are most effectively distributed between the two funds.

EFFECTIVE DATE

SECTION 7.1.(a) Except as provided herein, this act becomes effective July 1, 2013.

SECTION 7.1.(b) This act is effective only if the General Assembly appropriates funds in the Current Operations and Capital Improvements Appropriations Act of 2013 to implement this act.

In the General Assembly read three times and ratified this the 19th day of June, 2013.

Became law upon approval of the Governor at 11:20 a.m. on the 26th day of June, 2013.

Session Law 2013-184 **H.B. 336**

AN ACT AUTHORIZING THE DIRECTOR OF THE BUDGET TO CONTINUE EXPENDITURES FOR THE OPERATION OF GOVERNMENT AT A PERCENTAGE OF THE LEVEL IN EFFECT ON JUNE 30, 2013.

The General Assembly of North Carolina enacts:

BUDGET CONTINUATION

SECTION 1. The Director of the Budget may continue to allocate funds for expenditure for current operations by State departments, institutions, and agencies at a level not to exceed ninety-five percent (95%) of the level at which these operations were authorized in S.L. 2012-142, as amended. The Director of the Budget shall implement the budget reductions set out in Senate Bill 402, 3rd edition, and Senate Bill 402, 5th edition, that are not in controversy. The Director of the Budget shall not implement any transfers set out in Senate Bill 402, 3rd edition, Senate Bill 402, 5th edition, or both.

To the extent necessary to implement this authorization, there is appropriated from the appropriate State funds and cash balances, federal receipts, and departmental receipts for 2013-2014 fiscal year funds necessary to carry out this section, except that cash balances subject to proposed transfer in Senate Bill 402, 3rd edition, Senate Bill 402, 5th edition, or both shall not be expended.

Vacant positions subject to proposed budget reductions in Senate Bill 402, 3rd edition, Senate Bill 402, 5th edition, or both shall not be filled after June 30, 2013.

State employees employed in positions subject to elimination in both Senate Bill 402, 3rd edition, and Senate Bill 402, 5th edition, because of a reduction, in total or in part, in the funds used to support the job or its responsibilities shall, as soon as practicable and in accordance with Reduction in Force policies, be provided written notification of termination of employment 30 days prior to the effective date of the termination.

State agencies shall not make grant awards with funds that are subject to proposed budget reductions in Senate Bill 402, 3rd edition, Senate Bill 402, 5th edition, or both.

Except as otherwise provided by this act, the limitations and directions for the 2012-2013 fiscal year in S.L. 2011-145, as amended, and in S.L. 2012-142, as amended, that applied to appropriations to particular agencies or for particular purposes apply to the funds appropriated and authorized for expenditure under this section.

EMPLOYEE SALARIES

SECTION 2. The salary schedules and specific salaries established for the 2012-2013 fiscal year by or under S.L. 2012-142 and in effect on June 30, 2013, for offices and positions shall remain in effect until the effective date of the Current Operations and Capital Improvements Appropriations Act of 2013.

State employees subject to G.S. 7A-102(c), 7A-171.1, or 20-187.3 shall not move up on salary schedules or receive automatic increases, including automatic step increases, until authorized by the General Assembly.

State employees, including those exempt from the classification and compensation rules established by the State Personnel Commission, shall not receive any automatic step increases, annual, performance, merit, bonuses, or other increments until authorized by the General Assembly.

Public school employees paid on the teacher salary schedule or school-based administrator salary schedule and other employees shall not move up on salary schedules or receive automatic step increases, annual, performance, merit, or other increments until authorized by the General Assembly.

SALARY-RELATED CONTRIBUTIONS/EMPLOYER

SECTION 3.(a) The State's employer contribution rates budgeted for retirement and related benefits for the 2013-2014 fiscal year shall be as provided for in Section 29.22(f) of S.L. 2011-145 and Section 25.10 of S.L. 2012-142.

SECTION 3.(b) The State's employer contribution rates established by this section are effective until the Current Operations and Capital Improvements Appropriations Act of 2013 becomes law and are subject to revision in that act. If the Current Operations and Capital Improvements Appropriations Act of 2013 modifies these rates, the Director of the Budget shall further modify the rates set in that act for the remainder of the 2013-2014 fiscal year so as to compensate for the different amount contributed between July 1, 2013, and the date the Current Operations and Capital Improvements Appropriations Act of 2013 becomes law so that the effective rates for the entire year reflect the rates set in the Current Operations and Capital Improvements Appropriations Act of 2013.

FUNDS SHALL NOT REVERT

SECTION 4.(a) If the provisions of either Senate Bill 402, 3rd edition, Senate Bill 402, 5th edition, or both direct that funds shall not revert, the funds shall not revert on June 30, 2013. Unless these funds are encumbered on or before June 30, 2013, these funds shall not be expended after June 30, 2013, except as provided by a law enacted after June 30, 2013.

SECTION 4.(b) This section becomes effective June 30, 2013.

CORRECTION TO 2013-2014 BUDGET BILL REPEALED

SECTION 5. Subdivisions (2) through (4) of subsection (d) of Section 5.1 of S.L. 2011-145, as enacted by Section 5.1 of S.L. 2012-142, are repealed. This subsection becomes effective on June 30, 2013.

STATE CONTROLLER SHALL NOT TRANSFER FUNDS ON JUNE 30

SECTION 6.(a) Notwithstanding G.S. 143C-4-3, for the 2012-2013 fiscal year only, funds shall not be reserved to the Repairs and Renovations Reserve Account, and the State Controller shall not transfer funds from the unreserved credit balance to the Repairs and Renovation Reserve Account on June 30, 2013.

SECTION 6.(b) Notwithstanding G.S. 143C-4-2, for the 2012-2013 fiscal year only, funds shall not be reserved to the Savings Reserve Account, and the State Controller shall not transfer funds from the unreserved credit balance to the Savings Reserve Account on June 30, 2013.

SECTION 6.(c) This section becomes effective June 30, 2013.

FEDERAL BLOCK GRANTS

SECTION 7.(a) Except as provided by subsection (b) of this section, the Director of the Budget shall continue to allocate DHHS federal block grant funds at the levels provided in Section 10.25 of S.L. 2012-142, and as otherwise provided by law, and appropriations from DHHS federal block grants are hereby made. Further, the Quality and Availability Initiatives item under Local Program Expenditures of the Child Care and Development Block Grant shall be funded at ninety percent (90%) of the 2012-2013 fiscal year funding level. However, the Women's Health and Oral Health items under Local Program Expenditures and the Health Promotion item under the Department of Health and Human Services Program Expenditures of the Maternal and Child Health Block Grant shall not be funded.

SECTION 7.(b) Subject to the provisions of subsection (a) of this section, the Director of the Budget shall allocate DHHS federal block grant funds at the levels provided in Senate Bill 402, 3rd edition, and Senate Bill 402, 5th edition, for the following block grants that are not in controversy:

(1) Temporary Assistance for Needy Families (TANF) Funds.
(2) Temporary Assistance for Needy Families (TANF) Emergency Contingency Funds.
(3) Substance Abuse Prevention and Treatment Block Grant.

SECTION 7.(c) Notwithstanding any other provision of this section, if funds appropriated for an item in Section 10.25 of S.L. 2012-142, and as otherwise provided by law, are not appropriated for that item in Senate Bill 402, 3rd edition, or Senate Bill 402, 5th edition, that item shall not be funded.

SECTION 7.(d) Appropriations from NER federal Block Grant funds are made for the fiscal year ending June 30, 2014, according to the schedules enacted for State fiscal year 2012-2013, or until a new schedule is enacted by the General Assembly. The schedule of NER federal Block Grants and governing provisions are specified in Section 13.1 of S.L. 2012-142.

MEDICAID STATE PLAN AMENDMENTS

SECTION 8.(a) To achieve the proposed budget reductions for the 2013-2015 fiscal biennium, the Department of Health and Human Services shall do all of the following:

(1) Prepare the necessary State Plan amendments to the Centers for Medicare and Medicaid Services that reflect the Medicaid reduction items in Senate Bill 402, 3rd edition, or Senate Bill 402, 5th edition.
(2) Submit the necessary State Plan amendments to the Centers for Medicare and Medicaid Services that reflect the Medicaid reduction items where the amount of the reduction is identical in both Senate Bill 402, 3rd edition, and Senate Bill 402, 5th edition.

SECTION 8.(b) The Department shall amend or withdraw any unnecessary State Plan amendments when reductions enacted in the Current Operations and Capital Improvements Appropriations Act of 2013 become law.

PUBLIC SCHOOLS

SECTION 9. Effective July 1, 2013, there is appropriated from the General Fund to the Department of Public Instruction the sum of ten million six hundred fifty-one thousand three hundred twenty-nine dollars ($10,651,329) for the 2013-2014 fiscal year to fully fund increases in average daily membership in public schools, subject to adjustment by the General Assembly.

COMMUNITY COLLEGE TUITION INCREASE

SECTION 10.(a) The in-State tuition rate for community college students shall be seventy-one dollars and fifty cents ($71.50) per credit hour. The out-of-State tuition rate shall be two hundred sixty-three dollars and fifty cents ($263.50) per credit hour.

SECTION 10.(b) The fees charged for community college continuing education courses shall be based on the number of hours of class time. The fees shall be as follows:

(1) Classes 1-24 hours – $70.00.
(2) Classes 25-50 hours – $125.00.
(3) Classes 51+ hours – $180.00.

EXCESS LOTTERY RECEIPTS

SECTION 11.(a) Excess lottery receipts realized in the 2012-2013 fiscal year shall not be transferred out of the Education Lottery Fund in accordance with G.S. 18C-164(f) or any other provision of law. These excess funds shall remain in the Education Lottery Fund until appropriated by the General Assembly.

SECTION 11.(b) This section becomes effective June 30, 2013.

CERTAIN INFORMATION TECHNOLOGY FUNDS SHALL REMAIN IN THE OFFICE OF INFORMATION TECHNOLOGY SERVICES

SECTION 12.(a) Section 6A.5(c1) of S.L. 2012-142 reads as rewritten:

"**SECTION 6A.5.(c1)** To offset the transfer in this act of fourteen million dollars ($14,000,000) from the Information Technology Internal Service Fund to the State Controller, the sum of two million eight hundred thousand dollars ($2,800,000) shall ~~be transferred to agencies utilizing federal funding for IT Internal Service Fund payments~~ remain at the Office of Information Technology Services until required to provide the appropriate refunds to the federal government. Information Technology Services shall be allowed to retain this amount in excess of its allowed defined contingency balance."

SECTION 12.(b) This section becomes effective June 30, 2013.

ADDITIONAL FUNDS TO COVER MEDICAID SHORTFALL

SECTION 13.(a) Section 1 of S.L. 2013-56 reads as rewritten:

"**SECTION 1.** Notwithstanding G.S. 143C-6-4 or any other provision of law, in order to ensure that there is adequate funding in the Medicaid budget for the 2012-2013 fiscal year, the General Assembly directs the Director of the Budget, in conjunction with the State Controller and other necessary State officials, to effectuate the budget adjustments authorized in Section 2 of this act in an amount not to exceed ~~four hundred fifty-one million dollars ($451,000,000)~~ four hundred ninety-six million dollars ($496,000,000) to cover a projected budget shortfall.~~shortfall of three hundred thirty-three million dollars ($333,000,000) and the repayment of Medicaid federal drug rebates in the amount of one hundred eighteen million dollars ($118,000,000).~~ No other budget adjustments shall be made pursuant to G.S. 143C-6-4 or any other provision of law to cover a projected Medicaid budget shortfall for the 2012-2013 fiscal year."

SECTION 13.(b) Section 2 of S.L. 2013-56 reads as rewritten:

"**SECTION 2.** The Director of the Budget shall make the following adjustments to increase the budget of the Division of Medical Assistance. These adjustments are set forth in priority order, and no adjustment shall be made until the preceding adjustment has been completely exhausted in the permissible amount:

(1) Use the sum of seventy-four million dollars ($74,000,000) from drug rebate refunds within the Division of Medical Assistance. These funds are hereby appropriated.

(2) Transfer the sum of twenty million nine hundred thousand dollars ($20,900,000) from State appropriations not expended pursuant to Section 10.9G of S.L. 2012-142.

(3) Transfer a minimum of ~~forty-eight million dollars ($48,000,000)~~ eighty-four million five hundred thirty-nine thousand nine hundred dollars ($84,539,900) from projected reversions within the Department of Health and Human Services, including any unspent or unobligated State appropriations from the Transitions to Community Living Fund. However, before these projected reversions may be expended, all payments required under Section 10.23A(f) of S.L. 2012-142 and S.L. 2013-5 must be made.

(4) Use the sum of two hundred thirteen million four hundred thirty-two thousand eight hundred seventy-eight dollars ($213,432,878) from the June 30, 2012, unreserved fund balance. These funds are hereby appropriated.

(5) Transfer of projected revenue overcollections for the 2012-2013 fiscal year in the amount of up to ninety-four million six hundred sixty-seven thousand one hundred twenty-two dollars ($94,667,122). These funds are hereby appropriated.

(6) Use eight million four hundred sixty thousand one hundred dollars ($8,460,100) in federal Block Grant funds. The sum of six million five hundred thousand dollars ($6,500,000) is hereby appropriated from available

Temporary Assistance for Needy Families Emergency Contingency Funds and the sum of one million nine hundred sixty thousand one hundred dollars ($1,960,100) is hereby appropriated from Temporary Assistance for Needy Families Funds."

SECTION 13.(c) This section is effective when it becomes law.

EFFECTIVE DATE

SECTION 14. Except as otherwise provided, this act becomes effective July 1, 2013, and expires July 31, 2013, at 11:59 P.M.

In the General Assembly read three times and ratified this the 26th day of June, 2013.

Became law upon approval of the Governor at 4:02 p.m. on the 26th day of June, 2013.

Session Law 2013-185 **H.B. 664**

AN ACT TO FACILITATE THE DEPLOYMENT OF MOBILE BROADBAND AND OTHER ENHANCED WIRELESS COMMUNICATIONS SERVICES BY STREAMLINING THE PROCESSES USED BY STATE AGENCIES AND LOCAL GOVERNMENTS TO APPROVE THE PLACEMENT OF WIRELESS FACILITIES IN THEIR JURISDICTIONS.

The General Assembly of North Carolina enacts:

SECTION 1. Article 19 of Chapter 160A of the General Statutes reads as rewritten:

"Part 3E. Wireless Telecommunications Facilities.

"§ **160A-400.50. Purpose and compliance with federal law.**

(a) The purpose of this section is to ensure the safe and efficient integration of facilities necessary for the provision of advanced mobile broadband and wireless telecommunications services throughout the community and to ensure the ready availability of reliable wireless service to the public, government agencies, and first responders, with the intention of furthering the public safety and general welfare.

(a1) The deployment of wireless infrastructure is critical to ensuring first responders can provide for the health and safety of all residents of North Carolina and that, consistent with section 6409 of the federal Middle Class Tax Relief and Job Creation Act of 2012, 47 U.S.C. § 1455(a), which creates a national wireless emergency communications network for use by first responders that in large measure will be dependent on facilities placed on existing wireless communications support structures, it is the policy of this State to facilitate the placement of wireless communications support structures in all areas of North Carolina. The following standards shall apply to a city's actions, as a regulatory body, in the regulation of the placement, construction, or modification of a wireless communications facility.

(b) The placement, construction, or modification of wireless communications facilities shall be in conformity with the Federal Communications Act, 47 U.S.C. § 332 as amended, section 6409 of the federal Middle Class Tax Relief and Job Creation Act of 2012, 47 U.S.C. § 1455(a), and in accordance with the rules promulgated by the Federal Communications Commission.

"§ **160A-400.51. Definitions.**

The following definitions apply in this Part.

(1) Antenna. – Communications equipment that transmits, receives, or transmits and receives electromagnetic radio signals used in the provision of all types of wireless communications services.

(2) Application. – A formal request submitted to the city to construct or modify a wireless support structure or a wireless facility.

(2a) Base station. – A station at a specific site authorized to communicate with mobile stations, generally consisting of radio receivers, antennas, coaxial cables, power supplies, and other associated electronics.

(3) Building permit. – An official administrative authorization issued by the city prior to beginning construction consistent with the provisions of G.S. 160A-417.

(4) Collocation. – The placement or installation of wireless facilities on existing structures, including electrical transmission towers, water towers, buildings, and other structures capable of structurally supporting the attachment of wireless facilities in compliance with applicable codes.~~The installation of new wireless facilities on previously approved structures, including towers, buildings, utility poles, and water tanks.~~

(4a) Eligible facilities request. – A request for modification of an existing wireless tower or base station that involves collocation of new transmission equipment or replacement of transmission equipment but does not include a substantial modification.

(5) Equipment compound. – An area surrounding or near the base of a wireless support structure within which a wireless facility is located.~~Equipment enclosure. – An enclosed structure, cabinet, or shelter used to contain radio or other equipment necessary for the transmission or reception of wireless communication signals.~~

(5a) Fall zone. – The area in which a wireless support structure may be expected to fall in the event of a structural failure, as measured by engineering standards.

(6) Land development regulation. – Any ordinance enacted pursuant to this Part.

(7) Search ring. – The area within which a wireless support facility or wireless facility must be located in order to meet service objectives of the wireless service provider using the wireless facility or wireless support structure.

(7a) Substantial modification. – The mounting of a proposed wireless facility on a wireless support structure that substantially changes the physical dimensions of the support structure. A mounting is presumed to be a substantial modification if it meets any one or more of the criteria listed below. The burden is on the local government to demonstrate that a mounting that does not meet the listed criteria constitutes a substantial change to the physical dimensions of the wireless support structure.

a. Increasing the existing vertical height of the structure by the greater of (i) more than ten percent (10%) or (ii) the height of one additional antenna array with separation from the nearest existing antenna not to exceed 20 feet.

b. Except where necessary to shelter the antenna from inclement weather or to connect the antenna to the tower via cable, adding an appurtenance to the body of a wireless support structure that protrudes horizontally from the edge of the wireless support structure the greater of (i) more than 20 feet or (ii) more than the width of the wireless support structure at the level of the appurtenance.

c. Increasing the square footage of the existing equipment compound by more than 2,500 square feet.

(8) Utility pole. – A structure that is designed for and used to carry lines, cables, or wires for telephone, cable television, or electricity, or to provide lighting.

(8a) Water tower. – A water storage tank, a standpipe, or an elevated tank situated on a support structure originally constructed for use as a reservoir or facility to store or deliver water.

(9) Wireless facility. – The set of equipment and network components, exclusive of the underlying wireless support structure or tower, including antennas, transmitters, receivers, ~~receivers~~ base stations, power supplies, cabling, and associated equipment necessary to provide wireless data and wireless telecommunications services to a discrete geographic area.

(10) Wireless support structure. – A new or existing structure, such as a monopole, lattice tower, or guyed tower that is designed to support or capable of supporting wireless facilities. A utility pole is not a wireless support structure.

"**§ 160A-400.51A. Local authority.**

A city may plan for and regulate the siting or modification of wireless support structures and wireless facilities in accordance with land development regulations and in conformity with this Part. Except as expressly stated, nothing in this Part shall limit a city from regulating applications to construct, modify, or maintain wireless support structures, or construct, modify, maintain, or collocate wireless facilities on a wireless support structure based on consideration of land use, public safety, and zoning considerations, including aesthetics, landscaping, structural design, setbacks, and fall zones, or State and local building code requirements, consistent with the provisions of federal law provided in G.S. 160A-400.50. For purposes of this Part, public safety includes, without limitation, federal, State, and local safety regulations but does not include requirements relating to radio frequency emissions of wireless facilities.

"§ **160A-400.52. Construction of new wireless support structures or substantial modifications of ~~facilities and~~ wireless support structures.**

~~(a) A city may plan for and regulate the siting or modification of wireless support structures and wireless facilities in accordance with land development regulations and in conformity with this Part. Except as expressly stated, nothing in this Part shall limit a city from regulating applications to construct, modify, or maintain wireless support structures, or construct, modify, maintain, or collocate wireless facilities on a wireless support structure based on consideration of land use, public safety, and zoning considerations, including aesthetics, landscaping, structural design, setbacks, and fall zones, or State and local building code requirements, consistent with the provisions of federal law provided in G.S. 160A-400.50. For purposes of this Part, public safety shall not include requirements relating to radio frequency emissions of wireless facilities.~~

(b) Any person that proposes to construct a new wireless support structure or substantially modify a wireless support structure ~~or wireless facility~~ within the planning and land-use jurisdiction of a city must do both of the following:

(1) Submit a completed application with the necessary copies and attachments to the appropriate planning authority.

(2) Comply with any local ordinances concerning land use and any applicable permitting processes.

(c) A city's review of an application for the ~~placement, construction,~~placement or construction of a new wireless support structure or substantial modification of a ~~wireless facility or~~ wireless support structure shall only address public safety, land development, or zoning issues. In reviewing an application, the city may not require information on or evaluate an applicant's business decisions about its designed service, customer demand for its service, or quality of its service to or from a particular area or site. A city may not require information that concerns the specific need for the wireless support structure, including if the service to be provided from the wireless support structure is to add additional wireless coverage or additional wireless capacity. A city may not require proprietary, confidential, or other business

information to justify the need for the new wireless support structure, including propagation maps and telecommunication traffic studies. In reviewing an application, the city may review the following:

(1) Applicable public safety, land use, or zoning issues addressed in its adopted regulations, including aesthetics, landscaping, land-use based location priorities, structural design, setbacks, and fall zones.

(2) Information or materials directly related to an identified public safety, land development, or zoning issue including evidence that no existing or previously approved wireless support structure can reasonably be used for the ~~antenna~~ wireless facility placement instead of the construction of a new ~~tower,~~wireless support structure, that residential, historic, and designated scenic areas cannot be served from outside the area, or that the proposed height of a new ~~tower~~ wireless support structure or initial ~~antenna~~ wireless facility placement or a proposed height increase of a substantially modified ~~tower,~~wireless support structure, or replacement ~~tower,~~wireless support structure ~~or collocation~~ is necessary to provide the applicant's designed service.

(3) A city may require applicants for new wireless facilities to evaluate the reasonable feasibility of collocating new antennas and equipment on an existing wireless support structure or structures within the applicant's search ring. Collocation on an existing wireless support structure is not reasonably feasible if collocation is technically or commercially impractical or the owner of the ~~tower~~ existing wireless support structure is unwilling to enter into a contract for such use at fair market value. Cities may require information necessary to determine whether collocation on existing wireless support structures is reasonably feasible.

~~(d) A collocation application entitled to streamlined processing under G.S. 160A-400.53 shall be deemed complete unless the city provides notice in writing to the applicant within 45 days of submission or within some other mutually agreed upon timeframe. The notice shall identify the deficiencies in the application which, if cured, would make the application complete. The application shall be deemed complete on resubmission if the additional materials cure the deficiencies identified.~~

(e) The city shall issue a written decision approving or denying an application ~~within 45 days in the case of collocation applications entitled to streamlined processing under G.S. 160A-400.53 and~~ under this section within a reasonable period of time consistent with the issuance of other land-use permits in the case of other applications, each as measured from the time the application is deemed complete.

(f) A city may fix and charge an application fee, consulting fee, or other fee associated with the submission, review, processing, and approval of an application to site new wireless support structures or to substantially modify wireless support structures or wireless facilities that is based on the costs of the services provided and does not exceed what is usual and customary for such services. Any charges or fees assessed by a city on account of an outside consultant shall be fixed in advance and incorporated into a permit or application fee and shall be based on the reasonable costs to be incurred by the city in connection with the regulatory review authorized under this section. The foregoing does not prohibit a city from imposing additional reasonable and cost based fees for costs incurred should an applicant amend its application. On request, the amount of the consultant charges incorporated into the permit or application fee shall be separately identified and disclosed to the applicant. The fee imposed by a city for review of the application may not be used for either of the following:

(1) Travel time or expenses, meals, or overnight accommodations incurred in the review of an application by a consultant or other third party.

(2) Reimbursements for a consultant or other third party based on a contingent fee basis or a results-based arrangement.

(g) The city may condition approval of an application for a new wireless support structure on the provision of documentation prior to the issuance of a building permit establishing the existence of one or more parties, including the owner of the wireless support structure, who intend to locate wireless facilities on the wireless support structure. A city shall not deny an initial land-use or zoning permit based on such documentation. A city may condition a permit on a requirement to construct facilities within a reasonable period of time, which shall be no less than 24 months.

(h) The city may not require the placement of wireless support structures or wireless facilities on city owned or leased property, but may develop a process to encourage the placement of wireless support structures or facilities on city owned or leased property, including an expedited approval process.

(i) This section shall not be construed to limit the provisions or requirements of any historic district or landmark regulation adopted pursuant to Part 3C of this Article.

"§ **160A-400.53. Collocation and eligible facilities requests of wireless support structures. ~~facilities.~~**

(a) Pursuant to section 6409 of the federal Middle Class Tax Relief and Job Creation Act of 2012, 47 U.S.C. § 1455(a), a city may not deny and shall approve any eligible facilities request as provided in this section. Nothing in this Part requires an application and approval for routine maintenance or limits the performance of routine maintenance on wireless support structures and facilities, including in-kind replacement of wireless facilities. Routine maintenance includes activities associated with regular and general upkeep of transmission equipment, including the replacement of existing wireless facilities with facilities of the same size. A city may require an application for collocation or an eligible facilities request.~~Applications for collocation entitled to streamlined processing under this section shall be reviewed for conformance with applicable site plan and building permit requirements but shall not otherwise be subject to zoning requirements, including design or placement requirements, or public hearing review.~~

(a1) A collocation or eligible facilities request application is deemed complete unless the city provides notice that the application is incomplete in writing to the applicant within 45 days of submission or within some other mutually agreed upon time frame. The notice shall identify the deficiencies in the application which, if cured, would make the application complete. A city may deem an application incomplete if there is insufficient evidence provided to show that the proposed collocation or eligible facilities request will comply with federal, State, and local safety requirements. A city may not deem an application incomplete for any issue not directly related to the actual content of the application and subject matter of the collocation or eligible facilities request. An application is deemed complete on resubmission if the additional materials cure the deficiencies indicated.

(a2) The city shall issue a written decision approving an eligible facilities request application within 45 days of such application being deemed complete. For a collocation application that is not an eligible facilities request, the city shall issue its written decision to approve or deny the application within 45 days of the application being deemed complete.

(a3) A city may impose a fee not to exceed one thousand dollars ($1,000) for technical consultation and the review of a collocation or eligible facilities request application. The fee must be based on the actual, direct, and reasonable administrative costs incurred for the review, processing, and approval of a collocation application. A city may engage a third-party consultant for technical consultation and the review of a collocation application. The fee imposed by a city for the review of the application may not be used for either of the following:

(1) Travel expenses incurred in a third-party's review of a collocation application.

(2) Reimbursement for a consultant or other third party based on a contingent fee basis or results-based arrangement.

~~(b) Applications for collocation of wireless facilities are entitled to streamlined processing if the addition of the additional wireless facility does not exceed the number of wireless facilities previously approved for the wireless support structure on which the collocation is proposed and meets all the requirements and conditions of the original approval. This provision applies to wireless support structures which are approved on or after December 1, 2007.~~

~~(c) The streamlined process set forth in subsection (a) of this section shall apply to all collocations, in addition to collocations qualified for streamlined processing under subsection (b) of this section, that meet the following requirements:~~

~~(1) The collocation does not increase the overall height and width of the tower or wireless support structure to which the wireless facilities are to be attached.~~

~~(2) The collocation does not increase the ground space area approved in the site plan for equipment enclosures and ancillary facilities.~~

~~(3) The wireless facilities in the proposed collocation comply with applicable regulations, restrictions, or conditions, if any, applied to the initial wireless facilities placed on the tower or other wireless support structure.~~

~~(4) The additional wireless facilities comply with all federal, State and local safety requirements.~~

~~(5) The collocation does not exceed the applicable weight limits for the wireless support structure.~~"

SECTION 2. Article 18 of Chapter 153A of the General Statutes reads as rewritten:

"Part 3B. Wireless Telecommunications Facilities.

"§ **153A-349.50. Purpose and compliance with federal law.**

(a) Purpose. – The purpose of this section is to ensure the safe and efficient integration of facilities necessary for the provision of advanced mobile broadband and wireless telecommunications services throughout the community and to ensure the ready availability of reliable wireless service to the public, government agencies, and first responders, with the intention of furthering the public safety and general welfare.

(a1) The deployment of wireless infrastructure is critical to ensuring first responders can provide for the health and safety of all residents of North Carolina and that, consistent with section 6409 of the federal Middle Class Tax Relief and Job Creation Act of 2012, 47 U.S.C. § 1455(a), which creates a national wireless emergency communications network for use by first responders that in large measure will be dependent on facilities placed on existing wireless communications support structures, it is the policy of this State to facilitate the placement of wireless communications support structures in all areas of North Carolina. The following standards shall apply to a county's actions, as a regulatory body, in the regulation of the placement, construction, or modification of a wireless communications facility.

(b) Compliance with the Federal Communications Act. – The placement, construction, or modification of wireless communications facilities shall be in conformity with the Federal Communications Act, 47 U.S.C. § 332 as amended, section 6409 of the federal Middle Class Tax Relief and Job Creation Act of 2012, 47 U.S.C. § 1455(a), and in accordance with the rules promulgated by the Federal Communications Commission.

"§ **153A-349.51. Definitions.**

The following definitions apply in this Part:

(1) Antenna. – Communications equipment that transmits, receives, or transmits and receives electromagnetic radio signals used in the provision of all types of wireless communications services.

(2a) Base station. – A station at a specific site authorized to communicate with mobile stations, generally consisting of radio receivers, antennas, coaxial cables, power supplies, and other associated electronics.

(2) Application. – A formal request submitted to the county to construct or modify a wireless support structure or a wireless facility.

(3) Building permit. – An official administrative authorization issued by the county prior to beginning construction consistent with the provisions of G.S. 153A-357.

(4) Collocation. – The placement or installation of wireless facilities on existing structures, including electrical transmission towers, water towers, buildings, and other structures capable of structurally supporting the attachment of wireless facilities in compliance with applicable codes.~~The installation of new wireless facilities on previously-approved structures, including towers, buildings, utility poles, and water tanks.~~

(4a) Eligible facilities request. – A request for modification of an existing wireless tower or base station that involves collocation of new transmission equipment or replacement of transmission equipment but does not include a substantial modification.

(5) Equipment compound. – An area surrounding or near the base of a wireless support structure within which a wireless facility is located.~~Equipment enclosure. – An enclosed structure, cabinet, or shelter used to contain radio or other equipment necessary for the transmission or reception of wireless communication signals.~~

(5a) Fall zone. – The area in which a wireless support structure may be expected to fall in the event of a structural failure, as measured by engineering standards.

(6) Land development regulation. – Any ordinance enacted pursuant to this Part.

(7) Search ring. – The area within which a wireless support facility or wireless facility must be located in order to meet service objectives of the wireless service provider using the wireless facility or wireless support structure.

(7a) Substantial modification. – The mounting of a proposed wireless facility on a wireless support structure that substantially changes the physical dimensions of the support structure. A mounting is presumed to be a substantial modification if it meets any one or more of the criteria listed below. The burden is on the local government to demonstrate that a mounting that does not meet the listed criteria constitutes a substantial change to the physical dimensions of the wireless support structure.

a. Increasing the existing vertical height of the structure by the greater of (i) more than ten percent (10%) or (ii) the height of one additional antenna array with separation from the nearest existing antenna not to exceed 20 feet.

b. Except where necessary to shelter the antenna from inclement weather or to connect the antenna to the tower via cable, adding an appurtenance to the body of a wireless support structure that protrudes horizontally from the edge of the wireless support structure the greater of (i) more than 20 feet or (ii) more than the width of the wireless support structure at the level of the appurtenance.

c. Increasing the square footage of the existing equipment compound by more than 2,500 square feet.

(8) Utility pole. – A structure that is designed for and used to carry lines, cables, or wires for telephone, cable television, or electricity, or to provide lighting.

(8a) Water tower. – A water storage tank, a standpipe, or an elevated tank situated on a support structure originally constructed for use as a reservoir or facility to store or deliver water.

(9) Wireless facility. – The set of equipment and network components, exclusive of the underlying wireless support structure or tower, including antennas,

transmitters, receivers, ~~receivers~~ base stations, power supplies, cabling, and associated equipment necessary to provide wireless data and wireless telecommunications services to a discrete geographic area.

(10) Wireless support structure. – A new or existing structure, such as a monopole, lattice tower, or guyed tower that is designed to support or capable of supporting wireless facilities. A utility pole is not a wireless support structure.

"**§ 153A-349.51A. Local authority.**

A county may plan for and regulate the siting or modification of wireless support structures and wireless facilities in accordance with land development regulations and in conformity with this Part. Except as expressly stated, nothing in this Part shall limit a county from regulating applications to construct, modify, or maintain wireless support structures, or construct, modify, maintain, or collocate wireless facilities on a wireless support structure based on consideration of land use, public safety, and zoning considerations, including aesthetics, landscaping, structural design, setbacks, and fall zones, or State and local building code requirements, consistent with the provisions of federal law provided in G.S. 153A-349.50. For purposes of this Part, public safety includes, without limitation, federal, State, and local safety regulations but does not include requirements relating to radio frequency emissions of wireless facilities.

"§ **153A-349.52. Construction of new wireless support structures or substantial modifications of ~~facilities and~~ wireless support structures.**

~~(a) A county may plan for and regulate the siting or modification of wireless support structures and wireless facilities in accordance with land development regulations and in conformity with this Part. Except as expressly stated, nothing in this Part shall limit a county from regulating applications to construct, modify, or maintain wireless support structures, or construct, modify, maintain, or collocate wireless facilities on a wireless support structure based on consideration of land use, public safety, and zoning considerations, including aesthetics, landscaping, structural design, setbacks, and fall zones, or State and local building code requirements, consistent with the provisions of federal law provided in G.S. 153A-349.50. For purposes of this Part, public safety shall not include requirements relating to radio frequency emissions of wireless facilities~~.

(b) Any person that proposes to construct a new wireless support structure or substantially modify a wireless support structure ~~or wireless facility~~ within the planning and land-use jurisdiction of a county must do both of the following:

(1) Submit a completed application with the necessary copies and attachments to the appropriate planning authority.

(2) Comply with any local ordinances concerning land use and any applicable permitting processes.

(c) A county's review of an application for the ~~placement, construction,~~ placement or construction of a new wireless support structure or substantial modification of a ~~wireless facility or~~ wireless support structure shall only address public safety, land development, or zoning issues. In reviewing an application, the county may not require information on or evaluate an applicant's business decisions about its designed service, customer demand for its service, or quality of its service to or from a particular area or site. A county may not require information that concerns the specific need for the wireless support structure, including if the service to be provided from the wireless support structure is to add additional wireless coverage or additional wireless capacity. A county may not require proprietary, confidential, or other business information to justify the need for the new wireless support structure, including propagation maps and telecommunication traffic studies. In reviewing an application the county may review the following:

(1) Applicable public safety, land use, or zoning issues addressed in its adopted regulations, including aesthetics, landscaping, land-use based location priorities, structural design, setbacks, and fall zones.

(2) Information or materials directly related to an identified public safety, land development or zoning issue including evidence that no existing or previously approved wireless support structure can reasonably be used for the ~~antenna~~ wireless facility placement instead of the construction of a new ~~tower,~~wireless support structure, that residential, historic, and designated scenic areas cannot be served from outside the area, or that the proposed height of a new ~~tower~~ wireless support structure or initial ~~antenna~~ wireless facility placement or a proposed height increase of a substantially modified ~~tower,~~wireless support structure, or replacement ~~tower,~~wireless support structure or collocation is necessary to provide the applicant's designed service.

(3) A county may require applicants for new wireless facilities to evaluate the reasonable feasibility of collocating new antennas and equipment on an existing wireless support structure or structures within the applicant's search ring. Collocation on an existing wireless support structure is not reasonably feasible if collocation is technically or commercially impractical or the owner of the ~~tower~~ existing wireless support structure is unwilling to enter into a contract for such use at fair market value. Counties may require information necessary to determine whether collocation on existing wireless support structures is reasonably feasible.

~~(d) A collocation application entitled to streamlined processing under G.S. 153A-349.53 shall be deemed complete unless the city provides notice in writing to the applicant within 45 days of submission or within some other mutually agreed upon timeframe. The notice shall identify the deficiencies in the application which, if cured, would make the application complete. The application shall be deemed complete on resubmission if the additional materials cure the deficiencies identified.~~

(e) The county shall issue a written decision approving or denying an application ~~within 45 days in the case of collocation applications entitled to streamlined processing under G.S. 153A-349.53 and~~ under this section within a reasonable period of time consistent with the issuance of other land-use permits in the case of other applications, each as measured from the time the application is deemed complete.

(f) A county may fix and charge an application fee, consulting fee, or other fee associated with the submission, review, processing, and approval of an application to site new wireless support structures or to substantially modify wireless support structures or wireless facilities that is based on the costs of the services provided and does not exceed what is usual and customary for such services. Any charges or fees assessed by a county on account of an outside consultant shall be fixed in advance and incorporated into a permit or application fee and shall be based on the reasonable costs to be incurred by the county in connection with the regulatory review authorized under this section. The foregoing does not prohibit a county from imposing additional reasonable and cost based fees for costs incurred should an applicant amend its application. On request, the amount of the consultant charges incorporated into the permit or application fee shall be separately identified and disclosed to the applicant. The fee imposed by a county for review of the application may not be used for either of the following:

(1) Travel time or expenses, meals, or overnight accommodations incurred in the review of an application by a consultant or other third party.

(2) Reimbursements for a consultant or other third party based on a contingent fee basis or a results-based arrangement.

(g) The county may condition approval of an application for a new wireless support structure on the provision of documentation prior to the issuance of a building permit establishing the existence of one or more parties, including the owner of the wireless support structure, who intend to locate wireless facilities on the wireless support structure. A county shall not deny an initial land-use or zoning permit based on such documentation. A county may

condition a permit on a requirement to construct facilities within a reasonable period of time, which shall be no less than 24 months.

(h) The county may not require the placement of wireless support structures or wireless facilities on county owned or leased property, but may develop a process to encourage the placement of wireless support structures or facilities on county owned or leased property, including an expedited approval process.

(i) This section shall not be construed to limit the provisions or requirements of any historic district or landmark regulation adopted pursuant to Part 3C of this Article.

"§ **153A-349.53. Collocation and eligible facilities requests of wireless support structures.~~facilities.~~**

(a) Pursuant to section 6409 of the federal Middle Class Tax Relief and Job Creation Act of 2012, 47 U.S.C. § 1455(a), a county may not deny and shall approve any eligible facilities request as provided in this section. Nothing in this Part requires an application and approval for routine maintenance or limits the performance of routine maintenance on wireless support structures and facilities, including in-kind replacement of wireless facilities. Routine maintenance includes activities associated with regular and general upkeep of transmission equipment, including the replacement of existing wireless facilities with facilities of the same size. A county may require an application for collocation or an eligible facilities request.~~Applications for collocation entitled to streamlined processing under this section shall be reviewed for conformance with applicable site plan and building permit requirements but shall not otherwise be subject to zoning requirements, including design or placement requirements, or public hearing review.~~

(a1) A collocation or eligible facilities request application is deemed complete unless the county provides notice that the application is incomplete in writing to the applicant within 45 days of submission or within some other mutually agreed upon time frame. The notice shall identify the deficiencies in the application which, if cured, would make the application complete. A county may deem an application incomplete if there is insufficient evidence provided to show that the proposed collocation or eligible facilities request will comply with federal, State, and local safety requirements. A county may not deem an application incomplete for any issue not directly related to the actual content of the application and subject matter of the collocation or eligible facilities request. An application is deemed complete on resubmission if the additional materials cure the deficiencies indicated.

(a2) The county shall issue a written decision approving an eligible facilities request application within 45 days of such application being deemed complete. For a collocation application that is not an eligible facilities request, the county shall issue its written decision to approve or deny the application within 45 days of the application being deemed complete.

(a3) A county may impose a fee not to exceed one thousand dollars ($1,000) for technical consultation and the review of a collocation or eligible facilities request application. The fee must be based on the actual, direct, and reasonable administrative costs incurred for the review, processing, and approval of a collocation application. A county may engage a third-party consultant for technical consultation and the review of a collocation or eligible facilities request application. The fee imposed by a county for the review of the application may not be used for either of the following:

(1) Travel expenses incurred in a third party's review of a collocation application.

(2) Reimbursement for a consultant or other third party based on a contingent fee basis or results-based arrangement.

~~(b) Applications for collocation of wireless facilities are entitled to streamlined processing if the addition of the additional wireless facility does not exceed the number of wireless facilities previously approved for the wireless support structure on which the collocation is proposed and meets all the requirements and conditions of the original approval. This provision applies to wireless support structures which are approved on or after December 1, 2007.~~

~~(c) The streamlined process set forth in subsection (a) of this section shall apply to all collocations, in addition to collocations qualified for streamlined processing under subsection (b) of this section, that meet the following requirements:~~

~~(1) The collocation does not increase the overall height and width of the tower or wireless support structure to which the wireless facilities are to be attached.~~

~~(2) The collocation does not increase the ground space area approved in the site plan for equipment enclosures and ancillary facilities.~~

~~(3) The wireless facilities in the proposed collocation comply with applicable regulations, restrictions, or conditions, if any, applied to the initial wireless facilities placed on the tower or other wireless support structure.~~

~~(4) The additional wireless facilities comply with all federal, State, and local safety requirements.~~

~~(5) The collocation does not exceed the applicable weight limits for the wireless support structure.~~"

SECTION 3. G.S. 146-29.2 reads as rewritten:

"§ **146-29.2. Lease ~~provisions for communications towers.~~or interest in real property for communication purposes.**

(a) The following definitions apply in this section:

(1) Antenna. – Communications equipment that transmits, receives, or transmits and receives electromagnetic radio signals used in the provision of all types of wireless communications services.

(2) Buildings. – Structures owned or leased by the State on which equipment may be placed or attached.

(3) Collocation. – The placement or installation of wireless facilities on existing structures, including electrical transmission towers, water towers, buildings, and other structures capable of structurally supporting the attachment of wireless facilities in compliance with applicable building and line safety codes.

(4) Equipment. – Antennas, transmitters, receivers, cables, wires, transformers, power supplies, electric and communication lines necessary for the provision of television broadcast signals, radio wave signals, wireless data or wireless telecommunication services to a discrete geographic area, and all other apparatuses and appurtenances, including shelters, cabinets, buildings, platforms, and ice bridges used to house or otherwise protect equipment.

(5) Ground area. – The area of real property surrounding the base of towers on which the equipment and appurtenances necessary for the operation and stability of the towers, including guy wires and security fencing, are constructed or installed.

(6) Provider. – Any person that is engaged in the transmission, reception, or dissemination of television broadcast signals, radio wave signals, or electromagnetic radio signals used in the provision of wireless communications service, or the provisioning of wireless infrastructure.

(7) Tower. – New or existing structures, such as a monopole, lattice tower, guyed tower, fire observation tower or water tower that are designed to support or are capable of supporting equipment used in the transmission or receipt of television broadcast signals, radio wave signals, or electromagnetic radio signals used in the provision of wireless communication service.

(b) The State may lease real property, or may grant an easement or license with an interest in real property for the following communication purposes:~~any interest in real property, for the purposes of~~

(1) ~~construction and placement of communications~~Constructing, installing, and operating towers and equipment on State land.~~land or for placement of antennas upon State-owned structures.~~

(2) Installing and operating equipment on towers, buildings, or ground area owned or leased by the State.

(c) If otherwise feasible and determined by the Department of Administration to be in the best interest of the State:

(1) New towers constructed on State land shall be designed for collocation. This requirement shall not apply to towers constructed on State land by the State or any of its agencies or by a "public entity" as that term is defined in G.S. 146-29.1(b).

(2) The State shall encourage the collocation of equipment on existing towers and buildings owned by the State.

(3) The State shall sublease for collocation purposes space on any tower or ground area leased by the State, if allowed under the terms of the lease.

(4) The State shall, to the extent practicable, adopt standard terms and conditions for applications to lease, easements, or other conveyances of an interest in real property for communication purposes.

(d) Pursuant to G.S. 143-341(4)f., the Governor, acting with the approval of the Council of State, may adopt rules authorizing the Department of Administration to enter into or approve classes of leases, easements, or licenses with an interest in real property for the purposes set forth in this section. The rules may allow for execution of leases or other instruments by the Department of Administration rather than execution of the instruments in the manner prescribed in G.S. 146-74 through G.S. 146-78.

(e) Land in the State Parks System, as defined in G.S. 113-449.9, may only be leased or conveyed for the purposes of this section upon the approval of the Secretary of the Department of Environment and Natural Resources. Lease or conveyance of land in the State Parks System for the purposes of this section shall comply with the requirements of Articles 2 and 2C of Chapter 113 of the General Statutes. When selecting a location for a communications tower or antenna in the State Parks System, the State shall choose a location that minimizes the visual impact on the surrounding landscape. No land acquired or developed using funds from the Federal Land and Water Conservation Fund shall be leased or conveyed for the purposes of this section.

~~The following additional requirements shall apply to such leases:~~

~~(1) The lease shall require the lessee to permit other telecommunications carriers to co-locate on the communications tower on commercially reasonable terms between the lessee and the co-locating carrier until the communications tower reaches its capacity. Unless the State determines that co-location is not feasible at that location, the communications tower shall be designed and constructed to accommodate other carriers on the tower.~~

~~(2) The State shall, in determining the location of lands to be leased for communications towers, encourage communications towers to be located near other communications towers to the extent technically desirable.~~

~~(3) The State shall, when choosing a communications tower or antenna location, choose a location which minimizes the visual impact on surrounding landscape.~~

~~(4) The State shall not lease lands of the State Parks System for such purposes.~~

~~For purposes of this section, "co-locate and co-location" mean the sharing of a communications tower by two or more services.~~

(f) City and county ordinances apply to communications towers and antennas authorized under this section."

SECTION 4. Sections 1 and 2 of this act become effective October 1, 2013, and apply to applications received on or after that date. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 18th day of June, 2013.

Became law upon approval of the Governor at 4:08 p.m. on the 26th day of June, 2013.

Session Law 2013-186 **H.B. 60**

AN ACT TO TERMINATE LEASES AT THE INDIAN CULTURAL CENTER SITE AND THEN SELL OR ALLOCATE CERTAIN PORTIONS OF THE PROPERTY, AS RECOMMENDED BY THE JOINT LEGISLATIVE PROGRAM EVALUATION OVERSIGHT COMMITTEE.

The General Assembly of North Carolina enacts:

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

(1) Indian Cultural Center site. – Parcel 1, less and except approximately 110 acres for the use and operation of the Riverside Golf Course within Parcel 1, as well as Parcel 2, Parcel 3, and Parcel 4, all of which are located in Maxton Township, Robeson County.

(2) Parcel 1. – 386.69 acres, more or less, by deed from the Riverside Country Club of Pembroke, Inc., dated April 14, 1983, recorded in Book 533, Page 164, Robeson County Registry and by deed dated August 24, 1984, recorded in Book 563, Page 254, Robeson County Registry.

(3) Parcel 2. – 91.5 acres, more or less, by deed from Evelyn S. Morgan Abbott, dated March 25, 1988, recorded in Book 575, Page 523, Robeson County Registry.

(4) Parcel 3. – 10 acres, more or less, by deed from H.C. Locklear, et ux, dated December 12, 1985, recorded in Book 586, Page 142, Robeson County Registry.

(5) Parcel 4. – 42.50 acres, more or less, by deed from Ronald Revels and wife, Dorisetta Revels, dated December 17, 1996, recorded in Book 931, Page 415, Robeson County Registry.

SECTION 2. Termination of leases. – (a) The Department of Administration shall terminate the lease between the State and the North Carolina Indian Cultural Center, Inc., for the Indian Cultural Center site. Notice of termination shall be given no later than 15 days after the effective date of this act.

SECTION 2.(b) The Department of Administration shall terminate the lease between the State and the Riverside Golf Center for the property known as the Riverside Golf Course, which is located within Parcel 1. Notice of termination shall be provided in accordance with the terms of the existing lease. Thirty days' notice shall be given, as required under the lease, and notice shall be given no later than 15 days after the effective date of this act.

SECTION 3. Appraisal of Parcel 1. – The Department of Administration shall obtain an appraisal for Parcel 1, for which the sum of seven thousand three hundred dollars ($7,300) is appropriated from the General Fund to the Department of Administration. This appraisal shall include both of the following:

(1) An appraisal of Parcel 1 subject to the restrictive covenants and reversion to the State provided in Section 4(a) of this act.

(2) An appraisal of Parcel 1 without the restrictive covenants and reversion to the State provided in Section 4(a) of this act.

SECTION 4. Sale of Parcel 1. – (a) The Department of Administration shall first offer Parcel 1 to the Lumbee Tribal Administration for purchase, subject to the following restrictive covenants that would run with the land, a violation of any of which would result in the property reverting to State ownership:

(1) The land must be made and remain open and available for public use.

(2) The land must be made and remain available for use by North Carolina tribes and American Indian urban organizations for free or at cost.

(3) The parcel cannot be subdivided.

(4) The natural resources cannot be sold or leased.

If any provision of this subsection or its application is held invalid, the invalidity does not affect other provisions or applications of this subsection that can be given effect without the invalid provisions or application, and to this end the provisions of this subsection are severable.

SECTION 4.(b) The Department of Administration shall provide a copy of the appraisal required under Section 3 of this act to the Lumbee Tribal Administration. The Lumbee Tribal Administration shall have 90 days from receipt of a copy of the appraisal to enter into a contract to purchase the property for the appraised price or a negotiated price based upon the appraised price.

SECTION 4.(c) If the Lumbee Tribal Administration does not enter into a contract with the State to purchase the property within 90 days of receiving the appraisal of Parcel 1, then the Department of Administration shall dispose of Parcel 1 according to the general laws for the sale of State land and without the restrictive covenants or reversionary interest discussed in subsection (a) of this section.

SECTION 4.(d) Although the Department of Administration may enter into a purchase contract with the Lumbee Tribal Administration under subsection (b) of this section, the sale shall not be finalized until after consultation with the Joint Legislative Program Evaluation Oversight Committee. The Department shall submit a detailed report of the transaction, including a copy of the purchase contract, to the Chairs of the Committee and to the Director of the Program Evaluation Division of the General Assembly. If the Committee does not hold a meeting to hear the consultation within 90 days of receiving the submission of the detailed report, the consultation requirement is satisfied. This consultation is in addition to any consultation with the Joint Legislative Commission on Governmental Operations that may be required under G.S. 146-27(b).

SECTION 5. Proceeds of sale of Parcel 1. – The net proceeds of the sale under Section 4 of this act shall be distributed as follows:

(1) The sum of seven thousand three hundred dollars ($7,300) shall be deposited into the General Fund in order to reimburse the General Fund for the appropriation made in Section 3 of this act.

(2) Any funds remaining after funds are deposited under subdivision (1) of this section shall be distributed as follows:

a. Twenty-five percent (25%) shall be deposited into the General Fund and shall be appropriated from the General Fund to the Department of Environment and Natural Resources, Division of Parks and Recreation, for improvements to Parcel 2, Parcel 3, and Parcel 4.

b. Seventy-five percent (75%) shall be deposited into the Savings Reserve Account established under G.S. 143C-4-2.

SECTION 6. Allocation of other parcels. – Parcel 2, Parcel 3, and Parcel 4 are allocated to the Department of Environment and Natural Resources, Division of Parks and Recreation, to be used as part of the Lumber River State Park.

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

In the General Assembly read three times and ratified this the 19th day of June, 2013.

Became law upon approval of the Governor at 4:12 p.m. on the 26th day of June, 2013.

Session Law 2013-187 **H.B. 223**

AN ACT EXEMPTING ELECTRIC MEMBERSHIP CORPORATIONS FROM INTEGRATED RESOURCE PLANNING AND SERVICE REGULATIONS REQUIREMENTS ESTABLISHED BY THE UTILITIES COMMISSION, RETURNING OVERSIGHT OF THE CORPORATIONS TO THEIR MEMBER BOARD OF DIRECTORS, AND CLARIFYING THE AUTHORITY OF THE NORTH CAROLINA RURAL ELECTRIFICATION AUTHORITY TO RECEIVE AND INVESTIGATE COMPLAINTS FROM MEMBERS OF ELECTRIC MEMBERSHIP CORPORATIONS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 62-42 reads as rewritten:

"§ **62-42. Compelling efficient service, extensions of services and facilities, additions and improvements.**

…

~~(c) For the purpose of this section, "public utility" shall include any electric membership corporation operating within this State.~~"

SECTION 2. G.S. 62-110.1 reads as rewritten:

"§ **62-110.1. Certificate for construction of generating facility; analysis of long-range needs for expansion of facilities; ongoing review of construction costs; inclusion of approved construction costs in rates.**

…

(b) For the purpose of subsections ~~(a), (c),~~ (a) and (d) of this section, "public utility" shall include any electric membership corporation operating within this State, and the term "public utility service" shall include the service rendered by any such electric membership corporation.

…."

SECTION 3. G.S. 117-2 reads as rewritten:

"§ **117-2. Powers.**

The purpose of said North Carolina Rural Electrification Authority is to secure electrical service for the rural districts of the State where service is not now being rendered, and it is hereby empowered to do the following in order to accomplish that purpose:

…

(11a) To receive and investigate complaints from members of electric membership corporations.

(12) To do all other acts and things which may be necessary to aid the rural communities in North Carolina to secure electric energy."

SECTION 4. This act becomes effective July 1, 2013.

In the General Assembly read three times and ratified this the 18th day of June, 2013.

Became law upon approval of the Governor at 4:15 p.m. on the 26th day of June, 2013.

Session Law 2013-188 **H.B. 390**

AN ACT MAKING VARIOUS CHANGES TO THE LAWS RELATING TO STATE INFORMATION TECHNOLOGY GOVERNANCE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143-135.9(a)(3) is repealed.

SECTION 2. G.S. 147-33.72C(e) reads as rewritten:

"(e) Performance Contracting. – All contracts between a State agency and a private party for information technology projects shall include provisions for vendor performance review

and accountability. The State CIO may require that these contract provisions require a performance bond, include monetary ~~penalties~~ penalties, or require other performance assurance measures for projects that are not completed or performed within the specified time period or that involve costs in excess of those specified in the contract. The State CIO may ~~require contract provisions requiring a vendor to provide a performance bond.~~utilize cost-savings realized on government-vendor partnerships, as defined in G.S. 143-135.9, as performance incentives for an information technology project vendor."

SECTION 3. G.S. 147-33.91(a) reads as rewritten:

"(a) With respect to State agencies, the State Chief Information Officer shall exercise general coordinating authority for all telecommunications matters relating to the internal management and operations of those agencies. In discharging that responsibility, the State Chief Information Officer, in cooperation with affected State agency heads, may:

(1) Provide for the establishment, management, and operation, through either State ownership, contract, or commercial leasing, of the following systems and services as they affect the internal management and operation of State agencies:
   a. Central telephone systems and telephone networks.
   b. Repealed by Session Laws 2004-129, s. 23, effective July 1, 2004.
   c. Repealed by Session Laws 2004-129, s. 23, effective July 1, 2004.
   d. Satellite services.
   e. Closed-circuit TV systems.
   f. Two-way radio systems.
   g. Microwave systems.
   h. Related systems based on telecommunication technologies.
   i. The "State Network", managed by the Office, which means any connectivity designed for the purpose of providing Internet Protocol transport of information to any building.

(2) Coordinate the development of cost-sharing systems for respective user agencies for their proportionate parts of the cost of maintenance and operation of the systems and services listed in subdivision (1) of this subsection.

(3) Assist in the development of coordinated telecommunications services or systems within and among all State agencies and recommend, where appropriate, cooperative utilization of telecommunication facilities by aggregating users.

(4) Perform traffic analysis and engineering for all telecommunications services and systems listed in subdivision (1) of this subsection.

(5) ~~Pursuant to G.S. 143-49, establish~~ Establish telecommunications specifications and designs so as to promote and support compatibility of the systems within State agencies.

(6) ~~Pursuant to G.S. 143-49 and G.S. 143-50, coordinate~~ Coordinate the review of requests by State agencies for the procurement of telecommunications systems or services.

(7) ~~Pursuant to G.S. 143-341 and Chapter 146 of the General Statutes, coordinate~~ Coordinate the review of requests by State agencies for State government property acquisition, disposition, or construction for telecommunications systems requirements.

(8) Provide a periodic inventory of telecommunications costs, facilities, systems, and personnel within State agencies.

(9) Promote, coordinate, and assist in the design and engineering of emergency telecommunications systems, including, but not limited to, the 911 emergency telephone number program, Emergency Medical Services, and other emergency telecommunications services.

(10) Perform frequency coordination and management for State agencies and local governments, including all public safety radio service frequencies, in accordance with the rules and regulations of the Federal Communications Commission or any successor federal agency.

(11) Advise all State agencies on telecommunications management planning and related matters and provide through the State Personnel Training Center or the Office of Information Technology Services training to users within State agencies in telecommunications technology and systems.

(12) Assist and coordinate the development of policies and long-range plans, consistent with the protection of citizens' rights to privacy and access to information, for the acquisition and use of telecommunications systems, and base such policies and plans on current information about State telecommunications activities in relation to the full range of emerging technologies.

~~(13) Work cooperatively with the North Carolina Agency for Public Telecommunications in furthering the purpose of this section.~~"

SECTION 4. G.S. 147-33.92(b) reads as rewritten:

"(b) The State Chief Information Officer shall establish ~~switched~~ broadband telecommunications services and permit, in addition to State agencies, cities, counties, and other local government entities, the following organizations and entities to share on a not-for-profit basis:

(1) Nonprofit educational institutions.

~~(2) MCNC.~~

(3) ~~Research~~ MCNC and research affiliates of MCNC for use only in connection with research activities sponsored or funded, in whole or in part, by MCNC, if such research activities relate to health care or education in North Carolina.

(4) Agencies of the United States government operating in North Carolina for use only in connection with activities that relate to health care or education in North Carolina.

(5) Hospitals, clinics, and other health care facilities for use only in connection with activities that relate to health care or education in North Carolina.

Provided, however, that sharing of the ~~switched~~ broadband telecommunications services by State agencies with entities or organizations in the categories set forth in this subsection shall not cause the State, the Office of Information Technology Services, or the MCNC to be classified as a public utility as that term is defined in G.S. 62-3(23) a.6. Nor shall the State, the Office of Information Technology Services, or the MCNC engage in any activities that may cause those entities to be classified as a common carrier as that term is defined in the Communications Act of 1934, 47 U.S.C. § 153(10). Provided further, authority to share the ~~switched~~ broadband telecommunications services with the non-State agencies set forth in subdivisions (1) through (5) of this subsection shall terminate one year from the effective date of a tariff that makes the broadband services available to any customer."

SECTION 5. G.S. 147-33.111 reads as rewritten:

"§ **147-33.111. State CIO approval of security standards and security assessments.**

(a) Notwithstanding G.S. 143-48.3 or any other provision of law, and except as otherwise provided by this section, all information technology security purchased using State funds, or for use by a State agency or in a State facility, shall be subject to approval by the State Chief Information Officer in accordance with security standards adopted under this Article.

(a1) The State Chief Information Officer shall conduct assessments of information system security, network vulnerability, including network penetration or any similar procedure. The State Chief Information Officer may contract with another party or parties to perform the assessments. Detailed reports of the security issues identified shall be kept confidential as provided in G.S. 132-6.1(c).

(b) If the legislative branch, the judicial branch, The University of North Carolina and its constituent institutions, local school administrative units as defined by G.S. 115C-5, or the North Carolina Community Colleges System develop their own security standards, taking into consideration the mission and functions of that entity, that are comparable to or exceed those set by the State Chief Information Officer under this section, then these entities may elect to be governed by their own respective security standards, and approval of the State Chief Information Officer shall not be required before the purchase of information technology security. The State Chief Information Officer shall consult with the legislative branch, the judicial branch, The University of North Carolina and its constituent institutions, local school administrative units, and the North Carolina Community Colleges System in reviewing the security standards adopted by those entities.

(c) Before a State agency may enter into any contract with another party for an assessment of information system security or network vulnerability, the State agency shall notify the State Chief Information Officer and obtain approval of the request. If the State agency enters into a contract with another party for assessment and testing, after approval of the State Chief Information Officer, the State agency shall issue public reports on the general results of the reviews. The contractor shall provide the State agency with detailed reports of the security issues identified that shall not be disclosed as provided in G.S. 132-6.1(c). The State agency shall provide the State Chief Information Officer with copies of the detailed reports that shall not be disclosed as provided in G.S. 132-6.1(c).

(d) Nothing in this section shall be construed to preclude the Office of the State Auditor from assessing the security practices of State information technology systems as part of that Office's duties and responsibilities."

SECTION 6. G.S. 147-33.112 reads as rewritten:

"§ **147-33.112. Assessment of agency compliance with security standards.**

The State Chief Information Officer shall assess periodically the ability of each agency and each agency's contracted vendors to comply with the current security enterprise-wide set of standards established pursuant to this section. The assessment shall include, at a minimum, the rate of compliance with the enterprise-wide security standards ~~in each agency~~ and an assessment of ~~each agency's~~ security organization, security practices, security industry standards, network security architecture, and current expenditures of State funds for information technology security. The assessment of an agency shall also estimate the cost to implement the security measures needed for agencies to fully comply with the standards. Each agency subject to the standards shall submit information required by the State Chief Information Officer for purposes of this assessment. The State Chief Information Officer shall include the information obtained from the assessment in the State Information Technology Plan required under G.S. 147-33.72B."

SECTION 7. G.S. 150B-2(8a) reads as rewritten:

"§ **150B-2. Definitions.**

As used in this Chapter,

…

(8a) "Rule" means any agency regulation, standard, or statement of general applicability that implements or interprets an enactment of the General Assembly or Congress or a regulation adopted by a federal agency or that describes the procedure or practice requirements of an agency. The term includes the establishment of a fee and the amendment or repeal of a prior rule. The term does not include the following:

a. Statements concerning only the internal management of an agency or group of agencies within the same principal office or department enumerated in G.S. 143A-11 or 143B-6, including policies and procedures manuals, if the statement does not directly or substantially affect the procedural or substantive rights or duties of a person not employed by the agency or group of agencies.

b. Budgets and budget policies and procedures issued by the Director of the Budget, by the head of a department, as defined by G.S. 143A-2 or G.S. 143B-3, by an occupational licensing board, as defined by G.S. 93B-1, or by the State Board of Elections.
c. Nonbinding interpretative statements within the delegated authority of an agency that merely define, interpret, or explain the meaning of a statute or rule.
d. A form, the contents or substantive requirements of which are prescribed by rule or statute.
e. Statements of agency policy made in the context of another proceeding, including:
    1. Declaratory rulings under G.S. 150B-4.
    2. Orders establishing or fixing rates or tariffs.
f. Requirements, communicated to the public by the use of signs or symbols, concerning the use of public roads, bridges, ferries, buildings, or facilities.
g. Statements that set forth criteria or guidelines to be used by the staff of an agency in performing audits, investigations, or inspections; in settling financial disputes or negotiating financial arrangements; or in the defense, prosecution, or settlement of cases.
h. Scientific, architectural, or engineering standards, forms, or procedures, including design criteria and construction standards used to construct or maintain highways, bridges, or ferries.
i. Job classification standards, job qualifications, and salaries established for positions under the jurisdiction of the State Personnel Commission.
j. Establishment of the interest rate that applies to tax assessments under G.S. 105-241.21 and the variable component of the excise tax on motor fuel under G.S. 105-449.80.
k. The State Medical Facilities Plan, if the Plan has been prepared with public notice and hearing as provided in G.S. 131E-176(25), reviewed by the Commission for compliance with G.S. 131E-176(25), and approved by the Governor.
l. Standards adopted by the Office of Information Technology Services applied to information technology as defined by G.S. 147-33.81."

SECTION 8. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 18th day of June, 2013.

Became law upon approval of the Governor at 4:20 p.m. on the 26th day of June, 2013.

Session Law 2013-189 **H.B. 830**

AN ACT TO ADOPT AN OFFICIAL STATE FOSSIL, FROG, SALAMANDER, MARSUPIAL, FOLK ART, AND ART MEDIUM.

Whereas, some of North Carolina's official State symbols have been suggested by the State's school children after they have had history, science, social studies, or geography lessons related to North Carolina; and

Whereas, this year some of the suggestions range from the adoption of an official fossil to an official frog; and

Whereas, the State of North Carolina has a number of unique official symbols but does not have an official fossil, frog, salamander, marsupial, folk art, or art medium; and

Whereas, the megalodon shark is an extinct shark species that lived over 1.5 million years ago; and

Whereas, the megalodon shark may have reached over 40 feet in length and weighed up to 100 tons; and

Whereas, the megalodon shark had serrated, heart-shaped teeth that may have grown to over seven inches in length; and

Whereas, fossilized teeth of the megalodon shark have been found in North Carolina and throughout the world; and

Whereas, North Carolina and the Southeast region of the United States lead the world in amphibian diversity; and

Whereas, the pine barrens tree frog can be found in the Sandhills and Coastal Plain regions of North Carolina; and

Whereas, the pine barrens tree frog has been considered one of the most striking and beautiful frogs in the Southeast region of the United States; and

Whereas, the pine barrens tree frog by name reflects one of North Carolina's signature trees and ecosystems that have been a vital part of the State's economic, cultural, and natural history since colonial times; and

Whereas, North Carolina also leads the nation and world in salamander diversity, most notably in our Appalachian Mountains; and

Whereas, the marbled salamander is found throughout the State and is unique in that it is a charismatic, striking, chunky-bodied, fossorial amphibian, of which no two are exactly alike in color pattern; and

Whereas, according the North Carolina Wildlife Commission's 2005 North Carolina Wildlife Action Plan, the pine barrens tree frog and the marbled salamander have been identified as priority species for population monitoring and conservation in North Carolina; and

Whereas, the Virginia opossum is native to North Carolina and is the only marsupial found in North America; the female carries its underdeveloped young in a pouch until they are capable of living independently, similar to a kangaroo; and

Whereas, the Virginia opossum is one of the oldest and most primitive species of mammal found in North America; and

Whereas, the Virginia opossum is about the size of a large house cat with a triangular head; a long pointed nose; dark eyes; a long, scaly, prehensile tail; and short, black, leathery ears; and

Whereas, the Virginia opossum is nocturnal and lives in a wide variety of habitats, including deciduous forests, open woods, and farmland but prefers wet areas such as marshes, swamps, and streams; and

Whereas, at age 65, Vollis Simpson, a self-taught folk artist, began making giant windmills known as "whirligigs" at his home in Wilson, North Carolina; and

Whereas, Mr. Simpson's whirligigs have been exhibited at the North Carolina Museum of Art in Raleigh, the High Museum of Art in Atlanta, Georgia, and the Visionary Art Museum in Baltimore, Maryland, and at other locations, including New York, California, Canada, and England; and

Whereas, Mr. Simpson and details of his artwork have been featured in many national magazines and in several books; and

Whereas, the City of Wilson is developing the Vollis Simpson Whirligig Park to display a large collection of these whirligigs in historic downtown, which will be a one-of-a-kind destination for visitors; and

Whereas, North Carolina's clay-rich soil has contributed to the State's pottery heritage; and

Whereas, the use of clay has grown from the State's early Native Americans making mostly utilitarian wares and European settlers continuing the traditions of their ancestors to today's potters designing pottery with utilitarian and aesthetic elements; and

Whereas, the pottery tradition continues to thrive in North Carolina, especially in the Seagrove area, which includes parts of Chatham, Lee, Moore, Montgomery, and Randolph Counties; and

Whereas, clay continues to be an important art medium contributing to the State's cultural, social, and economic prosperity; Now, therefore,

The General Assembly of North Carolina enacts:

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

"§ **145-41. State fossil.**

The fossilized teeth of the megalodon shark is adopted as the official fossil of the State of North Carolina.

"§ **145-42. State frog.**

The pine barrens tree frog (Hyla andersonii) is adopted as the official frog of the State of North Carolina.

"§ **145-43. State salamander.**

The marbled salamander (Ambystoma opacum) is adopted as the official salamander of the State of North Carolina.

"§ **145-44. State marsupial.**

The Virginia opossum (Didelphis virginiana) is adopted as the official marsupial of the State of North Carolina.

"§ **145-45. State folk art.**

The whirligigs created by Vollis Simpson are adopted as the official folk art of the State of North Carolina.

"§ **145-46. State art medium.**

Clay is adopted as the official art medium of the State of North Carolina."

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

In the General Assembly read three times and ratified this the 20th day of June, 2013.

Became law upon approval of the Governor at 4:24 p.m. on the 26th day of June, 2013.

Session Law 2013-190 **S.B. 8**

AN ACT TO INCREASE THE FINE FOR THE REMOVAL OF UNAUTHORIZED VEHICLES FROM PRIVATE LOTS PURSUANT TO G.S. 20-219.2.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-219.2(b) reads as rewritten:

"§ **20-219.2. Removal of unauthorized vehicles from private lots.**

…

(b) Any person violating any of the provisions of this section shall be guilty of an infraction and upon conviction shall be only penalized not ~~more~~less than ~~one hundred dollars ($100.00)~~one hundred fifty dollars ($150.00) in the discretion of the court.

…."

SECTION 2. This act becomes effective December 1, 2013, and applies to offenses committed on or after that date.

In the General Assembly read three times and ratified this the 18th day of June, 2013.

Became law upon approval of the Governor at 4:34 p.m. on the 26th day of June, 2013.

Session Law 2013-191 **S.B. 25**

AN ACT TO PROVIDE THAT MEMBERS OF THE ARMED FORCES WHO ARE SERVING ON ACTIVE MILITARY DUTY IN THE ARMED FORCES OF THE UNITED STATES OUTSIDE THE STATE OF NORTH CAROLINA SHALL BE CONSIDERED RESIDENTS FOR PURPOSES OF OBTAINING CERTAIN HUNTING, FISHING, TRAPPING, AND SPECIAL ACTIVITY LICENSES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 113-130 reads as rewritten:

"§ **113-130. Definitions relating to activities of public.**

The following definitions and their cognates apply to activities of the public in regard to marine and estuarine and wildlife resources:

…

(4) Resident. – In the case of:

…

e. Military Personnel and Their Dependents. – A member of the Armed Forces of the United States stationed at a military facility in North Carolina, the member's spouse, and any dependent under 18 years of age residing with the member are deemed residents of the State, of the county in which they live, and also, if different, of any county in which the military facility is located. A member of the Armed Forces of the United States on active duty outside the State of North Carolina shall be deemed an individual resident of the State for purposes of all the following licenses:

1. Coastal Recreational Fishing Licenses issued pursuant to G.S. 113-174.2(c)(1) and (c)(4).
2. Combination Hunting and Inland Fishing Licenses issued pursuant to G.S. 113-270.1C(b)(1).
3. Sportsman Licenses issued pursuant to G.S. 113-270.1D(a).
4. Hunting Licenses issued pursuant to G.S. 113-270.2(c)(1) and (c)(5).
5. Special Activity Licenses issued pursuant to G.S. 113-270.3(b)(1).
6. Trapping Licenses issued pursuant to G.S. 113-270.5(b)(1).
7. Hook-and-Line Licenses issued pursuant to G.S. 113-271(d)(1), (d)(2), and (d)(6)a.
8. Unified Hunting and Fishing Licenses issued pursuant to G.S. 113-351(c)(1) and (c)(2).

…."

SECTION 2. This act becomes effective July 1, 2013.

In the General Assembly read three times and ratified this the 18th day of June, 2013.

Became law upon approval of the Governor at 4:34 p.m. on the 26th day of June, 2013.

Session Law 2013-192 **S.B. 336**

AN ACT REQUIRING THE DIVISIONS OF MEDICAL ASSISTANCE AND PUBLIC HEALTH WITHIN THE DEPARTMENT OF HEALTH AND HUMAN SERVICES, AND THE STATE HEALTH PLAN DIVISION WITHIN THE DEPARTMENT OF THE STATE TREASURER, TO COORDINATE THE DIABETES PROGRAMS THEY EACH ADMINISTER; TO EACH DEVELOP PLANS TO REDUCE THE INCIDENCE OF DIABETES, TO IMPROVE CARE, AND TO CONTROL COMPLICATIONS; AND TO REPORT TO THE JOINT LEGISLATIVE OVERSIGHT COMMITTEE ON HEALTH AND HUMAN SERVICES AND THE FISCAL RESEARCH DIVISION.

Whereas, approximately 1.2 million people are living with diabetes in North Carolina, accounting for 12% of the population, and the rate of diabetes is predicted to increase by 66% by 2025; and

Whereas, North Carolina is ranked 42nd in the area of diabetes in the 2012 American Health Rankings report; and

Whereas, according to the Centers for Disease Control indicates diabetes is the leading cause of kidney failure, nontraumatic lower-limb amputations, and new cases of blindness and other chronic diseases among adults in the United States; and

Whereas, chronic diseases and related injuries are responsible for approximately two-thirds of all deaths in North Carolina making effective coordination and utilization of resources addressing diabetes and other chronic diseases beneficial to all North Carolina residents; Now, therefore,

The General Assembly of North Carolina enacts:

SECTION 1. Part 3 of Article 7 of Chapter 130A of the General Statutes is amended by adding a new section to read:

"**§ 130A-221.1. Coordination of diabetes programs.**

(a) The Division of Medical Assistance and the Diabetes Prevention and Control Branch of the Division of Public Health, within the Department of Health and Human Services; in addition to the State Health Plan Division within the Department of State Treasurer; shall work collaboratively to each develop plans to reduce the incidence of diabetes, to improve diabetes care, and to control the complications associated with diabetes. Each entity's plans shall be tailored to the population the entity serves and must establish measurable goals and objectives.

(b) On or before December 1 of each even-numbered year, the entities referenced in subsection (a) of this section shall collectively submit a report to the Joint Legislative Oversight Committee on Health and Human Services and the Fiscal Research Division. The report shall provide the following:

(1) An assessment of the financial impact that each type of diabetes has on each entity and collectively on the State. This assessment shall include: the number of individuals with diabetes served by the entity, the cost of diabetes prevention and control programs implemented by the entity, the financial toll or impact diabetes and related complications places on the program, and the financial toll or impact diabetes and related complications places on each program in comparison to other chronic diseases and conditions.

(2) A description and an assessment of the effectiveness of each entity's programs and activities implemented to prevent and control diabetes. For each program and activity, the assessment shall document the source and amount of funding provided to the entity, including funding provided by the State.

(3) A description of the level of coordination that exists among the entities referenced in subsection (a) of this section, as it relates to activities, programs, and messaging to manage, treat, and prevent all types of diabetes and the complications from diabetes.

(4) The development of and revisions to detailed action plans for preventing and controlling diabetes and related complications. The plans shall identify proposed action steps to reduce the impact of diabetes, pre-diabetes, and related diabetic complications; identify expected outcomes for each action step; and establish benchmarks for preventing and controlling diabetes.

(5) A detailed budget identifying needs, costs, and resources required to implement the plans identified in subdivision (4) of this subsection, including a list of actionable items for consideration by the Committee."

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

In the General Assembly read three times and ratified this the 20th day of June, 2013.

Became law upon approval of the Governor at 4:34 p.m. on the 26th day of June, 2013.

Session Law 2013-193 **S.B. 358**

AN ACT TO AUTHORIZE GUARANTEED ASSET PROTECTION WAIVERS TO BE AUTHORIZED IN THIS STATE.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 66 of the General Statutes is amended by adding a new Article to read:

"Article 46.

"Guaranteed Asset Protection Waivers.

"**§ 66-440. Definitions.**

The following definitions apply in this Article:

(1) Administrator. – A person that performs administrative or operational functions with respect to guaranteed asset protection waivers.

(2) Borrower. – A debtor, retail buyer, or lessee under a vehicle finance agreement.

(3) Creditor. – Any of the following:

a. A lender in a loan or credit transaction.

b. A lessor in a lease transaction.

c. A vehicle dealer, including a motor vehicle dealer as that term is defined in G.S. 20-286(11), that provides credit to or arranges financing for a purchaser of a vehicle.

d. A seller in a commercial retail installment transaction.

e. An assignee of any of the foregoing to whom the credit obligation is payable.

(4) Free-look period. – The period of time from the effective date of a guaranteed asset protection waiver until the date the borrower may cancel the contract without penalty, fees, or costs to the borrower.

(5) Guaranteed asset protection waiver. – A contractual agreement in which a creditor agrees for a separate charge to cancel or waive all or part of amounts due on a borrower's vehicle finance agreement in the event of a total physical damage loss or unrecovered theft of the vehicle, which agreement shall be part of, or a separate addendum to, the vehicle finance agreement.

(6) Insurer. – An insurance company licensed, registered, or otherwise authorized to do business under Chapter 58 of the General Statutes.

(7) Vehicle. – A motor vehicle, as that term is defined in G.S. 20-286(10), as well as self-propelled or towed vehicles designed for personal or commercial use, including, but not limited to, automobiles, trucks, motorcycles, recreational vehicles, all-terrain vehicles, snowmobiles, campers, boats, personal watercraft, and trailers for motorcycles, boats, campers, and personal watercraft.

(8) Vehicle finance agreement. – A loan, lease, or retail installment sales contract for the purchase or lease of a vehicle.

"**§ 66-441. Scope of Article.**

(a) Complete Exemptions. – This Article shall not apply to any of the following:

(1) An insurance policy offered by an insurer under Chapter 58 of the General Statutes, except as provided in G.S. 66-443.

(2) A debt cancellation or debt suspension contract being offered pursuant to 12 C.F.R. Part 37, 12 C.F.R. Part 721, or any other federal law.

(b) Partial Exemption for Commercial Transactions. – G.S. 66-444, 66-446(c), and 66-447 are not applicable to a guaranteed asset protection waiver offered in connection with a lease or retail installment sale associated with a commercial transaction.

"**§ 66-442. Guaranteed asset protection waivers not subject to insurance laws.**

Guaranteed asset protection waivers are not insurance and are exempt from the provisions of Chapter 58 of the General Statutes, as are persons administering, marketing, selling, or offering to sell guaranteed asset protection waivers to borrowers.

"**§ 66-443. Insurance of guaranteed asset protection waivers.**

(a) Insurance for Creditors. – Creditors may insure guaranteed asset protection waiver obligations under a contractual liability policy or other similar policy issued by an insurer but shall not be required to do so.

(b) Required Terms. – Contractual liability or other insurance policies insuring guaranteed asset protection waivers shall include terms that do all of the following:

(1) Obligate the insurer to reimburse or pay to the creditor any sums the creditor is legally obligated to waive under guaranteed asset protection waivers issued by the creditor and purchased or held by the borrower.

(2) Provide that the policy covers any subsequent assignee upon the assignment, sale, or transfer of the vehicle finance agreement.

(3) Provide that the policy remains in effect unless cancelled or terminated in compliance with applicable insurance laws of this State.

(4) Provide that the cancellation or termination of policy shall not reduce the insurer's responsibility for guaranteed asset protection waivers issued by the creditor prior to the date of cancellation or termination and for which premiums have been received by the insurer.

(c) Administrators May Procure Insurance. – An insurance policy obtained pursuant to this section may be directly obtained by a creditor or may be procured by an administrator to cover the creditor's obligations.

"**§ 66-444. Mandatory terms.**

A guaranteed asset protection waiver shall include all of the following written terms in clear, easily understandable language:

(1) The name and address of the initial creditor and the borrower at the time of sale and the identity of any administrator if different from the creditor.

(2) The purchase price and the terms of the guaranteed asset protection waiver, including without limitation, the requirements for protection, conditions, or exclusions associated with the guaranteed asset protection waiver.

(3) The length of the free-look period, which shall be at least 30 days, and the procedure by which a borrower may exercise the borrower's rights during that period.

(4) The terms required by G.S. 66-445.

(5) The methodology for calculating any refund of the unearned purchase price of the guaranteed asset protection waiver due in the event of cancellation of the guaranteed asset protection waiver or early termination of the vehicle finance agreement.

(6) The procedure the borrower must follow, if any, to obtain guaranteed asset protection waiver benefits under the terms and conditions of the waiver, including a telephone number and address where the borrower may apply for waiver benefits.

(7) A statement that neither the extension of credit, the terms of the credit, nor the terms of the related vehicle sale or lease may be conditioned upon the purchase of the guaranteed asset protection waiver.

"§ **66-445. Cancellation.**

(a) Cancellation During Free-Look Period. – A guaranteed asset protection waiver shall include a term stating that if a borrower cancels the waiver within the free-look period, the borrower will be entitled to a full refund so long as no benefits have been provided under the guaranteed asset protection waiver.

(b) Cancellation After the Free-Look Period. – A guaranteed asset protection waiver may be either cancellable or noncancellable after the free-look period. A guaranteed asset protection waiver shall include the following terms regarding cancellation after the free-look period:

(1) A statement of whether or not the guaranteed asset protection waiver is cancellable or noncancellable after the expiration of the free-look period.

(2) If the waiver is cancellable, all of the following terms:

a. A statement that in the event of a borrower's cancellation of the guaranteed asset protection waiver or early termination of the vehicle finance agreement, the borrower may be entitled to a refund of any unearned portion of the purchase price of the waiver unless the waiver provides otherwise.

b. The procedures by which a borrower may cancel the waiver. This term shall include a requirement that in the event the underlying vehicle finance agreement is terminated, cancellation shall be made by providing a written request to the creditor, administrator, or other party within 90 days of the event terminating the vehicle finance agreement.

(c) Cancellation in the Event of Default. – Any cancellation refund under subsections (a) and (b) of this section may be applied by the creditor as a reduction of the amount owed under the vehicle finance agreement unless the borrower can show that the vehicle finance agreement has been paid in full. A guaranteed asset protection waiver shall include a term stating that notwithstanding subsections (a) and (b) of this section, if cancellation of the waiver occurs as a result of a default under the vehicle finance agreement or the repossession of the vehicle associated with the vehicle finance agreement or any other termination of the vehicle finance agreement, any refund due may be paid directly to the creditor or administrator and applied as set forth in this subsection.

"§ **66-446. Miscellaneous provisions.**

(a) Article Controls. – The offering and sale of guaranteed asset protection waivers in this State shall be subject to the provisions of this Article.

(b) Manner of Payment. – Guaranteed asset protection waivers may, at the option of the creditor, be sold for a single payment or may be offered with a monthly or periodic payment option.

(c) Compliance With Truth in Lending Act. – Notwithstanding any other provision of law, any cost to the borrower for a guaranteed asset protection waiver subject to the Truth in Lending Act (15 U.S.C. § 1601, et seq.) and its implementing regulations, as they may be

amended from time to time, shall be separately stated and is not to be considered a finance charge or interest.

(d) Preservation Upon Transfer. – A guaranteed asset protection waiver shall remain a part of the vehicle finance agreement upon its assignment, sale, or transfer by a creditor.

(e) Cannot Be Required. – Neither the extension of credit, the term of credit, nor the term of a related vehicle sale or lease may be conditioned upon the purchase of a guaranteed asset protection waiver.

(f) Forwarding of Proceeds. – A creditor that offers a guaranteed asset protection waiver shall report the sale of and forward funds received on all such waivers to the designated party, if any, as prescribed in any applicable administrative services agreement, contractual liability policy, other insurance policy, or other specified program documents.

(g) Fiduciary Duty. – Funds received or held by a creditor or administrator and belonging to an insurer, creditor, or administrator, pursuant to the terms of a written agreement, shall be held by the creditor or administrator in a fiduciary capacity.

"**§ 66-447. Enforcement.**

The Attorney General may take action which is necessary or appropriate to enforce the provisions of this Article and to protect guaranteed asset protection waiver holders in this State. After proper notice and opportunity for hearing, the Attorney General may:

(1) Order a creditor, administrator, or any other person not in compliance with this Article to cease and desist from further guaranteed asset protection waiver-related operations which are in violation of this Article.

(2) Impose a penalty of not more than five hundred dollars ($500.00) per violation and no more than ten thousand dollars ($10,000) in the aggregate for all violations of a similar nature. For purposes of this Article, violations are of a similar nature if the violation consists of the same or similar course of conduct, action, or practice, irrespective of the number of times the conduct or practice that is determined to be a violation of the Article occurred.

"**§ 66-448. Severability.**

If any provision of this Article or the application of the provision to any person or circumstances is held invalid, the remainder of the Article and the application of the provision to persons or circumstances other than those as to which it is held invalid shall not be affected."

SECTION 2. This act becomes effective October 1, 2013, and applies to guaranteed asset protection waivers entered into on or after that date.

In the General Assembly read three times and ratified this the 18th day of June, 2013.

Became law upon approval of the Governor at 4:34 p.m. on the 26th day of June, 2013.

Session Law 2013-194 **S.B. 285**

AN ACT TO ELIMINATE THE REQUIREMENT THAT WOULD COME INTO EFFECT ON JULY 1, 2013, THAT A LABORATORY PROVIDING CHEMICAL ANALYSES UNDER G.S. 20-139.1 BE ACCREDITED BY AN ACCREDITING BODY THAT IS A SIGNATORY TO THE INTERNATIONAL LABORATORY ACCREDITATION COOPERATION (ILAC) MUTUAL RECOGNITION ARRANGEMENT AND TO CLARIFY THAT THE RESULTS OF CHEMICAL ANALYSIS OF BLOOD OR URINE FROM ALL HOSPITAL LABORATORIES IN NORTH CAROLINA THAT ARE APPROVED BY THE DEPARTMENT OF HEALTH AND HUMAN SERVICES PURSUANT TO THE CLINICAL LABORATORY IMPROVEMENT AMENDMENTS OF 1988 (CLIA) PROGRAM ARE ADMISSIBLE AS EVIDENCE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-139.1 reads as rewritten:

"§ **20-139.1. Procedures governing chemical analyses; admissibility; evidentiary provisions; controlled-drinking programs.**

…

(c1) Admissibility. – The results of a chemical analysis of blood or urine reported by the North Carolina State Crime Laboratory, the Charlotte, North Carolina, Police Department Laboratory, or any other laboratory approved for chemical analysis by the Department of Health and Human ~~Services,~~ Services (DHHS), are admissible as evidence in all administrative hearings, and in any court, without further authentication and without the testimony of the analyst. For the purposes of this section, a "laboratory approved for chemical analysis" by the DHHS includes, but is not limited to, any hospital laboratory approved by DHHS pursuant to the program resulting from the federal Clinical Laboratory Improvement Amendments of 1988 (CLIA).

The results shall be certified by the person who performed the analysis. The provisions of this subsection may be utilized in any administrative hearing, but can only be utilized in cases tried in the district and superior court divisions, or in an adjudicatory hearing in juvenile court, if:

(1) The State notifies the defendant at least 15 business days before the proceeding at which the evidence would be used of its intention to introduce the report into evidence under this subsection and provides a copy of the report to the defendant, and

(2) The defendant fails to file a written objection with the court, with a copy to the State, at least five business days before the proceeding at which the report would be used that the defendant objects to the introduction of the report into evidence.

If the defendant's attorney of record, or the defendant if that person has no attorney, fails to file a written objection as provided in this subsection, then the report may be admitted into evidence without the testimony of the analyst. Upon filing a timely objection, the admissibility of the report shall be determined and governed by the appropriate rules of evidence.

The report containing the results of any blood or urine test may be transmitted electronically or via facsimile. A copy of the affidavit sent electronically or via facsimile shall be admissible in any court or administrative hearing without further authentication. A copy of the report shall be sent to the charging officer, the clerk of superior court in the county in which the criminal charges are pending, the Division of Motor Vehicles, and the Department of Health and Human Services.

Nothing in this subsection precludes the right of any party to call any witness or to introduce any evidence supporting or contradicting the evidence contained in the report.

~~(c2) A chemical analysis of blood or urine, to be admissible under this section, shall be performed by a laboratory that is accredited by an accrediting body that requires conformance to forensic specific requirements and which is a signatory to the International Laboratory Accreditation Cooperation (ILAC) Mutual Recognition Arrangement For Testing for the submission, identification, analysis, and storage of forensic analyses.~~

(c3) Procedure for Establishing Chain of Custody Without Calling Unnecessary Witnesses. –

(1) For the purpose of establishing the chain of physical custody or control of blood or urine tested or analyzed to determine whether it contains alcohol, a controlled substance or its metabolite, or any impairing substance, a statement signed by each successive person in the chain of custody that the person delivered it to the other person indicated on or about the date stated is prima facie evidence that the person had custody and made the delivery as stated, without the necessity of a personal appearance in court by the person signing the statement.

(2) The statement shall contain a sufficient description of the material or its container so as to distinguish it as the particular item in question and shall state that the material was delivered in essentially the same condition as received. The statement may be placed on the same document as the report provided for in subsection (c1) of this section.

(3) The provisions of this subsection may be utilized in any administrative hearing, but can only be utilized in cases tried in the district and superior court divisions, or in an adjudicatory hearing in juvenile court, if:

a. The State notifies the defendant at least 15 business days before the proceeding at which the statement would be used of its intention to introduce the statement into evidence under this subsection and provides a copy of the statement to the defendant, and

b. The defendant fails to file a written notification with the court, with a copy to the State, at least five business days before the proceeding at which the statement would be used that the defendant objects to the introduction of the statement into evidence.

If the defendant's attorney of record, or the defendant if that person has no attorney, fails to file a written objection as provided in this subsection, then the statement may be admitted into evidence without the necessity of a personal appearance by the person signing the statement. Upon filing a timely objection, the admissibility of the report shall be determined and governed by the appropriate rules of evidence.

(4) Nothing in this subsection precludes the right of any party to call any witness or to introduce any evidence supporting or contradicting the evidence contained in the statement.

~~(c4) The results of a blood or urine test are admissible to prove a person's alcohol concentration or the presence of controlled substances or metabolites or any other impairing substance if:~~

~~(1) A law enforcement officer or chemical analyst requested a blood and/or urine sample from the person charged; and~~

~~(2) A chemical analysis of blood or urine, to be admissible under this section, shall be performed by a laboratory that is accredited by an accrediting body that requires conformance to forensic specific requirements and which is a signatory to the International Laboratory Accreditation Cooperation (ILAC) Mutual Recognition Arrangement For Testing for the submission, identification, analysis, and storage of forensic analyses.~~

~~For purposes of establishing compliance with subdivision (2) of this subsection, the court or administrative agency shall take judicial notice of the list of persons possessing permits, the type of instrument on which each person is authorized to perform tests of the blood and/or urine, and the date the permit was issued and the date it expires.~~

…."

SECTION 2. G.S. 8-58.20 is amended by adding a new subsection to read:

"(h) This section does not apply to chemical analyses under G.S. 20-139.1."

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

In the General Assembly read three times and ratified this the 20th day of June, 2013.

Became law upon approval of the Governor at 4:35 p.m. on the 26th day of June, 2013.

Session Law 2013-195 **S.B. 461**

AN ACT TO REQUIRE THE DIVISION OF MOTOR VEHICLES TO ALLOW THIRD-PARTY COMMERCIAL DRIVERS LICENSE SKILLS TESTING ANY DAY OF THE WEEK AND TO EXTEND THE VALIDITY OF A TEMPORARY DRIVING CERTIFICATE ISSUED TO AN APPLICANT FOR A COMMERCIAL DRIVERS LICENSE TO SIXTY DAYS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-37.13 is amended by adding a new subsection to read:

"(b1) The Division shall allow a third party to administer a skills test for driving a commercial motor vehicle pursuant to subsection (b) of this section any day of the week."

SECTION 2. G.S. 20-7(f)(5) reads as rewritten:

"(5) License to be sent by mail. – The Division shall issue to the applicant a temporary driving certificate valid for 20 days, and 60 days for a commercial drivers license, unless the applicant is applying for renewal by mail under subdivision (4) of this subsection. The temporary driving certificate shall be valid for driving purposes only and shall not be valid for identification purposes. The Division shall produce the applicant's drivers license at a central location and send it to the applicant by first-class mail at the residence address provided by the applicant, unless the applicant is ineligible for mail delivery by the United States Postal Service at the applicant's residence. If the United States Postal Service documents that it does not deliver to the residential address provided by the applicant, and the Division has verified the applicant's residential address by other means, the Division may mail the drivers license to the post office box provided by the applicant. Applicants whose only mailing address prior to July 1, 2008, was a post office box in this State may continue to receive their license at that post office box, provided the applicant's residential address has been verified by the Division."

SECTION 3. This act becomes effective July 1, 2013.

In the General Assembly read three times and ratified this the 20th day of June, 2013.

Became law upon approval of the Governor at 4:35 p.m. on the 26th day of June, 2013.

Session Law 2013-196 **S.B. 494**

AN ACT TO AUTHORIZE COMMUNITY SERVICE AS A DISCRETIONARY CONDITION OF POST-RELEASE SUPERVISION AND TO AMEND THE REQUIREMENTS FOR VOTING BY THE POST-RELEASE SUPERVISION AND PAROLE COMMISSION ON MATTERS COMING BEFORE THE COMMISSION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 15A-1368.4 reads as rewritten:

"§ **15A-1368.4. Conditions of post-release supervision.**

…

(c) Discretionary Conditions. – The Commission, in consultation with the Section of Community Corrections of the Division of Adult Correction, may impose conditions on a supervisee it believes reasonably necessary to ensure that the supervisee will lead a law-abiding life or to assist the supervisee to do so. The Commission may also impose a condition of community service on a supervisee who was a Class F through I felon and who has failed to fully satisfy any order for restitution, reparation, or costs imposed against the supervisee as part

of the supervisee's sentence; however, the Commission shall not impose such a condition of community service if the Commission determines, upon inquiry, that the supervisee has the financial resources to satisfy the order.

…

~~(e1) Prohibited Conditions. The Commission shall not impose community service as a condition of post-release supervision.~~

…."

SECTION 2. G.S. 143B-721(d) reads as rewritten:

"(d) The granting, denying, revoking, or rescinding of parole, the authorization of work-release privileges to a prisoner, or any other matters of business coming before the Commission for consideration and action shall be decided by majority vote of the full ~~Commission.~~Commission, except that a three-member panel of the Commission may set the terms and conditions for a post-release supervisee under G.S. 15A-1368.4 and may decide questions of violations thereunder, including the issuance of warrants. In the event of a tie in a vote by the full Commission, the chair shall break the tie with an additional vote."

SECTION 3. Section 2 of this act is effective when it becomes law and applies to actions taken by the Post-Release Supervision and Parole Commission on or after that date. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 18th day of June, 2013.

Became law upon approval of the Governor at 4:35 p.m. on the 26th day of June, 2013.

Session Law 2013-197 **S.B. 639**

AN ACT TO CLARIFY THE AUTHORITY OF THE BOARD OF AGRICULTURE OVER PLANTS.

The General Assembly of North Carolina enacts:

SECTION 1. Article 36 of Chapter 106 of the General Statutes is amended by adding a new section to read:

"**§ 106-421.1. Authority of Board of Agriculture to regulate plants.**

The Board of Agriculture shall have the sole authority to prohibit the planting, cultivation, harvesting, disposal, handling, or movement of plants as defined in G.S. 106-202.12. This section shall not prevent the designation of plants as noxious aquatic weeds pursuant to Article 15 of Chapter 113A of the General Statutes, nor shall it prevent the adoption or enforcement of city or county ordinances regulating the appearance of property or the handling and collection of solid waste."

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

In the General Assembly read three times and ratified this the 19th day of June, 2013.

Became law upon approval of the Governor at 4:35 p.m. on the 26th day of June, 2013.

Session Law 2013-198 **H.B. 219**

AN ACT TO MODERNIZE THE WAYS CHILDREN BORN OUT OF WEDLOCK ARE REFERENCED IN THE GENERAL STATUTES BY REMOVING REFERENCES TO "ILLEGITIMATE" WHEN USED IN CONNECTION WITH AN INDIVIDUAL AND TO "BASTARDY", TO ALLOW A CHILD BORN OUT OF WEDLOCK TO INHERIT FROM A PERSON WHO DIED PRIOR TO OR WITHIN ONE YEAR AFTER THE BIRTH OF THAT CHILD IF PATERNITY CAN BE ESTABLISHED BY DNA

TESTING, AND TO MAKE OTHER TECHNICAL CORRECTIONS TO THE STATUTES BEING AMENDED.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 6-21(10) reads as rewritten:

"§ **6-21. Costs allowed either party or apportioned in discretion of court.**

Costs in the following matters shall be taxed against either party, or apportioned among the parties, in the discretion of the court:

…

(10) In proceedings under Article 3 of Chapter 49 of the General Statutes regarding ~~illegitimate~~ children ~~under Article 3, Chapter 49 of the General Statutes.~~born out of wedlock.

…."

SECTION 2. G.S. 8-57(b) reads as rewritten:

"(b) The spouse of the defendant shall be competent but not compellable to testify for the State against the defendant in any criminal action or grand jury proceedings, except that the spouse of the defendant shall be both competent and compellable to so testify:

…

(5) In a prosecution of one spouse for any other criminal offense against the minor child of either spouse, including any child of either spouse who is ~~illegitimate~~ born out of wedlock or adopted or a foster ~~child of either spouse.~~child."

SECTION 3. G.S. 14-325.1 reads as rewritten:

"§ **14-325.1. When offense of failure to support child deemed committed in State.**

The offense of willful neglect or refusal of a parent to support and maintain a child, and the offense of willful neglect or refusal to support and maintain one's ~~illegitimate child,~~ child born out of wedlock, shall be deemed to have been committed in ~~the State of North Carolina~~ this State whenever the child is living in ~~North Carolina~~ this State at the time of ~~such~~ the willful neglect or refusal to support and maintain ~~such~~ the child."

SECTION 4. The catch line of G.S. 15-155.2 reads as rewritten:

"§ **15-155.2. District attorney to take action on report of ~~aid to dependent child [Work First Family Assistance] or illegitimate [out-of-wedlock] birth.~~Work First Family Assistance and children born out of wedlock.**"

SECTION 5. G.S. 15-155.3 reads as rewritten:

"§ **15-155.3. Disclosure of information by district attorney or agent.**

No such district attorney, assistant district attorney, or any attorney-at-law especially appointed to assist ~~said~~ the district attorney, or any agent or employee of ~~such~~ the district attorney's office shall disclose any information, record, report, case history or any memorandum or document or any information contained therein, which may relate to or be connected with the mother or father of any ~~illegitimate child, or any illegitimate child,~~ child born out of wedlock, or any child born out of wedlock, unless in the opinion of ~~such~~ the district attorney it is necessary or is required in the prosecution and performance of ~~such~~ the district attorney's duties as set forth in the provisions of this Article."

SECTION 6. G.S. 29-12 reads as rewritten:

"§ **29-12. Escheats.**

If there is no person entitled to take under G.S. 29-14 or G.S. 29-15, or if in case of an ~~illegitimate intestate,~~ intestate born out of wedlock, there is no one entitled to take under G.S. 29-21 or ~~G.S. 29-22~~ G.S. 29-22, the net estate shall escheat as provided in G.S. 116B-2."

SECTION 7. G.S. 29-18 reads as rewritten:

"§ **29-18. Succession by, through and from legitimated children.**

A child born ~~an illegitimate~~ out of wedlock who ~~shall have~~ has been legitimated in accordance with G.S. 49-10 or 49-12 or in accordance with the applicable law of any other jurisdiction, and the heirs of ~~such~~ the child, are entitled by succession to property by, through

and from the child's father and mother and their heirs the same as if born in lawful wedlock; and if the child dies intestate, the child's property shall descend and be distributed as if the child had been born in lawful wedlock."

SECTION 8. The title of Article 6 of Chapter 29 of the General Statutes reads as rewritten:

"Article 6.

~~Illegitimate Children.~~Children Born Out of Wedlock."

SECTION 9. G.S. 29-19 reads as rewritten:

"§ **29-19. Succession by, through and from ~~illegitimate children.~~children born out of wedlock.**

(a) For purposes of intestate succession, ~~an illegitimate~~ a child born out of wedlock shall be treated as if that child were the legitimate child of the child's mother, so that the child and the child's lineal descendants are entitled to take by, through and from the child's mother and the child's other maternal kindred, both descendants and collaterals, and they are entitled to take from the child.

(b) For purposes of intestate succession, ~~an illegitimate~~ a child born out of wedlock shall be entitled to take by, through and from:

(1) Any person who has been finally adjudged to be the father of ~~such~~ the child pursuant to the provisions of G.S. 49-1 through 49-9 or the provisions of G.S. 49-14 through 49-16;

(2) Any person who has acknowledged himself during his own lifetime and the child's lifetime to be the father of ~~such~~ the child in a written instrument executed or acknowledged before a certifying officer named in G.S. 52-10(b) and filed during his own lifetime and the child's lifetime in the office of the clerk of superior court of the county where either he or the child resides.

(3) A person who died prior to or within one year after the birth of the child and who can be established to have been the father of the child by DNA testing.

Notwithstanding the above provisions, no person shall be entitled to take hereunder unless the person has given written notice of the basis of the person's claim to the personal representative of the putative father within six months after the date of the first publication or posting of the general notice to creditors.

(c) Any person described under subdivision ~~(b)(1) or (2) above~~ (b)(1), (2), or (3) of this section and the person's lineal and collateral kin shall be entitled to inherit by, through and from the ~~illegitimate~~ child.

(d) Any person who acknowledges that he is the father of ~~an illegitimate~~ a child born out of wedlock in his duly probated last will shall be deemed to have intended that ~~such~~ the child be treated as expressly provided for in ~~said~~ the will or, in the absence of any express provision, the same as a legitimate child."

SECTION 10. G.S. 29-20 reads as rewritten:

"§ **29-20. Descent and distribution upon intestacy of ~~illegitimate children.~~children born out of wedlock.**

All the estate of a person ~~dying illegitimate and~~ who was born out of wedlock and dies intestate shall descend and be distributed, subject to the payment of costs of administration and other lawful claims against the estate, and subject to the payment of State inheritance or estate taxes, as provided in this Article."

SECTION 11. G.S. 29-21 reads as rewritten:

"§ **29-21. Share of surviving spouse.**

The share of the surviving spouse of ~~an illegitimate intestate~~ an intestate born out of wedlock shall be the same as provided in G.S. 29-14 for the surviving spouse of a legitimate person. In determining whether the ~~illegitimate~~ intestate is survived by one or more parents as provided in G.S. 29-14(3), any person identified as the father under G.S. 29-19(b)(1) or (b)(2) shall be regarded as a parent."

SECTION 12. G.S. 29-22 reads as rewritten:

"§ **29-22. Shares of others than the surviving spouse.**

Those persons surviving ~~the illegitimate intestate,~~ an intestate born out of wedlock, other than the surviving spouse, shall take that share of the net estate provided in G.S. 29-15. In determining whether the ~~illegitimate~~ intestate is survived by one or more parents or their collateral kindred as provided in G.S. 29-15, any person identified as the father under G.S. 29-19(b)(1) or (b)(2) shall be regarded as a parent."

SECTION 13. G.S. 30-17 reads as rewritten:

"§ **30-17. When children entitled to an allowance.**

Whenever any parent dies survived by any child under the age of 18 years, including an adopted child or a child with whom the widow may be pregnant at the death of her husband, or a child who is less than 22 years of age and is a full-time student in any educational institution, or a child under 21 years of age who has been declared mentally incompetent, or a child under 21 years of age who is totally disabled, or any other person under the age of 18 years residing with the deceased parent at the time of death to whom the deceased parent or the surviving parent stood in loco parentis, every such child shall be entitled to receive an allowance of five thousand dollars ($5,000) for the child's support for the year next ensuing the death of the parent. The allowance shall be in addition to the child's share of the deceased parent's estate and shall be exempt from any lien by judgment or execution against the property of the deceased parent. The personal representative of the deceased parent shall, within one year after the parent's death, assign to every such child the allowance herein provided for; but if there is no personal representative or if the personal representative fails or refuses to act within 10 days after written application by a guardian or next friend on behalf of the child, the allowance may be assigned by a magistrate or clerk of court upon application.

If the child resides with the surviving spouse of the deceased parent at the time the allowance is paid, the allowance shall be paid to the surviving spouse for the benefit of the child. If the child resides with its surviving parent who is other than the surviving spouse of the deceased parent, the allowance shall be paid to the surviving parent for the use and benefit of the child. The payment shall be made regardless of whether the deceased died testate or intestate or whether the surviving spouse petitioned for an elective share under Article 1A of Chapter 30 of the General Statutes. Provided, however, the allowance shall not be available to ~~an illegitimate child of a deceased father,~~ a deceased father's child born out of wedlock, unless the deceased father has recognized the paternity of the ~~illegitimate~~ child by deed, will, or other ~~paper-writing.~~ paper-writing, or unless the deceased father died prior to or within one year after the birth of the child and is established to have been the father of the child by DNA testing. If the child does not reside with a surviving spouse or a surviving parent when the allowance is paid, the allowance shall be paid to the child's general guardian, if any, and if none, to the clerk of the superior court who shall receive and disburse the allowance for the benefit of the child."

SECTION 14. G.S. 31-5.5 reads as rewritten:

"§ **31-5.5. After-born or after-adopted child; ~~illegitimate child;~~ children born out of wedlock; effect on will.**

(a) A will shall not be revoked by the subsequent birth of a child to the testator, or by the subsequent adoption of a child by the testator, or by the subsequent entitlement of an after-born ~~illegitimate~~ child born out of wedlock to take as an heir of the testator pursuant to the provisions of G.S. 29-19(b), but any after-born, after-adopted or entitled after-born ~~illegitimate~~ child born out of wedlock shall have the right to share in the testator's estate to the same extent the after-born, after-adopted, or entitled after-born ~~illegitimate~~ child born out of wedlock would have shared if the testator had died intestate unless:

(1) The testator made some provision in the will for the child, whether adequate or not;

(2) It is apparent from the will itself that the testator intentionally did not make specific provision therein for the child;

(3) The testator had children living when the will was executed, and none of the testator's children actually take under the will;

(4) The surviving spouse receives all of the estate under the will; or

(5) The testator made provision for the child that takes effect upon the death of the testator, whether adequate or not.

(b) The provisions of G.S. 28A-22-2 shall be construed as being applicable to after-adopted children and to after-born children, whether legitimate or entitled ~~illegitimate.~~children born out of wedlock.

(c) The terms "after-born," "after-adopted" and "entitled after-born" as used in this section refer to children born, adopted or entitled subsequent to the execution of the will."

SECTION 15. The title of Chapter 49 of the General Statutes reads as rewritten:

"**Chapter 49.**

~~Bastardy.~~ Children Born Out of Wedlock."

SECTION 16. The title of Article 1 of Chapter 49 of the General Statutes reads as rewritten:

"Article 1.

Support of ~~Illegitimate Children.~~Children Born Out of Wedlock."

SECTION 17. G.S. 49-2 reads as rewritten:

"§ **49-2. Nonsupport of ~~illegitimate~~ child born out of wedlock by parents made misdemeanor.**

Any parent who willfully neglects or who refuses to provide adequate support and maintain his or her ~~illegitimate~~ child born out of wedlock shall be guilty of a Class 2 misdemeanor. A child within the meaning of this Article shall be any person less than 18 years of age and any person whom either parent might be required under the laws of North Carolina to support and maintain if ~~such~~ the child were the legitimate child of ~~such~~ the parent."

SECTION 18. G.S. 49-4 reads as rewritten:

"§ **49-4. When prosecution may be commenced.**

The prosecution of the reputed father of ~~an illegitimate~~ a child born out of wedlock may be instituted under this Chapter within any of the following periods, and not thereafter:

(1) Three years next after the birth of the child; or

(2) Where the paternity of the child has been judicially determined within three years next after its birth, at any time before the child attains the age of 18 years; or

(3) Where the reputed father has acknowledged paternity of the child by payments for the support thereof within three years next after the birth of ~~such~~ the child, three years from the date of the last payment whether ~~such~~ the last payment was made within three years of the birth of ~~such~~ the child or thereafter: Provided, the action is instituted before the child attains the age of 18 years.

The prosecution of the mother of ~~an illegitimate~~ a child born out of wedlock may be instituted under this Chapter at any time before the child attains the age of 18 years."

SECTION 19. G.S. 49-6 reads as rewritten:

"§ **49-6. Mother not excused on ground of self-incrimination; not subject to penalty.**

No mother of ~~an illegitimate~~ a child born out of wedlock shall be excused, on the ground that it may tend to incriminate her or subject her to a penalty or a forfeiture, from attending and testifying, in obedience to a subpoena of any court, in any suit or proceeding based upon or growing out of the provisions of this Article, but no such mother shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing as to which, in obedience to a subpoena and under oath, she may so testify."

SECTION 20. G.S. 49-7 reads as rewritten:

"§ **49-7. Issues and orders.**

The court before which the matter may be brought shall determine whether or not the defendant is a parent of the child on whose behalf the proceeding is instituted. After this matter has been determined in the affirmative, the court shall proceed to determine the issue as to whether or not the defendant has neglected or refused to provide adequate support and maintain the child who is the subject of the proceeding. After this matter ~~shall have been~~ has been determined in the affirmative, the court shall fix by order, subject to modification or increase from time to time, a specific sum of money necessary for the support and maintenance of the child, subject to the limitations of G.S. 50-13.10. The amount of child support shall be determined as provided in G.S. 50-13.4(c). The order fixing the sum shall require the defendant to pay it either as a lump sum or in periodic payments as the circumstances of the case may appear to the court. The social security number, if known, of the minor child's parents shall be placed in the record of the proceeding. Compliance by the defendant with any or all of the further provisions of this Article or the order or orders of the court requiring additional acts to be performed by the defendant shall not be construed to relieve the defendant of his or her responsibility to pay the sum fixed or any modification or increase thereof.

The court before whom the matter may be brought, on motion of the State or the defendant, shall order that the alleged-parent defendant, the known natural parent, and the child submit to any blood tests and comparisons which have been developed and adapted for purposes of establishing or disproving parentage and which are reasonably accessible to the alleged-parent defendant, the known natural parent, and the child. The results of those blood tests and comparisons, including the statistical likelihood of the alleged parent's parentage, if available, shall be admitted in evidence when offered by a duly qualified, licensed practicing physician, duly qualified immunologist, duly qualified geneticist or other duly qualified person. The evidentiary effect of those blood tests and comparisons and the manner in which the expenses therefor are to be taxed as costs shall be as prescribed in G.S. 8-50.1. In addition, if a jury tries the issue of parentage, they shall be instructed as set out in G.S. 8-50.1. From a finding on the issue of parentage against the alleged-parent defendant, the alleged-parent defendant has the same right of appeal as though he or she had been found guilty of the crime of willful failure to support ~~an illegitimate child.~~a child born out of wedlock."

SECTION 21. The title of Article 2 of Chapter 49 of the General Statutes reads as rewritten:

"Article 2.

Legitimation of ~~Illegitimate Children.~~Children Born Out of Wedlock."

SECTION 22. The title of Article 3 of Chapter 49 of the General Statutes reads as rewritten:

"Article 3.

Civil Actions Regarding ~~Illegitimate Children.~~Children Born Out of Wedlock."

SECTION 23. G.S. 49-15 reads as rewritten:

"§ **49-15. Custody and support of ~~illegitimate~~ children born out of wedlock when paternity established.**

Upon and after the establishment of paternity pursuant to G.S. 49-14 of ~~an illegitimate~~ a child ~~pursuant to G.S. 49-14,~~ born out of wedlock, the rights, duties, and obligations of the mother and the father so established, with regard to support and custody of the child, shall be the same, and may be determined and enforced in the same manner, as if the child were the legitimate child of ~~such~~ the father and mother. When paternity has been established, the father becomes responsible for medical expenses incident to the pregnancy and the birth of the child."

SECTION 24. G.S. 50-11(b) reads as rewritten:

"(b) No judgment of divorce shall ~~render illegitimate~~ cause any child in ~~esse,~~ esse or begotten of the body of the wife during ~~coverture.~~coverture to be treated as a child born out of wedlock."

SECTION 25. G.S. 97-2 reads as rewritten:

"§ **97-2. Definitions.**

When used in this Article, unless the context otherwise requires:

…

(2) Employee. – The term "employee" means every person engaged in an employment under any appointment or contract of hire or apprenticeship, express or implied, oral or written, including aliens, and also minors, whether lawfully or unlawfully employed, but excluding persons whose employment is both casual and not in the course of the trade, business, profession, or occupation of his employer, and as relating to those so employed by the State, the term "employee" shall include all officers and employees of the State, including such as are elected by the people, or by the General Assembly, or appointed by the Governor to serve on a per diem, part-time or fee basis, either with or without the confirmation of the Senate; as relating to municipal corporations and political subdivisions of the State, the term "employee" shall include all officers and employees thereof, including such as are elected by the people. The term "employee" shall include members of the North Carolina National Guard while on State active duty under orders of the Governor and members of the North Carolina State Defense Militia while on State active duty under orders of the Governor. The term "employee" shall include deputy sheriffs and all persons acting in the capacity of deputy sheriffs, whether appointed by the sheriff or by the governing body of the county and whether serving on a fee basis or on a salary basis, or whether deputy sheriffs serving upon a full-time basis or a part-time basis, and including deputy sheriffs appointed to serve in an emergency, but as to those so appointed, only during the continuation of the emergency. The sheriff shall furnish to the board of county commissioners a complete list of all deputy sheriffs named or appointed by him immediately after their appointment and notify the board of commissioners of any changes made therein promptly after such changes are made. Any reference to an employee who has been injured shall, when the employee is dead, include also his legal representative, dependents, and other persons to whom compensation may be payable: Provided, further, that any employee, as herein defined, of a municipality, county, or of the State of North Carolina, while engaged in the discharge of his official duty outside the jurisdictional or territorial limits of the municipality, county, or the State of North Carolina and while acting pursuant to authorization or instruction from any superior officer, shall have the same rights under this Article as if such duty or activity were performed within the territorial boundary limits of his employer.

Every executive officer elected or appointed and empowered in accordance with the charter and bylaws of a corporation shall be considered as an employee of such corporation under this Article.

Any such executive officer of a corporation may, notwithstanding any other provision of this Article, be exempt from the coverage of the corporation's insurance contract by such corporation's specifically excluding such executive officer in such contract of insurance, and the exclusion to remove such executive officer from the coverage shall continue for the period such contract of insurance is in effect, and during such period such executive officers thus exempted from the coverage of the insurance contract shall not be employees of such corporation under this Article.

All county agricultural extension service employees who do not receive official federal appointments as employees of the United States Department of Agriculture and who are field faculty members with professional rank as

designated in the memorandum of understanding between the North Carolina Agricultural Extension Service, North Carolina State University, A & T State University, and the boards of county commissioners shall be deemed to be employees of the State of North Carolina. All other county agricultural extension service employees paid from State or county funds shall be deemed to be employees of the county board of commissioners in the county in which the employee is employed for purposes of workers' compensation.

The term "employee" shall also include members of the Civil Air Patrol currently certified pursuant to ~~G.S. 143B-491(a) [G.S. 143B-1031(a)]~~G.S. 143B-1031(a) when performing duties in the course and scope of a State-approved mission pursuant to ~~Article 11 of Chapter 143B [Subpart C of Part 5 of Article 13 of Chapter 143B]~~ Subpart C of Part 5 of Article 13 of Chapter 143B of the General Statutes.

"Employee" shall not include any person performing voluntary service as a ski patrolman who receives no compensation for such services other than meals or lodging or the use of ski tow or ski lift facilities or any combination thereof.

Any sole proprietor or partner of a business or any member of a limited liability company may elect to be included as an employee under the workers' compensation coverage of such business if he is actively engaged in the operation of the business and if the insurer is notified of his election to be so included. Any such sole proprietor or partner or member of a limited liability company shall, upon such election, be entitled to employee benefits and be subject to employee responsibilities prescribed in this Article.

"Employee" shall include an authorized pickup firefighter of the Division of Forest Resources of the Department of Agriculture and Consumer Services when that individual is engaged in emergency fire suppression activities for the Division of Forest Resources. As used in this section, "authorized pickup firefighter" means an individual who has completed required fire suppression training as a wildland firefighter and who is available as needed by the Division of Forest Resources for emergency fire suppression activities, including immediate dispatch to wildfires and standby for initial attack on fires during periods of high fire danger.

It shall be a rebuttable presumption that the term "employee" shall not include any person performing services in the sale of newspapers or magazines to ultimate consumers under an arrangement whereby the newspapers or magazines are to be sold by that person at a fixed price and the person's compensation is based on the retention of the excess of the fixed price over the amount at which the newspapers or magazines are charged to the person.

…

(5) Average Weekly Wages. – "Average weekly wages" shall mean the earnings of the injured employee in the employment in which he was working at the time of the injury during the period of 52 weeks immediately preceding the date of the injury, including the subsistence allowance paid to veteran trainees by the United States government, provided the amount of said allowance shall be reported monthly by said trainee to his employer, divided by 52; but if the injured employee lost more than seven consecutive calendar days at one or more times during such period, although not in the same week, then the earnings for the remainder of such 52 weeks shall be divided by the number of weeks remaining after the time so lost has been deducted. Where the employment prior to the injury extended over a period of fewer

than 52 weeks, the method of dividing the earnings during that period by the number of weeks and parts thereof during which the employee earned wages shall be followed; provided, results fair and just to both parties will be thereby obtained. Where, by reason of a shortness of time during which the employee has been in the employment of his employer or the casual nature or terms of his employment, it is impractical to compute the average weekly wages as above defined, regard shall be had to the average weekly amount which during the 52 weeks previous to the injury was being earned by a person of the same grade and character employed in the same class of employment in the same locality or community.

But where for exceptional reasons the foregoing would be unfair, either to the employer or employee, such other method of computing average weekly wages may be resorted to as will most nearly approximate the amount which the injured employee would be earning were it not for the injury.

Wherever allowances of any character made to an employee in lieu of wages are specified part of the wage contract, they shall be deemed a part of his earnings.

Where a minor employee, under the age of 18 years, sustains a permanent disability or dies leaving dependents surviving, the compensation payable for permanent disability or death shall be calculated, first, upon the average weekly wage paid to adult employees employed by the same employer at the time of the accident in a similar or like class of work which the injured minor employee would probably have been promoted to if not injured, or, second, upon a wage sufficient to yield the maximum weekly compensation benefit. Compensation for temporary total disability or for the death of a minor without dependents shall be computed upon the average weekly wage at the time of the accident, unless the total disability extends more than 52 weeks, and then the compensation may be increased in proportion to his expected earnings.

In case of disabling injury or death to a volunteer fireman; member of an organized rescue squad; an authorized pickup firefighter, as defined in subdivision (2) of this section, when that individual is engaged in emergency fire suppression activities for the Division of Forest Resources; a duly appointed and sworn member of an auxiliary police department organized pursuant to G.S. 160A-282; or senior members of the State Civil Air Patrol functioning under ~~Article 11 of Chapter 143B [Subpart C of Part 5 of Article 13 of Chapter 143B]~~ Subpart C of Part 5 of Article 13 of Chapter 143B of the General Statutes, under compensable circumstances, compensation payable shall be calculated upon the average weekly wage the volunteer fireman, member of an organized rescue squad, authorized pickup firefighter of the Division of Forest Resources, when that individual is engaged in emergency fire suppression activities for the Division of Forest Resources, member of an auxiliary police department, or senior member of the State Civil Air Patrol was earning in the employment wherein he principally earned his livelihood as of the date of injury. Provided, however, that the minimum compensation payable to a volunteer fireman, member of an organized rescue squad, an authorized pickup firefighter of the Division of Forest Resources of the Department of Agriculture and Consumer Services, when that individual is engaged in emergency fire suppression activities for the Division of Forest Resources, a sworn member of an auxiliary police department organized pursuant to G.S. 160A-282, or senior members of the

State Civil Air Patrol shall be sixty-six and two-thirds percent (66 2/3%) of the maximum weekly benefit established in G.S. 97-29.

…

(12) Child, Grandchild, Brother, Sister. – The term "child" shall include a posthumous child, a child legally adopted prior to the injury of the employee, and a stepchild or acknowledged ~~illegitimate~~ child born out of wedlock dependent upon the deceased, but does not include married children unless wholly dependent upon him. "Grandchild" means a ~~child as above defined of a child as above defined.~~ child, as defined in this subdivision, of a child, as defined in this subdivision. "Brother" and "sister" include stepbrothers and stepsisters, half brothers and half sisters, and brothers and sisters by adoption, but does not include married brothers nor married sisters unless wholly dependent on the employee. "Child," "grandchild," "brother," and "sister" include only persons who at the time of the death of the deceased employee are under 18 years of age.

…."

SECTION 26. G.S. 130A-119 reads as rewritten:

"§ **130A-119. Clerk of Court to furnish State Registrar with facts as to paternity of ~~illegitimate~~ children born out of wedlock when judicially determined.**

Upon the entry of a judgment determining the paternity of ~~an illegitimate child,~~ a child born out of wedlock, the clerk of court of the county in which the judgment is entered shall notify the State Registrar in writing of the name of the person against whom the judgment has been entered, together with the other facts disclosed by the record as may assist in identifying the record of the birth of the child as it appears in the office of the State Registrar. If the judgment is modified or vacated, that fact shall be reported by the clerk to the State Registrar in the same manner. Upon receipt of the notification, the State Registrar shall record the information upon the birth certificate of the ~~illegitimate~~ child."

SECTION 27. G.S. 143-166.2(a) and (c) read as rewritten:

"(a) The term "dependent child" shall mean any unmarried child of the deceased officer, fireman, rescue squad worker or senior member of the Civil Air Patrol whether natural, adopted, posthumously born or whether ~~an illegitimate~~ a child born out of wedlock as entitled to inherit under the Intestate Succession Act, who is under 18 years of age and dependent upon and receiving his chief support from said officer or fireman or rescue squad worker or senior member of the Civil Air Patrol at the time of his death; provided, however, that if a dependent child is entitled to receive benefits at the time of the officer's or fireman's or rescue squad worker's or senior Civil Air Patrol member's death as hereinafter provided, he shall continue to be eligible to receive such benefits regardless of his age thereafter; and further provided that any child over 18 years of age who is physically or mentally incapable of earning a living and any child over 18 years of age who was enrolled as a full-time student at the time of the officer's, the fireman's, the rescue squad worker's or the senior Civil Air Patrol member's death shall so long as he remains a full-time student as defined in the Social Security Act be regarded as a dependent child and eligible to receive benefits under the provisions of this Article.

…

(c) The term "killed in the line of duty" shall apply to any law-enforcement officer, fireman, rescue squad worker who is killed or dies as a result of bodily injuries sustained or of extreme exercise or extreme activity experienced in the course and scope of his official duties while in the discharge of his official duty or duties. When applied to a senior member of the Civil Air Patrol as defined in this Article, "killed in the line of duty" shall mean any such senior member of the North Carolina Wing-Civil Air Patrol who is killed or dies as a result of bodily injuries sustained or of extreme exercise or extreme activity experienced in the course and scope of his official duties while engaged in a State requested and approved mission pursuant to ~~Article 11 of Chapter 143B [Article 13 of Chapter 143B]~~ Article 13 of Chapter 143B of the General Statutes. For purposes of this Article, when a law enforcement officer, fireman, rescue

squad worker, or senior Civil Air Patrol member dies as the direct and proximate result of a myocardial infarction suffered while on duty or within 24 hours after participating in a training exercise or responding to an emergency situation, the law enforcement officer, fireman, rescue squad worker, or senior Civil Air Patrol member is presumed to have been killed in the line of duty."

SECTION 28. This act is effective when it becomes law, and Sections 9 and 13 of this act apply to estates of persons dying on or after that date.

In the General Assembly read three times and ratified this the 19th day of June, 2013.

Became law upon approval of the Governor at 4:35 p.m. on the 26th day of June, 2013.

Session Law 2013-199 **H.B. 240**

AN ACT TO EXPAND THE CHOICES FOR HEALTH INSURANCE IN NORTH CAROLINA BY EXEMPTING HEALTH INSURANCE COMPANIES FROM OUTDATED RISK EXPOSURE REQUIREMENTS; TO REMOVE A PHOTO IDENTIFICATION REQUIREMENT FOR NEW DOMESTIC COMPANIES; TO HELP MORTGAGE GUARANTY COMPANIES ADJUST THEIR CAPITAL AND SURPLUS REQUIREMENTS; TO REVISE CERTAIN RISK-BASED CAPITAL REQUIREMENTS IN ORDER TO MAINTAIN NORTH CAROLINA'S NAIC ACCREDITATION; TO CLARIFY CONSUMER CHOICE IN HOMEOWNER'S COVERAGE FOR WIND AND HAIL; TO CLARIFY THE CERTIFICATION REQUIREMENTS FOR AN ACTUARY WHO PRESENTS A SCHEDULE OF PREMIUM RATES; TO SHORTEN CERTAIN TIME PERIODS FOR AN EXTERNAL REVIEW BY THE COMMISSIONER OF CERTAIN INSURER DETERMINATIONS; TO EXPAND ACCESS OF COVERAGE TO BUSINESSES WHO NEED BLANKET ACCIDENT AND HEALTH COVERAGE; TO MAKE CERTAIN CONFORMING CHANGES RELATED TO THE RENAMING OF THE OFFICE OF MANAGED CARE PATIENT ASSISTANCE PROGRAM AS HEALTH INSURANCE SMART NC; TO AMEND THE DEFINITION OF PRIVATE PASSENGER MOTOR VEHICLE; TO CLARIFY WHEN AN INSURER CAN COMMUNICATE WITH THE INSURED AFTER A PUBLIC ADJUSTER HAS BEEN RETAINED; AND TO CLARIFY WHEN AN AUTOMATIC STAY OF PROOF OF LOSS REQUIREMENTS, PREMIUM AND DEBT DEFERRALS, AND LOSS ADJUSTMENTS ARE TRIGGERED; TO PROVIDE NOTICE AND AN OPPORTUNITY FOR A HEARING WHEN A SUPERIOR COURT JUDGE IS CALLED UPON TO SELECT AN UMPIRE IN CERTAIN PROPERTY INSURANCE DISPUTES; AND TO ALLOW THE DEPARTMENT OF INSURANCE TO ENFORCE CERTAIN PROVISIONS OF THE PUBLIC HEALTH SERVICE ACT BY REQUIRING INSURANCE COMPANIES TO COMPLY WITH THOSE PROVISIONS WITHIN THIS STATE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 58-3-105 reads as rewritten:

"§ **58-3-105. Limitation of risk.**

Except as otherwise provided in Articles 1 through 64 of this Chapter, no insurer doing business in this State shall expose itself to any loss on any one risk in an amount exceeding ten percent (10%) of its surplus to policyholders. Any risk or portion of any risk which shall have been reinsured shall be deducted in determining the limitation of risk prescribed in this section. This section shall not apply to (i) life ~~insurance~~ insurance, (ii) accident and health insurance, (iii) ~~or to~~ the insurance of marine risks, or marine protection and indemnity risks, ~~or~~ (iv) workers' compensation or employer's liability risks, ~~or to~~ and (v) certificates of ~~title or~~title, guaranties of title or policies of title insurance. For the purpose of determining the limitation of

risk under any provision of Articles 1 through 64 of this Chapter, "surplus to policyholders" shall

(1) Be deemed to include any voluntary reserves, or any part thereof, which are not required by or pursuant to law, and

(2) Be determined from the last sworn statement of such insurer on file with the Commissioner pursuant to law, or by the last report on examination filed by the Commissioner, whichever is more recent at the time of assumption of such risk.

In applying the limitation of risk under any provision of Articles 1 through 64 of this Chapter to alien insurers, such provision shall be deemed to refer to the exposure to risk and to the surplus to policyholders of the United States branch of such alien insurer."

SECTION 2. G.S. 58-7-37(a) reads as rewritten:

"§ **58-7-37. Background of incorporators and proposed management personnel.**

(a) Before a license is issued to a new domestic insurance company, each key person must furnish the Commissioner a complete set of the applicant's ~~fingerprints and a recent passport size full face photograph of the applicant.~~fingerprints. The applicant's fingerprints shall be certified by an authorized law enforcement officer. The fingerprints of every applicant shall be forwarded to the State Bureau of Investigation for a search of the applicant's criminal history record file, if any. If warranted, the State Bureau of Investigation shall forward a set of the fingerprints to the Federal Bureau of Investigation for a national criminal history record check. An applicant shall pay the cost of the State and any national criminal history record check of the applicant."

SECTION 3.(a) G.S. 58-10-125(l) reads as rewritten:

"§ **58-10-125. Policyholders position and capital and surplus requirements.**

…

(l) Any waiver shall be (i) for a specified period of time not to exceed two years and (ii) subject to any terms and conditions that the Commissioner shall deem best suited to restoring the mortgage guaranty insurer's minimum policyholders position required by subsection (a) of this section. ~~Notwithstanding any other provision in this section, the Commissioner shall not grant a waiver that would extend beyond July 1, 2015.~~"

SECTION 3.(b) Section 2 of S.L. 2009-254, as rewritten by Section 2 of S.L. 2010-40, reads as rewritten:

"**SECTION 2.** This act becomes effective July 1, ~~2009, and expires July 1, 2015.~~2009."

SECTION 4. G.S. 58-12-11(b)(3) reads as rewritten:

"§ **58-12-11. Company action level event.**

…

(b) In the event of a company action level event, the insurer shall prepare and submit to the Commissioner a comprehensive financial plan that:

…

(3) Provides forecasts of the insurer's financial results in the current year and at least the four succeeding years (except for health organizations, which must provide forecasts in the current year and at least the two succeeding years), both in the absence of proposed corrective actions and giving effect to the proposed corrective actions, including forecasts of statutory balance sheets, operating income, net income, ~~capital, or surplus~~capital and surplus, and risk-based capital levels (the forecasts for both new and renewal business should include separate forecasts for each major line of business and separately identify each significant income, expense, and benefit component). ~~For a health organization, the forecasted financial results shall be for the current year and at least two succeeding years and shall include statutory balance sheets, operating income, net income, capital and surplus, and risk-based capital levels.~~"

SECTION 5. G.S. 58-12-35(a) reads as rewritten:

"§ **58-12-35. Confidentiality and prohibition on announcements.**

(a) All risk-based capital reports, to the extent the information therein is not required to be set forth in a publicly available annual statement schedule, and the risk-based capital plans, including the results or report of any examination or analysis of an insurer performed pursuant hereto and any corrective order issued by the Commissioner pursuant to examination or analysis, with respect to any domestic insurer or foreign insurer that are filed with the Commissioner constitute information that shall be kept confidential by the Commissioner. This information shall not be made public ~~or be~~and shall not be subject to subpoena, discovery, or admissible in evidence in any private civil action, other than by the Commissioner, and then only for the purpose of enforcement actions taken by the Commissioner under this Article or any other provision of this Chapter. In order to assist in the performance of the Commissioner's duties, the Commissioner may share and receive confidential and privileged risk-based capital information in a manner consistent with that information shared and received pursuant to G.S. 58-2-132(g) and (h). Neither the Commissioner nor any person who received documents, materials, or other information while acting under the authority of the Commissioner shall be permitted or required to testify in any private civil action concerning any confidential documents, materials, or information subject to this subsection."

SECTION 6. G.S. 58-30-60(b) reads as rewritten:

"§ **58-30-60. Commissioner's summary orders and supervision proceedings.**

…

(b) The Commissioner may consider any or all of the following standards to determine whether the continued operation of any licensed insurer is hazardous to its policyholders, creditors, or the general public:

(1) Adverse findings reported in financial condition and market conduct examination ~~reports;~~reports, audit reports, and actuarial opinions, reports, or summaries;

(2) The NAIC Insurance Regulatory Information System and its ~~related~~ other financial analysis solvency tools and reports;

~~(3) The ratios of commission expense, general insurance expense, policy benefits, and reserve increases as to annual premium and net investment income that could lead to an impairment of capital and surplus;~~

(4) ~~Whether an insurer's asset portfolio, when viewed in light of current economic conditions, is not of sufficient value, liquidity, or diversity to assure the insurer's ability to meet its outstanding obligations as they mature;~~Whether the insurer has made adequate provision, according to presently accepted actuarial standards of practice, for the anticipated cash flows required by the contractual obligations and related expenses of the insurer, when considered in light of the assets held by the insurer with respect to such reserves and related actuarial items, including, but not limited to, the investment earnings on such assets, and the considerations anticipated to be received and retained under such policies and contracts;

(5) The ability of an assuming reinsurer to perform and whether the ~~ceding~~ insurer's reinsurance program provides sufficient protection for the insurer's remaining surplus, after taking into account the insurer's cash flow and the classes of business written as well as the financial condition of the assuming reinsurer;

(6) Whether an insurer's operating loss in the last 12-month period or any shorter period of time, ~~including~~ including, but not limited to, net capital gain or loss, changes in nonadmitted assets, and cash dividends paid to shareholders, is greater than fifty percent (50%) of the insurer's remaining policyholders' surplus in excess of the minimum required;

(6a) Whether the insurer's operating loss in the last 12-month period or any shorter period of time, excluding net capital gains, is greater than twenty percent (20%) of the insurer's remaining policyholders' surplus in excess of the minimum required;

(7) Whether a reinsurer, obligor, or any ~~affiliate, subsidiary, or reinsurer~~entity within the insurer's insurance holding company system is insolvent, threatened with insolvency, or delinquent in payment of its monetary or any other ~~obligation;~~obligation and which in the opinion of the Commissioner may affect the solvency of the insurer;

(8) Contingent liabilities, pledges, or guaranties that either individually or collectively involve a total amount that in the Commissioner's opinion may affect an insurer's solvency;

(9) Whether any controlling person of an insurer is delinquent in the transmitting to or payment of net premiums to the insurer;

(10) The age and collectibility of receivables;

(11) Whether the management of an insurer, including officers, directors, or any other person who directly or indirectly controls the operation of the insurer, fails to possess ~~or~~ and demonstrate the competence, fitness, or reputation considered by the Commissioner to be necessary to serve the insurer in that position;

(12) Whether the management of an insurer has failed to respond to the Commissioner's inquiries about the condition of the insurer or has furnished false and misleading information in response to an inquiry by the Commissioner;

(12a) Whether the insurer has failed to meet financial and holding company filing requirements in the absence of a reason satisfactory to the Commissioner;

(13) Whether the management of an insurer has filed any false or misleading sworn financial statement, has released a false or misleading financial statement to a lending institution or to the general public, or has made a false or misleading entry or omitted an entry of material amount in the insurer's books;

(14) Whether the insurer has grown so rapidly and to such an extent that it lacks adequate financial and administrative capacity to meet its obligations in a timely manner;~~or~~

(15) Whether the insurer has experienced or will experience in the foreseeable future cash flow or liquidity ~~problems.~~problems;

(16) Whether management has established reserves that do not comply with minimum standards established by State insurance laws, regulations, statutory accounting standards, sound actuarial principles, and standards of practice;

(17) Whether management persistently engages in material under reserving that results in adverse development;

(18) Whether transactions among affiliates, subsidiaries, or controlling persons for which the insurer receives assets or capital gains, or both, do not provide sufficient value, liquidity, or diversity to assure the insurer's ability to meet its outstanding obligations as they mature; or

(19) Any other finding determined by the Commissioner to be hazardous to the insurer's policyholders, creditors, or general public.

To determine an insurer's financial condition under this Article, the Commissioner may: disregard any credit or amount receivable resulting from transactions with a reinsurer that is insolvent, impaired, or otherwise subject to a delinquency proceeding; make appropriate adjustments to asset values attributable to investments in or transactions with parents, subsidiaries, or affiliates of an insurer; refuse to recognize the stated value of accounts

receivable if the insurer's ability to collect receivables is highly speculative in view of the age of the account or the financial condition of the debtor; or increase the insurer's liability in an amount equal to any contingent liability, pledge, or guarantee not otherwise included if there is a substantial risk that the insurer will be called upon to meet the obligation undertaken within the next 12-month period.

If upon examination or at any other time the Commissioner has reasonable cause to believe that any domestic insurer is in such condition as to render the continuance of its business hazardous to the public or to holders of its policies or certificates of insurance, or if the domestic insurer gives its consent, then the Commissioner shall upon the Commissioner's determination:

(1) ~~Notify~~ Issue an order notifying the insurer of that determination; and

(2) Furnish to the insurer a written list of the Commissioner's requirements to abate that ~~determination.~~determination that may include any of the following:

~~The written list may include requirements that the insurer: reduce~~

a. A reduction in the total amount of present and potential liability for policy benefits by ~~reinsurance;~~ reinsurance.

b. ~~reduce, suspend, or limit~~A reduction, suspension, or limitation of the volume of insurance being accepted or ~~renewed;~~renewed.

c. ~~reduce~~ A reduction in general insurance and commission expenses by specified ~~methods;~~methods.

d. An increase ~~its~~ in the insurer's capital and ~~surplus;~~surplus.

e. ~~suspend or limit its~~ A suspension or limitation in the insurer's declaration and payment of dividends to its stockholders or ~~policyholders;~~policyholders.

f. ~~file reports~~ The filing of reports in a form acceptable to the Commissioner concerning the market value of its ~~assets;~~assets.

g. ~~limit or withdraw~~A limitation or withdrawal from certain investments or ~~discontinue~~ the discontinuance of certain investment practices to the extent the Commissioner considers ~~to be necessary;~~necessary.

h. ~~document~~ Documentation of the adequacy of premium rates in relation to the risks ~~insured;~~insured.

i. ~~or file,~~The filing, in addition to regular annual financial statements, of interim financial reports on the form adopted by the NAIC or on such format prescribed by the ~~Commissioner.~~Commissioner.

j. The correction of corporate governance practice deficiencies.

k. The adoption and utilization of governance practices acceptable to the Commissioner.

l. The provision of a business plan to the Commissioner in order to continue to transact business in the State.

Notwithstanding any other provision of law limiting the frequency or amount of premium rate adjustments, the Commissioner may adjust rates for any nonlife insurance product ~~include in the list of requirements any rate adjustments for any kinds of insurance~~ written by the insurer that the Commissioner considers necessary to improve the financial condition of the insurer."

SECTION 7. G.S. 58-31-45 reads as rewritten:

"§ **58-31-45. Report required of Commissioner.**

The Commissioner must submit to the Governor a full report of his official action under this Article, with such recommendations as commend themselves to ~~him, and it shall be embodied in or attached to his biennial report to the General Assembly.~~the Commissioner."

SECTION 8. G.S. 58-36-42 reads as rewritten:

"§ **58-36-42. Development of policy form or endorsement for residential property insurance that does not include coverage for perils of windstorm or hail.**

With respect to residential property insurance under its jurisdiction, the Bureau shall develop an optional policy form or endorsement to be filed with the Commissioner for approval that provides residential property insurance coverage in the coastal and beach areas defined in G.S. 58-45-5(2) and (2b) without coverage for the perils of windstorm or hail. Insurers that sell such policies shall comply with the provisions of G.S. 58-44-60 and through such compliance shall be deemed to have given notice to all insured and persons claiming benefits under such policies that such policies do not include coverage for the perils of windstorm or hail."

SECTION 9. G.S. 58-50-131(a) reads as rewritten:

"§ **58-50-131. Premium rates for health benefit plans; approval authority; hearing.**

(a) No schedule of premium rates for coverage for a health benefit plan subject to this act, or any amendment to the schedule, shall be used in conjunction with any such health benefit plan until a copy of the schedule of premium rates or premium rate amendment has been filed with and approved by the Commissioner. Any schedule of premium rates or premium rate amendment filed under this section shall be established in accordance with G.S. 58-50-130(b). The schedule of premium rates shall not be excessive, unjustified, inadequate, or unfairly discriminatory and shall exhibit a reasonable relationship to the benefits provided by the contract of insurance. Each filing shall include a certification by ~~an individual who is a member in good standing with the Society of Actuaries.~~an actuary who is a member of the American Academy of Actuaries and qualified to provide such certifications as described in the U.S. Qualifications Standards promulgated by the American Academy of Actuaries pursuant to its Code of Professional Conduct."

SECTION 10. G.S. 58-50-82 reads as rewritten:

"§ **58-50-82. Expedited external review.**

…

(b) Within ~~three business~~ two days ~~of~~ after receiving a request for an expedited external review, the Commissioner shall complete all of the following:

…

(c) As soon as possible, but within the same ~~business~~ day ~~of~~ after receiving notice under subdivision (b)(2) of this section that the request has been assigned to a review organization, the insurer or its designee utilization review organization shall provide or transmit all documents and information considered in making the noncertification appeal decision or the second-level grievance review decision to the assigned review organization electronically or by telephone or facsimile or any other available expeditious method. A copy of the same information shall be sent by the same means or other expeditious means to the covered person or the covered person's representative who made the request for expedited external review.

…

(e) As expeditiously as the covered person's medical condition or circumstances require, but not more than ~~four business~~three days after the date of receipt of the request for an expedited external review, the assigned organization shall make a decision to uphold or reverse the noncertification, noncertification appeal decision, or second-level grievance review decision and notify the covered person, the covered person's provider who performed or requested the service, the insurer, and the Commissioner of the decision. In reaching a decision, the assigned organization is not bound by any decisions or conclusions reached during the insurer's utilization review process or internal grievance process under G.S. 58-50-61 and G.S. 58-50-62.

…."

SECTION 11. G.S. 143-730 reads as rewritten:

"§ **143-730. ~~Managed Care Patient Assistance Program.~~Health Insurance Smart NC.**

(a) The Office of Managed Care Patient Assistance Program ~~is established in the Department of Insurance.~~shall hereafter be known as the Health Insurance Smart NC.

(b) The ~~Managed Care Patient Assistance Program~~Health Insurance Smart NC shall provide information and assistance to individuals enrolled in ~~managed~~ health care plans. ~~The Managed Care Patient Assistance Program shall have expertise and experience in both health care and advocacy and will assume the specific duties and responsibilities set forth in subsection (c) of this section.~~

(c) ~~The duties and responsibilities of the Managed Care Patient Assistance Program are as follows:~~Health Insurance Smart NC shall have the responsibility and duty to:

(1) Develop and distribute educational and informational materials for consumers, explaining their rights and responsibilities as ~~managed~~ health care plan enrollees.

(2) Answer inquiries posed by ~~consumers and refer inquiries of a regulatory nature to staff within the Department of Insurance.~~consumers.

(3) Advise ~~managed~~ health care plan enrollees about the utilization review process.

(4) Assist enrollees with the grievance, appeal, and external review procedures established by Article 50 of Chapter 58 of the General Statutes.

(5) Publicize the ~~Office of the Managed Care Patient Assistance Program.~~Health Insurance Smart NC.

(6) Compile data on the activities of the Office and evaluate such data to make recommendations as to the needed activities of the Office.

~~(d) The Director of the Managed Care Patient Assistance Program shall annually report the activities of the Managed Care Patient Assistance Program, including the types of appeals, grievances, and complaints received and the outcome of these cases. The report shall be submitted to the General Assembly, upon its convening or reconvening, and shall make recommendations as to efforts that could be implemented to assist managed care consumers.~~

(e) All health information in the possession of the ~~Managed Care Patient Assistance Program~~Health Insurance Smart NC is confidential and is not a public record pursuant to G.S. 132-1 or any other applicable statute.

For purposes of this section, "health information" means any of the following:

(1) Information relating to the past, present, or future physical or mental health or condition of an individual.

(2) Information relating to the provision of health care to an individual.

(3) Information relating to the past, present, or future payment for the provision of health care to an individual.

(4) Information, in any form, that identifies or may be used to identify an individual, that is created by, provided by, or received from any of the following:

a. An individual or an individual's spouse, parent, legal guardian, or designated representative.

b. A health care provider, health plan, employer, health care clearinghouse, or an entity doing business with these entities."

SECTION 12. G.S. 58-6-25(d)(4) reads as rewritten:

"§ **58-6-25. Insurance regulatory charge.**

…

(4) Money appropriated for the office of ~~Managed Care Patient Assistance Program~~Health Insurance Smart NC ~~established~~ under G.S. 143-730 to pay the actual costs of administering the program."

SECTION 13. G.S. 58-50-61(h) reads as rewritten:

"§ **58-50-61. Utilization review.**

…

(h) Notice of Noncertification. – A written notification of a noncertification shall include all reasons for the noncertification, including the clinical rationale, the instructions for initiating a voluntary appeal or reconsideration of the noncertification, and the instructions for

requesting a written statement of the clinical review criteria used to make the noncertification. An insurer shall provide the clinical review criteria used to make the noncertification to any person who received the notification of the noncertification and who follows the procedures for a request. An insurer shall also inform the covered person in writing about the availability of assistance from ~~the Managed Care Patient Assistance Program,~~Health Insurance Smart NC, including the telephone number and address of the Program."

SECTION 14. G.S. 58-50-61(k)(6) reads as rewritten:

"§ **58-50-61. Utilization review.**

…

(6) Notice of the availability of assistance from ~~the Managed Care Patient Assistance Program,~~Health Insurance Smart NC, including the telephone number and address of the Program."

SECTION 15. G.S. 58-50-61(m) reads as rewritten:

"§ **58-50-61. Utilization review.**

…

(m) Disclosure Requirements. – In the certificate of coverage and member handbook provided to covered persons, an insurer shall include a clear and comprehensive description of its utilization review procedures, including the procedures for appealing noncertifications and a statement of the rights and responsibilities of covered persons, including the voluntary nature of the appeal process, with respect to those procedures. An insurer shall also include in the certificate of coverage and the member handbook information about the availability of assistance from ~~the Managed Care Patient Assistance Program,~~Health Insurance Smart NC, including the telephone number and address of the Program. An insurer shall include a summary of its utilization review procedures in materials intended for prospective covered persons. An insurer shall print on its membership cards a toll-free telephone number to call for utilization review purposes."

SECTION 16. G.S. 58-50-62 reads as rewritten:

"§ **58-50-62. Insurer grievance procedures.**

…

(c) Grievance Procedures. – Every insurer shall have written procedures for receiving and resolving grievances from covered persons. A description of the grievance procedures shall be set forth in or attached to the certificate of coverage and member handbook provided to covered persons. The description shall include a statement informing the covered person that the grievance procedures are voluntary and shall also inform the covered person about the availability of the Commissioner's office for assistance, including the telephone number and address of the office. ~~The description shall also inform the covered person about the availability of assistance from the Managed Care Patient Assistance Program, including the telephone number and address of the Program.~~

…

(e) First-Level Grievance Review. – A covered person or a covered person's provider acting on the covered person's behalf may submit a grievance.

…

(2) An insurer shall issue a written decision, in clear terms, to the covered person and, if applicable, to the covered person's provider, within 30 days after receiving a grievance. The person or persons reviewing the grievance shall not be the same person or persons who initially handled the matter that is the subject of the grievance and, if the issue is a clinical one, at least one of whom shall be a medical doctor with appropriate expertise to evaluate the matter. Except as provided in subdivision (3) of this subsection, if the decision is not in favor of the covered person, the written decision issued in a first-level grievance review shall contain:

…

f. Notice of the availability of assistance from ~~the Managed Care Patient Assistance Program,~~Health Insurance Smart NC, including the telephone number and address of the Program.

…

(f) Second-Level Grievance Review. – An insurer shall establish a second-level grievance review process for covered persons who are dissatisfied with the first-level grievance review decision or a utilization review appeal decision. A covered person or the covered person's provider acting on the covered person's behalf may submit a second-level grievance.

(1) An insurer shall, within 10 business days after receiving a request for a second-level grievance review, make known to the covered person:

…

c. The availability of assistance from ~~the Managed Care Patient Assistance Program,~~Health Insurance Smart NC, including the telephone number and address of the Program.

…."

SECTION 17. G.S. 58-50-62(h)(9) reads as rewritten:

"§ **58-50-62. Insurer grievance procedures.**

…

(9) Notice of the availability of assistance from ~~the Managed Care Patient Assistance Program,~~Health Insurance Smart NC, including the telephone number and address of the Program."

SECTION 18. G.S. 58-50-80(b)(3) reads as rewritten:

"§ **58-50-80. Standard external review.**

…

(3) Notify in writing the covered person and the covered person's provider who performed or requested the service whether the request is complete and whether the request has been accepted for external review. If the request is complete and accepted for external review, the notice shall include a copy of the information that the insurer provided to the Commissioner pursuant to subdivision (b)(1) of this section, and inform the covered person that the covered person may submit to the assigned independent review organization in writing, within seven days after the receipt of the notice, additional information and supporting documentation relevant to the initial denial for the organization to consider when conducting the external review. If the covered person chooses to send additional information to the assigned independent review organization, then the covered person shall at the same time and by the same means, send a copy of that information to the insurer. The Commissioner shall also notify the covered person in writing of the availability of assistance from ~~the Managed Care Patient Assistance Program,~~Health Insurance Smart NC, including the telephone number and address of ~~the Program.~~Health Insurance Smart NC."

SECTION 19. G.S. 58-51-75 reads as rewritten:

"§ **58-51-75. Blanket accident and health insurance defined.**

(a) Any policy or contract of insurance against death or injury resulting from accident or from accidental means which insures a group of persons conforming to the requirements of one of the following subdivisions (1) to (7), inclusive, shall be deemed a blanket accident policy. Any policy or contract which insures a group of persons conforming to the requirements of one of the following subdivisions (3), (5), (6) or (7) against total or partial disability, excluding such disability from accident or from accidental means, shall be deemed a blanket health insurance policy. Any policy or contract of insurance which combines the coverage of blanket accident insurance and of blanket health insurance on such a group of persons shall be deemed a blanket accident and health insurance policy:

~~(1) Under a policy or contract issued to any railroad, steamship, motorbus or airplane carrier of passengers, which shall be deemed the policyholder, a group defined as all persons who may become such passengers may be insured against death or bodily injury either while, or as a result of, being such passengers.~~

(1) Under a policy or contract issued to any common carrier or to any operator, owner, or lessee of a means of transportation, who or which shall be deemed the policyholder, covering a group defined as all persons or all persons of a class who may become passengers on the common carrier or the means of transportation.

(2) Under a policy or contract issued to an employer, or the trustee of a fund established by the employer, who shall be deemed the policyholder, covering any group of employees defined by reference to exceptional hazards incident to such employment, insuring such employee against death or bodily injury resulting while, or from, being exposed to such exceptional hazard.

(3) Under a policy or contract issued to a college, school or other institution of learning or to the head or principal thereof, who or which shall be deemed the policyholder.

(4) Under a policy or contract issued in the name of any volunteer fire department, emergency medical service, rescue first aid, civil defense, or any other such volunteer organization, which shall be deemed the policyholder, covering ~~all of the~~any group of members or other participants defined by reference to specified hazards incident to any activities or operations sponsored or supervised by such policyholder.~~of such department.~~

(5) Under a policy or contract issued to and in the name of an incorporated or unincorporated association of persons having a common interest or calling, which association shall be deemed the policyholder, having not less than 25 members, and formed for purposes other than obtaining insurance, covering all of the members of such association.

(6) Under a policy or contract issued to the head of a ~~family,~~household, who shall be deemed the policyholder, whereunder the benefits thereof shall provide for the payment by the insurer of amounts for expenses incurred by the policyholder on account of hospitalization or medical or surgical aid for ~~himself,~~the policyholder, his or her spouse, his or her child or children, or other persons chiefly dependent on him or her for support and maintenance.

(7) Under a policy or contract issued to or in the name of any municipal or county recreation commission or ~~department~~ department, sports team, league, tournament, or sponsor thereof, which shall be deemed the ~~policyholder.~~policyholder, covering participants, members, coaches, counselors, employees, officials, or supervisors defined by reference to specified hazards incident to activities or operations sponsored or supervised by such policyholder or on the premises of such policyholder.

(8) Under a policy or contract issued to any incorporated or unincorporated religious, charitable, recreational, educational, athletic, or civic organization or branch thereof, which shall be deemed the policyholder, covering any group of members, participants, or volunteers defined by reference to specified hazards incident to activities or operations sponsored or supervised by such policyholder or on the premises of such policyholder.

(9) Under a policy or contract issued to any overnight, day, religious, equestrian, adventure, wilderness, athletic, or other camp, or the sponsor thereof, which shall be deemed the policyholder, covering any group of campers, participants, counselors, employees, volunteers, or supervisors defined by

reference to specified hazards incident to activities or operations sponsored or supervised by such policyholder or on the premises of such policyholder.

(10) Under a policy or contract issued to any bank, credit union, or other financial institution, which shall be deemed the policyholder, to insure any group of account holders or members of the policyholder and as defined by reference in the policy or contract, in which premiums for such insurance are paid by the policyholder, as authorized by the account holder or member from account holder or member funds on deposit with the policyholder, collected from the account holders or members by way of account billing or member billing, or by the policyholder and account holders jointly.

(11) Any other risk or class of risks which, in the discretion of the Commissioner, may be properly eligible for blanket accident, health, or accident and health insurance. The discretion of the Commissioner may be exercised on an individual risk basis or class of risks or both after the Commissioner has made the following findings:

a. The issuance of the blanket policy is not contrary to the best interest of the public.

b. The issuance of the blanket policy would result in economies of acquisition or administration.

c. The benefits are reasonable in relation to the premiums charged.

(b) All benefits under any blanket accident, blanket health or blanket accident and health insurance policy shall be payable to the person insured, or to his designated beneficiary or beneficiaries, or to his estate, or to a person or persons chiefly dependent upon the person insured for support and maintenance, except that if the person insured be a minor, such benefits may be made payable to his parent, guardian, or other person actually supporting ~~him, or to a person or persons chiefly dependent upon him for support and maintenance.~~the minor.

…."

SECTION 20. G.S. 58-40-10(1)b. reads as rewritten:

"§ **58-40-10. Other definitions.**

As used in this Article and in Articles 36 and 37 of this Chapter:

(1) "Private passenger motor vehicle" means:

a. A motor vehicle of the private passenger or station wagon type that is owned or hired under a long-term contract by the policy named insured and that is neither used as a public or livery conveyance for passengers nor rented to others without a driver; or

b. A motor vehicle that is a pickup truck or van that is owned by an individual or by husband and wife or individuals who are residents of the same household if it:

1. Has a gross vehicle weight as specified by the manufacturer of less than ~~10,000~~14,000 pounds; and

2. Is not used for the delivery or transportation of goods or materials unless such use is (i) incidental to the insured's business of installing, maintaining, or repairing furnishings or equipment, or (ii) for farming or ranching.

Such vehicles owned by a family farm copartnership or a family farm corporation shall be considered owned by an individual for the purposes of this section; or

c. A motorcycle, motorized scooter or other similar motorized vehicle not used for commercial purposes.

…."

SECTION 21. G.S. 58-33A-65(f)(3) reads as rewritten:

"§ **58-33A-65. Contract between public adjuster and insured.**

…

(f) Before the signing of the contract, the public adjuster shall provide the insured with a separate disclosure document regarding the claim process that states:

…

(3) The insured has the right to initiate direct communications with the insured's attorney, the insurer, the insurer's adjuster, and the insurer's attorney, or any other person regarding the settlement of the insured's claim.~~Once a public adjuster has been retained, the company adjuster or other insurance representative may not communicate directly with the insured without the permission or consent of the public adjuster or the insured's legal counsel.~~

…."

SECTION 22.(a) G.S. 58-2-46 reads as rewritten:

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

Whenever (i) a state of ~~emergency~~disaster is proclaimed for the State or for an area within the State under G.S. 166A-19.21 ~~G.S. 166A-19.20~~ or whenever the President of the United States has issued a major disaster declaration for the State or for an area within the State under the Stafford Act, 42 U.S.C. § 5121, et seq., as ~~amended:~~amended and (ii) if the Commissioner has issued an order declaring subdivisions (1) through (4) of this section effective for the specific disaster:

(1) The application of any provision in an insurance policy insuring real property and its contents that are located within the geographic area designated in the proclamation or declaration, which provision requires an insured to file a proof of loss within a certain period of time after the occurrence of the loss, shall be stayed for the time period not exceeding the earlier of (i) the expiration of the disaster proclamation or declaration and all renewals of the ~~proclamation or 45 days, whichever is later.~~proclamation or (ii) the expiration of the Commissioner's order declaring subdivisions (1) through (4) of this section effective for the specific disaster, as determined by the Commissioner.

(2) As used in this subdivision, "insurance company" includes a service corporation, HMO, MEWA, surplus lines insurer, and the underwriting associations under Articles 45 and 46 of this Chapter. All insurance companies, premium finance companies, collection agencies, and other persons subject to this Chapter shall give their customers who reside within the geographic area designated in the proclamation or declaration the option of deferring premium or debt payments that are due during the earlier of (i) ~~the time period covered by the proclamation or declaration.~~declaration or (ii) the time period prior to the expiration of the Commissioner's order declaring subdivisions (1) through (4) of this section effective for the specific disaster, as determined by the Commissioner. This deferral period shall be 30 days from the last day the premium or debt payment may be made under the terms of the policy or contract. This deferral period shall also apply to any statute, rule, or other policy or contract provision that imposes a time limit on an insurer, insured, claimant, or customer to perform any act during the time period covered by the proclamation or declaration, including the transmittal of information, with respect to insurance policies or contracts, premium finance agreements, or debt instruments when the insurer, insured, claimant, or customer resides or is located in the geographic area designated in the proclamation or declaration. Likewise, the deferral period shall apply to any time limitations imposed on insurers under the terms of a policy or contract

or provisions of law related to individuals who reside within the geographic area designated in the proclamation or declaration. Likewise, the deferral period shall apply to any time limitations imposed on insurers under the terms of a policy or contract or provisions of law related to individuals who reside within the geographic area designated in the proclamation or declaration. The Commissioner may extend any deferral period in this subdivision, depending on the nature and severity of the proclaimed or declared disaster. No additional rate or contract filing shall be necessary to effect any deferral period.

(3) With respect to health benefit plans, after a deferral period has expired, all premiums in arrears shall be payable to the insurer. If premiums in arrears are not paid, coverage shall lapse as of the date premiums were paid up, and preexisting conditions shall apply as permitted under this Chapter; and the insured shall be responsible for all medical expenses incurred since the effective date of the lapse in coverage.

(4) In addition to the requirements of G.S. 58-45-35(e), for separate windstorm policies that are written by an insurer other than the Underwriting Association, losses shall be adjusted by the insurer that issued the property insurance and not by the insurer that issued the windstorm policy. The insurer that issued the windstorm policy shall reimburse the insurer that issued the property insurance for reasonable expenses incurred by that insurer in adjusting the windstorm losses."

SECTION 22.(b) G.S. 58-2-47 reads as rewritten:

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

Regardless of whether a state of emergency or disaster has been proclaimed under G.S. 166A-19.20 or G.S. 166A-19.21 or declared under the Stafford Act, whenever an incident beyond the Department's reasonable control, including an act of God, insurrection, strike, fire, power outage, or systematic technological failure, substantially affects the daily business operations of the Department, the Commissioner may issue an order, effective immediately, to stay the application of any deadlines and deemer provisions imposed by law or rule upon the Commissioner or Department or upon persons subject to the Commissioner's jurisdiction, which deadlines and deemer provisions would otherwise operate during the time period for which the operations of the Department have been substantially affected. The order shall remain in effect for a period not exceeding 30 days. The order may be renewed by the Commissioner for successive periods not exceeding 30 days each for as long as the operations of the Department remain substantially affected, up to a period of one year from the effective date of the initial order."

SECTION 22.(c) G.S. 58-33-70(e) reads as rewritten:

"§ **58-33-70. Special provisions for adjusters and motor vehicle damage appraisers.**

…

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

under G.S. 166A-19.20 or G.S. 166A-19.21 or by the President of the United States under applicable federal law."

SECTION 22.(d) G.S. 58-44-70(a) reads as rewritten:

"Part 2. Mediation of Emergency or Disaster-Related Property Insurance Claims.

"§ **58-44-70. Purpose and scope.**

(a) This Part provides for a nonadversarial alternative dispute resolution procedure for a facilitated claim resolution conference prompted by the critical need for effective, fair, and timely handling of insurance claims arising out of damages to residential property as the result of an event for which there is a state of ~~emergency~~disaster declared within 60 days of the event. This Part applies only (i) if a state of ~~emergency~~disaster has been proclaimed for the State or for an area within the State by the Governor or by a resolution of the General Assembly under ~~G.S. 166A-19.20;~~G.S. 166A-19.21 or (ii) if the President of the United States has issued a major disaster declaration for the State or for an area within the State under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. § 5121, et seq., as amended; and (iii) if the Commissioner issues an order establishing the mediation procedure authorized by this Part."

SECTION 22.(e) G.S. 58-44-75(2) reads as rewritten:

"§ **58-44-75. Definitions.**

As used in this Part:

…

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

SECTION 23. G.S. 58-44-35 reads as rewritten:

"§ **58-44-35. Judge to select umpire.**

~~The~~ Any resident judge of the superior court of the district in which the property insured is located is designated as the judge of the court of record to select the umpire referred to in the standard form of ~~policy.~~policy as set forth in G.S. 58-44-16(f)(14). The judge may not select the umpire until all of the following conditions have been met:

(1) Proof of notice to all parties of record has been filed with the court, and at least 15 days have passed since the filing of the proof of notice.

(2) Upon the request of any party of record, the judge has conducted a hearing. The hearing by the judge shall be governed by the practice for hearings in other civil actions before a judge without a jury and shall be limited to the issue of umpire selection."

SECTION 24. Article 3 of Chapter 58 of the General Statutes is amended by adding a new section to read as follows:

"**§ 58-3-300. Health insurance issuers subject to certain requirements of federal law.**

Pursuant to the authority granted to the states under 42 U.S.C. § 300gg-22(a)(1), health insurance issuers that issue, sell, renew, or offer health benefit plans, as defined in G.S. 58-3-167(a)(1), in the State in the individual or group market shall meet the requirements of Part A of Subchapter XXV of Chapter 6A of Title 42 of the United States Code and regulations issued thereunder."

SECTION 25. Section 10 of this act becomes effective January 1, 2016. Section 20 of this act becomes effective January 1, 2015, and applies to policies whose effective date is on or after that date. Sections 22 and 24 of this act are effective when they become law. Section 23 of this act becomes effective October 1, 2013. The remainder of this act becomes effective July 1, 2013.

In the General Assembly read three times and ratified this the 18th day of June, 2013.

Became law upon approval of the Governor at 4:35 p.m. on the 26th day of June, 2013.

Session Law 2013-200 **H.B. 248**

AN ACT TO REQUIRE DISCLOSURE ON THE BALLOT THAT AUTHORIZATION OF INDEBTEDNESS INCLUDES INTEREST AND THAT TAXES MAY BE LEVIED TO REPAY THE INDEBTEDNESS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 159-55 reads as rewritten:

"§ **159-55. Sworn statement of debt; debt ~~limitation.~~limitation; statement of estimated interest on the bonds.**

…

(d) At the time the bond order is introduced, the finance officer (or some other officer designated by the governing board for this purpose) shall file with the clerk a statement of the finance officer estimating the total amount of interest that will be paid on the bonds over the expected term of the bonds, if issued, and a summary of the assumptions upon which the estimate is based. The statement shall include a statement to the effect that the amount estimated is preliminary and is for general informational purposes only, that there is no assurance that the assumptions upon which the estimate is based will occur, that the occurrence of certain of the assumptions is beyond the control of the unit, and that differences between the actual circumstances at the time the bonds are issued from the assumptions included in the estimate could result in significant differences between the estimated interest and the actual interest on the bonds. The statement may include other qualifications as the finance officer deems appropriate. The validity of the bonds authorized by the order is not subject to challenge on the grounds that the actual interest cost of the bonds when issued is different than the amount set forth in the statement. The statement shall be filed with the Local Government Commission and maintained by the Clerk."

SECTION 2. G.S. 159-56 reads as rewritten:

"§ **159-56. Publication of bond order as introduced.**

After the introduction of the bond order, the clerk shall publish it once with the following statement appended:

"The foregoing order has been introduced and a sworn statement of debt has been filed under the Local Government Bond Act showing the appraised value of the [issuing unit] to be $ _____ and the net debt thereof, including the proposed bonds, to be $ _____. The finance officer of the [issuing unit] has filed a statement estimating that the total amount of interest that will be paid on the bonds over the expected term of the bonds, if issued, is $_____. The estimate is preliminary, is for general informational purposes only, and may differ from the actual interest paid on the bonds. A tax will [may] be levied to pay the principal of and interest on the bonds if they are issued. Anyone who wishes to be heard on the questions of the validity of the bond order and the advisability of issuing the bonds may appear at a public hearing or an adjournment thereof to be held at _____

_____

Clerk"

The publication may include a summary of the assumptions upon which the estimate of the total amount of interest that will be paid on the bonds over the expected term of the bonds, if issued, is based, and may further state that there is no assurance that the circumstances included in the assumptions will occur, that the occurrence of certain of the assumptions is beyond the control of the issuing unit, and that differences between the actual circumstances at the time the bonds are issued from the assumptions included in the estimate could result in significant differences between the estimated interest and the actual interest on the bonds. The statement may include additional qualifications as the unit deems appropriate. The validity of bonds authorized to be issued pursuant to this act is not subject to challenge on the grounds that the actual interest cost of the bonds when issued is different than the amount set forth in the estimate referenced in the publication of the bond order as introduced."

SECTION 3. G.S. 159-58 reads as rewritten:

"§ **159-58. Publication of bond order as adopted.**

After adoption, the clerk shall publish the bond order once, with the following statement appended:

"The foregoing order was adopted on the _____ day of _____, _____, and is hereby published this _____ day of _____, _____. Any action or proceeding questioning the validity of the order must be begun within 30 days after the date of publication of this notice. The finance officer of the [issuing unit] has filed a statement estimating that the total amount of interest that will be paid on the bonds over the expected term of the bonds, if issued, is $_____. The estimate is preliminary, is for general informational purposes only, and may differ from the actual interest paid on the bonds.

_____

Clerk"

The publication may include a summary of the assumptions upon which the estimate of the total amount of interest that will be paid on the bonds over the expected term of the bonds, if issued, is based, and may further state that there is no assurance that the circumstances included in the assumptions will occur, that the occurrence of certain of the assumptions is beyond the control of the issuing unit, and that differences between the actual circumstances at the time the bonds are issued from the assumptions included in the estimate could result in significant differences between the estimated interest and the actual interest on the bonds. The statement may include such additional qualifications as the unit deems appropriate. The validity of bonds authorized to be issued pursuant to this act is not subject to challenge on the grounds that the actual interest cost of the bonds when issued is different than the amount set forth in the estimate referenced in the publication of the bond order as adopted."

SECTION 4. G.S. 159-61(d) reads as rewritten:

"(d) The form of the question as stated on the ballot shall be in substantially the following words: "Shall the order authorizing $ _____ bonds plus interest for (briefly stating the purpose) and providing that additional taxes may be levied in an amount sufficient to pay the principal of and interest on the bonds be approved?

[ ] YES

[ ] NO""

SECTION 5. This act becomes effective September 1, 2013, and applies to bonds for which a bond order authorizing the issuance of such bonds is introduced on or after that date. This act does not affect the validity of any bonds that are issued under bond orders introduced prior to the effective date of this act.

In the General Assembly read three times and ratified this the 18th day of June, 2013.

Became law upon approval of the Governor at 4:35 p.m. on the 26th day of June, 2013.

Session Law 2013-201 **H.B. 322**

AN ACT TO ALLOW THE DIVISION OF MOTOR VEHICLES TO WAIVE THE COMMERCIAL SKILLS TEST FOR RETIRED OR DISCHARGED MEMBERS OF THE ARMED FORCES WHO ALSO SATISFY OTHER REQUIREMENTS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-37.13(c1) reads as rewritten:

"(c1) The Division may waive the skills test for ~~applicants~~any qualified military applicant at the time ~~they apply~~the applicant applies for a commercial drivers license if the applicant is currently licensed at the time of application and meets all of the following:

(1) The applicant has passed all required written knowledge exams.

(2) The applicant has not, and certifies that the applicant has not, at any time during the two years immediately preceding the date of application done any of the following:

a. Had any drivers license or driving privilege suspended, revoked, or ~~cancelled;~~cancelled.

b. Had any convictions involving any kind of motor vehicle for the offenses listed in G.S. 20-17 or had any convictions for the offenses listed in ~~G.S. 20-17.4;~~G.S. 20-17.4.

c. Been convicted of a violation of military, ~~State~~State, or local laws relating to motor vehicle traffic control, other than a parking violation, which violation arose in connection with any reportable traffic ~~accident; or~~accident.

d. Refused to take a chemical test when charged with an implied consent offense, as defined in G.S. 20-16.2.

e. Had more than one drivers license, except for a drivers license issued by the military.

(3) The applicant certifies, and provides satisfactory evidence on the date of application, that the applicant is a retired, discharged, or current member of an active or reserve component of the Armed Forces of the United States and is regularly employed or was regularly employed within the 90-day period immediately preceding the date of application in a ~~job~~military position requiring the operation of a commercial motor vehicle, and the applicant ~~either:~~meets either of the following requirements:

~~a. Has previously taken and successfully completed a skills test that was administered by a state with a classified licensing and testing system and the test was behind the wheel in a vehicle representative of the class and, if applicable, the type of commercial motor vehicle for which the applicant seeks to be licensed; or~~

b. Has operated for the two-year period immediately preceding the date of application a vehicle representative of the class and, if applicable, the type of commercial motor vehicle for which the applicant seeks to be licensed, and has taken and successfully completed a skills test administered by the military.

c. For an applicant who is a retired or discharged member of an active or reserve component of the Armed Forces of the United States, the applicant (i) has operated for the two-year period immediately preceding the date of retirement or discharge a vehicle representative of the class and, if applicable, the type of commercial motor vehicle for which the applicant seeks to be licensed, and has taken and successfully completed a skills test administered by the military, (ii) has retired or received either an honorable or general discharge, and (iii) has retired or been discharged from the Armed Forces within the 90-day period immediately preceding the date of application."

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

In the General Assembly read three times and ratified this the 18th day of June, 2013.

Became law upon approval of the Governor at 4:35 p.m. on the 26th day of June, 2013.

Session Law 2013-202 **H.B. 331**

AN ACT TO STABILIZE TITLES AND TO PROVIDE A UNIFORM PROCEDURE TO ENFORCE CLAIMS OF LIEN SECURING SUMS DUE CONDOMINIUM AND PLANNED COMMUNITY ASSOCIATIONS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 47C-3-116 reads as rewritten:

"§ **47C-3-116. Lien for ~~assessments.~~sums due the association; enforcement.**

(a) Any assessment ~~levied against~~ attributable to a unit ~~remaining~~ which remains unpaid for a period of 30 days or longer shall constitute a lien on that unit when a claim of lien is filed of record in the office of the clerk of superior court of the county in which the unit is located in the manner provided ~~herein.~~ in this section. Once filed, a claim of lien secures all sums due the association through the date filed and any sums due to the association thereafter. ~~Prior to filing a claim of lien, the association must make reasonable and diligent efforts to ensure that its records contain the unit owner's current mailing address. No fewer than 15 days prior to filing the lien, the association shall mail a statement of the assessment amount due by first-class mail to the physical address of the unit and the unit owner's address of record with the association, and, if different, to the address for the unit owner shown on the county tax records and the county real property records for the unit. If the unit owner is a corporation, the statement shall also be sent by first-class mail to the mailing address of the registered agent for the corporation.~~ Unless the declaration ~~otherwise provides,~~ provides otherwise, fees, charges, late charges and other charges imposed pursuant to G.S. 47C-3-102, 47C-3-107, 47C-3-107.1, and 47C-3-115 are ~~enforceable as assessments~~ subject to the claim of lien under this ~~section.~~ section as well as any other sums due and payable to the association under the declaration, the provisions of this Chapter, or as the result of an arbitration, mediation, or judicial decision.~~Except as provided in subsections (a1) and (a2) of this section, the association, acting through the executive board, may foreclose the claim of lien in like manner as a mortgage on real estate under power of sale or under Article 2A of Chapter 45 of the General Statutes, if the assessment remains unpaid for 90 days or more. The association shall not foreclose the claim of lien unless the executive board votes to commence the proceeding against the specific unit.~~

~~(a1) An association may not foreclose an association assessment lien under Article 2A of Chapter 45 of the General Statutes if the debt securing the lien consists solely of fines imposed by the association, interest on unpaid fines, or attorneys' fees incurred by the association solely associated with fines imposed by the association. The association, however, may enforce the lien by judicial foreclosure as provided in Article 29A of Chapter 1 of the General Statutes.~~

~~(a2) An association shall not levy, charge, or attempt to collect a service, collection, consulting, or administration fee from any unit owner unless the fee is expressly allowed in the declaration. Any lien secured by debt consisting solely of these fees may only be enforced by judicial foreclosure as provided in Article 29A of Chapter 1 of the General Statutes.~~

~~(b) The lien under this section is prior to all other liens and encumbrances on a unit except (i) liens and encumbrances (specifically including, but not limited to, a mortgage or deed of trust on the unit) recorded before the docketing of the lien in the office of the clerk of superior court, and (ii) liens for real estate taxes and other governmental assessments or charges against the unit. This subsection does not affect the priority of mechanics' or materialmen's liens.~~

~~(c) A lien for unpaid assessments is extinguished unless proceedings to enforce the lien are instituted within three years after the docketing thereof in the office of the clerk of superior court.~~

~~(d) This section does not prohibit actions to recover sums for which subsection (a) creates a lien or prohibit an association taking a deed in lieu of foreclosure.~~

~~(e) A judgment, decree, or order in any action brought under this section shall include costs and reasonable attorneys' fees for the prevailing party. If the unit owner does not contest the collection of debt and enforcement of a lien after the expiration of the 15-day period following notice as required in subsection (e1) of this section, then reasonable attorneys' fees shall not exceed one thousand two hundred dollars ($1,200), not including costs or expenses incurred. The collection of debt and enforcement of a lien remain uncontested as long as the unit owner does not dispute, contest, or raise any objection, defense, offset, or counterclaim as to the amount or validity of the debt and lien asserted or the association's right to collect the debt and enforce the lien as provided in this section. The attorneys' fee limitation in this subsection shall not apply to judicial foreclosures or proceedings authorized under subsection (d) of this section or G.S. 47C-4-117.~~

~~(e1) A unit owner may not be required to pay attorneys' fees and court costs until the unit owner is notified in writing of the association's intent to seek payment of attorneys' fees and court costs. The notice must be sent by first-class mail to the property address and, if different, to the mailing address for the unit owner in the association's records. The association must make reasonable and diligent efforts to ensure that its records contain the unit owner's current mailing address. The notice shall set out the outstanding balance due as of the date of the notice and state that the unit owner has 15 days from the mailing of the notice by first-class mail to pay the outstanding balance without the attorneys' fees and court costs. If the unit owner pays the outstanding balance within this period, then the unit owner shall have no obligation to pay attorneys' fees and court costs. The notice shall also inform the unit owner of the opportunity to contact a representative of the association to discuss a payment schedule for the outstanding balance as provided in subsection (e2) of this section and shall provide the name and telephone number of the representative.~~

~~(e2) The association, acting through its executive board and in the board's sole discretion, may agree to allow payment of an outstanding balance in installments. Neither the association nor the unit owner is obligated to offer or accept any proposed installment schedule. Reasonable administrative fees and costs for accepting and processing installments may be added to the outstanding balance and included in an installment payment schedule. Reasonable attorneys' fees may be added to the outstanding balance and included in an installment schedule only after the unit owner has been given notice as required in subsection (e1) of this section.~~

~~(f) Where the holder of a first mortgage or first deed of trust of record, or other purchaser of a unit, obtains title to the unit as a result of foreclosure of a first mortgage or first deed of trust, such purchaser, and its heirs, successors and assigns, shall not be liable for the assessments against such unit which became due prior to acquisition of title to such unit by such purchaser. Such unpaid assessments shall be deemed to be common expenses collectible from all the unit owners including such purchaser, and its heirs, successors and assigns.~~

~~(g) A claim of lien shall set forth the name and address of the association, the name of the record owner of the lot at the time the claim of lien is filed, a description of the lot, and the amount of the lien claimed. The first page of the claim of lien shall contain the following statement in print that is in boldface, capital letters and no smaller than the largest print used elsewhere in the document: "THIS DOCUMENT CONSTITUTES A LIEN AGAINST YOUR PROPERTY, AND IF THE LIEN IS NOT PAID, THE HOMEOWNERS ASSOCIATION MAY PROCEED WITH FORECLOSURE AGAINST YOUR PROPERTY IN LIKE MANNER AS A MORTGAGE UNDER NORTH CAROLINA LAW." The person signing the claim of lien on behalf of the association shall attach to and file with the claim of lien a certificate of service attesting to the attempt of service on the record owner, which service shall be attempted in accordance with G.S. 1A-1, Rule 4(j) for service of a copy of a summons and a complaint. If the actual service is not achieved, the person signing the claim of lien on behalf of the association shall be deemed to have met the requirements of this subsection if service has been attempted pursuant to both of the following: (i) G.S. 1A-1, Rule 4(j)(1) c., d., or e.; and (ii) by mailing a copy of the lien by regular, first-class mail, postage prepaid to the physical address of the unit and the unit owner's address of record with the association, and, if different,~~

~~to the address for the unit owner shown on the county tax records and the county real property records for the unit. In the event that the owner of record is not a natural person, and actual service is not achieved, the person signing the claim of lien on behalf of the association shall be deemed to have met the requirements of this subsection if service has been attempted once pursuant to the applicable provisions of G.S. 1A-1, Rule 4(j)(3) through G.S. 1A-1, Rule 4(j)(9).~~

(b) The association must make reasonable and diligent efforts to ensure that its records contain the unit owner's current mailing address. No fewer than 15 days prior to filing the lien, the association shall mail a statement of the assessment amount due by first-class mail to the physical address of the unit and the unit owner's address of record with the association and, if different, to the address for the unit owner shown on the county tax records for the unit. If the unit owner is a corporation or limited liability company, the statement shall also be sent by first-class mail to the mailing address of the registered agent for the corporation or limited liability company. Notwithstanding anything to the contrary in this Chapter, the association is not required to mail a statement to an address known to be a vacant unit or to a unit for which there is no United States postal address.

(c) A claim of lien shall set forth the name and address of the association, the name of the record owner of the unit at the time the claim of lien is filed, a description of the unit, and the amount of the lien claimed. A claim of lien may also appoint a trustee to conduct a foreclosure as provided in subsection (f) of this section. The first page of the claim of lien shall contain the following statement in print that is in boldface, capital letters, and no smaller than the largest print used elsewhere in the document:

"THIS DOCUMENT CONSTITUTES A LIEN AGAINST YOUR PROPERTY, AND IF THE LIEN IS NOT PAID, THE HOMEOWNERS ASSOCIATION MAY PROCEED WITH FORECLOSURE AGAINST YOUR PROPERTY IN LIKE MANNER AS A MORTGAGE UNDER NORTH CAROLINA LAW."

The person signing the claim of lien on behalf of the association shall attach to and file with the claim of lien a certificate of service attesting to the attempt of service on the record owner, which service shall be attempted in accordance with G.S. 1A-1, Rule 4(j), for service of a copy of a summons and a complaint. If the actual service is not achieved, the person signing the claim of lien on behalf of the association shall be deemed to have met the requirements of this subsection if service has been attempted pursuant to both of the following: (i) G.S. 1A-1, Rule 4(j)(1)c, d, or e and (ii) by mailing a copy of the lien by regular, first-class mail, postage prepaid to the physical address of the unit and the unit owner's address of record with the association, and, if different, to the address for the unit owner shown on the county tax records and the county real property records for the unit. In the event that the owner of record is not a natural person, and actual service is not achieved, the person signing the claim of lien on behalf of the association shall be deemed to have met the requirements of this subsection if service has been attempted once pursuant to the applicable provisions of G.S. 1A-1, Rule 4(j)(3) through G.S. 1A-1, Rule 4(j)(9). Notwithstanding anything to the contrary in this Chapter, the association is not required to mail a claim of lien to an address which is known to be a vacant unit or to a unit for which there is no United States postal address. A lien for unpaid assessments is extinguished unless proceedings to enforce the lien are instituted within three years after the filing of the claim of lien in the office of the clerk of superior court.

(d) A claim of lien filed under this section is prior to all liens and encumbrances on a unit except (i) liens and encumbrances, specifically including, but not limited to, a mortgage or deed of trust on the unit, recorded before the filing of the claim of lien in the office of the clerk of superior court and (ii) liens for real estate taxes and other governmental assessments and charges against the unit. This subsection does not affect the priority of mechanics' or materialmen's liens.

(e) The association shall be entitled to recover the reasonable attorneys' fees and costs it incurs in connection with the collection of any sums due. A unit owner may not be required to pay attorneys' fees and court costs until the unit owner is notified in writing of the association's

intent to seek payment of attorneys' fees, costs, and expenses. The notice must be sent by first-class mail to the physical address of the unit and the unit owner's address of record with the association and, if different, to the address for the unit owner shown on the county tax records for the unit. The association must make reasonable and diligent efforts to ensure that its records contain the unit owner's current mailing address. Notwithstanding anything to the contrary in this Chapter, there shall be no requirement that notice under this subsection be mailed to an address which is known to be a vacant unit or a unit for which there is no United States postal address. The notice shall set out the outstanding balance due as of the date of the notice and state that the unit owner has 15 days from the mailing of the notice by first-class mail to pay the outstanding balance without the attorneys' fees and court costs. If the unit owner pays the outstanding balance within this period, then the unit owner shall have no obligation to pay attorneys' fees, costs, or expenses. The notice shall also inform the unit owner of the opportunity to contact a representative of the association to discuss a payment schedule for the outstanding balance as provided in subsection (i) of this section and shall provide the name and telephone number of the representative.

(f) Except as provided in subsection (h) of this section, the association, acting through the executive board, may foreclose a claim of lien in like manner as a mortgage or deed of trust on real estate under power of sale, as provided in Article 2A of Chapter 45 of the General Statutes, if the assessment remains unpaid for 90 days or more. The association shall not foreclose the claim of lien unless the executive board votes to commence the proceeding against the specific unit. The following provisions and procedures shall be applicable to and complied with in every nonjudicial power of sale foreclosure of a claim of lien, and these provisions and procedures shall control to the extent they are inconsistent or in conflict with the provisions of Article 2A of Chapter 45 of the General Statutes:

(1) The association shall be deemed to have a power of sale for purposes of enforcement of its claim of lien.

(2) The terms "mortgagee" and "holder" as used in Article 2A of Chapter 45 of the General Statutes shall mean the association, except as provided otherwise in this Chapter.

(3) The term "security instrument" as used in Article 2A of Chapter 45 of the General Statutes shall mean the claim of lien.

(4) The term "trustee" as used in Article 2A of Chapter 45 of the General Statutes shall mean the person or entity appointed by the association under subdivision (6) of this subsection.

(5) After the association has filed a claim of lien and prior to the commencement of a nonjudicial foreclosure, the association shall give to the unit owner notice of the association's intention to commence a nonjudicial foreclosure to enforce its claim of lien. The notice shall contain the information required in G.S. 45-21.16(c)(5a).

(6) The association shall appoint a trustee to conduct the nonjudicial foreclosure proceeding and sale. The appointment of the trustee shall be included in the claim of lien or in a separate instrument filed with the office of the clerk of court in the county in which the unit is located as an exhibit to the notice of hearing. The association, at its option, may from time to time remove a trustee previously appointed and appoint a successor trustee by filing a Substitution of Trustee with the clerk of court in the foreclosure proceeding. Counsel for the association may be appointed by the association to serve as the trustee and may serve in that capacity as long as the unit owner does not contest the obligation to pay the amount of any sums due the association, or the validity, enforcement, or foreclosure of the claim of lien as provided in subdivision (12) of this subsection. Any trustee appointed pursuant to this subsection shall have the same fiduciary duties and obligations as a trustee in the foreclosure of a deed of trust.

(7) If a valid debt, default, and notice to those entitled to receive notice under G.S. 45-21.16(b) are found to exist, then the clerk of court shall authorize the sale of the property described in the claim of lien by the trustee.

(8) If, prior to the expiration of the upset bid period provided in G.S. 45-21.27, the unit owner satisfies the debt secured by the claim of lien and pays all expenses and costs incurred in filing and enforcing the association assessment lien, including, but not limited to, advertising costs, attorneys' fees, and the trustee's commission, then the trustee shall dismiss the foreclosure action and the association shall cancel the claim of lien of record in accordance with the provisions of G.S. 45-36.3. The unit owner shall have all rights granted under Article 4 of Chapter 45 of the General Statutes to ensure the association's satisfaction of the claim of lien.

(9) Any person, other than the trustee, may bid at the foreclosure sale. Unless prohibited in the declaration or bylaws, the association may bid on the unit at a foreclosure sale directly or through an agent. If the association or its agent is the high bidder at the sale, the trustee shall allow the association to pay the costs and expenses of the sale and apply a credit against the sums due by the unit owner to the association in lieu of paying the bid price in full.

(10) Upon the expiration of the upset bid period provided in G.S. 45-21.27, the trustee shall have full power and authority to execute a deed for the unit to the high bidder.

(11) The trustee shall be entitled to a commission for services rendered which shall include fees, costs, and expenses reasonably incurred by the trustee in connection with the foreclosure whether or not a sale is held. Except as provided in subdivision (12) of this subsection, the trustee's commission shall be paid without regard to any limitations on compensation otherwise provided by law, including, without limitation, the provisions of G.S. 45-21.15.

(12) If the unit owner does not contest the obligation to pay or the amount of any sums due the association or the validity, enforcement, or foreclosure of the claim of lien at any time after the expiration of the 15-day period following notice as required in subsection (b) of this section, then attorneys' fees and the trustee's commission collectively charged to the unit owner shall not exceed one thousand two hundred dollars ($1,200), not including costs or expenses incurred. The obligation to pay and the amount of any sums due the association and the validity, enforcement, or foreclosure of the claim of lien remain uncontested as long as the unit owner does not dispute, contest, or raise any objection, defense, offset, or counterclaim as to the amount or validity of any portion of the sums claimed due by the association or the validity, enforcement, or foreclosure of the claim of lien. Any judgment, decree, or order in any action brought under this section shall include costs and reasonable attorneys' fees for the prevailing party.

(13) Unit owners shall be deemed to have the rights and remedies available to mortgagors under G.S. 45-21.34.

(g) The provisions of subsection (f) of this section do not prohibit or prevent an association from pursuing judicial foreclosure of a claim of lien, from taking other actions to recover the sums due the association, or from accepting a deed in lieu of foreclosure. Any judgment, decree, or order in any judicial foreclosure or civil action relating to the collection of assessments shall include an award of costs and reasonable attorneys' fees for the prevailing party, which shall not be subject to the limitation provided in subdivision (f)(12) of this section.

(h) A claim of lien securing a debt consisting solely of fines imposed by the association, interest on unpaid fines, or attorneys' fees incurred by the association solely associated with

fines imposed by the association may only be enforced by judicial foreclosure, as provided in Article 29A of Chapter 1 of the General Statutes. In addition, an association shall not levy, charge, or attempt to collect a service, collection, consulting, or administration fee from any unit owner unless the fee is expressly allowed in the declaration, and any claim of lien securing a debt consisting solely of these fees may only be enforced by judicial foreclosure, as provided in Article 29A of Chapter 1 of the General Statutes.

(i) The association, acting through its executive board and in the board's sole discretion, may agree to allow payment of an outstanding balance in installments. Neither the association nor the unit owner is obligated to offer or accept any proposed installment schedule. Reasonable administrative fees and costs for accepting and processing installments may be added to the outstanding balance and included in an installment payment schedule. Reasonable attorneys' fees may be added to the outstanding balance and included in an installment schedule after the unit owner has been given notice, as required in subsection (e) of this section. Attorneys' fees incurred in connection with any request that the association agrees to accept payment of all or any part of sums due in installments shall not be included or considered in the calculation of fees chargeable under subdivision (f)(12) of this section.

(j) Where the holder of a first mortgage or first deed of trust of record or other purchaser of a unit obtains title to the unit as a result of foreclosure of a first mortgage or first deed of trust, the purchaser and its heirs, successors, and assigns shall not be liable for the assessments against the unit which became due prior to the acquisition of title to the unit by the purchaser. The unpaid assessments shall be deemed to be common expenses collectible from all the unit owners, including the purchaser, its heirs, successors, and assigns. For purposes of this subsection, the term "acquisition of title" means and refers to the recording of a deed conveying title or the time at which the rights of the parties are fixed following the foreclosure of a mortgage or deed of trust, whichever occurs first."

SECTION 2. Article 3 of Chapter 47C of the General Statutes is amended by adding a new section to read as follows:

"**§ 47C-3-116.1. Validation of certain nonjudicial foreclosure proceedings and sales.**

All nonjudicial foreclosure proceedings commenced by an association before October 1, 2013, and all sales and transfers of real property as part of those proceedings pursuant to the provisions of this Chapter, Chapter 47A of the General Statutes, or provisions contained in the declaration of the condominium, are declared to be valid unless an action to set aside the foreclosure is commenced on or before October 1, 2013, or within one year after the date of the sale, whichever occurs last."

SECTION 3. G.S. 47F-3-116 reads as rewritten:

"§ **47F-3-116. Lien for ~~assessments.~~sums due the association; enforcement.**

(a) Any assessment ~~levied against~~ attributable to a lot ~~remaining~~ which remains unpaid for a period of 30 days or longer shall constitute a lien on that lot when a claim of lien is filed of record in the office of the clerk of superior court of the county in which the lot is located in the manner provided ~~herein.~~ in this section. Once filed, a claim of lien secures all sums due the association through the date filed and any sums due to the association thereafter. ~~Prior to filing a claim of lien, the association must make reasonable and diligent efforts to ensure that its records contain the lot owner's current mailing address. No fewer than 15 days prior to filing the lien, the association shall mail a statement of the assessment amount due by first-class mail to the physical address of the lot and the lot owner's address of record with the association, and, if different, to the address for the lot owner shown on the county tax records and the county real property records for the lot. If the lot owner is a corporation, the statement shall also be sent by first-class mail to the mailing address of the registered agent for the corporation.~~ Unless the declaration ~~otherwise provides,~~ provides otherwise, fees, charges, late charges, and other charges imposed pursuant to G.S. 47F-3-102, 47F-3-107, 47F-3-107.1, and 47F-3-115 are ~~enforceable as assessments~~ subject to the claim of lien under this ~~section.~~ section as well as any other sums due and payable to the association under the declaration, the provisions of this Chapter, or as the result of an arbitration, mediation, or judicial decision.~~Except as provided in~~

~~subsections (a1) and (a2) of this section, the association, acting through the executive board, may foreclose the claim of lien in like manner as a mortgage on real estate under power of sale or under Article 2A of Chapter 45 of the General Statutes, if the assessment remains unpaid for 90 days or more. The association shall not foreclose the claim of lien unless the executive board votes to commence the proceeding against the specific lot.~~

~~(a1) An association may not foreclose an association assessment lien under Article 2A of Chapter 45 of the General Statutes if the debt securing the lien consists solely of fines imposed by the association, interest on unpaid fines, or attorneys' fees incurred by the association solely associated with fines imposed by the association. The association, however, may enforce the lien by judicial foreclosure as provided in Article 29A of Chapter 1 of the General Statutes.~~

~~(a2) An association shall not levy, charge, or attempt to collect a service, collection, consulting, or administration fee from any lot owner unless the fee is expressly allowed in the declaration. Any lien securing a debt consisting solely of these fees may only be enforced by judicial foreclosure as provided in Article 29A of Chapter 1 of the General Statutes.~~

~~(b) The lien under this section is prior to all liens and encumbrances on a lot except (i) liens and encumbrances (specifically including, but not limited to, a mortgage or deed of trust on the lot) recorded before the docketing of the claim of lien in the office of the clerk of superior court, and (ii) liens for real estate taxes and other governmental assessments and charges against the lot. This subsection does not affect the priority of mechanics' or materialmen's liens.~~

~~(c) A lien for unpaid assessments is extinguished unless proceedings to enforce the lien are instituted within three years after the docketing of the claim of lien in the office of the clerk of superior court.~~

~~(d) This section does not prohibit other actions to recover the sums for which subsection (a) of this section creates a lien or prohibit an association taking a deed in lieu of foreclosure.~~

~~(e) A judgment, decree, or order in any action brought under this section shall include costs and reasonable attorneys' fees for the prevailing party. If the lot owner does not contest the collection of debt and enforcement of a lien after the expiration of the 15-day period following notice as required in subsection (e1) of this section, then reasonable attorneys' fees shall not exceed one thousand two hundred dollars ($1,200), not including costs or expenses incurred. The collection of debt and enforcement of a lien remain uncontested as long as the lot owner does not dispute, contest, or raise any objection, defense, offset, or counterclaim as to the amount or validity of the debt and lien asserted or the association's right to collect the debt and enforce the lien as provided in this section. The attorneys' fee limitation in this subsection shall not apply to judicial foreclosures or to proceedings authorized under subsection (d) of this section or G.S. 47F-3-120.~~

~~(e1) A lot owner may not be required to pay attorneys' fees and court costs until the lot owner is notified in writing of the association's intent to seek payment of attorneys' fees and court costs. The notice must be sent by first-class mail to the property address and, if different, to the mailing address for the lot owner in the association's records. The association must make reasonable and diligent efforts to ensure that its records contain the lot owner's current mailing address. The notice shall set out the outstanding balance due as of the date of the notice and state that the lot owner has 15 days from the mailing of the notice by first-class mail to pay the outstanding balance without the attorneys' fees and court costs. If the lot owner pays the outstanding balance within this period, then the lot owner shall have no obligation to pay attorneys' fees and court costs. The notice shall also inform the lot owner of the opportunity to contact a representative of the association to discuss a payment schedule for the outstanding balance as provided in subsection (e2) of this section and shall provide the name and telephone number of the representative.~~

~~(e2) The association, acting through its executive board and in the board's sole discretion, may agree to allow payment of an outstanding balance in installments. Neither the association nor the lot owner is obligated to offer or accept any proposed installment schedule.~~

~~Reasonable administrative fees and costs for accepting and processing installments may be added to the outstanding balance and included in an installment payment schedule. Reasonable attorneys' fees may be added to the outstanding balance and included in an installment schedule only after the lot owner has been given notice as required in subsection (e1) of this section.~~

~~(f) Where the holder of a first mortgage or first deed of trust of record, or other purchaser of a lot obtains title to the lot as a result of foreclosure of a first mortgage or first deed of trust, such purchaser and its heirs, successors, and assigns, shall not be liable for the assessments against such lot which became due prior to the acquisition of title to such lot by such purchaser. Such unpaid assessments shall be deemed to be common expenses collectible from all the lot owners including such purchaser, its heirs, successors, and assigns.~~

~~(g) A claim of lien shall set forth the name and address of the association, the name of the record owner of the lot at the time the claim of lien is filed, a description of the lot, and the amount of the lien claimed. The first page of the claim of lien shall contain the following statement in print that is in boldface, capital letters and no smaller than the largest print used elsewhere in the document: "THIS DOCUMENT CONSTITUTES A LIEN AGAINST YOUR PROPERTY, AND IF THE LIEN IS NOT PAID, THE HOMEOWNERS ASSOCIATION MAY PROCEED WITH FORECLOSURE AGAINST YOUR PROPERTY IN LIKE MANNER AS A MORTGAGE UNDER NORTH CAROLINA LAW." The person signing the claim of lien on behalf of the association shall attach to and file with the claim of lien a certificate of service attesting to the attempt of service on the record owner, which service shall be attempted in accordance with G.S. 1A-1, Rule 4(j) for service of a copy of a summons and a complaint. If the actual service is not achieved, the person signing the claim of lien on behalf of the association shall be deemed to have met the requirements of this subsection if service has been attempted pursuant to both of the following: (i) G.S. 1A-1, Rule 4(j)(1) c., d., or e.; and (ii) by mailing a copy of the lien by regular, first-class mail, postage prepaid to the physical address of the lot and the lot owner's address of record with the association, and, if different, to the address for the lot owner shown on the county tax records and the county real property records for the lot. In the event that the owner of record is not a natural person, and actual service is not achieved, the person signing the claim of lien on behalf of the association shall be deemed to have met the requirements of this subsection if service has been attempted once pursuant to the applicable provisions of G.S. 1A-1, Rule 4(j)(3) through G.S. 1A-1, Rule 4(j)(9).~~

(b) The association must make reasonable and diligent efforts to ensure that its records contain the lot owner's current mailing address. No fewer than 15 days prior to filing the lien, the association shall mail a statement of the assessment amount due by first-class mail to the physical address of the lot and the lot owner's address of record with the association and, if different, to the address for the lot owner shown on the county tax records for the lot. If the lot owner is a corporation or limited liability company, the statement shall also be sent by first-class mail to the mailing address of the registered agent for the corporation or limited liability company. Notwithstanding anything to the contrary in this Chapter, the association is not required to mail a statement to an address known to be a vacant lot on which no dwelling has been constructed or to a lot for which there is no United States postal address.

(c) A claim of lien shall set forth the name and address of the association, the name of the record owner of the lot at the time the claim of lien is filed, a description of the lot, and the amount of the lien claimed. A claim of lien may also appoint a trustee to conduct a foreclosure, as provided in subsection (f) of this section. The first page of the claim of lien shall contain the following statement in print that is in boldface, capital letters, and no smaller than the largest print used elsewhere in the document:

"THIS DOCUMENT CONSTITUTES A LIEN AGAINST YOUR PROPERTY, AND IF THE LIEN IS NOT PAID, THE HOMEOWNERS ASSOCIATION MAY PROCEED WITH FORECLOSURE AGAINST YOUR PROPERTY IN LIKE MANNER AS A MORTGAGE UNDER NORTH CAROLINA LAW."

The person signing the claim of lien on behalf of the association shall attach to and file with the claim of lien a certificate of service attesting to the attempt of service on the record owner, which service shall be attempted in accordance with G.S. 1A-1, Rule 4(j), for service of a copy of a summons and a complaint. If the actual service is not achieved, the person signing the claim of lien on behalf of the association shall be deemed to have met the requirements of this subsection if service has been attempted pursuant to both of the following: (i) G.S. 1A-1, Rule 4(j)(1)c, d, or e and (ii) by mailing a copy of the lien by regular, first-class mail, postage prepaid to the physical address of the lot and the lot owner's address of record with the association, and, if different, to the address for the lot owner shown on the county tax records and the county real property records for the lot. In the event that the owner of record is not a natural person, and actual service is not achieved, the person signing the claim of lien on behalf of the association shall be deemed to have met the requirements of this subsection if service has been attempted once pursuant to the applicable provisions of G.S. 1A-1, Rule 4(j)(3) through G.S. 1A-1, Rule 4(j)(9). Notwithstanding anything to the contrary in this Chapter, the association is not required to mail a claim of lien to an address which is known to be a vacant lot on which no dwelling has been constructed or to a lot for which there is no United States postal address. A lien for unpaid assessments is extinguished unless proceedings to enforce the lien are instituted within three years after the filing of the claim of lien in the office of the clerk of superior court.

(d) A claim of lien filed under this section is prior to all liens and encumbrances on a lot except (i) liens and encumbrances, specifically including, but not limited to, a mortgage or deed of trust on the lot, recorded before the filing of the claim of lien in the office of the clerk of superior court and (ii) liens for real estate taxes and other governmental assessments and charges against the lot. This subsection does not affect the priority of mechanics' or materialmen's liens.

(e) The association shall be entitled to recover the reasonable attorneys' fees and costs it incurs in connection with the collection of any sums due. A lot owner may not be required to pay attorneys' fees and court costs until the lot owner is notified in writing of the association's intent to seek payment of attorneys' fees, costs, and expenses. The notice must be sent by first-class mail to the physical address of the lot and the lot owner's address of record with the association and, if different, to the address for the lot owner shown on the county tax records for the lot. The association must make reasonable and diligent efforts to ensure that its records contain the lot owner's current mailing address. Notwithstanding anything to the contrary in this Chapter, there shall be no requirement that notice under this subsection be mailed to an address which is known to be a vacant lot on which no dwelling has been constructed or a lot for which there is no United States postal address. The notice shall set out the outstanding balance due as of the date of the notice and state that the lot owner has 15 days from the mailing of the notice by first-class mail to pay the outstanding balance without the attorneys' fees and court costs. If the lot owner pays the outstanding balance within this period, then the lot owner shall have no obligation to pay attorneys' fees, costs, or expenses. The notice shall also inform the lot owner of the opportunity to contact a representative of the association to discuss a payment schedule for the outstanding balance, as provided in subsection (i) of this section, and shall provide the name and telephone number of the representative.

(f) Except as provided in subsection (h) of this section, the association, acting through the executive board, may foreclose a claim of lien in like manner as a mortgage or deed of trust on real estate under power of sale, as provided in Article 2A of Chapter 45 of the General Statutes, if the assessment remains unpaid for 90 days or more. The association shall not foreclose the claim of lien unless the executive board votes to commence the proceeding against the specific lot.

(g) The following provisions and procedures shall be applicable to and complied with in every nonjudicial power of sale foreclosure of a claim of lien, and these provisions and procedures shall control to the extent they are inconsistent or in conflict with the provisions of Article 2A of Chapter 45 of the General Statutes:

(1) The association shall be deemed to have a power of sale for purposes of enforcement of its claim of lien.

(2) The terms "mortgagee" and "holder" as used in Article 2A of Chapter 45 of the General Statutes shall mean the association, except as provided otherwise in this Chapter.

(3) The term "security instrument" as used in Article 2A of Chapter 45 of the General Statutes shall mean the claim of lien.

(4) The term "trustee" as used in Article 2A of Chapter 45 of the General Statutes shall mean the person or entity appointed by the association under subdivision (6) of this subsection.

(5) After the association has filed a claim of lien and prior to the commencement of a nonjudicial foreclosure, the association shall give to the lot owner notice of the association's intention to commence a nonjudicial foreclosure to enforce its claim of lien. The notice shall contain the information required in G.S. 45-21.16(c)(5a).

(6) The association shall appoint a trustee to conduct the nonjudicial foreclosure proceeding and sale. The appointment of the trustee shall be included in the claim of lien or in a separate instrument filed with the clerk of court in the county in which the planned community is located as an exhibit to the notice of hearing. The association, at its option, may from time to time remove a trustee previously appointed and appoint a successor trustee by filing a Substitution of Trustee with the clerk of court in the foreclosure proceeding. Counsel for the association may be appointed by the association to serve as the trustee and may serve in that capacity as long as the lot owner does not contest the obligation to pay or the amount of any sums due the association, or the validity, enforcement, or foreclosure of the claim of lien, as provided in subdivision (12) of this subsection. Any trustee appointed pursuant to this subsection shall have the same fiduciary duties and obligations as a trustee in the foreclosure of a deed of trust.

(7) If a valid debt, default, and notice to those entitled to receive notice under G.S. 45-21.16(b) are found to exist, then the clerk of court shall authorize the sale of the property described in the claim of lien by the trustee.

(8) If, prior to the expiration of the upset bid period provided in G.S. 45-21.27, the lot owner satisfies the debt secured by the claim of lien and pays all expenses and costs incurred in filing and enforcing the association assessment lien, including, but not limited to, advertising costs, attorneys' fees, and the trustee's commission, then the trustee shall dismiss the foreclosure action and the association shall cancel the claim of lien of record in accordance with the provisions of G.S. 45-36.3. The lot owner shall have all rights granted under Article 4 of Chapter 45 of the General Statutes to ensure the association's satisfaction of the claim of lien.

(9) Any person, other than the trustee, may bid at the foreclosure sale. Unless prohibited in the declaration or bylaws, the association may bid on the lot at a foreclosure sale directly or through an agent. If the association or its agent is the high bidder at the sale, the trustee shall allow the association to pay the costs and expenses of the sale and apply a credit against the sums due by the lot owner to the association in lieu of paying the bid price in full.

(10) Upon the expiration of the upset bid period provided in G.S. 45-21.27, the trustee shall have full power and authority to execute a deed for the lot to the high bidder.

(11) The trustee shall be entitled to a commission for services rendered which shall include fees, costs, and expenses reasonably incurred by the trustee in connection with the foreclosure, whether or not a sale is held. Except as

provided in subdivision (12) of this subsection, the trustee's commission shall be paid without regard to any limitations on compensation otherwise provided by law, including, without limitation, the provisions of G.S. 45-21.15.

(12) If the lot owner does not contest the obligation to pay the amount of any sums due the association or the validity, enforcement, or foreclosure of the claim of lien at any time after the expiration of the 15-day period following notice as required in subsection (b) of this section, then attorneys' fees and the trustee's commission collectively charged to the lot owner shall not exceed one thousand two hundred dollars ($1,200), not including costs or expenses incurred. The obligation to pay and the amount of any sums due the association and the validity, enforcement, or foreclosure of the claim of lien remain uncontested as long as the lot owner does not dispute, contest, or raise any objection, defense, offset, or counterclaim as to the amount or validity of any portion of the sums claimed due by the association or the validity, enforcement, or foreclosure of the claim of lien. Any judgment, decree, or order in any action brought under this section shall include costs and reasonable attorneys' fees for the prevailing party.

(13) Lot owners shall be deemed to have the rights and remedies available to mortgagors under G.S. 45-21.34.

(g) The provisions of subsection (f) of this section do not prohibit or prevent an association from pursuing judicial foreclosure of a claim of lien, from taking other actions to recover the sums due the association, or from accepting a deed in lieu of foreclosure. Any judgment, decree, or order in any judicial foreclosure or civil action relating to the collection of assessments shall include an award of costs and reasonable attorneys' fees for the prevailing party, which shall not be subject to the limitation provided in subdivision (f)(12) of this section.

(h) A claim of lien securing a debt consisting solely of fines imposed by the association, interest on unpaid fines, or attorneys' fees incurred by the association solely associated with fines imposed by the association may only be enforced by judicial foreclosure, as provided in Article 29A of Chapter 1 of the General Statutes. In addition, an association shall not levy, charge, or attempt to collect a service, collection, consulting, or administration fee from any lot owner unless the fee is expressly allowed in the declaration, and any claim of lien securing a debt consisting solely of these fees may only be enforced by judicial foreclosure, as provided in Article 29A of Chapter 1 of the General Statutes.

(i) The association, acting through its executive board and in the board's sole discretion, may agree to allow payment of an outstanding balance in installments. Neither the association nor the lot owner is obligated to offer or accept any proposed installment schedule. Reasonable administrative fees and costs for accepting and processing installments may be added to the outstanding balance and included in an installment payment schedule. Reasonable attorneys' fees may be added to the outstanding balance and included in an installment schedule after the lot owner has been given notice, as required in subsection (e) of this section. Attorneys' fees incurred in connection with any request that the association agrees to accept payment of all or any part of sums due in installments shall not be included or considered in the calculation of fees chargeable under subdivision (f)(12) of this section.

(j) Where the holder of a first mortgage or first deed of trust of record or other purchaser of a lot obtains title to the lot as a result of foreclosure of a first mortgage or first deed of trust, the purchaser and its heirs, successors, and assigns shall not be liable for the assessments against the lot which became due prior to the acquisition of title to the lot by the purchaser. The unpaid assessments shall be deemed to be common expenses collectible from all the lot owners, including the purchaser, its heirs, successors, and assigns. For purposes of this subsection, the term "acquisition of title" means and refers to the recording of a deed conveying title or the time at which the rights of the parties are fixed following the foreclosure of a mortgage or deed of trust, whichever occurs first."

SECTION 4. Article 3 of Chapter 47F of the General Statutes is amended by adding a new section to read as follows:

"**§ 47F-3-116.1. Validation of certain nonjudicial foreclosure proceedings and sales.**

All nonjudicial foreclosure proceedings commenced by an association before October 1, 2013, and all sales and transfers of real property as part of those proceedings pursuant to the provisions of this Chapter or provisions contained in the declaration of the planned community, are declared to be valid, unless an action to set aside the foreclosure is commenced on or before October 1, 2013, or within one year after the date of the sale, whichever occurs last."

SECTION 5. This act becomes effective October 1, 2013. Nothing in Section 2 or Section 4 of this act shall be construed as being applicable to or affecting any pending litigation.

In the General Assembly read three times and ratified this the 19th day of June, 2013.

Became law upon approval of the Governor at 4:35 p.m. on the 26th day of June, 2013.

Session Law 2013-203 **H.B. 891**

AN ACT TO ALLOW THE DISTRICT ATTORNEY TO PETITION THE COURT TO FREEZE THE ASSETS OF A DEFENDANT CHARGED WITH FINANCIAL EXPLOITATION OF AN ELDER ADULT OR DISABLED ADULT AND TO ESTABLISH A PROCEDURE TO PETITION FOR THE FREEZING OR SEIZURE OF THE DEFENDANT'S ASSETS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 14-112.2 is amended by adding a new subsection to read:

"(f) If a person is charged with a violation of this section that involves funds, assets, or property valued at more than five thousand dollars ($5,000), the district attorney may file a petition in the pending criminal proceeding before the court with jurisdiction over the pending charges to freeze the funds, assets, or property of the defendant in an amount up to one hundred fifty percent (150%) of the alleged value of funds, assets, or property in the defendant's pending criminal proceeding for purposes of restitution to the victim. The standard of proof required to freeze the defendant's funds, assets, or property shall be by clear and convincing evidence. The procedure for petitioning the court under this subsection shall be governed by G.S. 14-112.3."

SECTION 2. Article 19 of Chapter 14 of the General Statutes is amended by adding the following new section to read:

"**§ 14-112.3. Asset freeze or seizure; proceeding.**

(a) For purposes of this section, the term "assets" includes funds and property as well as other assets that may be involved in a violation of G.S. 14-112.2.

(b) Whenever it appears by clear and convincing evidence that any defendant is about to or intends to divest himself or herself of assets in a manner that would render the defendant insolvent for purposes of restitution, the district attorney may make an application to the court with jurisdiction over the pending charges to freeze or seize the assets of the defendant. Upon a showing by clear and convincing evidence in the hearing, the court shall issue an order to freeze or seize the assets of the defendant in the amount calculated pursuant to G.S. 14-112.2(f). The procedure for petitioning the court under this section shall be governed by G.S. 1A-1, Rule 65, except as otherwise provided in this section.

(c) At any time after service of the order to freeze or seize assets, the defendant or any person claiming an interest in the assets may file a motion to release the assets.

(d) In any proceeding to release assets, the burden of proof shall be by clear and convincing evidence and shall be on the State to show that the defendant is about to, intends to, or did divest himself or herself of assets in a manner that would render the defendant insolvent for purposes of restitution. If the court finds that the defendant is about to, intends to, or did

divest himself or herself of assets in a manner that would render the defendant insolvent for purposes of restitution, the court shall order the assets frozen or held until further order of the court. The rules of evidence that apply to this proceeding are the rules that would apply in a proceeding pursuant to G.S. 1A-1, Rule 65.

(e) If the prosecution of the charge under G.S. 14-112.2 is terminated by voluntary dismissal by the State or if a judgment of acquittal is entered, the court shall vacate the order to freeze or seize the assets.

(f) Any person holding any interest in the frozen or seized assets may commence a separate civil proceeding in the manner provided by law."

SECTION 3. This act becomes effective October 1, 2013, and applies to offenses committed on or after that date.

In the General Assembly read three times and ratified this the 18th day of June, 2013.

Became law upon approval of the Governor at 4:35 p.m. on the 26th day of June, 2013.

Session Law 2013-204 **H.B. 332**

AN ACT MAKING CORRECTIONS AND OTHER AMENDMENTS TO THE NOTARY PUBLIC ACT, MAKING OTHER CONFORMING CHANGES, AND PROVIDING FOR AN ALTERNATIVE PROCEDURE FOR SATISFACTION OF SECURITY INSTRUMENTS.

The General Assembly of North Carolina enacts:

PART I. NOTARY PUBLIC ACT

SECTION 1. G.S. 10B-5(b) reads as rewritten:

"(b) A person qualified for a notarial commission shall meet all of the following requirements:

…

~~(9) Obtain the recommendation of one publicly elected official in North Carolina and submit the recommendation with the application. The requirement of this subdivision shall not apply to any applicant who seeks to receive the oath of office from the register of deeds of a county where more than 5,250 active notaries public are on record on January 1 of the year when the application is filed.~~"

SECTION 1.1. G.S. 10B-20 reads as rewritten:

"§ **10B-20. Powers and limitations.**

…

(c) A notary shall not perform a notarial act if any of the following apply:

…

(5) The notary is a signer of, party to, or beneficiary of the record, that is to be notarized. However, a disqualification under this subdivision shall not apply to a notary who is named in a record solely ~~as~~ as (i) the trustee in a deed of ~~trust,~~trust, (ii) the drafter of the ~~record,~~record, (iii) the person to whom a registered document should be mailed or sent after ~~recording, or~~recording, or (iv) the attorney for a party to the record, so long as the notary is not also a party to the record individually or in some other representative or fiduciary capacity. A notary who is an employee of a party shall not be disqualified under this subdivision solely because of the notary's employment by a party to the record or solely because the notary owns stock in a party to the record.

…."

SECTION 1.2. G.S. 10B-37 reads as rewritten:

"§ **10B-37. Seal image.**

…

(b) A notary's official seal shall include all of the following elements:

…

(4) The words "North Carolina" or the abbreviation "N.C." or "NC".

…."

SECTION 1.3. G.S. 10B-55 reads as rewritten:

"§ **10B-55. Disposition of seal; death of notary.**

…

(c) If a notary dies while commissioned or before fulfilling the disposition of seal requirements in this section, the notary's estate shall, as soon as is reasonably practicable and no later than the closing of the estate, notify the Secretary in writing of the notary's death and deliver the notary's seal to the Secretary for destruction. A personal representative who is not a notary does not have to comply with the provisions of this subsection if he or she provides a statement under oath in any enforcement proceeding that he or she was unaware that the decedent was a commissioned notary public at the time of death."

SECTION 1.4. G.S. 10B-60 reads as rewritten:

"§ **10B-60. Enforcement and penalties.**

…

(l) The Secretary shall notify the North Carolina State Bar (State Bar) of any final decision finding a violation of subsection (a) of this section by a notary who is also an attorney-at-law licensed under Chapter 84 of the General Statutes. The Secretary shall endeavor to provide a copy of any court order rendered under subsection (b), (c), (d), (e), (f), or (j) of this section to the State Bar in cases where the notary is an attorney-at-law licensed under Chapter 84 of the General Statutes. Any referral by the Secretary to the State Bar under this subsection shall be considered a showing of professional unfitness under G.S. 84-28(d), and the State Bar shall administer discipline accordingly."

SECTION 1.5. G.S. 10B-65 reads as rewritten:

"§ **10B-65. Acts of notaries public in certain instances validated.**

…

(b) All documents bearing a notarial seal and which contain any of the following errors are validated and given the same legal effect as if the errors had not occurred:

…

(5) The date of the acknowledgement, the verification or proof, or the oath or affirmation states the correct day and month but lacks a year or states an incorrect year.

…

(d) All notary acknowledgments performed before ~~January 1, 1953,~~December 1, 2005, bearing a notarial seal are hereby validated.

(e) This section applies to notarial acts performed on or before ~~May 1, 2008.~~April 1, 2013."

SECTION 1.6. G.S. 10B-67 reads as rewritten:

"§ **10B-67. Erroneous commission expiration date cured.**

An erroneous statement of the date that the notary's commission expires shall not affect the sufficiency, validity, or enforceability of the notarial certificate or the related record if the notary is, in fact, lawfully commissioned at the time of the notarial act. This section applies to notarial acts whenever performed."

SECTION 1.7. G.S. 10B-68 reads as rewritten:

"§ **10B-68. Technical defects cured.**

(a) Technical defects, errors, or omissions in a notarial certificate shall not affect the sufficiency, validity, or enforceability of the notarial certificate or the related instrument or document. ~~This subsection applies to notarial certificates made on or after December 1, 2005.~~

…

(c) As used in this section, a technical defect includes those cured under G.S. 10B-37(f) and G.S. 10B-67. Other technical defects ~~include~~ include, but are not limited to, the absence of the legible appearance of the notary's name exactly as shown on the notary's commission as required in ~~G.S. 10B-20(b).~~G.S. 10B-20(b), the affixation of the notary's seal near the signature of the principal or subscribing witness rather than near the notary's signature, minor typographical mistakes in the spelling of the principal's name, the failure to acknowledge the principal's name exactly as signed by including or omitting initials, or the failure to specify the principal's title or office, if any. ~~This subsection applies to notarial certificates made on or after December 1, 2005.~~"

SECTION 1.8. G.S. 10B-69 reads as rewritten:

"§ **10B-69. Official forms cured.**

(a) The notarial certificate contained in a form issued by a State agency prior to ~~October 1, 2006,~~April 1, 2013, is deemed to be a valid certificate provided the certificate complied with the law at the time the form was issued.

…."

SECTION 1.9. G.S. 10B-71 reads as rewritten:

"§ **10B-71. Certain notarial acts validated when recommissioned notary failed to again take oath.**

Any acknowledgment taken and any instrument notarized by a person who after recommissioning failed to again take the oath as a notary public is hereby validated. The acknowledgment and instrument shall have the same legal effect as if the person qualified as a notary public at the time the person performed the act. This section shall apply to notarial acts performed on or after May 15, 2004, and before ~~July 8, 2009.~~April 1, 2013."

SECTION 1.10. G.S. 10B-99 reads as rewritten:

"§ **10B-99. Presumption of regularity.**

…

(b) A notarial act ~~performed before October 1, 2006,~~ shall be deemed valid if it complies with the law as it existed on or before December 1, 2005. This section applies to notarial acts whenever performed."

SECTION 1.11. G.S. 41-2 reads as rewritten:

"§ **41-2. Survivorship in joint tenancy defined; proviso as to partnership; unequal ownership interests.**

…

(a1) Upon conveyance to the trustee of a deed of trust by any or all of the joint tenants holding property in joint tenancy with right of survivorship to secure a loan, the joint tenancy with right of survivorship shall be deemed not to be severed, and upon satisfaction of the deed of trust, legal title to the property subject to the joint tenancy shall revert to the grantors as joint tenants with right of survivorship in the respective shares as owned by the respective grantors at the time of the execution of the deed of trust, unless a contrary intent is expressed in the deed of trust or other instrument recorded subsequent to the deed of trust.

…."

SECTION 1.12. G.S. 47-2.2 reads as rewritten:

"§ **47-2.2. Notary public of sister state; lack of seal or stamp or expiration date of commission.**

(a) If the proof or acknowledgment of any instrument is had before a notary public of any state other than North Carolina and the instrument does ~~not~~ not (i) show the seal or stamp of the notary ~~public~~ public, (ii) provide evidence pursuant to subsection (b) of this section that a seal or stamp is not required and the expiration date of the commission of the notary

~~public,~~public, or (iii) state that the notary's commission does not expire or is a lifetime appointment, the certificate of proof or acknowledgment made by such notary public shall be accompanied by the certificate of the county official before whom the notary qualifies for ~~office,~~office or of a state officer authorized to issue certificates regarding notary commission status, stating that such notary public was at the time his certificate bears date an acting notary public of such state, and that such notary's genuine signature is set to his certificate. The certificate of the official herein provided for shall be under his hand and official seal.

(b) A proof or acknowledgement which does not require a seal or stamp of the notary to be effective in the jurisdiction issuing the notary's commission shall include either (i) a statement by the notary within the proof or acknowledgement area of the instrument that the notary is not required to utilize a seal or stamp or (ii) a reference that purports to be the statute of the commissioning state which provides that no seal or stamp is required together with a statement that the notary is not required to utilize a seal or stamp. The register of deeds may rely upon this statement and is not responsible for confirming its validity or the authority of the person making it. A register of deeds may not refuse to accept a record for registration because a notarial seal or stamp is omitted from the proof or acknowledgement if the provisions of this subsection have been complied with in the proof or acknowledgement. The acceptance of a record for registration under this subsection shall give rise to a presumption that the seal or stamp was not required to be affixed by the notary. This presumption is rebuttable and shall apply to all instruments whenever recorded. However, a court order finding the lack of a valid seal shall not affect the rights of a person who (i) records an interest in the real property described in the instrument before the finding of a lack of a valid seal and (ii) would otherwise have an enforceable interest in the real property."

SECTION 1.13. G.S. 47-12.2 reads as rewritten:

"§ **47-12.2. Subscribing witness incompetent when grantee or beneficiary.**

The execution of an instrument may not be proved for registration by a subscribing witness ~~who~~ who, at the time of the execution of the instrument by the subscribing witness, is the grantee or beneficiary therein nor by proof of his signature as such subscribing witness. Nothing in this section invalidates the registration of any instrument registered prior to April 9, 1935."

SECTION 1.14. G.S. 47-14 reads as rewritten:

"§ **47-14. Register of deeds to verify the presence of proof or acknowledgement and register instruments and electronic documents; order by judge; instruments to which register of deeds is a party.**

…

(f) Presumption of Notarial Seal. – The acceptance of a record for registration by the register of deeds shall give rise to a presumption that, at the time the record was presented for registration, a clear and legible image of the notary's official seal was affixed or embossed on the record near the notary's official signature. This presumption applies regardless of whether the image is legible or photographically reproduced in the records maintained by the register of ~~deeds.~~deeds and applies to all instruments filed in the records maintained by the register of deeds regardless of when the instrument was presented for registration. A register of deeds may not refuse to accept a record for registration because a notarial seal does not satisfy the requirements of G.S. 10B-37. The presumption under this subsection is rebuttable and shall apply to all instruments whenever recorded. However, a court order finding the lack of a valid seal shall not affect the rights of a person who (i) records an interest in the real property described in the instrument before the finding of a lack of a valid seal and (ii) would otherwise have an enforceable interest in the real property."

SECTION 1.15. G.S. 47-28 reads as rewritten:

"§ **47-28. Powers of attorney.**

~~Every power of attorney, wherever made or concerning whatsoever matter, may, on acknowledgment or proof of the same before any competent official, be registered in the county wherein the property or estate which it concerns is situate, if such power of attorney relate to~~

~~the conveyance thereof; if it does not relate to the conveyance of any estate or property, then in the county in which the attorney resides or the business is to be transacted.~~

(a) Recording required for powers of attorney affecting real property:

(1) Before any transfer of real property executed by an attorney-in-fact empowered by a power of attorney governed by Article 1, Article 2, or Article 2A of Chapter 32A of the General Statutes, the power of attorney or a certified copy of the power of attorney shall be registered in the office of the register of deeds of the county in which the principal is domiciled or where the real property lies. If the principal is not a resident of North Carolina, the power of attorney or a certified copy of the power of attorney may be recorded in any county in the State wherein the principal owns real property or has a significant business reason for registering in the county.

(2) If the real property lies in more than one county or in a county other than where the principal is domiciled, the power of attorney or a certified copy of the power of attorney shall be registered in the office of the register of deeds in one of the counties, and the instrument of transfer shall refer to the recordation specifically by reference to the book, page, and county where recorded.

(3) Any instrument subject to the provisions of G.S. 47-17.2, 47-18, or 47-20 and signed by an attorney-in-fact and recorded in a county other than the county where a power of attorney is recorded in this State shall include the recording information, including book, page, and county for the power of attorney.

(4) The failure to comply with the provisions of this subsection shall not affect the sufficiency, validity, or enforceability of the instrument but shall constitute an infraction.

(b) If the instrument of conveyance is recorded prior to the registration of the power of attorney or a certified copy of the power of attorney pursuant to subsection (a) of this section, the power of attorney or a certified copy of the power of attorney may be registered in the office of the register of deeds as provided in subsection (a) of this section thereafter provided that the attorney-in-fact was empowered at the time of the original conveyance. Notwithstanding the provisions of subsection (a) of this section, no conveyance shall be rendered invalid by the recordation of the power of attorney or a certified copy of the power of attorney after the instrument of conveyance, and the registration shall relate back to the date and time of registration of the instrument of conveyance.

(c) The provisions of subsection (a) of this section shall apply to all real property transfers utilizing an authority under any power of attorney whether made on or after April 1, 2013, and the provisions of subsection (b) of this section shall apply to all real property transfers utilizing an authority under any power of attorney whether made before, on, or after April 1, 2013."

SECTION 1.16. G.S. 47-36.1 reads as rewritten:

"§ **47-36.1. Correction of errors in recorded instruments.**

(a) Notwithstanding G.S. 47-14 and G.S. 47-17, notice of typographical or other minor error in a deed or other instrument recorded with the register of deeds may be given by recording an affidavit. If an affidavit is conspicuously identified as a corrective or scrivener's affidavit in its title, the register of deeds shall index the name of the affiant, the names of the original parties in the instrument, the recording information of the instrument being corrected, and the original parties as they are named in the affidavit. A copy of the previously recorded instrument to which the affidavit applies may be attached to the affidavit and need not be a certified copy. ~~Notice~~ To the extent the correction is inconsistent with the originally recorded instrument, and only to that extent, notice of the corrective information as provided by the affiant in the corrective affidavit is deemed to have been given as of the time the corrective affidavit is registered. Nothing in this section invalidates or otherwise alters the legal effect of

any instrument of correction authorized by statute in effect on the date the instrument was registered.

(b) Nothing in this section requires that an affidavit be attached to an original or certified copy of a previously recorded instrument that is unchanged but rerecorded. Nothing in this section requires that an affidavit be attached to a previously recorded instrument with a copy of a previously recorded instrument that includes identified corrections or an original execution by a party or parties of the corrected instrument after the original recording, with proof or acknowledgment of their execution of the correction of the instrument.

(c) If the corrective affidavit is solely made by a notary public in order to correct a notarial certificate made by that notary public that was attached to an instrument already recorded with the register of deeds, the notary public shall complete the corrective affidavit identifying the correction and may attach a new acknowledgment completed as of the date the original acknowledgment took place, which shall be deemed attached to the original recording, and the instrument's priority shall remain the date and time originally recorded. The provisions of this subsection shall apply to corrective affidavits filed prior to, on, or after April 1, 2013."

SECTION 1.17. G.S. 47-41.2 reads as rewritten:

"§ **47-41.2. Technical defects.**

(a) Technical defects, including technical defects under G.S. 10B-68, and errors or omissions in a form of probate or other notarial certificate, shall not affect the sufficiency, validity, or enforceability of the form of probate or the notarial certificate or the related instrument or document. A register of deeds may not refuse to accept an instrument or document for registration because of technical defects, errors, or omissions in a form of probate or other notarial certificate. ~~This subsection applies to notarial certificates and forms of probate made on or after December 1, 2005.~~

…."

SECTION 1.18. G.S. 47-48 reads as rewritten:

"§ **47-48. Clerks' and registers of deeds' certificate failing to pass on all prior certificates.**

When it appears that the clerk of the superior court, register of deeds, or other officer having the power to probate or certify deeds, in passing upon deeds or other instruments, and the certificates thereto, having more than one certificate of the same or a different date, by other officer or officers taking acknowledgment or probating the same, has in his certificate or order mentioned only one or more of the preceding or foregoing certificates or orders, but not all of them, but has admitted the same deed or other instrument to probate or recordation, it shall be conclusively presumed that all the certificates of said deed or instrument necessary to the admission of same to probate or recordation have been passed upon, and the certificate of said clerk, register of deeds, or other probating or certifying officer shall be deemed sufficient and the probate, certification and recordation of said deed or instrument is hereby made and declared valid for all intents and purposes. The provisions of this section shall apply to all instruments recorded in any county of this State prior to ~~April 1, 1980.~~April 1, 2013."

SECTION 1.19. G.S. 47-50 reads as rewritten:

"§ **47-50. Order of registration omitted.**

In all cases prior to ~~December 31, 1992,~~October 1, 2005, where it appears from the records of the office of the register of deeds of any county in this State that the execution of a deed of conveyance or other instrument by law required or authorized to be registered was duly signed and acknowledged as required by the laws of the State of North Carolina, and the clerk of the superior court of such county or other officer authorized to pass upon acknowledgments and to order registration of instruments has failed either to adjudge the correctness of the acknowledgment or to order the registration thereof, or both, such registrations are hereby validated and the instrument so appearing in the office of the register of deeds of such county shall be effective to the same extent as if the clerk or other authorized officer had properly adjudged the correctness of the acknowledgment and had ordered the registration of the instrument."

SECTION 1.20. G.S. 47-50.1 reads as rewritten:

"§ **47-50.1. Register's certificate omitted.**

In all cases prior to ~~October 1, 2004,~~ October 1, 2005, where it appears from the records of the office of the register of deeds of any county in this State that the execution of a deed of conveyance or other instrument by law required or authorized to be registered was duly signed and acknowledged as required by the laws of this State, and the register of deeds has failed to certify the correctness of the acknowledgment as required by G.S. 47-14(a), the registrations are hereby validated and the instrument so appearing in the office of the register of deeds of that county is effective to the same extent as if the register of deeds had properly certified the correctness of the acknowledgment."

SECTION 1.21. G.S. 47-51 reads as rewritten:

"§ **47-51. Official deeds omitting seals.**

All deeds executed prior to ~~January 1, 1991,~~ April 1, 2013, by any sheriff, commissioner, receiver, executor, executrix, administrator, administratrix, or other officer authorized to execute a deed by virtue of his office or appointment, in which the officer has omitted to affix his seal after his signature, shall not be invalid on account of the omission of such seal."

SECTION 1.22. G.S. 47-53 reads as rewritten:

"§ **47-53. Probates omitting official seals, etc.**

In all cases where the acknowledgment, private examination, or other proof of the execution of any deed, mortgage, or other instrument authorized or required to be registered has been taken or had by or before any commissioner of affidavits and deeds of this State, or clerk or deputy clerk of a court of record, or notary public of this or any other state, territory, or district, and such deed, mortgage, or other instrument has heretofore been recorded in any county in this State, but such commissioner, clerk, deputy clerk, or notary public has omitted to attach his or her official or notarial seal thereto, or if omitted, to insert his or her name in the body of the certificate, or if omitted, to sign his or her name to such certificate, if the name of such officer appears in the body of said certificate or is signed thereto, or it does not appear of record that such seal was attached to the original deed, mortgage, or other instrument, or such commissioner, clerk, deputy clerk, or notary public has certified the same as under his or her "official seal," or "notarial seal," or words of similar import, and no such seal appears of record or where the officer uses "notarial" in his or her certificate and signature shows that "C.S.C.," or "clerk of superior court," or similar exchange of capacity, and the word "seal" follows the signature, then all such acknowledgments, private examinations or other proofs of such deeds, mortgages, or other instruments, and the registration thereof, are hereby made in all respects valid and binding. The provisions of this section apply to acknowledgments, private examinations, or proofs taken prior to ~~January 1, 1991:~~ April 1, 2013. Provided, this section does not apply to pending litigation."

SECTION 1.23. G.S. 47-53.1 reads as rewritten:

"§ **47-53.1. Acknowledgment omitting seal of clerk or notary public.**

Where any person has taken an acknowledgment as either a notary public or a clerk of a superior court, deputy clerk of a superior court, or assistant clerk of a superior court and has failed to affix his or her seal and this acknowledgment has been otherwise duly probated and recorded then this acknowledgment is hereby declared to be sufficient and valid. This section applies only to those deeds and other instruments acknowledged prior to ~~January 1, 1991.~~April 1, 2013."

SECTION 1.24. G.S. 47-64 reads as rewritten:

"§ **47-64. Probates before officers, stockholders or directors of ~~corporations prior to January 1, 1945.~~corporations.**

No acknowledgment or proof of execution, including privy examination of married women, of any deed, mortgage or deed of trust to which instrument a corporation is a ~~party, executed prior to the first day of January, 1945,~~ party shall be held invalid by reason of the fact that the officer taking such acknowledgment, proof or privy examination was an officer, stockholder, or director in said corporation; but such proofs and acknowledgments and the registration thereof,

if in all other respects valid, are declared to be valid. Nor shall the registration of any such instrument ordered to be registered be held invalid by reason of the fact that the clerk or deputy clerk ordering the registration was an officer, stockholder or director in any corporation which is a party to any such instrument."

SECTION 1.25. G.S. 47-71.1 reads as rewritten:

"§ **47-71.1. Corporate seal omitted prior to ~~January 1, 1991.~~January 1, 2000.**

Any corporate deed, or conveyance of land in this State, made prior to ~~January 1, 1991,~~January 1, 2000, which is defective only because the corporate seal is omitted therefrom is hereby declared to be a good and valid conveyance by such corporation for all purposes and shall be sufficient to pass title to the property therein conveyed as fully as if the said conveyance were executed according to the provisions and forms of law in force in this State at the date of the execution of such conveyance."

SECTION 1.26. G.S. 47-72 reads as rewritten:

"§ **47-72. Corporate name not affixed, but signed otherwise prior to ~~January, 1973.~~April 1, 2013.**

In all cases prior to ~~the first day of January, 1973,~~April 1, 2013, where any deed conveying lands purported to be executed by a corporation, but the corporate name was in fact not affixed to said deed, but same was signed by the president and secretary of said corporation, or by the president and two members of the governing body of said corporation, and said deed has been registered in the county where the land conveyed by said deed is located, said defective execution above described shall be and the same is hereby declared to be in all respects valid, and such deed shall be deemed to be in all respects the deed of said corporation."

SECTION 1.27. G.S. 47-81.2 reads as rewritten:

"§ **47-81.2. Before United States Army, etc., ~~officers.~~officers, and other service members.**

In all cases where instruments and writings have been proved or acknowledged before any commissioned officer of the United States ~~Army or Marine Corps~~Army, Navy, Air Force, Marine Corps, or Coast Guard ~~having the rank of captain or higher, before any officer of the United States Navy or Coast Guard having the rank of lieutenant, senior grade, or higher,~~ or any officer of the United States Merchant Marine having the rank of lieutenant, senior grade, or higher, such proofs or acknowledgments, where valid in other respects, are hereby ratified, confirmed and declared valid. All proofs or acknowledgments made by any military personnel authorized by the Congress of the United States are hereby ratified, confirmed, and declared valid and shall not require the affixation of a seal where valid in other respects."

SECTION 1.28. G.S. 47-92 reads as rewritten:

"§ **47-92. Probates before stockholders and directors of banks.**

No acknowledgment or proof of execution, including privy examination of married women, of any mortgage, or deed of trust executed to secure the payment of any indebtedness to any banking ~~corporation, taken prior to the first day of January, 1923,~~corporation shall be held invalid by reason of the fact that the officer taking such acknowledgment, proof, or privy examination was a stockholder or director in such banking corporation."

SECTION 1.29. G.S. 47-93 reads as rewritten:

"§ **47-93. Acknowledgments taken by stockholder, officer, or director of bank.**

No acknowledgment or proof of execution, including privy examination of married women, of any mortgage or deed of trust executed to secure the payment of any indebtedness to any banking corporation ~~taken prior to the first day of January, 1924,~~ shall be held invalid by reason of the fact that the officer taking such acknowledgment, proof, or privy examination was a stockholder, officer, or director in such banking corporation."

SECTION 1.30. G.S. 47-94 reads as rewritten:

"§ **47-94. Acknowledgment and registration by officer or stockholder in building and loan or savings and loan association.**

All acknowledgments and proofs of execution, including privy examination of married women, of any mortgage or deed of trust executed to secure the payment of any indebtedness to any State or federal building and loan or savings and loan association ~~prior to the first day of~~

~~January, 1955,~~ shall not be, nor held to be, invalid by reason of the fact that the clerk of the superior court, justice of the peace, notary public, or other officer taking such acknowledgment, proof of execution or privy examination, was an officer or stockholder in such building and loan association; but such proofs and acknowledgments of all such instruments, and the registration thereof, if in all other respects valid, are hereby declared to be valid.

Nor shall the registration of any such mortgage or deed of trust ordered to be registered by the clerk of the superior court, or by any deputy or assistant clerk of the superior court, be or held to be invalid by reason of the fact that the clerk of the superior court, or deputy, or assistant clerk of the superior court, ordering such mortgages or deeds of trust to be registered was an officer or stockholder in any State or federal building and loan or savings and loan association, whose indebtedness is secured in and by such mortgage or deed of trust."

SECTION 1.31. G.S. 47-95 reads as rewritten:

"§ **47-95. Acknowledgments taken by notaries interested as trustee or holding other office.**

In every case where deeds and other instruments have been acknowledged and privy examination of wives had before notaries public, or justices of the peace, prior to ~~January 1, 1975,~~ October 1, 1991, when the notary public or justice of the peace at the time was interested as trustee in said instrument or at the time was also holding some other office, and the deed or other instrument has been duly probated and recorded, such acknowledgment and privy examination taken by such notary public or justice of the peace is hereby declared to be sufficient and valid."

SECTION 1.32. G.S. 47-97 reads as rewritten:

"§ **47-97. Validation of corporate deed with mistake as to officer's name.**

In all cases where the deed of a corporation executed before ~~the first day of January, 1918,~~April 1, 2013, is properly executed, properly recorded and there is error in the probate of said corporation's deed as to the name or names of the officers in said probate, said deed shall be construed to be a deed of the same force and effect as if said probate were in every way proper."

SECTION 1.33. G.S. 47-97.1 reads as rewritten:

"§ **47-97.1. Validation of corporate deeds containing error in acknowledgment or probate.**

In all cases where the deed of a corporation executed and filed for registration prior to ~~the fifteenth day of June, 1947,~~ April 1, 2013, is properly executed and properly recorded and there is error in the acknowledgment or probate of said corporation's deed as to the name or names of the officer or officers named therein and error as to the title or titles of the officer or officers named therein, said deed shall be construed to be a deed of the same force and effect as if said probate or acknowledgment were in every way proper."

SECTION 1.34. G.S. 47-102 reads as rewritten:

"§ **47-102. Absence of notarial seal.**

Any deed executed prior to ~~the first day of January, 1945,~~ October 1, 2005, and duly acknowledged before a North Carolina notary public, and the probate recites "witness my hand and notarial seal," or words of similar import, and no seal was affixed to the said deed, shall be ordered registered by the clerk of the superior court of the county in which the land lies, upon presentation to him: Provided, the probate is otherwise in due form."

SECTION 1.35. G.S. 47-108.6 reads as rewritten:

"§ **47-108.6. Validation of certain conveyances of foreign dissolved corporations.**

In all cases when, prior to ~~the first day of January, 1947,~~April 1, 2013, any dissolved foreign corporation has, prior to its dissolution, by deed of conveyance purported to convey real property in this State, and said instrument recites a consideration, is signed by the proper officers in the name of said corporation, sealed with the corporate seal and duly registered in the office of the register of deeds of the county where the land described in said instrument is located, but there is error in the attestation clause and acknowledgment in failing to identify the officers signing said deed and to recite that authority was duly given and that the same was the

act of said corporation, said deed shall be construed to be a deed of the same force and effect as if said attestation clause and acknowledgment were in every way proper."

SECTION 1.36. G.S. 47-108.11 reads as rewritten:

"§ **47-108.11. Validation of recorded instruments where seals have been omitted.**

In all cases of any deed, deed of trust, mortgage, lien or other instrument authorized or required to be registered in the office of the register of deeds of any county in this State where it appears of record or it appears that from said instrument, as recorded in the office of the register of deeds of any county in the State, there has been omitted from said recorded or registered instrument the word "seal," "notarial seal" and that any of said recorded or registered instruments shows or recites that the grantor or grantors "have hereunto fixed or set their hands and seals" and the signature of the grantor or grantors appears without a seal thereafter or on the recorded or registered instrument or in all cases where it appears there is an attesting clause which recites "signed, sealed and delivered in the presence of," and the signature of the grantor or grantors appears on the recorded or registered instrument without any seal appearing thereafter or of record, then all such deeds, mortgages, deeds of trust, liens or other instruments, and the registration of same in the office of the register of deeds, are hereby declared to be in all respects valid and binding and are hereby made in all respects valid and binding to the same extent as if the word "seal" or "notarial seal" had not been omitted, and the registration and recording of such instruments in the office of the register of deeds in any county in this State are hereby declared to be valid, proper, legal and binding registrations.

This section shall not apply in any respect to any instrument recorded or registered subsequent to ~~January 1, 1999~~ April 1, 2013, or to pending litigation or to any such instruments now directly or indirectly involved in pending litigation."

SECTION 1.37. Article 4 of Chapter 47 of the General Statutes is amended by adding the following new sections to read as follows:

"**§ 47-108.18A. Registration of certain instruments containing a notarial acknowledgment.**

A notarial acknowledgment constitutes a jurat in due form for all instruments that have heretofore been accepted for filing and registration under this Chapter or which relate to real estate located within this State.

"**§ 47-108.18B. Registration of certain instruments containing a notarial jurat.**

A notarial jurat constitutes an acknowledgment in due form for all instruments that have heretofore been accepted for filing and registration under this Chapter or which relate to real estate located within this State."

SECTION 1.38. G.S. 47-108.20 reads as rewritten:

"§ **47-108.20. Validation of certain recorded instruments that were not acknowledged.**

All instruments recorded before ~~June 30, 1986,~~April 1, 2013, that were not reexecuted and reacknowledged and that correct an obvious typographical or other minor error in a recorded instrument that was previously properly executed and acknowledged are declared to be valid instruments."

PART II. SATISFACTION OF SECURITY INTEREST/ALTERNATIVE PROCEDURE

SECTION 2.1. G.S. 45-36.9 reads as rewritten:

"§ **45-36.9. Secured creditor to submit satisfaction or release for recording; liability for failure.**

…

(b) Except as otherwise provided in G.S. 45-36.12, a secured creditor that is required to submit a satisfaction of a security instrument or a release for recording pursuant to this section and does not do so by the end of the period specified in subsection (a) or (a1) of this section is liable to the landowner for any actual damages caused by the failure, but not punitive damages.

(c) Except as otherwise provided in subsection (d) of this section and in G.S. 45-36.12, a secured creditor that is required to submit a satisfaction of a security instrument or a release for recording pursuant to this section and does not do so by the end of the period specified in subsection (a) or (a1) of this section is also liable to the landowner for one thousand dollars ($1,000) and any reasonable attorneys' fees and court costs incurred if, after the expiration of the period specified in subsection (a) or (a1) of this section, all of the following occur:

(1) The landowner gives the secured creditor a notification, by any method authorized by G.S. 45-36.5 that provides proof of receipt, demanding that the secured creditor submit a satisfaction or release for recording.

(2) The secured creditor does not submit a satisfaction or release for recording within 30 days after the secured creditor's receipt of the notification.

(3) The security instrument is not satisfied of record by any of the methods provided in G.S. 45-37(a) or the release is not filed within 30 days after the secured creditor's receipt of the notification.

The right to receive the additional one thousand dollars ($1,000) is personal to the landowner who gives the secured creditor notification under this subsection and may not be assigned.

…."

SECTION 2.2. G.S. 45-36.14 reads as rewritten:

"§ **45-36.14. Affidavit of satisfaction: notification to secured creditor.**

…

(d) A satisfaction agent does not have to give the notification described in this section if (i) the secured creditor has authorized the satisfaction agent to sign and submit an affidavit of satisfaction; (ii) the satisfaction agent has in his or her possession the instruments described in G.S. 45-36.15(a)(3), (a)(4), or (a)(5); or (iii) after diligent inquiry, the satisfaction agent has been unable to determine the identity of the secured creditor because, for example, the last known secured creditor no longer exists and the satisfaction agent has been unable to identify any successor-in-interest to the last known secured creditor."

SECTION 2.3. G.S. 45-36.15 reads as rewritten:

"§ **45-36.15. Affidavit of satisfaction: authorization to submit for recording.**

(a) Subject to subsections (b) and (c) of this section, a satisfaction agent may sign and submit for recording an affidavit of satisfaction of a security instrument complying with G.S. 45-36.16 ~~if:~~if the satisfaction agent has reasonable grounds to believe that the secured creditor has received full payment or performance of the secured obligation and one or more of the following apply:

(1) The secured creditor has not, to the knowledge of the satisfaction agent, submitted for recording a satisfaction of a security instrument or otherwise caused the security instrument to be satisfied of record pursuant to any of the methods provided in G.S. 45-37(a) within 30 days after the effective date of a notification complying with ~~G.S. 45-36.14(a); or~~G.S. 45-36.14(a).

(2) The secured creditor ~~authorizes~~ has authorized the satisfaction agent to ~~do so.~~sign and submit for recording an affidavit of satisfaction.

(3) The satisfaction agent has in his or her possession the original security instrument and the original bond, note, or other instrument secured thereby, with an endorsement of payment and satisfaction appearing thereon made by one or more of the following: (i) the secured creditor; (ii) the trustee or substitute trustee, if the security instrument is a deed of trust; (iii) an assignee of the secured creditor; or (iv) any bank, savings and loan association, savings bank, or credit union chartered under the laws of North Carolina or any other state or the United States having an office or branch in North Carolina, when so endorsed in the name of the institution by an officer thereof.

(4) The satisfaction agent has in his or her possession the original security instrument intended to secure the payment of money or the performance of any other obligation, together with the original bond, note, or other instrument secured, or the original security instrument alone if the security instrument itself sets forth the obligation secured or other obligation to be performed and does not call for or recite any note, bond, or other instrument secured by it if, at the time the affidavit of satisfaction is to be signed and submitted, all such instruments are more than 10 years old counting from the maturity date of the last obligation secured. If the instrument or instruments secured by the security instrument have an endorsement of partial payment, satisfaction, performance, or discharge within the period of 10 years, the period of 10 years shall be counted from the date of the most recent endorsement.

(5) The satisfaction agent has in his or her possession the original security instrument given to secure the bearer or holder of any negotiable instruments transferable solely by delivery, together with all the evidences of indebtedness secured thereby, marked paid and satisfied in full and signed by the bearer or holder thereof.

(6) After diligent inquiry, the satisfaction agent has been unable to determine the identity of the secured creditor because, for example, the last known secured creditor no longer exists and the satisfaction agent has been unable to identify any successor-in-interest to the last known secured creditor.

…

(c) ~~If~~ Unless the satisfaction agent has in his or her possession the instruments described in subdivision (a)(3), (a)(4), or (a)(5) of this section or the satisfaction agent is unable to determine the identity of the secured creditor because, for example, the last known assignee of the security instrument no longer exists and the satisfaction agent has been unable to identify any successor-in-interest to the last known assignee, a satisfaction agent who receives a notification under G.S. 45-36.14(a)(5)c. stating that the security instrument has been ~~assigned, the satisfaction agent~~assigned may not submit for recording an affidavit of satisfaction of the security instrument ~~without:~~without first:

(1) Giving a notification of intent to submit for recording an affidavit of satisfaction to the identified assignee at the identified address; and

(2) Complying with G.S. 45-36.14 with respect to the identified assignee."

SECTION 2.4. G.S. 45-36.16 reads as rewritten:

"§ **45-36.16. Affidavit of satisfaction: content.**

An affidavit of satisfaction of a security instrument must comply with all of the following:

…

(4a) Reserved.

(4b) Reserved.

(5) State ~~that~~ one or more of the following, as applicable:

a. ~~the~~ The person signing the affidavit, acting with the authority of the owner of the real property described in the security instrument, gave notification to the secured creditor ~~of its~~in the manner prescribed by G.S. 45-36.14 of his or her intention to sign and submit for recording an affidavit of satisfaction. More than 30 days have elapsed since the effective date of that notification, and the person signing the affidavit (i) has no knowledge that the secured creditor has submitted a satisfaction for recording and (ii) has not received a notification that the secured obligation remains unsatisfied.

b. The secured creditor authorized the person signing the affidavit to sign and record an affidavit of satisfaction.

c. The person signing the affidavit has in his or her possession the original security instrument and the original bond, note, or other instrument secured thereby, with an endorsement of payment and satisfaction appearing thereon made by one or more of the following: (i) the secured creditor; (ii) the trustee or substitute trustee, if the security instrument is a deed of trust; (iii) an assignee of the secured creditor; or (iv) a bank, savings and loan association, savings bank, or credit union chartered under the laws of North Carolina or any other state or the United States having an office or branch in North Carolina, endorsed in the name of the institution by an officer thereof.

d. The person signing the affidavit has in his or her possession the original security instrument intended to secure the payment of money or the performance of any other obligation together with the original bond, note, or other instrument secured thereby, or the original security instrument alone if the security instrument itself sets forth the obligation secured or other obligation to be performed and does not call for or recite any note, bond, or other instrument secured by it. All such instruments are more than 10 years old counting from the maturity date of the last obligation secured. If the instrument or instruments secured by the security instrument have an endorsement of partial payment, satisfaction, performance, or discharge within the period of 10 years, the period of 10 years has been counted from the date of the most recent endorsement.

e. The person signing the affidavit has in his or her possession the original security instrument given to secure the bearer or holder of any negotiable instruments transferable solely by delivery, together with all the evidences of indebtedness secured thereby, marked paid and satisfied in full and signed by the bearer or holder thereof.

f. After diligent inquiry, the person signing the affidavit has been unable to determine the identity of the secured creditor.

~~(6) Describe the method by which the person signing the affidavit gave notification in compliance with this Article.~~

~~(7) State that:~~

~~a. More than 30 days have elapsed since the effective date of that notification, and the person signing the affidavit has no knowledge that the secured creditor has submitted a satisfaction for recording and has not received a notification that the secured obligation remains unsatisfied; or~~

~~b. The secured creditor authorized the person signing the affidavit to sign and record an affidavit of satisfaction.~~

(8) Be signed ~~and~~ and (i) acknowledged as required by law for a conveyance of an interest in real ~~property.~~property or (ii) sworn to or affirmed before an officer authorized to administer oaths and affirmations.

(9) Copies of all or any part or parts of the instruments described in subdivision (5) of this section may be attached to and recorded with the affidavit of satisfaction."

SECTION 2.5. G.S. 45-36.17 reads as rewritten:

"§ **45-36.17. Affidavit of satisfaction: form.**

No particular phrasing of an affidavit of satisfaction is required. The following form of affidavit, when properly completed, is sufficient to satisfy the requirements of G.S. 45-36.16:

"**AFFIDAVIT OF SATISFACTION**
(G.S. 45-36.16, 45-36.17, 45-36.18)

_____
(Date of Affidavit)
The undersigned hereby states as follows:

1. I am an attorney licensed to practice law in the State of North Carolina.

2. I am signing this Affidavit of Satisfaction to evidence full payment or performance of the obligations secured by real property covered by the following security instrument (the "security ~~instrument")~~ instrument"), which I believe is currently or was most recently held by _____ (the "secured creditor"):

Type of security instrument: _____

~~Original parties to security instrument:~~
Original Grantor(s): _____
~~County and state of recording:~~
Original Secured Party(ies): _____
Recording ~~data for~~Data: The security ~~instrument:~~instrument is recorded in Book _____
at Page _____ or as document number _____
in the Office of the Register of Deeds for _____ County, North Carolina.

3. I have reasonable grounds to believe that the secured creditor has received full payment or performance of the balance of the obligations secured by the security instrument.

4. [Check appropriate box]

[ ] ~~With the~~Acting with authorization ~~of~~ from the owner of the real property described in the security instrument, I gave notification to the secured creditor ~~by method authorized~~ in the manner prescribed by ~~G.S. 45-36.5 that provides proof of receipt that I would~~G.S. 45-36.14 of my intention to sign and record an affidavit of satisfaction of the security instrument if, within 30 days after the effective date of the notification, the secured creditor did not submit a satisfaction of the security interest for recording or give notification that the secured obligation remains unsatisfied. The 30-day period has elapsed. I have no knowledge that the secured creditor has submitted a satisfaction for recording, and I have not received notification that the secured obligation remains unsatisfied.

[ ] I have been authorized by the secured creditor to execute and record this Affidavit of Satisfaction.

[ ] I have in my possession the original security instrument and the original bond, note, or other instrument secured thereby, with an endorsement of payment and satisfaction appearing thereon made by one or more of the following: (i) the secured creditor; (ii) the trustee or substitute trustee, if the security instrument is a deed of trust; (iii) an assignee of the secured creditor; or (iv) a bank, savings and loan association, savings bank, or credit union chartered under the laws of North Carolina or any other state or the United States having an office or branch in North Carolina, endorsed in the name of the institution by an officer thereof.

[ ] I have in my possession the original security instrument together with the original bond, note, or other instrument secured thereby, or the original security instrument alone if the security instrument itself sets forth the obligation secured or other obligation to be performed and does not call for or recite any note, bond, or other instrument secured by it. All such instruments are more than 10 years old counting from the maturity date of the last obligation secured. If the instrument or instruments secured by the security instrument have an endorsement of partial payment, satisfaction, or

performance or discharge within the period of 10 years, the period of 10 years has been counted from the date of the most recent endorsement.

[ ] I have in my possession the original security instrument given to secure the bearer or holder of any negotiable instruments transferable solely by delivery, together with all the evidences of indebtedness secured thereby, marked paid and satisfied in full and signed by the bearer or holder thereof.

[ ] After diligent inquiry, I have been unable to determine the identity of the secured creditor.

~~5. [Check appropriate box]~~

~~[ ] The 30-day period identified in paragraph 4 has elapsed, I have no knowledge that the secured creditor has submitted a satisfaction for recording, and I have not received notification that the secured obligation remains unsatisfied.~~

~~[ ] The secured creditor responded to the notification in paragraph 4 by authorizing me to execute and record this Affidavit of Satisfaction.~~

6. (If applicable) Attached to and filed with this Affidavit of Satisfaction are copies of all or part(s) of the following instruments: (Describe attached copies)

This Affidavit of Satisfaction constitutes a satisfaction of the security instrument pursuant to G.S. 45-36.18.

_____

(Signature of Satisfaction Agent)

[~~Acknowledgment~~ Acknowledgment, oath, or affirmation before officer authorized to take acknowledgments and administer oaths and affirmations]"

SECTION 2.6. G.S. 45-36.18 reads as rewritten:

"§ **45-36.18. Affidavit of satisfaction: effect.**

…

(c) The register of deeds may not refuse to accept for recording an affidavit of satisfaction of a security instrument unless:

…

(2) The affidavit is not signed by the satisfaction agent and either (i) acknowledged as required by law for a conveyance of an interest in real ~~property.~~ property or (ii) sworn to or affirmed before an officer authorized to administer oaths and affirmations. The register of deeds shall not be required to verify or make inquiry concerning (i) the truth of the matters stated in any affidavit of satisfaction, or (ii) the authority of the person executing any affidavit of satisfaction to do so."

SECTION 2.7. G.S. 45-36.19 reads as rewritten:

"§ **45-36.19. Liability of satisfaction agent.**

…

(b) A satisfaction agent that records or submits for recording an affidavit of satisfaction of a security instrument erroneously is not liable if the agent properly complied with this ~~Article~~Article, gave notification to the secured creditor in the manner prescribed by G.S. 45-36.14, and the secured creditor did not respond in a timely manner to the notification pursuant to G.S. 45-36.14(a)(5).

…."

SECTION 2.8. G.S. 45-36.24 reads as rewritten:

"§ **45-36.24. Expiration of lien of security instrument.**

…

(b) Automatic Lien Expiration. – Except as provided in subsection (g) of this section, unless the lien of a security instrument has been extended in the manner prescribed in subsection (c), (d), or (e) of this section, the security instrument has been foreclosed, or the security instrument has been satisfied of record pursuant to G.S. 45-37, the lien of a security instrument automatically expires, and the security instrument is conclusively deemed satisfied of record pursuant to G.S. 45-37, at the earliest of the following times:

(1) If the security instrument was first recorded before October 1, 2011:

…

b. If the maturity date of the secured obligation is not stated in the security instrument, 35 years after the date the security instrument was recorded in the office of the register of ~~deeds or acknowledged as required by law for a conveyance of an interest in real property, whichever is later.~~deeds.

…

(2) If the security instrument was first recorded on or after October 1, 2011:

…

b. If the maturity date of the secured obligation is not stated in the security instrument, 35 years after the date the security instrument was recorded in the office of the register of ~~deeds or October 1, 2011, whichever is later.~~deeds."

PART III. EFFECTIVE DATE

SECTION 3. Section 1 of this act becomes effective July 1, 2013. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 18th day of June, 2013.

Became law upon approval of the Governor at 4:36 p.m. on the 26th day of June, 2013.

Session Law 2013-205 **H.B. 333**

AN ACT TO CLARIFY SEX OFFENDER STATUTES RELATING TO RESIDENCY AND REGISTRATION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 14-208.11 reads as rewritten:

"§ **14-208.11. Failure to register; falsification of verification notice; failure to return verification form; order for arrest.**

(a) A person required by this Article to register who willfully does any of the following is guilty of a Class F felony:

(1) Fails to register as required by this ~~Article.~~Article, including failure to register with the sheriff in the county designated by the person, pursuant to G.S. 14-208.8, as their expected county of residence.

(2) Fails to notify the last registering sheriff of a change of address as required by this Article.

(3) Fails to return a verification notice as required under G.S. 14-208.9A.

(4) Forges or submits under false pretenses the information or verification notices required under this Article.

(5) Fails to inform the registering sheriff of enrollment or termination of enrollment as a student.

(6) Fails to inform the registering sheriff of employment at an institution of higher education or termination of employment at an institution of higher education.

(7) Fails to report in person to the sheriff's office as required by G.S. 14-208.7, 14-208.9, and 14-208.9A.

(8) Reports his or her intent to reside in another state or jurisdiction but remains in this State without reporting to the sheriff in the manner required by G.S. 14-208.9.

(9) Fails to notify the registering sheriff of out-of-county employment if temporary residence is established as required under G.S. 14-208.8A.

(10) Fails to inform the registering sheriff of any new or changes to existing online identifiers that the person uses or intends to use.

(a1) If a person commits a violation of subsection (a) of this section, the probation officer, parole officer, or any other law enforcement officer who is aware of the violation shall immediately arrest the person in accordance with G.S. 15A-401, or seek an order for the person's arrest in accordance with G.S. 15A-305.

(a2) A person arrested pursuant to subsection (a1) of this section shall be subject to the jurisdiction of the prosecutorial and judicial district that includes the sheriff's office in the county where the person failed to register, pursuant to this Article. If the arrest is made outside of the applicable prosecutorial district, the person shall be transferred to the custody of the sheriff of the county where the person failed to register and all further criminal and judicial proceedings shall be held in that county.

…."

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

In the General Assembly read three times and ratified this the 18th day of June, 2013.

Became law upon approval of the Governor at 4:36 p.m. on the 26th day of June, 2013.

Session Law 2013-206 **H.B. 433**

AN ACT TO SUPPORT THE ACTIVITIES OF THE ARMED FORCES AND TO MAINTAIN AND ENHANCE THE MILITARY'S PRESENCE IN NORTH CAROLINA BY REGULATING THE HEIGHT OF BUILDINGS AND STRUCTURES LOCATED IN AREAS THAT SURROUND MILITARY INSTALLATIONS IN THE STATE.

The General Assembly of North Carolina enacts:

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

"Article 9G.

"Military Lands Protection.

"**§ 143-151.70. Short title.**

This Article shall be known as the Military Lands Protection Act of 2013.

"**§ 143-151.71. Definitions.**

Within the meaning of this Article:

(1) "Area surrounding major military installations" is the area that extends five miles beyond the boundary of a major military installation and may include incorporated and unincorporated areas of counties and municipalities.

(2) "Building Code Council" means the Council created pursuant to Article 9 of Chapter 143 of the General Statutes.

(3) "Commissioner" means the Commissioner of Insurance.

(4) "Construction" includes reconstruction, alteration, or expansion.

(5) "Major military installation" means Fort Bragg, Pope Army Airfield, Camp Lejeune Marine Corps Air Base, New River Marine Corps Air Station, Cherry Point Marine Corps Air Station, Military Ocean Terminal at Sunny Point, the United States Coast Guard Air Station at Elizabeth City, Naval Support Activity Northwest, Air Route Surveillance Radar (ARSR-4) at Fort Fisher, and Seymour Johnson Air Force Base, in its own right and as the responsible entity for the Dare County Bombing Range, and any facility located within the State that is subject to the installations' oversight and control.

(6) "Person" means any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, interstate body, the State of North Carolina and its agencies and political subdivisions, or other legal entity.

(7) "Tall buildings or structures" means any building, structure, or unit within a multiunit building with a vertical height of more than 200 feet measured from the top of the foundation of the building, structure, or unit and the uppermost point of the building, structure, or unit. "Tall buildings or structures" do not include buildings and structures listed individually or as contributing resources within a district listed in the National Register of Historic Places.

"**§ 143-151.72. Legislative findings.**

North Carolina has a vested economic interest in preserving, maintaining, and sustaining land uses that are compatible with military activities at major installations. Development located proximate to military installations has been identified as a critical issue impacting the long-term viability of the military in this State. Additional concerns associated with development include loss of access to air space and coastal and marine areas and radio frequency encroachment. The construction of tall buildings or structures in areas surrounding major military installations is of utmost concern to the State as those buildings and structures may interfere with or impede the military's ability to carry out activities that are vital to its function and future presence in North Carolina.

"**§ 143-151.73. Certain buildings and structures prohibited without endorsement.**

(a) No county or city may authorize the construction of and no person may construct a tall building or structure in any area surrounding a major military installation in this State, unless the county or city is in receipt of either a letter of endorsement issued to the person by the Building Code Council pursuant to G.S. 143-151.75 or proof of the Council's failure to act within the time allowed pursuant to G.S. 143-151.75.

(b) No county or city may authorize the provision of the following utility services to any building or structure constructed in violation of subsection (a) of this section: electricity, telephone, gas, water, sewer, or septic system.

"**§ 143-151.74. Exemptions from applicability.**

(a) Wind energy facilities and wind energy facility expansions, as those terms are defined in Chapter 143 of the General Statutes, that are subject to the applicable permit requirements of that Chapter shall be exempt from obtaining the endorsement required by this Article.

(b) Cellular and television towers erected to temporarily replace cellular and television towers that are damaged or destroyed due to a natural disaster shall be exempt from obtaining the endorsement required by this Article provided all of the following conditions are met:

(1) The height of the cellular or television tower that is erected to temporarily replace the cellular or television tower that is damaged or destroyed does not exceed the height of the original cellular or television tower.

(2) A disaster has been declared pursuant to Chapter 166A of the General Statutes for the area in which the damaged or destroyed cellular or television tower is located.

(3) The temporary cellular or television tower shall only remain in place until the expiration of the declared disaster.

(c) The modification, replacement, removal, or addition of antennas on cellular or television towers in an area surrounding a major military installation shall be exempt from obtaining the endorsement required by this Article provided the modification, replacement, removal, or addition does not increase the vertical height of the structure.

"**§ 143-151.75. Endorsement for proposed tall buildings or structures required.**

(a) No person shall undertake construction of a tall building or structure in any area surrounding a major military installation in this State without either first obtaining the endorsement from the Building Code Council or proof of the Council's failure to act within the time allowed.

(b) A person seeking endorsement for a proposed tall building or structure in any area surrounding a major military installation in this State shall provide written notice of the intent to seek endorsement to the base commander of the major military installation that is located within five miles of the proposed tall building or structure and shall provide all of the following to the Building Code Council:

(1) Identification of the major military installation and the base commander of the installation that is located within five miles of the proposed tall building or structure.

(2) A copy of the written notice sent to the base commander of the installation identified in subdivision (1) of this subsection that is located within five miles of the proposed tall building or structure.

(3) A written "Determination of No Hazard to Air Navigation" issued by the Federal Aviation Administration pursuant to Subpart D of Part 77 of Title 14 of the Code of Federal Regulations (January 1, 2012, Edition) for the proposed tall building or structure.

(c) After receipt of the information provided by the applicant pursuant to subsection (b) of this section, the Building Code Council shall, in writing, request a written statement concerning the proposed tall building or structure from the base commander of the major military installation identified in subdivision (1) of subsection (b) of this section. The Building Code Council shall request that the following information be included in the written statement from the base commander:

(1) A determination whether the location of the proposed tall building or structure is within a protected area that surrounds the installation.

(2) A determination whether any activities of the installation may be adversely affected by the proposed tall building or structure. A detailed description of the potential adverse effects, including frequency disturbances and physical obstructions, shall accompany the determination required by this subdivision.

(d) The Building Code Council shall not endorse a tall building or structure if the Council finds any one or more of the following:

(1) The proposed tall building or structure would encroach upon or otherwise interfere with the mission, training, or operations of any major military installation in North Carolina and result in a detriment to continued military presence in the State. In its evaluation, the Building Code Council may consider whether the proposed tall building or structure would cause interference with air navigation routes, air traffic control areas, military training routes, or radar based on the written statement received from a base commander as provided in subsection (c) of this section and written comments received by members of affected communities. Provided, however, if the Building Code Council does not receive a written statement requested pursuant to subsection (c) of this section within 45 days of issuance of the request to the base commander, the Building Code Council shall deem the tall building or structure as endorsed by the base commander.

(2) The Council is not in receipt of the written "Determination of No Hazard to Air Navigation" issued to the person by the Federal Aviation Administration required pursuant to subdivision (3) of subsection (b) of this section.

(e) The Building Code Council shall make a final decision on the request for endorsement of a tall building or structure within 90 days from the date on which the Council requested the written statement from the base commander of the major military installation identified in subdivision (1) of subsection (b) of this section. If the Council determines that a request for a tall building or structure fails to meet the requirements for endorsement under this section, the Council shall deny the request. The Council shall notify the person of the denial, and the notice shall include a written statement of the reasons for the denial. If the Council fails to act within any time period set forth in this section, the person may treat the failure to act as a decision to endorse the tall building or structure.

(f) The Building Code Council may meet by telephone, video, or Internet conference, so long as consistent with applicable law regarding public meetings, to make a decision on a request for endorsement for a tall building or structure pursuant to subsection (e) of this section.

"**§ 143-151.76. Application to existing tall buildings and structures.**

G.S. 143-151.73 applies to tall buildings or structures that existed in an area surrounding major military installations upon the effective date of this Article as follows:

(1) No reconstruction, alteration, or expansion may aggravate or intensify a violation by an existing building or structure that did not comply with G.S. 143-151.73 upon its effective date.

(2) No reconstruction, alteration, or expansion may cause or create a violation by an existing building or structure that did comply with G.S. 143-151.73 upon its effective date.

"**§ 143-151.77. Enforcement and penalties.**

In addition to injunctive relief, the Commissioner may assess and collect a civil penalty against any person who violates any of the provisions of this Article or rules adopted pursuant to this Article, as provided in this subsection. The maximum civil penalty for a violation is five thousand dollars ($5,000). A civil penalty may be assessed from the date of the violation. Each day of a continuing violation may constitute a separate violation.

(1) The Commissioner shall determine the amount of the civil penalty and shall notify the person who is assessed the civil penalty of the amount of the penalty and the reason for assessing the penalty. The notice of assessment shall be served by any means authorized under Rule 4 of G.S. 1A-1 and shall direct the violator to either pay the assessment or contest the assessment within 30 calendar days by filing a petition for a contested case under Article 3 of Chapter 150B of the General Statutes. If a violator does not pay a civil penalty assessed by the Commissioner within 30 calendar days after it is due, the Commissioner shall request that the Attorney General institute a civil action to recover the amount of the assessment. The civil action may be brought in the superior court of any county where the violation occurred. A civil action must be filed within one year of the date the assessment was due. An assessment that is not contested is due when the violator is served with a notice of assessment. An assessment that is contested is due at the conclusion of the administrative and judicial review of the assessment.

(2) In determining the amount of the penalty, the Commissioner shall consider the degree and extent of harm caused by the violation, the cost of rectifying the damage, the amount of money the violator saved by noncompliance, whether the violation was committed willfully, the prior record of the violator in complying or failing to comply with this Article, and the action of the person to remedy the violation.

(3) The clear proceeds of civil penalties collected by the Commissioner under this subsection shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

SECTION 2. G.S. 143-138 is amended by adding a new subsection to read:

"(j2) Pursuant to Article 9G of Chapter 143 of the General Statutes, the Building Code Council is authorized to review and endorse proposals for the construction of tall buildings or structures in areas surrounding major military installations, as those terms are defined in G.S. 143-151.71."

SECTION 3. The North Carolina Advisory Commission on Military Affairs, or its successor, shall study the feasibility and desirability of creating a "North Carolina Military Clearinghouse" to protect the mission capabilities of the major military installations in the State from incompatible development through collaboration with military, federal, State, local government, and private stakeholders to prevent, minimize, or mitigate adverse impacts on military operations, readiness, and testing. The Commission shall report its findings and recommendations, including legislative proposals, to the Governor and the General Assembly on or before the convening of the 2014 Session of the 2013 General Assembly.

SECTION 4. Section 3 of this act is effective when this act becomes law. The remainder of this act becomes effective October 1, 2013, and applies to tall buildings and structures for which construction is initiated on or after that date.

In the General Assembly read three times and ratified this the 18th day of June, 2013.

Became law upon approval of the Governor at 4:36 p.m. on the 26th day of June, 2013.

Session Law 2013-207 **H.B. 459**

AN ACT TO REQUIRE THE DEPARTMENT OF HEALTH AND HUMAN SERVICES TO COORDINATE CHRONIC DISEASE CARE.

Whereas, chronic disease is recognized as the leading cause of disability and death in the United States, and accounts for 1,700,000 deaths or 70% of all deaths in the United States each year; and

Whereas, chronic diseases such as heart disease, hypertension, stroke, cancer, respiratory diseases, diabetes, and obesity are among the most prevalent, costly, and preventable of all health problems in North Carolina; and

Whereas, implementing prevention programs around multiple chronic conditions could help North Carolina reduce the overall financial burden of chronic illness within public programs such as Medicaid and Health Choice for Children and within the State Employees Health Insurance Plan; and

Whereas, the inefficient coordination of care for persons with chronic health conditions has led not only to higher costs but to poorer health outcomes for the most vulnerable populations within North Carolina; and

Whereas, preventing and treating chronic disease is an important public health initiative that will improve the quality of life for North Carolinians affected by these conditions and also reduce State costs for Medicaid, Health Choice, and the State Health Plan; Now, therefore,

The General Assembly of North Carolina enacts:

SECTION 1. This act shall be known as The Chronic Care Coordination Act.

SECTION 2. Article 7 of Chapter 130A of the General Statutes is amended by adding a new Part to read:

"Part 4A. Chronic Care Coordination.

"**§ 130A-222.5. Department to coordinate chronic care initiatives.**

The Department's Divisions of Public Health and Medical Assistance and the Division in the Department of State Treasurer responsible for the State Health Plan for Teachers and State Employees shall collaborate to reduce the incidence of chronic disease and improve chronic care coordination within the State by doing all of the following:

(1) Identifying goals and benchmarks for the reduction of chronic disease.

(2) Developing wellness and prevention plans specifically tailored to each of the Divisions.

(3) Submitting an annual report on or before January 1 of each odd-numbered year to the Senate Appropriations Committee on Health and Human Services, the House Appropriations Subcommittee on Health and Human Services, the Joint Legislative Oversight Committee on Health and Human Services, and the Fiscal Research Division that includes at least all of the following:

a. The financial impact and magnitude of the chronic health conditions in this State that are most likely to cause death and disability, including, but not limited to, chronic cardiovascular disease, oncology, stroke, chronic lung disease, and chronic metabolic disease. As used in this subdivision, the term "chronic cardiovascular disease" includes heart disease and hypertension; the term "chronic metabolic disease" includes diabetes and obesity; and the term "chronic lung disease" means asthma and chronic obstructive pulmonary disease.

b. An assessment of the benefits derived from wellness and prevention programs and activities implemented within the State with the goal of coordinating chronic care. This assessment shall include a breakdown of the amount of all State, federal, and other funds appropriated to the Department for wellness and prevention programs and activities for the detection, prevention, and treatment of persons with multiple chronic health conditions, at least one of which is a condition identified in sub-subdivision a. of this subdivision.

c. A description of the level of coordination among the Divisions of Public Health and Medical Assistance and the Division in the Department of State Treasurer responsible for the State Health Plan for Teachers and State Employees with respect to activities, programs, and public education on the prevention, treatment, and management of the chronic health conditions identified in sub-subdivision a. of this subdivision.

d. Detailed action plans for care coordination of multiple chronic health conditions in the same patient, including a range of recommended legislative actions. The action plans shall identify proposed action steps to reduce the financial impact of the chronic health conditions identified in sub-subdivision a. of this subdivision, including (i) adjustment of hospital readmission rates, (ii) development of transitional care plans, (iii) implementation of comprehensive medication management, as described by the Patient-Centered Primary Care Collaborative, to help patients achieve improved clinical and therapeutic outcomes, and (iv) adoption of standards related to quality that are publicly reported evidence-based measures endorsed through a multistakeholder process such as the National Quality Forum. The action plans shall also identify expected outcomes of these proposed action steps during the succeeding fiscal biennium and establish benchmarks for coordinating care and reducing the incidence of multiple chronic health conditions.

e. A detailed budget identifying all costs associated with implementing the action plans identified in sub-subdivision d. of this subdivision."

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

In the General Assembly read three times and ratified this the 18th day of June, 2013.

Became law upon approval of the Governor at 4:36 p.m. on the 26th day of June, 2013.

Session Law 2013-208 **H.B. 587**

AN ACT TO REQUIRE AN ALTERNATE ACT AND PLAN PRECURSOR TEST FOR CERTAIN STUDENTS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 115C-174.11(c)(4) reads as rewritten:

"(4) To the extent funds are made available, the State Board <u>of Education</u> shall plan for and require the administration of the ACT test for all students in the eleventh grade unless the student has already taken a comparable test and scored at or above a level set by the State Board. <u>The State Board of Education shall require the administration of an alternate to the ACT or an alternate to the PLAN precursor test to the ACT to a student who (i) exhibits severe and pervasive delays in all areas of conceptual, linguistic, and academic development and in adaptive behaviors, including communication, daily living skills, and self-care, (ii) is following the extended content standards of the Standard Course of Study as provided in G.S. 115C-81, or is following a course of study that, upon completing high school, may not lead to admission into a college-level course of study resulting in a college degree, and (iii) has a written parental request for an alternate assessment.</u>

<u>(a) The State Board of Education shall ensure that parents of students enrolled in all public schools, including charter and regional schools, have the necessary information to make informed decisions regarding participation in the ACT and the PLAN precursor test to the ACT.</u>

<u>(b) Alternate assessment and ACT assessment results of students with disabilities shall be included in school accountability reports, including charter and regional schools, provided by the State Board of Education.</u>"

SECTION 2. G.S. 115C-174.22 reads as rewritten:

"§ **115C-174.22. Tools for student learning.**

To the extent funds are made available for this purpose<u>, and except as otherwise provided in G.S. 115C-174.11(c)(4),</u> the State Board shall plan for and require the administration of diagnostic tests in the eighth and tenth grades that align to the ACT test in order to help diagnose student learning and provide for students an indication of whether they are on track to be remediation-free at a community college or university."

SECTION 3. The State Board of Education shall develop an alternate assessment to measure career and college readiness for students who are not required to take the ACT or PLAN under this act. Pilot testing for the alternate ACT assessment shall occur simultaneously with the ACT administration during the 2013-2014 school year. Pilot testing for the alternate PLAN assessment shall occur simultaneously with the PLAN administration during the 2014-2015 school year. Students who participate in the pilot testing shall not be administered the ACT or PLAN, and where possible, results from the ACT pilot will be included in the accountability reports.

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

In the General Assembly read three times and ratified this the 18th day of June, 2013.

Became law upon approval of the Governor at 4:36 p.m. on the 26th day of June, 2013.

Session Law 2013-209 **H.B. 597**

AN ACT TO APPROVE AN OFFICIAL SHIELD FOR BAIL BONDSMEN.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 58-71-40 is amended to add a new subsection to read:

"(d1) While engaged in official duties, a licensee is authorized to carry, possess, and display a shield as described in this subsection. The shield shall fulfill all of the following requirements:

(1) Be an exact duplicate in size, shape, color, and design of the shield approved under G.S. 74C-5(12) and pictured in 12 NCAC 07D. 0405 on May 1, 2013.

(2) Include the licensee's last name and corresponding license number in the same locations as the shield referenced in subdivision (1) of this subsection.

(3) With reference to the shield described in subdivision (1) of this subsection, in lieu of the word "Private," the shield shall have the words "North Carolina," and in lieu of the word "Investigator," the shield shall have the words "Bail Agent."

Any shield that deviates from the design requirements as specified in this section shall be an unauthorized shield and its possession by a licensee shall constitute a violation of the statute by the licensee."

SECTION 2. This act is effective when it becomes law and applies to any person licensed pursuant to G.S. 58-71-40 before, on, or after that date.

In the General Assembly read three times and ratified this the 19th day of June, 2013.

Became law upon approval of the Governor at 4:36 p.m. on the 26th day of June, 2013.

Session Law 2013-210 **H.B. 641**

AN ACT TO PROVIDE THAT A COURT HAS THE DISCRETION TO DETERMINE WHETHER TO GRANT A CONDITIONAL DISCHARGE FOR A FIRST OFFENSE OF CERTAIN DRUG OFFENSES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 90-96(a) reads as rewritten:

"(a) Whenever any person who has not previously been convicted of (i) any felony offense under any state or federal laws; (ii) any offense under this Article; or (iii) an offense under any statute of the United States or any state relating to those substances included in Article 5 or 5A of Chapter 90 or to that paraphernalia included in Article 5B of Chapter 90 of the General Statutes pleads guilty to or is found guilty of (i) a misdemeanor under this Article by possessing a controlled substance included within Schedules I through VI of this Article or by possessing drug paraphernalia as prohibited by G.S. 90-113.22, or (ii) a felony under G.S. 90-95(a)(3), the court shall, without entering a judgment of guilt and with the consent of such person, defer further proceedings and place him on probation upon such reasonable terms and conditions as it may ~~require.~~ require, unless the court determines with a written finding, and with the agreement of the District Attorney, that the offender is inappropriate for a conditional discharge for factors related to the offense. Notwithstanding the provisions of

G.S. 15A-1342(c) or any other statute or law, probation may be imposed under this section for an offense under this Article for which the prescribed punishment includes only a fine. To fulfill the terms and conditions of probation the court may allow the defendant to participate in a drug education program approved for this purpose by the Department of Health and Human Services or in the Treatment for Effective Community Supervision Program under Article 6B of Chapter 143B of the General Statutes. Upon violation of a term or condition, the court may enter an adjudication of guilt and proceed as otherwise provided. Upon fulfillment of the terms and conditions, the court shall discharge such person and dismiss the proceedings against him. Discharge and dismissal under this section shall be without court adjudication of guilt and shall not be deemed a conviction for purposes of this section or for purposes of disqualifications or disabilities imposed by law upon conviction of a crime including the additional penalties imposed for second or subsequent convictions under this Article. Discharge and dismissal under this section or G.S. 90-113.14 may occur only once with respect to any person. Disposition of a case to determine discharge and dismissal under this section at the district court division of the General Court of Justice shall be final for the purpose of appeal. Prior to taking any action to discharge and dismiss under this section the court shall make a finding that the defendant has no record of previous convictions as provided in this subsection."

SECTION 2. This act becomes effective December 1, 2013, and applies to offenses committed on or after that date.

In the General Assembly read three times and ratified this the 19th day of June, 2013.

Became law upon approval of the Governor at 4:36 p.m. on the 26th day of June, 2013.

Session Law 2013-211 **H.B. 686**

AN ACT TO RENAME THE NC SEAFOOD INDUSTRIAL PARK AUTHORITY TO REFLECT ITS BROADER MISSION AND TO MAKE OTHER MODIFICATIONS TO THE AUTHORITY'S ENABLING LEGISLATION.

The General Assembly of North Carolina enacts:

SECTION 1. Article 23C of Chapter 113 of the General Statutes reads as rewritten:

"Article 23C.

"North Carolina ~~Seafood~~ Marine Industrial Park Authority.

"§ **113-315.25. Creation of Authority; membership; appointment; terms and vacancies; officers; meetings and quorum; compensation.**

(a) There is hereby created the North Carolina ~~Seafood~~ Marine Industrial Park Authority. It shall be governed by a board composed of 11 members to be appointed as follows. The Board is hereby designated as the Authority.

(b) Nine members shall be appointed by the Governor.

The initial appointments by the Governor shall be made on or after the date of ratification, four terms to expire July 1, 1981; four terms to expire July 1, 1983; and one term to expire July 1, 1985. Thereafter, at the expiration of each stipulated term of office all appointments shall be for a term of four years. The members of the Authority shall be selected as follows: one member be appointed to the Authority for a term to expire July 1, 1983, who is a resident of ~~the~~ a village or town where ~~the~~ a ~~Seafood~~ Marine Industrial Park is located; one member be appointed to the Authority for a term to expire July 1, 1983, who is a resident of ~~the~~ a county where ~~the~~ a ~~Seafood~~ Marine Industrial Park is located; two members be appointed to the Authority for terms which expire July 1, 1981, from the area of the State where ~~the~~ a ~~Seafood~~ Marine Industrial Park is located; five members (two terms expire July 1, 1981; two terms expire July 1, 1983; and one term expires July 1, 1985) be appointed to the Authority who are residents of the State at large and insofar as practicable shall represent all the other sections of

the State. At the expiration of the terms for the representatives as stated above the Governor shall use his discretion on reappointments. However, there shall be no less than five members of the Authority from coastal counties and there should be at least one member on the Authority from each village or town in which the ~~Seafood~~ Marine Parks are located. Any vacancy occurring in the membership of the Authority shall be filled by the appointing authority for the unexpired term. The Governor shall have the authority to remove any member appointed by the Governor.

(c) Repealed by Session Laws 1981 (Regular Session, 1982), c. 1191, s. 36.

(d) The General Assembly shall appoint two persons, one upon the recommendation of the Speaker of the House of Representatives, and one upon the recommendation of the President Pro Tempore of the Senate. Appointments by the General Assembly shall be made in accordance with G.S. 120-121, and vacancies in those appointments shall be filled in accordance with G.S. 120-122. The terms of the initial appointees by the General Assembly shall expire on June 30, 1983. The terms of subsequent appointees by the General Assembly shall be two years.

(e) The Governor shall annually appoint from the members of the Authority the chairman and vice-chairman of the Authority. The Secretary of Commerce or his designee shall serve as secretary of the Authority.

(f) No person shall serve on the Authority for more than two complete consecutive terms.

(g) The Authority shall meet once in each 90 days at such regular meeting time as the Authority by rule may provide and at any place within the State as the Authority may provide, and shall also meet upon the call of its chairman or a majority of its members. A majority of its members shall constitute a quorum for the transaction of business. The members of the Authority shall not be entitled to compensation for their services, but shall receive per diem and necessary travel and subsistence expense in accordance with G.S. 138-5 and 138-6.

"§ **113-315.26. Personnel.**

The Secretary of Commerce shall appoint ~~such~~ any personnel as deemed necessary who shall serve at the pleasure of the Secretary of Commerce. The Secretary of Commerce shall have the power to appoint, employ and dismiss ~~such number of~~any employees ~~as he may deem~~deemed necessary to accomplish the purposes of this Article subject to the availability of funds. It is recommended that, to the fullest extent possible, the Secretary of Commerce consult with the Authority on matters of personnel.

…

"§ **113-315.28. Purposes of Authority.**

Through the Authority ~~hereinbefore~~ created by this Article, the State of North Carolina may engage in promoting, developing, constructing, equipping, maintaining and operating ~~the seafood~~one or more marine industrial parks within the State, or within the jurisdiction of the State, and works of internal improvements ~~incident thereto,~~related to the purposes set forth in this section, including the acquisition or construction, maintenance and operation ~~as such seafood industrial parks~~ of watercraft and facilities ~~thereon~~ located at the parks or essential for the proper operation ~~thereof.~~ of the parks. ~~Said~~ The Authority is created as an instrumentality of the State of North Carolina for the accomplishment of the following general purposes:

(1) To develop and improve the Wanchese ~~Seafood~~ Marine Industrial Park, and such other ~~places,~~marine industrial parks, including inland ports and facilities, as may be deemed feasible for a more expeditious and efficient handling of ~~seafood~~ marine commerce from and to any place or places in the State of North Carolina and other states and foreign countries;

(2) To acquire, construct, equip, maintain, develop and improve the port facilities at ~~said~~ the parks and to maintain, develop, and improve ~~such portions of the~~ the navigability of waterways ~~thereat~~ in or adjacent to the parks ~~as are within the jurisdiction of the federal government~~ and ~~the~~ those waterways connecting the ~~Wanchese Seafood Industrial Park~~parks with the

channels of commerce of the Atlantic ~~Ocean, consistent with the project designed by the United States Army Corps of Engineers pursuant to the Manteo (Shallowbag) Bay navigation project as authorized in the Rivers and Harbors Act of 1970 (P.L. 91-611);~~Ocean;

(3) To foster and stimulate the ~~shipment of seafood commerce through said ports, whether originating within or without the State of North Carolina, including the investigation and handling of matters pertaining to all transportation rates and rate structures affecting the same;~~growth of marine-related industries in the State of North Carolina;

~~(4) To cooperate with the United States of America and any agency, department, corporation or instrumentality thereof in the maintenance, development, improvement and use of said seafood harbors and the waterways connecting the parks with the channels of commerce of the Atlantic Ocean;~~

(5) To accept funds from any ~~of said~~ counties or cities ~~wherein said ports are located~~ containing a marine industrial park and to use the same in such manner, within the purposes of said Authority, as shall be stipulated by the ~~said~~ funding county or city, and to act as agent or instrumentality of any ~~of said~~funding counties or cities in any matter coming within the general purposes of said Authority;

(5a) To encourage and develop the general maritime and marine-related industries and activities at or in the vicinity of the ~~seafood~~ marine industrial parks;

(6) And in general to do and perform any act or function which may tend to be useful toward the development and improvement of ~~seafood~~ marine industrial parks ~~of~~ in the State of North Carolina, and to increase the movement of waterborne ~~seafood~~ marine commerce, foreign and domestic, to, through, and from ~~said seafood~~ the marine industrial parks.

The enumeration of the above purposes shall not limit or circumscribe the broad objective of developing to the utmost the ~~seafood~~ marine industry possibilities of the State of North Carolina.

"§ **113-315.29. Powers of Authority.**

In order to enable it to carry out the purposes of this Article, the Authority shall:

(1) Have the powers of a body corporate, including the power to sue and be sued, to make contracts, and to adopt and use a common seal and to alter the same as may be deemed expedient;

(2) Have the authority to make all necessary contracts and arrangements with other ~~seafood~~ marine industrial park or port authorities of this and other states for the interchange of business, and for such other purposes as will facilitate and increase the ~~seafood~~ marine industries;

(3) Be authorized and empowered to rent, lease, buy, own, acquire, mortgage, otherwise encumber, and dispose of such property, real or personal, as said Authority may deem proper to carry out the purposes and provisions of this Article, all or any of them;

(4) Be authorized and empowered to acquire, construct, maintain, equip and operate any wharves, docks, piers, quays, elevators, compresses, refrigeration storage plants, warehouses and other structures, and any and all facilities needful for the convenient use of the same in the aid of commerce, including the dredging of approaches ~~thereto;~~to port facilities at the parks and improving the navigability of those waterways connecting the parks with the channels of commerce of the Atlantic Ocean;

(5) Be authorized and empowered to pay all necessary costs and expenses involved and incident to the formation and organization of ~~said~~ the Authority, and incident to ~~the~~ its administration and ~~operation~~

~~thereof,~~operation, and to pay all other costs and expenses reasonably necessary or expedient in carrying out and accomplishing the purposes of this Article;

(6) Be authorized and empowered to apply for and accept loans and grants of money from any federal agency or the State of North Carolina ~~or any political subdivision thereof~~ and its political subdivisions or from any public or private sources available for any and all of the purposes authorized in this Article, and to expend ~~the same~~these funds in accordance with the directions and requirements ~~attached thereto,~~of the granting or loaning authority, or imposed ~~thereon~~ on the loans and grants by any ~~such~~ federal agency, the State of North ~~Carolina, or any political subdivision thereof,~~Carolina and its political subdivisions, or any public or private lender or donor, and to give such evidences of indebtedness as shall be required, provided, however, that no indebtedness of any kind incurred or created by the Authority shall constitute an indebtedness of the State of North Carolina, or any of its political ~~subdivisions thereof,~~subdivisions, and no such indebtedness shall involve or be secured by the faith, credit or taxing power of the State of North Carolina, or any of its political ~~subdivision thereof;~~subdivisions;

(7) Be authorized and empowered to act as agent for the United States of America, or any ~~agency, department, corporation, or instrumentality thereof,~~of its agencies, departments, corporations, or instrumentalities in any matter coming within the purposes or powers of the Authority;

(8) Have power to adopt, alter or repeal bylaws and rules governing the manner in which its business may be transacted and in which the power granted to it may be enjoyed, and may provide for the appointment of ~~such committees, and the functions thereof,~~any committees as the Authority may deem necessary or expedient in facilitating its business;

(8a) Have the authority to assess and collect fees for its services or for the use of its facilities;

(9) Be authorized and empowered to do any and all other acts and things in this Article authorized or required to be done, whether or not included in the general powers in this section mentioned; and

(10) Be authorized and empowered to do any and all things necessary to accomplish the purposes of this Article.

"§ **113-315.30. Approval of acquisition and disposition of real property.**

Any transactions relating to the acquisition or disposition of real property or any estate or interest in real property, by the North Carolina State ~~Seafood~~ Marine Industrial Park Authority, shall be subject to prior review by the Governor and Council of State, and shall become effective only after the same has been approved by the Governor and Council of State. Upon the acquisition of real property or other estate ~~therein,~~or interest in real property, by the Authority, the fee title or other estate shall vest in and the instrument of conveyance shall name the "~~Seafood~~ North Carolina Marine Industrial Park Authority" as grantee, lessee, or transferee. Upon the disposition of real property or any interest or estate therein, the instrument of conveyance or transfer shall be executed by the North Carolina ~~Seafood~~ Marine Industrial Park Authority. The approval of any transaction by the Governor and Council of State may be evidenced by a duly certified copy of excerpt of minutes of the meeting of the Governor and Council of State, attested by the private secretary to the Governor or the Governor, reciting such approval, affixed to the instrument of acquisition or transfer, and ~~said~~ the certificate may be recorded as a part ~~thereof,~~of the instrument of acquisition or transfer, and ~~the same~~ shall be conclusive evidence of review and approval of the subject transaction by the Governor and Council of State. The Governor, acting with the approval of the Council of State, may delegate the review and approval of such classes of lease, rental, easement, or right-of-way transactions

as ~~he~~ the Governor deems advisable, and ~~he~~ the Governor may likewise delegate the review and approval of the severance of buildings and timber from the land.

"§ **113-315.31. Issuance of bonds.**

(a) As a means of raising the funds needed from time to time in the acquisition, construction, equipment, maintenance and operation of any facility, building, structure, or any other matter or thing which the Authority is ~~herein~~ authorized to acquire, construct, equip, maintain, or ~~operate,~~operate by this Article, all or any of them, the ~~said~~ Authority is hereby authorized at one time or from time to time to issue with the approval of the Governor negotiable revenue bonds of the Authority. The principal and interest of revenue bonds shall be payable solely from the revenue to be derived from the operation of all or any part of its properties and facilities.

(b) A pledge of the net revenues derived from the operation of ~~said~~ the properties and facilities, all or any of them, shall be made to secure the payment of ~~said bonds~~the bonds issued to finance them as and when they mature.

(c) Revenue bonds issued under the provisions of this Article shall not be deemed to constitute a debt of the State of North Carolina or a pledge of the faith and credit of the State. The issuance of such revenue bonds shall not directly or indirectly or contingently obligate the State to levy or to pledge any form of taxation whatever ~~therefor~~ or to make any appropriation for their payment.

(d) Such bonds and the income ~~thereof~~ derived from them shall be exempt from all taxation within the State.

(e) Notwithstanding any other provisions of this Article, the State Treasurer shall have the exclusive power to issue bonds and notes authorized under the act upon request of the Authority and with the approval of the Governor after receiving the advice of the Local Government Commission. The State Treasurer in his sole discretion shall determine the interest rates, maturities, and other terms and conditions of the bonds and notes authorized by this Article. The North Carolina ~~Seafood~~ Marine Industrial Park Authority shall determine when a bond issue is indicated. The Authority shall cooperate with the State Treasurer in structuring any bond issue in general, and also in soliciting proposals from financial consultants, underwriters, and bond attorneys.

"§ **113-315.32. Power of eminent domain.**

For the acquiring of rights-of-way and property necessary for the construction of wharves, piers, ships, docks, quays, elevators, compresses, refrigerator storage plants, warehouses and other riparian and littoral terminals and structures and approaches thereto, including the navigation stabilization structures ~~recommended by the United States Army Corps of Engineers pursuant to the authorization in United States Public Law 91-611,~~ and transportation facilities needful for the convenient use of same, the Authority shall have the right and power to acquire the same by purchase, by negotiation, or by condemnation, and should it elect to exercise the right of eminent domain, condemnation proceedings shall be maintained by and in the name of the Authority, and it may proceed in the manner provided for the Board of Transportation by Article 9 of Chapter 136 of the General Statutes. The power of eminent domain shall not apply to property of persons, State agency or corporations already devoted to public use, other than lands subject to the power of eminent domain by the State of North Carolina in the reservation clauses of a deed recorded in the Dare County Registry at Book 79 Page 548.

"§ **113-315.33. Exchange of property; removal of buildings, etc.**

The Authority may exchange any property or properties acquired under the authority of this Chapter for other property, or properties usable in carrying out the powers ~~hereby conferred,~~conferred by this Article, and also may remove from lands needed for its purposes and reconstruct on other locations, buildings, terminals, or other structures, upon the payment of just compensation, if in its judgment, it is necessary or expedient so to do in order to carry out any of its plans for ~~seafood~~ marine industrial park development, under the authorization of this Article.

"§ **113-315.34. Jurisdiction of the Authority; application of Chapter 20; appointment and authority of special police.**

(a) The jurisdiction of the Authority in any of ~~said harbors or seaports within the State for the shipment of seafood commerce~~the parks shall extend to all properties owned by or under control of the Authority and shall also extend over the waters and shores ~~of such harbors or seaports~~within the parks and over that part of all tributary streams flowing into ~~such harbors or seaports~~the parks in which the tide ebbs and flows, and shall extend to the outer edge of the outer bar situated at ~~such harbors or seaports.~~the approach to the port of any park.

(b) All the provisions of Chapter 20 of the General Statutes relating to the use of the highways of the State and the operation of motor vehicles thereon are hereby made applicable to the streets, alleys and driveways on the properties owned by or under the control of the North Carolina ~~Seafood~~ Marine Industrial Park Authority. Any person violating any of the provisions of said Chapter in or on such streets, alleys or driveways shall, upon conviction thereof, be punished as therein prescribed. Nothing herein contained shall be construed as in any way interfering with the ownership and control of such streets, alleys and driveways on the properties of said Authority as is now vested by law in the said Authority.

(c) The Authority shall post copies of rules concerning traffic and parking at appropriate places on property of the Authority. Violation of a rule concerning traffic or parking on property of the Authority is a Class 3 misdemeanor.

(d) The Secretary of Commerce is authorized to appoint such number of employees of the Authority as he may think proper as special policemen, who, when so appointed, shall have within the jurisdiction of the Authority all the powers of policemen of incorporated towns. Special policemen may arrest persons who violate State law or a rule adopted by the Authority. Employees appointed as such special policemen shall take the general oath of office prescribed by G.S. 11-11.

"§ **113-315.35. Audit.**

The operations of the North Carolina ~~Seafood~~ Marine Industrial Park Authority shall be subject to the oversight of the State Auditor pursuant to Article 5A of Chapter 147 of the General Statutes.

"§ **113-315.36. Building contracts.**

(a) The following general laws, to the extent provided below, do not apply to the North Carolina ~~Seafood~~ Marine Industrial Park Authority:

(1) Repealed by Session Laws 1999-368, s. 1.

(2) Except for G.S. 143-128.2, Article 8 of Chapter 143 of the General Statutes does not apply to public building contracts of the Authority that require the estimated expenditure of public money in an amount less than two hundred fifty thousand dollars ($250,000). With respect to a contract that is exempted from certain provisions of Article 8 under this subdivision, the powers and duties set out in Article 8 shall be exercised by the Authority, and the Secretary of Administration and other State officers, employees, or agencies shall have no duties or responsibilities concerning the contract.

(3) G.S. 143-341(3) does not apply to plans and specifications for construction or renovation authorized by the Authority that require the estimated expenditure of public money in an amount less than two hundred fifty thousand dollars ($250,000).

(b) Notwithstanding the other provisions of this section, the services of the Department of Administration may be made available to the Authority, when requested by the Authority, with regard to matters governed by Article 8 of Chapter 143 of the General Statutes and G.S. 143-341(3). The Authority shall report quarterly to the Joint Legislative Commission on Governmental Operations on any building contract to which this exemption is applied. The quarterly report required by this subsection shall specifically include information regarding the Authority's compliance with the provisions of G.S. 143-128.2.

…

"§ **113-315.38. Warehouses, wharves, etc., on property abutting navigable waters.**

The powers, authority and jurisdiction granted to the North Carolina ~~Seafood~~ Marine Industrial Park Authority under this Article and Chapter shall not be construed so as to prevent other persons, firms and corporations, including municipalities, from owning, constructing, leasing, managing and operating warehouses, structures and other improvements on property ~~owned, leased or under the control of such other persons, firms and corporations~~they own, lease, or control abutting upon and adjacent to navigable waters and streams in this State, nor to prevent ~~such~~ other persons, firms and corporations from constructing, owning, leasing and operating ~~in connection therewith~~ wharves, docks and ~~piers,~~piers associated with the warehouses, structures, and other improvements, nor to prevent ~~such~~ other persons, firms and corporations from encumbering, leasing, selling, conveying or otherwise dealing with and disposing of ~~such~~ the properties, facilities, lands and improvements after ~~such~~ construction.

"§ **113-315.39. Taxation.**

The property of the Authority shall not be subject to any taxes or ~~assessments thereon.~~assessments."

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

In the General Assembly read three times and ratified this the 20th day of June, 2013.

Became law upon approval of the Governor at 4:36 p.m. on the 26th day of June, 2013.

Session Law 2013-212 **H.B. 261**

AN ACT REMOVING CERTAIN DESCRIBED PROPERTY FROM THE CORPORATE LIMITS OF THE CITY OF KANNAPOLIS AND ADDING THE PROPERTY TO THE CORPORATE LIMITS OF THE CITY OF LANDIS.

The General Assembly of North Carolina enacts:

SECTION 1. The following described property is removed from the corporate limits of the City of Kannapolis and added to the corporate limits of the City of Landis:

A 1.85 acre tract, PIN # 156 0020000001, owned by Gary and Anita Moss.

SECTION 2. This act has no effect upon the validity of any liens of the City of Kannapolis for ad valorem taxes or special assessments outstanding before the effective date of this act. Such liens may be collected or foreclosed upon after the effective date of this act as though the property were still within the corporate limits of the City of Kannapolis.

SECTION 3. This act becomes effective June 30, 2013.

In the General Assembly read three times and ratified this the 27th day of June, 2013.

Became law on the date it was ratified.

Session Law 2013-213 **H.B. 421**

AN ACT REMOVING CERTAIN DESCRIBED PROPERTY FROM THE CORPORATE LIMITS OF THE TOWN OF MARSHVILLE.

The General Assembly of North Carolina enacts:

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

Union County Tax Parcel Number 02180003 located off Old Highway 74 in Marshville, NC and described in Exhibit A in the North Carolina General Warranty Deed filed with the Union County Register of Deeds, Book 3577, Page 769, reference to which is hereby made for a more complete and accurate description of the aforesaid lot.

SECTION 2. Section 1 of this act shall have no effect upon the validity of any liens of the Town of Marshville for ad valorem taxes or special assessments outstanding before the effective date of this act. Such liens may be collected or foreclosed upon after the effective date of this act as though the property was still within the corporate limits of the Town of Marshville.

SECTION 3. This act becomes effective June 30, 2013.

In the General Assembly read three times and ratified this the 27th day of June, 2013.

Became law on the date it was ratified.

Session Law 2013-214 **H.B. 526**

AN ACT ADDING CERTAIN DESCRIBED PROPERTY TO THE CORPORATE LIMITS OF THE TOWN OF CHADBOURN.

The General Assembly of North Carolina enacts:

SECTION 1. The following described property is added to the corporate limits of the Town of Chadbourn:

BEGINNING at a spike in the centerline of NC Hwy 410 where a 39.63 acre tract intersects land owned now or formerly by R. L. Ward; thence with the centerline North 03 degrees 54 minutes 29 seconds East 140.70 feet to a nail in the centerline; thence North 02 degrees 58 minutes 17 seconds East 135.07 feet to an old nail in the centerline; thence North 01 degrees 30 minutes 00 seconds East 93.34 feet to an old nail in the centerline; thence North 41 degrees 53 minutes 00 seconds East 164.08 feet; thence North 27 degrees 00 minutes 00 seconds East 283.39 feet to an iron by an old concrete marker; thence North 27 degrees 00 minutes 00 seconds East 30 feet; thence South 80 degrees 29 minutes 10 seconds East 571.41 feet; thence South 81 degrees 05 minutes 22 seconds East 391.43 feet; thence South 85 degrees 59 minutes 18 seconds East 282.08 feet; thence South 84 degrees 40 minutes 10 seconds East 311.38 feet; thence North 73 degrees 30 minutes 57 seconds East 13.95 feet; thence South 30 degrees 09 minutes 33 seconds East 473.67 feet to an old concrete marker; thence South 84 degrees 41 minutes 48 seconds East 973.12 feet to an old concrete marker in the edge of the road; thence South 84 degrees 41 minutes 48 seconds East 30.32 feet to an old iron in the centerline of SR 1562; thence down the centerline South 05 degrees 00 minutes 18 seconds West 336.14 feet to an old iron in the centerline; thence North 85 degrees 03 minutes 06 seconds West 2991.60 feet to a spike in the centerline of NC Hwy 410, the BEGINNING and containing 39.63 acres more or less as shown on a "Survey for A. P. Worley and Richard Worley," dated September 20, 1988, prepared by Soles & Walker RLS to which reference is specifically made.

SUBJECT TO drainage easement acquired by Columbus Drainage District Number 1 and/or as shown on a copy of the attached map. For back title see Book 282 page 301, Book 282 page 303, Book 371 page 185, and Book 282 page 305.

SECTION 2. This act becomes effective June 30, 2013.

In the General Assembly read three times and ratified this the 27th day of June, 2013.

Became law on the date it was ratified.

Session Law 2013-215 **H.B. 567**

AN ACT REMOVING CERTAIN DESCRIBED PROPERTY FROM THE CORPORATE LIMITS OF THE CITY OF LUMBERTON.

The General Assembly of North Carolina enacts:

SECTION 1. The following described property is removed from the corporate limits of the City of Lumberton:

Tract #1

The areas to be deannexed are the entire right-of-way of I-95 South (right-of-way varies), including the area of the off ramps for US 74, where it adjoins the City of Lumberton Annexation, as shown in Map Book 38, page 126, Map Book 39, page 20, Map Book 39, page 20-A, and Map Book 31, page 77 and includes all of the right-of-way of I-95 South running from US 74 in a westerly direction, about 3.5 miles and or about 1500 feet west of Exit 10 on 1-95 South, also deannexed is all of the right-of-way (100 ft. right-of-way) of US Highway 301 that leads from US 74 in a southwesterly direction about 1.5 miles to the intersection of US Highway 301 with the east right-of-way line of SR 1164, Back Swamp Road and including an area between US Highway 301 and I-95 South near the pt of a curve from US 74, all as shown in Map Book 39, page 20-A, also deannexed is all of the 60 foot right-of-way of SR 2422, McDonald Road that leads from I-95 South in a southern direction about 1.7 miles to its intersection with the north right-of-way line of SR 1003, Chicken Road as shown in Map Book 39, page 20-A, also deannexed is all of the 60 foot right-of-way of SR 1003, Chicken Road that leads from I-95 South in a southeast direction about 1.5 miles to its intersection with the northwest right-of-way line of SR 2422, McDonald Road as shown in Map Book 39, page 20-A.

Tract #2

All that certain tract or parcel of land lying about 5.2 miles west of the center of Lumberton, NC, adjacent to and south of I-74, about 1000 feet west of SR 2417, Thompson Road and adjoining the lands of Bonnie I. Rhodes (585/714) and Judy Smith Kinlaw (723/800) and SR 2503, Garland Road, on the east, Joanna W. Musselwhite (796/41), Barnes Farms, Inc., (719/860) and Luther Barnes (914/763) on the west and Luther Barnes (914/763) on the south and being more particularly described as follows: COMMENCING at NC Grid Monument "Taylor" having NC Grid Coordinates, NAD 83, (horizontal distance), N=307,541.590 and E=1,973,196.296 and runs South 89 degrees 36 minutes 24 seconds West 1357.82 feet to an iron rod found in the center of SR 2416, Emory Road, the northeast corner of the City of Lumberton (1166/693) and the northeast corner of the existing Corporate Limits line of the City of Lumberton, North Carolina; thence with the east line of said City of Lumberton tract and Corporate Limits line South 22 degrees 26 minutes 10 seconds West 1184.40 feet to an iron rod found in said east line, at its intersection with the north right-of-way line of I-74 (variable public right-of-way), the point and place of BEGINNING, having NC Grid Coordinates N=306,437.52 and E=1,971,386.47 and runs from said beginning iron rod with said east line, crossing I-74, South 22 degrees 26 minutes 10 seconds West 461.18 feet to an iron rod found at the intersection of said east line and right-of-way line of I-74; thence continuing with said line South 22 degrees 26 minutes 10 seconds West 958.25 feet to an iron pipe found; thence continuing with said east line South 22 degrees 27 minutes 58 seconds West 1709.11 feet to an iron pipe found on the south bank of a ditch and in the west right-of-way line (60 ft. right-of-way) of SR 2503, Garland Road; thence continuing with said east line and west right-of-way line of SR 2503, Garland Road, South 22 degrees 47 minutes 47 seconds West 626.81 feet to an iron pipe found, the southeast corner of said City of Lumberton tract and the Dead End of SR 2503, Garland Road; thence with the south line of said City of Lumberton tract, North 62 degrees 04 minutes 00 seconds West 609.85 feet to a concrete monument found, the southwest corner of said City of Lumberton tract; thence with a west line of said City of Lumberton tract, North 28 degrees 26 minutes 16 seconds East 257.38 feet to a pump pipe found; thence continuing with a west line of said City of Lumberton tract, North 29 degrees 29 minutes 12 seconds East 2115.07 feet to an iron pipe found, a corner of said City of Lumberton tract; thence with another south line of said City of Lumberton tract South 81 degrees 01 minutes 32 seconds West 526.89 feet to an iron axle found (bent); thence with a west line of said City of Lumberton tract, North 31 degrees 23 minutes 37 seconds East 198.02 feet to a

pump pipe found; thence continuing with an east line of said City of Lumberton tract, North 31 degrees 09 minutes 02 seconds East 683.93 feet to an iron rod found at the intersection of said west line with the south right-of-way line of I-74; thence continuing with west line and crossing I-74, North 31 degrees 09 minutes 02 seconds East 340.06 feet to a pump pipe found and North 30 degrees 17 minutes 01 seconds East 68.90 feet to an iron rod found at the intersection of said City of Lumberton west line and the north right-of-way line of I-74; thence with the north right-of-way line of I-74, the following (4) calls, North 85 degrees 41 minutes 08 seconds East 345.38 feet to a found North Carolina Disc, North 76 degrees 30 minutes 03 seconds East 26.15 feet to an iron rod found, North 76 degrees 30 minutes 03 seconds East 102.03 feet to a found North Carolina Disc and North 79 degrees 11 minutes 33 seconds East 200.21 feet to the beginning containing 44.27 acres including 5.86 acres in right-of-way of I-74. And being a part of those lands as shown in Map Book 1166, page 693, Robeson County Registry. Bearings referenced NC Grid, NAD 83, horizontal distance.

SECTION 2. Section 1 of this act shall have no effect upon the validity of any liens of the City of Lumberton for ad valorem taxes or special assessments outstanding before the effective date of this act. Such liens may be collected or foreclosed upon after the effective date of this act as though the property was still within the corporate limits of the City of Lumberton.

SECTION 3. This act becomes effective June 30, 2013.

In the General Assembly read three times and ratified this the 27th day of June, 2013.

Became law on the date it was ratified.

Session Law 2013-216 **H.B. 143**

AN ACT TO ALLOW THE CITY OF EDEN TO NEGOTIATE ANNEXATION CONTRACTS.

The General Assembly of North Carolina enacts:

SECTION 1. The City of Eden may, by contract, provide that certain property described in the contract may not be annexed by the City under Article 4A of Chapter 160A of the General Statutes prior to December 31, 2038. Nothing in this act impairs the right of the General Assembly to annex any such property by specific local act.

SECTION 2. The City of Eden may accept, as consideration for such contract, "payments in lieu of taxes."

SECTION 3. Payments in lieu of taxes under this act shall be annually computed based upon the tax valuations of the properties subject to contracts under Section 1 of this act as determined by the Rockingham County Tax Department, with the formula for making the computation being stated in each contract.

SECTION 4. Contracts under Section 1 of this act apply only to the following described properties: Miller Brewing Company TRACTS I and II as described in Section 4 of S.L. 2002-74, which descriptions are incorporated by reference in this act.

SECTION 5. This act does not affect the validity of S.L. 2002-74 which restricted certain annexations by the City of Eden through December 31, 2013.

SECTION 6. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 27th day of June, 2013.

Became law on the date it was ratified.

Session Law 2013-217 **H.B. 302**

AN ACT REPEALING THE ANNEXATION OF CERTAIN DESCRIBED PROPERTY BY THE CITY OF KANNAPOLIS.

The General Assembly of North Carolina enacts:

SECTION 1. S.L. 2009-113, as amended by S.L. 2011-124, is repealed.

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

In the General Assembly read three times and ratified this the 27th day of June, 2013.

Became law on the date it was ratified.

Session Law 2013-218 **H.B. 409**

AN ACT TO REMOVE CERTAIN DESCRIBED PROPERTY FROM THE CORPORATE LIMITS OF THE CITY OF SHELBY.

The General Assembly of North Carolina enacts:

SECTION 1. The following described property is removed from the corporate limits of the City of Shelby:

Parcel #60180, being all of 56.381 acre tract on plat book 31, page 184 of the Cleveland County Registry and reference is hereby made to said plat for a full metes and bounds description as if fully set out therein.

SECTION 2. Section 1 of this act shall have no effect upon the validity of any liens of the City of Shelby for ad valorem taxes or special assessments outstanding before the effective date of this act. Such liens may be collected or foreclosed upon after the effective date of this act as though the property was still within the corporate limits of the City of Shelby.

SECTION 3. Notwithstanding any other provision of law, the City of Shelby may exercise the powers of extraterritorial jurisdiction, as provided in Article 19 of Chapter 160A of the General Statutes, within the property area described in Section 1 of this act.

SECTION 4. If the property described in Section 1 of this act is not developed by June 30, 2016, for the purpose of operating a public school including a charter school, Pinnacle Classical Academy, Section 1 of this act is repealed effective June 30, 2016, and the property described in Section 1 of this act shall be added back to the corporate limits of the City of Shelby, effective July 1, 2016.

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

In the General Assembly read three times and ratified this the 27th day of June, 2013.

Became law on the date it was ratified.

Session Law 2013-219 **H.B. 412**

AN ACT TO AUTHORIZE THE CITY OF EDEN TO ENTER INTO AN AGREEMENT FOR PAYMENTS IN LIEU OF ANNEXATION.

The General Assembly of North Carolina enacts:

SECTION 1. Notwithstanding any applicable provision of the General Statutes or any other public or local law, the City of Eden is granted certain contract powers as follows:

(1) The City of Eden may, by agreement, provide that certain property described in the agreement as the "Dan River Plant Property" may not be involuntarily annexed by the City during the period beginning January 1, 2014, and ending on December 31, 2019, except as provided in the agreement, under the General Statutes as they now exist or may be subsequently amended. The

City of Eden shall not seek to repeal this act upon its approval by the General Assembly.

(2) Any agreement entered into as provided in subdivision (1) of this section is deemed by this section to be proprietary and commercial in nature and is specifically determined to be consistent with the public policy of the State of North Carolina.

(3) Any agreement entered into as provided in subdivision (1) of this section is a continuing agreement and is binding on and enforceable against the current and future members of the City Council of the City of Eden during the full term of the agreement and any extension thereof.

(4) The parties to any agreement entered into as provided in subdivision (1) of this section are authorized by this section to modify, amend, and extend the agreement on mutual written consent, without the approval of the General Assembly, provided that any modification or amendment does not materially alter the concept of the agreement.

SECTION 2. The City of Eden may accept payments in lieu of taxes as consideration for the agreement discussed in Section 1 of this act.

SECTION 3. The City of Eden will accept the total amount of one million dollars ($1,000,000) as payment in lieu of taxes on the Dan River Plant Property. Duke Energy shall make annual payments in the amount of two hundred thousand dollars ($200,000) during the course of the agreement.

SECTION 4. The agreement under Section 1 of this act shall apply to the Dan River Plant Property described as follows:

Tract 1

Beginning at a concrete monument set in the westerly line of S. R. # 1779 (Edgewood Road) and running thence from said beginning point, S 360º 45' E 80.6 feet to a stake, thence N 69° 26' E 826.6 feet to an iron rod found; thence N 20º 32' W 239.1 feet to an iron rod; thence N 69º 28' E 97.1 feet to an iron rod found; thence N 20º 39' W 180.0 feet to an iron rod found; thence N 69º 18' E 54.7 feet to a concrete monument found; thence N 20º 30' W 240.4 feet to an iron rod; thence N 69º 30' E 87.0 feet to an iron rod found; thence N 20º 35' W 180.1 feet to an iron rod found; thence N 69° 27' E 515.5 feet to an iron rod and iron pipe found in the westerly boundary of the property of Fieldcrest Mills, Inc.; thence with said property line S 10° 19' E 1390.2 feet to a concrete monument found in the southwesterly corner of the property of Fieldcrest Mills, Inc.; thence with the southerly line of Fieldcrest Mills, Inc., N 79º 03' E 161.9 feet to a concrete monument found; thence S 80° 53' E 1126.3 feet to an iron rod found in the centerline of the CNW Railroad Spur Track; thence with the centerline of said Spur track the following courses and distances: S 4º 02' E 100.0 feet to a point; S 0º 02' E 99.9 feet to a point; S 4º 04' W 100.0 feet to a point; S 7º 43' W 100.0 feet to a point; S 11º 45' W 100.0 feet to a point; S 15º 57' W 100.0 feet to a point; S 20º 00' W 100.0 feet to a point; S 24° 15' W 100.0 feet to a point; S 28º 05' W 100.0 feet to a point; S 31º 33' W 72.0 feet to a spike found; thence N 88º 54' E 623.1 feet to an iron rod found; thence S 18º 36' E 367.2 feet to an iron pipe found; thence S 6º 02' W 74.9 feet to an iron pipe found; thence S 24º 38' E 141.5 feet to a point in the northerly bank of the Dan River; thence with the Dan River the following courses and distances: S 66° 35' W 48.8 feet; S 54º 44' W 77.0 feet; S 61º 37' W 108.8 feet; S 55º 43' W 74.6 feet; S 53º 05' W 203.1 feet; S 32° 02' W 281.5 feet; S 27º 20' W 140.7 feet; S 27º 58' W 436.3 feet; S 29º 28'W 142.1 feet; S 26º 31' W 236.2 feet; S 41º 30' W 204.0 feet; S 52º 38' W 266.5 feet; S 58° 31' W 263.2 feet; S 63° 40' W 317.8 feet; S 57º 38' W 75.4 feet; S 65º 46' W 312.0 feet; S 71º 46' W 148.1 feet; S 75° 07' W 232.9 feet; S 76° 21' W 205.8 feet; N 6º 55' W 64.0 feet; S 68° 04' W 235.4 feet; S 17° 07' E 61.4 feet; S 66° 21' W 108.2 feet; S 67° 33' W 318.2 feet; S 68º 11' W 220.3 feet; S 70º 06' W 139.5 feet; S 78º 35' W 234.8 feet; S 65° 10' W 88.2 feet to a point in the southeasterly margin of the property of Fieldcrest Mills, Inc.; thence with the property line of Fieldcrest Mills, Inc.; N 18° 51' W 176.4 feet to an iron rod set; thence S 56º 26' W 96.7 feet to an iron pipe found; thence N 19º 06' W 1090.1 feet to a concrete

monument found; thence N 82° 22' E 247.0 feet to a point in the westerly bank of a pond; thence with the westerly bank of said pond, eight courses and distances as follows: (1) N 46° 33' W 98.7 feet; (2) N 32° 44' W 86.0 feet; (3) N 47° 00' W 82.7 feet; (4) N 84° 22' W 45.6 feet; (5) N 39° 52' W 147.9 feet; (6) N 18º 33' W 89.6 feet; (7) N 7º 38' E 206.9 feet; (8) N 36º 54' E 60.4 feet at an intersection of the said pond and Moir Branch; thence with the centerline of Moir Branch the following courses and distances: (1) N 22º 07' W 200.2 feet; (2) N 25° 40' W 40.5 feet; (3) N 45º 48' W 58.0 feet; (4) N 11º 08' W 47.0 feet; (5) S 79° 32' E 37.3 feet; (6) N 4° 09' E 25.0 feet; (7) N 6° 39' W 132.1 feet; (8) N 5° 25' E 193.7 feet; (9) N 7º 04' W 76.1 feet; (10) S 30° 57' W 48.8 feet; (11) S 73º 25' W 18.4 feet; (12) N 15° 37' W 44.9 feet; (13) N 3º 35' E 122.1 feet; (14) N 30º 20' W 34.8 feet; (15) N 14° 01' W 129.2 feet; (16) N 50º 22' W 61.7 feet; (17) N 22º 47' W 85.8 feet; (18) N 34° 56' W 29.7 feet; (19) N 4º 25' E 177.2 feet; (20) N 16º 48' E 54.7 feet; (21) N 30º 16' E 28.2 feet; (22) N 18° 14' W 25.5 feet; (23) N 13º 26' W 47.0 feet; (24) N 4° 41' E 115.3 feet; (25) S 89º 12' E 26.5 feet; (26) N 41º 02' E 26.5 feet; (27) N 9° 00' W 94.8 feet; (28) N 1º 43' W 62.0 feet; (29) N 40° 18' E 15.7 feet; (30) N 22° 50' E 46.8 feet; (31) N 11º 42' E 37.1 feet; (32) S 82° 45' E 40.0 feet; (33) N 16° 55' E 45.3 feet; (34) N 21º 40' E 37.9 feet; (35) N 6º 31' E 114.3 feet to a point in the southerly line of the property of Fieldcrest Mills, Inc.; thence with the southerly line of said property N 63º 10' E 308.3 feet to an iron pipe found; thence N 63º 14' E 523.5 feet to an iron pipe found; thence N 63º 07' E 132.1 feet to an iron pipe found; N 63º 20' E 171.2 feet to an iron pipe found; thence N 63º 13' E 357.6 feet to the point of Beginning, containing 371.48 acres.

Tract 2

Beginning at a point on the west bank of Miry Branch at the confluence of Miry Branch and Dan River; thence with the west branch of Miry Branch the following courses and distances: S 33º 39' W 85.4 feet; S 57° 48' W 80.0 feet; S 30° 56' W 51.1 feet; S 14° 24' E 36.7 feet; S 43º 41' E 74.3 feet; S 1º 31' W 72.2 feet; S 6° 51' W 117.5 feet; S 5º 17' W 37.8 feet; S 45º 12' W 74.0 feet; S 41º 15' W 117.0 feet; S 31º 11' W 36.9 feet; S 15° 35' E 72.8 feet; S 31º 08' W 52.5 feet; S 24° 33' E 44.3 feet; S 24º 09' W 94.5 feet; S 7º 15' W 35.1 feet; S 36° 54' E 71.5 feet to an iron rod; thence S 72º 11' W 395.3 feet to a concrete monument found; thence N 2º 25' E 917.1 feet to the southerly line of said river; thence with the southerly bank of Dan River three calls as follows: N 70° 00' E 336.4 feet; N 69° 52' E 115.1 feet; N 79° 21' E 154.5 feet to the point of Beginning, containing 9.08 acres.

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

In the General Assembly read three times and ratified this the 27th day of June, 2013.

Became law on the date it was ratified.

Session Law 2013-220 **H.B. 490**

AN ACT TO CHANGE THE MANNER OF ELECTION FOR THE LEE COUNTY BOARD OF EDUCATION AND FOR THE CITY OF SANFORD TO PARTISAN.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 852, Session Laws of 1973, as amended by Chapter 204 of the Session Laws of 1977 and Chapter 307 of the 1989 Session Laws, reads as rewritten:

"Section 1. The Lee County Board of Education shall consist of seven members, to be elected by the voters of the county on a ~~nonpartisan basis as herein provided,~~ partisan basis, who shall serve for a term of four years. The term of office of each member shall begin at the first regular meeting in ~~July~~ December in the year of his election, and each member shall serve until a successor has been elected and qualified.

…

"Section 3. ~~At the primary election for county officers held for Lee County in 1974, there shall be elected three members of the Lee County Board of Education. At the primary election for county officers held in Lee County in 1976, there shall be elected four members of the~~

~~Sanford Lee County Board of Education.~~ At the time for election of county officers in Lee County in 2014, there shall be elected three members of the Lee County Board of Education. At the time for election of county officers in Lee County in 2016, there shall be elected four members of the Lee County Board of Education. Thereafter, biennially there shall be elected members of the Lee County Board of Education to succeed the members whose terms next expire."

SECTION 2. G.S. 115C-37.1(d) reads as rewritten:

"(d) This section shall apply only in the following counties: Alleghany, Brunswick, Graham, Lee, New Hanover, Vance, and Washington."

SECTION 3.(a) The Charter of the City of Sanford, being Chapter 650 of the 1967 Session Laws, as amended by Chapter 541 of the Session Laws of 1971, Chapter 403 of the Session Laws of 1987, and S.L. 1997-245, is amended by adding a new section to read:

"Sec. 4.2. Manner of Election. The Mayor and City Council are elected on a partisan basis in accordance with Article 24 of Chapter 163 of the General Statutes."

SECTION 3.(b) If approval of this section is required under Section 5 of the Voting Rights Act of 1965, this section is effective January 1, 2014.

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

In the General Assembly read three times and ratified this the 27th day of June, 2013.

Became law on the date it was ratified.

Session Law 2013-221 **H.B. 544**

AN ACT AMENDING THE CHARTER OF THE CITY OF WILMINGTON TO DELETE LANGUAGE THAT RESTRICTED THE LENGTH OF THE TERM OF A MEMBER OF THE CIVIL SERVICE COMMISSION.

The General Assembly of North Carolina enacts:

SECTION 1. Section 11.1 of the Charter of the City of Wilmington, being Chapter 495 of the 1977 Session Laws, as amended by S.L. 2010-73, reads as rewritten:

"**Sec. 11.1.** Civil Service Commission established. There is created a Civil Service Commission consisting of five members. Each member must be a citizen and a resident of the City of Wilmington. No member shall be an officer or employee of the city, or be a member of the immediate family of an employee of the city or a former employee of the police or fire department. Applicants to the Civil Service Commission shall complete the City of Wilmington Boards and Commissions application process.

The employees of the City of Wilmington Fire Department who are subject to this Article, by a majority vote, shall name one member. The employees of the City of Wilmington Police Department, who are subject to this Article, by a majority vote, shall name one member. The City Council of the City of Wilmington, by a majority vote, shall name one member. The New Hanover County Medical Society governing board, by a majority vote, shall name one member. The sitting members of the Civil Service Commission, by a majority vote, shall name one member.

The members of the commission shall serve a term of three years unless removed by the appointing authority. A member may be removed by a majority vote of all members of the agency appointing that member.

A vacancy is caused by death, resignation, disqualification, or removal. A vacancy is filled by the agency authorized to name the member causing the vacancy. If the agency fails to fill the vacancy within 60 days after notification, the resident senior superior court judge of the judicial district that includes New Hanover County shall immediately fill the vacancy. Members appointed to fill a vacancy serve for the remainder of the unexpired term. Notwithstanding any other provision in this section, the member previously named by the Wilmington Ministerial Association governing body, shall be replaced with another member chosen by a majority vote

of the sitting members of the Civil Service Commission. The member, who must complete the City of Wilmington Boards and Commissions application process, shall fill an at-large ~~seat for a one-year term to run from August 1, 2010, through August 1, 2011.~~seat.

The city council shall set the compensation for allowances, if any, to be paid the members of the commission. In November of each year, the commission shall elect a chairman and may elect other officers. A majority of the members of the commission constitutes a quorum. The commission may determine its own rules of procedure.

The city clerk shall be designated as permanent recording secretary to the Civil Service Commission. The recording secretary shall maintain the minutes of commission meetings and hearings, keep custody of commission records and notify members of meetings. The director of personnel shall act as an ex officio member of the commission representing the city on personnel matters to be handled by the commission. The commission shall within a reasonable time, supply the director of personnel with notification of any actions, reports, or recommendations made by the commission. The personnel office shall notify affected police and fire department members of actions, reports and recommendations made by the commission."

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

In the General Assembly read three times and ratified this the 27th day of June, 2013.

Became law on the date it was ratified.

Session Law 2013-222 **H.B. 551**

AN ACT TO AMEND THE ACT CREATING A FIREMEN'S BENEFIT FUND FOR FIREMEN IN THE CITY OF WILMINGTON, AS AMENDED, AND TO MODIFY THE APPLICATION OF G.S. 58-84-35 TO THE CITY OF WILMINGTON.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 505 of the 1983 Session Laws, as amended by Chapter 904 of the 1987 Session Laws, reads as rewritten:

"Section 1. Fireman's Benefit Fund Created. The Board of Trustees of the Local Fireman's Relief Fund of the city of Wilmington, as established in accordance with ~~G.S. 118-6,~~ G.S. 58-84-30, hereinafter called the Board of Trustees, shall create and maintain a separate fund to be called the Wilmington Fireman's Benefit Fund, hereinafter the Fireman's Benefit Fund, and shall maintain books of account for such Fund separate from the books of account of the Local Fireman's Relief Fund. The board of trustees shall pay into the Fireman's Benefit Fund the funds prescribed by this act.

"Section 2. Transfers of Funds and Disbursements. Notwithstanding the provisions of ~~G.S. 118-7,~~ G.S. 58-84-35, the Board of Trustees of the Local Fireman's Relief Fund of the City of Wilmington shall:

(a) prior to January 1, 1984 and prior to January 1 in each subsequent calendar year, transfer to the Fireman's Benefit Fund all funds (including earnings on investments) belonging to the Local Fireman's Relief Fund in excess of ~~fifteen thousand dollars, ($15,000);~~ fifteen thousand dollars ($15,000) for the 2013 calendar year, in excess of thirty thousand dollars ($30,000) for the 2014 calendar year, and in excess of the amount transferred the previous year increased by fifteen thousand dollars ($15,000) in each calendar year thereafter until the balance in the Local Firemen's Relief Fund reaches one hundred five thousand dollars ($105,000).

~~(b) at any time when the amount of funds in the Local Fireman's Relief Fund shall, by reason of disbursements authorized by G.S. 118-7, be less than fifteen thousand dollars ($15,000), transfer from Fireman's Benefit Fund to the Local Fireman's Relief Fund an amount sufficient to maintain in the Local Fireman's Relief Fund the sum of fifteen thousand dollars ($15,000);~~

(c) as soon as practical after January 1 of each calendar year thereafter, but in no event later than July 1, divide funds belonging to the Fireman's Benefit Fund in equal shares and disburse the same as retirement benefits in accordance with Section 3 of this act.

"Section 3. Fireman's Benefits. Each retired fireman of the City, who is receiving retirement or disability benefits from the Fireman's Pension Fund of Wilmington, North Carolina or the North Carolina Local Governmental Employees Retirement System, shall be entitled to and shall receive in each calendar year following the calendar year in which he retires the following supplemental retirement benefits: one share for each full year of service as a full-time fireman of the City of Wilmington. Each surviving spouse or beneficiary of a fireman who is receiving retirement or disability benefits from the Fireman's Pension Fund of Wilmington, North Carolina or the North Carolina Local Governmental Employees Retirement System on June 30, 2013, shall be entitled to and shall receive in each calendar year following the calendar year in which the retired fireman dies, the following supplemental benefit: one share for each full year of service as the employee as a full time fireman of the City of Wilmington.

"Section 4. Investment of Fund. The board of trustees is hereby authorized to invest any funds, either of the Local Firemen's Relief Fund or of the Firemen's Benefit Fund, in any investment named in or authorized by either G.S. 159-30 or G.S. 159.31, and is hereby directed to invest all of the funds belonging to the Firemen's Benefit Fund in one or more such investments; provided, that investment in certificates of deposit or time deposit in any or trust company, or in shares of any savings and loan association, shall not exceed the amount insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation, as the case may be, unless such deposits or investments in shares are secured in the manner provided by G.S. 159-30 or G.S. 159.31.

"Section 5. Acceptance of Gifts. The board of trustees may accept any gift, grant, bequest, or donation of money for the use of the Firemen's Benefit Fund.

"Section 6. Bond of Treasurer. The board of trustees shall bond the treasurer of the Local Firemen's Relief Fund with a good and sufficient bond in an amount at least equal to the amount of funds in his control, payable to the board of trustees, and conditioned upon the faithful performance of his duties; such bond shall be in lieu of the bond required by ~~G.S. 118-6.~~ G.S. 58-84-30. The board of trustees may pay the premiums for the bond of the treasurer from the Firemen's Benefit Fund.

"Section 7. Severability. If any provision of this act is declared invalid by a court of competent jurisdiction, the invalidity shall not affect other provision hereof which can be in affect without the invalid provision, and to this end the provisions of this act are declared to be severable.

"Section 8. Repealer. All laws and clauses of laws in conflict with this act are hereby repealed.

"Section 9. None of the provisions of this act shall create a liability for the ~~New Hanover~~ Wilmington Firemen's Benefit Fund unless sufficient current assets are available in the Fund to pay fully for the liability.

"Section 10. This act is effective upon ratification."

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

In the General Assembly read three times and ratified this the 27th day of June, 2013.

Became law on the date it was ratified.

Session Law 2013-223 **H.B. 553**

AN ACT TO MODIFY CARTERET COUNTY'S AUTHORITY TO LEVY AN ADDITIONAL ONE PERCENT ROOM OCCUPANCY AND TOURISM DEVELOPMENT TAX AND TO MODIFY THE DISTRIBUTION OF THE PROCEEDS OF THE TAX.

The General Assembly of North Carolina enacts:

SECTION 1. Section 2 of S.L. 2007-112, as amended by Section 40 of S.L. 2007-484, reads as rewritten:

"**SECTION 2.** Occupancy Tax. – (a) Authorization and Scope. – The Carteret County Board of Commissioners may levy a room occupancy and tourism development tax of five percent (5%) of the gross receipts derived from the rental of any room, lodging, or similar accommodation furnished by any hotel, motel, inn, tourist camp, condominium, cottage, campground, rental agency, or other similar place within the county that is subject to sales tax imposed by the State under G.S. 105-164.4(a)(3). This tax is in addition to any State or local sales tax. This tax does not apply to accommodations furnished by nonprofit charitable, educational, or religious organizations when furnished in furtherance of their nonprofit purpose.~~the following:~~

~~(1) Religious organizations.~~

~~(2) Educational organizations.~~

~~(3) Any business that offers to rent fewer than five units.~~

~~(4) Summer camps.~~

~~(5) Charitable, benevolent, and other nonprofit organizations.~~

"**SECTION 2.(b)** Additional Occupancy Tax. – In addition to the room occupancy and tourism development tax authorized by subsection (a) of Section 2 of this act, the Carteret County Board of Commissioners ~~may, no earlier than July 1, 2010,~~ may levy an additional room occupancy and tourism development tax of one percent (1%) of the gross receipts derived from the rental of accommodations taxable under subsection (a) of Section 2 of this ~~act only if all of the following conditions have been met:~~act. Carteret County may not levy a tax under this subsection unless it also levies a tax under subsection (a) of this section.

~~(1) A development plan for the construction of a convention center has been approved by resolution of the board of county commissioners and the governing board of the municipality where the center is to be located by June 30, 2010.~~

~~(2) There is a signed contract between the appropriate local governments and a private developer that includes financing commitments for construction to begin no later than July 1, 2011.~~

~~(3) The county is levying the room occupancy and tourism development tax authorized under subsection (a) of Section 2 of this act.~~

~~"**SECTION 2.(c)** Repeal of Additional Occupancy Tax. – Carteret County's authority to levy the additional one percent (1%) room occupancy and tourism development tax under subsection (b) of Section 2 of this act is repealed as provided in this section if either of the following events occur:~~

~~(1) A cumulative total of ten million dollars ($10,000,000) in proceeds from the additional one percent (1%) room occupancy and tourism development tax is collected, calculated beginning on July 1, 2010. The repeal under this subdivision is effective on the first day of the second month following the date that the cumulative total of ten million dollars ($10,000,000) is collected.~~

~~(2) Construction on the convention center has not begun by July 1, 2011. The repeal under this subdivision is effective September 1, 2011. Any funds collected before the repeal date must be redistributed to the Tourism Development Authority and used only to promote travel and tourism.~~

~~"**SECTION 2.(d)** Excess Proceeds from Additional Occupancy Tax. – Carteret County must redistribute any excess proceeds from the additional one percent (1%) room occupancy and tourism development tax authorized under subsection (b) of Section 2 of this act to the Tourism Development Authority to be used only to promote travel and tourism. For purposes of this subsection, "excess proceeds" means:~~

~~(1) Any proceeds in excess of ten million dollars ($10,000,000) collected prior to the repeal date of the additional tax.~~

~~(2) Any proceeds collected but not spent in excess of the actual cost of the convention center.~~

"**SECTION 2.(e)** Administration. – A tax levied under this act must be levied, administered, collected, and repealed as provided in G.S. 153A-155. The penalties provided in G.S. 153A-155 apply to a tax levied under this act. The Carteret County Tax Collector must establish procedures to periodically audit the businesses subject to the tax levied under this act in order to ensure compliance with this act.

"**SECTION 2.(f)** Definitions. – The following definitions apply in this act:

(1) Beach nourishment. – The placement of sand, from other sand sources, on a beach or dune by mechanical means and other associated activities that are in conformity with the North Carolina Coastal Management Program along the shorelines of the Atlantic Ocean of North Carolina and connecting inlets for the purpose of widening the beach to benefit public recreational use and mitigating damage and erosion from storms to inland property. The term includes expenditures for the following:

a. Costs directly associated with qualifying for projects either contracted through the U.S. Army Corps of Engineers or otherwise permitted by all appropriate federal and State agencies;

b. The nonfederal share of the cost required to construct these projects;

c. The costs associated with providing enhanced public beach access; and

d. The costs of associated nonhardening activities such as the planting of vegetation, the building of dunes, and the placement of sand fences.

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

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

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

"~~**SECTION 2.(g)** Use and Distribution of five percent (5%) Occupancy Tax Revenue. – If Carteret County levies only the room occupancy and tourism development tax authorized by subsection (a) of Section 2 of this act, the net proceeds of the tax must be distributed as follows:~~

~~(1) Travel and tourism promotion. – Carteret County must, on a quarterly basis, remit fifty percent (50%) to the Carteret County Tourism Development Authority. Beginning July 1, 2010, if the conditions in subsection (b) of Section 2 of this act are not met, then Carteret County must, on a quarterly basis, remit sixty percent (60%) to the Carteret County Tourism Development Authority. After deducting its administrative expenses, the Authority must use all of the funds remitted to it under this subdivision to promote travel and tourism in Carteret County. Administrative expenses may~~

~~not exceed ten percent (10%) of the total budget of the Tourism Development Authority and may not include costs associated with the operation of visitor centers.~~

~~(2) Beach nourishment. – Carteret County must retain the remainder to be used only for beach nourishment on Bogue Banks. Any idle funds that are not spent for beach nourishment must be remitted to the Carteret County Tourism Development Authority and must be used only to promote travel and tourism in Carteret County. The county may not accumulate a balance of tax proceeds for beach nourishment in excess of fifteen million dollars ($15,000,000).~~

"~~**SECTION 2.(h)** Use and Distribution of six percent (6%) Occupancy Tax Revenue. – If the conditions in subsection (b) of Section 2 of this act are met and Carteret County levies the room occupancy tax at a rate of six percent (6%) as authorized by subsections (a) and (b) of Section 2 of this act, the net proceeds must be distributed as follows:~~

~~(1) Travel and tourism promotion. – Carteret County must, on a quarterly basis, remit fifty percent (50%) to the Carteret Tourism Development Authority to be used to promote travel and tourism.~~

~~(2) Beach nourishment. – Carteret County must use thirty-three percent (33%) only for beach nourishment on Bogue Banks. Any idle funds that are not spent for beach nourishment must be remitted to the Carteret County Tourism Development Authority and must be used only to promote travel and tourism in Carteret County. The county may not accumulate a balance of tax proceeds for beach nourishment in excess of fifteen million dollars ($15,000,000).~~

~~(3) Convention center financing. – Any remaining proceeds, up to a maximum of ten million dollars ($10,000,000), must be used for the financing of debt service, operating costs, or both associated with the construction of a new convention center in Carteret County.~~

"**SECTION 2.(i)** Use and Distribution of Tax Revenue. – The net proceeds of the occupancy taxes levied under Section 2 of this act are distributed as follows:

(1) Travel and tourism promotion. – Carteret County must, on a quarterly basis, remit fifty percent (50%) to the Carteret County Tourism Development Authority to be used to promote travel and tourism.

(2) Beach nourishment. – Carteret County must use the remaining fifty percent (50%) only for beach nourishment on Bogue Banks. The county may not accumulate a balance of tax proceeds for beach nourishment in excess of thirty million dollars ($30,000,000)."

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

In the General Assembly read three times and ratified this the 27th day of June, 2013.

Became law on the date it was ratified.

Session Law 2013-224 **H.B. 743**

AN ACT TO MAKE TECHNICAL, ADMINISTRATIVE, AND CLARIFYING CHANGES TO THE UNEMPLOYMENT INSURANCE LAWS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 96-4(q), as enacted by S.L. 2013-2, reads as rewritten:

"(q) The ~~Division~~ Board of Review after due notice shall have the right and power to hold and conduct hearings for the purpose of determining the rights, status and liabilities of an employer. The Board of Review shall have the power and authority to determine any and all questions and issues of fact or questions of law that may arise under the Employment Security

Law that may affect the rights, liabilities and status of an employer including the right to determine the amount of contributions, if any, which may be due the Division by any employer. Hearings may be before the Board of Review and shall be held in the central office of the Board of Review or at any other designated place within the State. They shall be open to the public and shall consist of a review of the evidence taken by a hearing officer designated by the Board of Review and a determination of the law applicable to that evidence. The Board of Review shall provide for the taking of evidence by a hearing officer employed in the capacity of an attorney by the Department. Such hearing officer shall have the same power to issue subpoenas, administer oaths, conduct hearings and take evidence as is possessed by the Board of Review and such hearings shall be recorded, and he shall transmit all testimony and records of such hearings to the Board for its determination. All such hearings conducted by such hearing officer shall be scheduled and held in any county in this State in which the employer resides, maintains a place of business, or conducts business; however, the Board of Review may require additional testimony at any hearings held by it at its office. From all decisions or determinations made by the Board of Review, any party affected thereby shall be entitled to an appeal to the superior court. Before a party shall be allowed to appeal, the party shall within 10 days after notice of such decision or determination, file with the Board of Review exceptions to the decision or the determination, which exceptions will state the grounds of objection to the decision or determination. If any one of the exceptions shall be overruled then the party may appeal from the order overruling the exceptions, and shall, within 10 days after the decision overruling the exceptions, give notice of his appeal. When an exception is made to the facts as found by the Board of Review, the appeal shall be to the superior court in term time but the decision or determination of the Board of Review upon such review in the superior court shall be conclusive and binding as to all questions of fact supported by any competent evidence. When an exception is made to any rulings of law, as determined by the Board of Review, the appeal shall be to the judge of the superior court at chambers. The party appealing shall, within 10 days after the notice of appeal has been served, file with the Board of Review exceptions to the decision or determination overruling the exception which statement shall assign the errors complained of and the grounds of the appeal. Upon the filing of such statement the Board of Review shall, within 30 days, transmit all the papers and evidence considered by it, together with the assignments of errors filed by the appellant to a judge of the superior court holding court or residing in some district in which such appellant either resides, maintains a place of business or conducts business, or, unless the appellant objects after being given reasonable opportunity to object, to a judge of the Superior Court of Wake County: Provided, however, the 30-day period specified herein may be extended by agreement of parties."

SECTION 2. G.S. 96-4(u), as enacted by S.L. 2013-2, reads as rewritten:

"(u) Notices of hearing shall be issued by the ~~Division~~ Board of Review or its authorized representative and sent by registered mail, return receipt requested, to the last known address of employer, employers, persons, or firms involved. The notice shall be sent at least 15 days prior to the hearing date and shall contain notification of the place, date, hour, and purpose of the hearing. Subpoenas for witnesses to appear at any hearing shall be issued by the Division or its authorized representative and shall order the witness to appear at the time, date and place shown thereon. Any bond or other undertaking required to be given in order to suspend or stay any execution shall be given payable to the Department of Commerce. Any such bond or other undertaking may be forfeited or sued upon as are any other undertakings payable to the State."

SECTION 3. G.S. 96-5.1(a), as enacted by S.L. 2013-2, reads as rewritten:

"(a) Fund Established. – The Supplemental Employment Security Administration Fund is created as a special revenue fund. The fund consists of all interest and penalties paid under this Chapter by employers on overdue contributions and any appropriations made to the fund by the General Assembly. Penalties collected on unpaid taxes imposed by this section must be transferred to the Civil Penalty and Forfeiture Fund established in G.S. 115C-457.1."

SECTION 4. G.S. 96-6.1(a), as enacted by S.L. 2013-2, reads as rewritten:

"(a) Establishment and Use. – The Unemployment Insurance Reserve Fund is established as an enterprise fund.~~a special revenue fund.~~ The Fund consists of the revenues derived from the surtax imposed under G.S. 96-9.7. Moneys in the Fund may be used only for the following purposes:

…."

SECTION 5. G.S. 96-9.2(b), as enacted by S.L. 2013-2, reads as rewritten:

"(b) Standard Beginning Rate. – The standard beginning rate applies to an employer until the employer's account has been chargeable with benefits for at least 12 calendar months ending July 31 immediately preceding the computation date. An employer's account has been chargeable with benefits for at least 12 calendar months if the employer has reported wages paid in four completed calendar quarters and ~~these quarters are in~~ its liability extends over all or part of two consecutive calendar years."

SECTION 6. G.S. 96-9.6(e), as enacted by S.L. 2013-2, reads as rewritten:

"(e) Annual Reconciliation. – A reimbursing employer must maintain an account balance equal to one percent (1%) of its taxable wages. The Division must determine the balance of each employer's account on the computation date. If there is a deficit in the account, the Division must bill the employer for the amount necessary to bring its account to one percent (1%) of its taxable wages for the ~~preceding calendar year.~~ immediate four quarters preceding July 1. Any amount in the account in excess of the one percent (1%) of taxable wages will be retained in the employer's account as a credit and will not be refunded to the employer. The Division must send a bill as soon as practical. Payment is due within 30 days from the date a bill is mailed. Amounts unpaid by the due date accrue interest and penalties in the same manner as past-due contributions and are subject to the same collection remedies provided under G.S. 96-10 for past-due contributions."

SECTION 7. G.S. 96-9.6(i), as enacted by S.L. 2013-2, reads as rewritten:

"(i) Transition. – This subsection provides a transitional adjustment period for an employer that elected to be a reimbursing employer prior to January 1, 2013, and was not required to submit an advance payment with its first four quarterly reports equal to one percent (1%) of its reported taxable wages. This subsection expires January 1, 2016.

(1) Governmental entities. – An employer that is a State or local governmental unit must reimburse the Division in the amount required by subsection (c) of this section for benefits paid on its behalf, as determined on the computation date in 2013, but it does not have to reconcile its account balance, as required under subsection (e) of this section, until 2014. If the employer's account balance on the computation date in 2014 does not equal one percent (1%) of its taxable wages reported for the ~~2013 calendar year,~~preceding fiscal year, the Division will bill the employer for the deficiency.

…."

SECTION 8. G.S. 96-9.7(a), as enacted by S.L. 2013-2, reads as rewritten:

"(a) Surtax Imposed. – A surtax is imposed on an employer who is required to make a contribution to the Unemployment Insurance Fund equal to twenty percent (20%) of the contribution due under G.S. 96-9.2. Except as provided in this section, the surtax is collected and administered in the same manner as contributions. Surtaxes collected under this section must be credited to the Unemployment Insurance Reserve Fund established under ~~G.S. 96-6.~~ G.S. 96-6.1. Interest and penalties collected on unpaid surtaxes imposed by this section must be credited to the Supplemental Employment Security Administration Fund. Penalties collected on unpaid surtaxes imposed by this section must be transferred ~~credited~~ to the Civil Penalty and Forfeiture Fund established in G.S. 115C-457.1."

SECTION 9. G.S. 96-10(g) reads as rewritten:

"(g) Upon the motion of the Division, any employer refusing to submit any report required under this Chapter, after 10 days' written notice sent by the Division by registered or certified mail to the employer's last known address, may be enjoined by any court of competent

jurisdiction from hiring and continuing in employment any employees until such report is properly submitted. When an execution has been returned to the Division unsatisfied, and the employer, after 10 days' written notice sent by the Division by registered or certified mail to the employer's last known address, refuses to pay the contributions covered by the execution, such employer shall upon the motion of the Division be enjoined by any court of competent jurisdiction from hiring and continuing in employment any employees until such contributions have been paid.

An employer who fails to file a report within the required time shall be assessed a late filing penalty of five percent (5%) of the amount of contributions due with the report for each month or fraction of a month the failure continues. The penalty may not exceed twenty-five percent (25%) of the amount of contributions due. An employer who fails to file a report within the required time but owes no contributions shall not be assessed a penalty unless the employer's failure to file continues for more than 30 days."

SECTION 10. G.S. 96-11.2, as enacted by S.L. 2013-2, reads as rewritten:

"§ **96-11.2. Allocation of charges to base period employers.**

Benefits paid to an individual are charged to an employer's account when the individual's benefit year has expired. Benefits paid to an individual must be allocated to the account of each base period employer in the proportion that the base period wages paid to the individual in a calendar quarter by each base period employer bears to the total wages paid to the individual in ~~that quarter~~ the base period by all base period employers. The amount allocated to an employer that pays contributions is multiplied by one hundred twenty percent (120%) and charged to that employer's account. The amount allocated to an employer that elects to reimburse the Unemployment Insurance Fund in lieu of paying contributions is the amount of benefits charged to that employer's account."

SECTION 11. G.S. 96-11.4(a), as enacted by S.L. 2013-2, reads as rewritten:

"(a) …

(2) The employer or agent has a pattern of failing to respond timely or adequately to requests from the Division for information relating to claims for unemployment compensation. In determining whether the employer or agent has a pattern of failing to respond timely or adequately, the Division must consider the number of documented instances of that employer's or agent's failures to respond in relation to the total requests made to that employer or agent. An employer or agent may not be determined to have a pattern of failing to respond if the number of failures during the year prior to the request is ~~less~~ fewer than two or less than two percent (2%) of the total requests made to that employer or agent, whichever is greater.~~agent.~~"

SECTION 12. G.S. 96-14.1(e), as enacted by S.L. 2013-2, reads as rewritten:

"(e) Federal Restrictions. – Benefits are not payable for services performed by the following individuals, to the extent prohibited by section 3304 of the Code:

(1) Instructional, research, or principal administrative employees of educational institutions.

(2) Services in any other capacity for an educational institution.

~~(2)~~(3) Professional athletes.

~~(3)~~(4) Aliens."

SECTION 13. G.S. 96-14.3, as enacted by S.L. 2013-2, reads as rewritten:

"§ **96-14.3. Minimum and maximum duration of benefits.**

The minimum and maximum number of weeks an individual is allowed to receive unemployment benefits depends on the seasonal adjusted statewide unemployment rate that applies to the six-month base period in which the claim is filed. One six-month base period begins on January 1 and one six-month base period begins on July 1. For the base period that begins January 1, the average of the seasonal adjusted unemployment ~~rate~~ rates for the State for the preceding ~~month~~ months of ~~October~~ July, August, and September applies. For the base period that begins July 1, the average of the seasonal adjusted unemployment ~~rate~~ rates for the

State for the preceding ~~month~~ months of ~~April~~ January, February, and March applies. The Division must use the most recent seasonal adjusted unemployment rate determined by the U.S. Department of Labor, Bureau of Labor Statistics, and not the rate as revised in the annual benchmark. The number of weeks allowed for an individual is determined in accordance with G.S. 96-14.4.

…."

SECTION 14. G.S. 96-14.9(d), as enacted by S.L. 2013-2, reads as rewritten:

"(d) …

(4) The individual is on disciplinary suspension for ~~more than~~ 30 or fewer days based on acts or omissions that constitute fault on the part of the employee and are connected with the work."

SECTION 15. G.S. 96-14.10, as enacted by S.L. 2013-2, reads as rewritten:

"§ **96-14.10. Disciplinary suspension.**

The disciplinary suspension of an employee for 30 or fewer consecutive calendar days does not constitute good cause for leaving work. An individual who is on suspension is not available for work and is not eligible for benefits for any week during any part of the disciplinary suspension. If the disciplinary suspension exceeds 30 days, the individual is considered to have been discharged from work because of the acts or omissions that caused the suspension and the issue is whether the discharge was for disqualifying reasons. During the period of suspension of ~~up to~~ 30 or fewer days, the individual is considered to be attached to the employer's payroll, and the issue of separation from work is held in abeyance until a claim is filed for a week to which this section does not apply."

SECTION 16. G.S. 96-15(a1), as enacted by S.L. 2013-2, reads as rewritten:

"(a1) Attached Claims. – An employer may file claims for employees through the use of automation in the case of partial unemployment. An employer may file an attached claim for an employee only once during a ~~calendar year,~~ benefit year, and the period of partial unemployment for which the claim is filed may not exceed six weeks. To file an attached claim, an employer must pay the Division an amount equal to the full cost of unemployment benefits payable to the employee under the attached claim at the time the attached claim is filed. The Division must credit the amounts paid to the Unemployment Insurance Fund.

An employer may file an attached claim under this subsection only if the employer has a positive credit balance in its account as determined under Article 2B of this Chapter. If an employer does not have a positive credit balance in its account, the employer must remit to the Division an amount equal to the amount necessary to bring the employer's negative credit balance to at least zero at the time the employer files the attached claim."

SECTION 17. G.S. 96-15(b), as enacted by S.L. 2013-2, reads as rewritten:

"(b) …

(2) Adjudication. – When a protest is made by the claimant to the initial or monetary determination, or a question or issue is raised or presented as to the eligibility of a claimant, or whether any disqualification should be imposed, or benefits denied or adjusted pursuant to G.S. 96-18, the matter shall be referred to an adjudicator. The adjudicator may consider any matter, document or statement deemed to be pertinent to the issues, including telephone conversations, and after such consideration shall render a conclusion as to the claimant's benefit entitlements. The adjudicator shall notify the claimant and all other interested parties of the conclusion reached. The conclusion of the adjudicator shall be deemed the final decision of the Division unless within 30 days after the date of notification or mailing of the conclusion, whichever is earlier, a written appeal is filed pursuant to rules adopted by the Division. The Division shall be deemed an interested party for such purposes and may remove to itself or transfer to an appeals referee the proceedings involving any claim pending before an adjudicator.

Provided, any interested employer shall be allowed ~~10~~14 days from the mailing or delivery of the notice of the filing of a claim against the employer's account, whichever first occurs, to file with the Division its ~~account to~~ protest of the claim in order to ~~and~~ have the claim referred to an adjudicator for a decision on the question or issue raised. Any protest filed must contain a basis for the protest and supporting statement of facts, and the protest may not be amended after the 14-day period from the mailing or delivery of the notice of filing of a claim has expired. A copy of the notice of the filing shall be sent contemporaneously to the employer by telefacsimile transmission if a fax number is on file. No payment of benefits shall be made by the Division to a claimant until one of the following occurs:

a. The employer has filed a timely protest to the claim.

b. The 14-day period for the filing of a protest by the employer has expired.

c. A determination under this subdivision has been made.

Provided further, no question or issue may be raised or presented by the Division as to the eligibility of a claimant, or whether any disqualification should be imposed, after 45 days from the first day of the first week after the question or issue occurs with respect to which week an individual filed a claim for benefits. None of the provisions of this subsection shall have the force and effect nor shall the same be construed or interested as repealing any other provisions of G.S. 96-18.

An employer shall receive written notice of the employer's appeal rights and any forms that are required to allow the employer to protest the claim. The forms shall include a section referencing the appropriate rules pertaining to appeals and the instructions on how to appeal."

SECTION 18. G.S. 96-9.15(d), as enacted by S.L. 2013-2, reads as rewritten:

"(d) Form of Report. – An employer must complete the tax form prescribed by the Division. An employer or an agent of an employer that reports wages for at least 25 employees must file the portion of the "Employer's Quarterly Tax and Wage Report" that contains the name, social security number, and gross wages of each employee in ~~a~~ an electronic format prescribed by the Division. For failure of an employer to comply with this subsection, the Division must assess a penalty of twenty-five dollars ($25.00). For failure of an agent of an employer to comply with this subsection, the Division may deny the agent the right to report wages and file reports for that employer for a period of one year following the calendar quarter in which the agent filed the improper report. The Division may reduce or waive a penalty for good cause shown."

SECTION 19. Section 11 of S.L. 2013-2 reads as rewritten:

"**SECTION 11.** This act becomes effective July 1, 2013. Changes made by this act to unemployment benefits apply to claims for benefits filed on or after ~~July 1, 2013.~~ June 30, 2013. The requirements of G.S. 96-15(a1) apply to any week of an attached claim filed on or after June 30, 2013. Changes made by this act to require an account balance by an employer that is a governmental entity or a nonprofit organization and that elects to finance benefits by making reimbursable payments in lieu of contributions apply to advance payments payable for calendar quarters beginning on or after July 1, 2013. Changes made by this act to the determination and application of the contribution rate apply to contributions payable for calendar quarters beginning on or after January 1, 2014."

SECTION 20.(a) G.S. 96-4(x)(6), as enacted by S.L. 2013-2, reads as rewritten:

"(6) Nothing in this subsection (x)~~(t)~~ shall operate to relieve any claimant or employer from disclosing any information required by this Chapter or by regulations promulgated thereunder."

SECTION 20.(b) G.S. 96-4(x)(7) reads as rewritten:

"(7) Nothing in this subsection (x)~~(t)~~ shall be construed to prevent the Division from allowing any individual or entity to examine and copy any report, return, or any other written communication made by that individual or entity to the Division, its agents, or its employees."

SECTION 20.(c) G.S. 96-9.5(4)(c.), as enacted by S.L. 2013-2, reads as rewritten:

"c. The employer has elected coverage in this State in accordance with ~~G.S. 96-9.9.~~G.S. 96-9.8."

SECTION 20.(d) G.S. 96-10(d) reads as rewritten:

"(d) Collections of Contributions upon Transfer or Cessation of Business. – The contribution or tax imposed by G.S. 96-9.2,~~G.S. 96-9,~~ and subsections thereunder, of this Chapter shall be a lien upon the assets of the business of any employer subject to the provisions hereof who shall lease, transfer or sell out his business, or shall cease to do business and such employer shall be required, by the next reporting date as prescribed by the Division, to file with the Division all reports and pay all contributions due with respect to wages payable for employment up to the date of such lease, transfer, sale or cessation of the business and such employer's successor in business shall be required to withhold sufficient of the purchase money to cover the amount of said contributions due and unpaid until such time as the former owner or employer shall produce a receipt from the Division showing that the contributions have been paid, or a certificate that no contributions are due. If the purchaser of a business or a successor of such employer shall fail to withhold purchase money or any money due to such employer in consideration of a lease or other transfer and the contributions shall be due and unpaid after the next reporting date, as above set forth, such successor shall be personally liable to the extent of the assets of the business so acquired for the payment of the contributions accrued and unpaid on account of the operation of the business by the former owner or employer."

SECTION 20.(e) G.S. 96-14.11(c)(2), as enacted by S.L. 2013-2, reads as rewritten:

"(2) The individual was recalled in a week in which the work search requirements were satisfied under ~~G.S. 96-14.7(g)~~ G.S. 96-14.9(g) due to job attachment."

SECTION 20.(f) G.S. 96-14.14(c)(2), as recodified by S.L. 2013-2, reads as rewritten:

"(2) The individual has satisfied the requirements of this Chapter for the receipt of regular benefits that are applicable to individuals claiming extended benefits, including not being subject to a disqualification for the receipt of benefits. Provided, however, that for purposes of disqualification for extended benefits for weeks of unemployment beginning after March 31, 1981, the term "suitable work" means any work which is within the individual's capabilities to perform if: (i) The gross average weekly remuneration payable for the work exceeds the sum of the individual's weekly extended benefit amount plus the amount, if any, of supplemental unemployment benefits (as defined in section 501(C)(17)(D) of the Internal Revenue Code of 1954) payable to such individual for such week; and (ii) the gross wages payable for the work equal the higher of the minimum wages provided by section 6(a)(1) of the Fair Labor Standards Act of 1938 as amended (without regard to any exemption), or the State minimum wage; and (iii) the work is offered to the individual in writing and is listed with the State employment service; and (iv) the considerations contained in G.S. 96-14.9(f)~~G.S. 96-14(3)~~ for determining whether or not work is suitable are applied to the extent that they are not inconsistent with the specific requirements of this subdivision; and (v) the individual cannot furnish evidence satisfactory to the Division that his prospects for obtaining work in his customary occupation within a reasonably short period of time are good, but if the individual submits evidence which the Division deems satisfactory

for this purpose, the determination of whether or not work is suitable with respect to such individual shall be made in accordance with G.S. 96-14.9(f)~~G.S. 96-14~~(3) without regard to the definition contained in this subdivision. Provided, further, that no work shall be deemed to be suitable work for an individual which does not accord with the labor standard provisions set forth in this subdivision, but the employment service shall refer any individual claiming extended benefits to any work which is deemed suitable hereunder. Provided, further, that any individual who has been disqualified for voluntarily leaving employment, being discharged for misconduct or substantial fault, or refusing suitable work under G.S. 96-14.11~~G.S. 96-14~~ and who has had the disqualification terminated, shall have such disqualification reinstated when claiming extended benefits unless the termination of the disqualification was based upon employment subsequent to the date of the disqualification."

SECTION 20.(g) G.S. 96-14.14(c)(3), as recodified by S.L. 2013-2, reads as rewritten:

"(3) After March 31, 1981, he has not failed either to apply for or to accept an offer of suitable work, as defined in G.S. 96-14.14(c)(2),~~G.S. 96-12.01(e)(2),~~ to which he was referred by an employment office of the Division, and he has furnished the Division with tangible evidence that he has actively engaged in a systematic and sustained effort to find work. If an individual is found to be ineligible hereunder, he shall be ineligible beginning with the week in which he either failed to apply for or to accept the offer of suitable work or failed to furnish the Division with tangible evidence that he has actively engaged in a systematic and sustained effort to find work and such individual shall continue to be ineligible for extended benefits until he has been employed in each of four subsequent weeks (whether or not consecutive) and has earned remuneration equal to not less than four times his weekly benefit amount."

SECTION 20.(h) G.S. 96-14.14(e)(1), as recodified by S.L. 2013-2, reads as rewritten:

"(1) Total Extended Benefit Amount. – Except as provided in subdivision (2) hereof, the total extended benefit amount payable to any eligible individual with respect to his applicable benefit year shall be the least of the following amounts:

a. Fifty percent (50%) of the total amount of regular benefits which were payable to him under this Chapter in his applicable benefit year; or

b. Thirteen times his weekly benefit amount which was payable to him under this Chapter for a week of total unemployment in the applicable benefit year.

Provided, that during any fiscal year in which federal payments to states under Section 204 of the Federal-State Extended Unemployment Compensation Act of 1970, P.L. 91-373, are reduced under an order issued under Section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985, P.L. 99-177, the total extended benefit amount payable to an individual with respect to his applicable benefit year shall be reduced by an amount equal to the aggregate of the reductions under G.S. 96-14.14(d)~~G.S. 96-12.01(d)~~ and the weekly amounts paid to the individual."

SECTION 20.(i) G.S. 96-14.14(g), as recodified by S.L. 2013-2, reads as rewritten:

"(g) Prior to January 1, 1978, any extended benefits paid to any claimant under G.S. 96-14.14~~G.S. 96-12.01~~ shall not be charged to the account of the base period employer(s) who pay taxes as required by this Chapter. However, fifty percent (50%) of any such benefits paid shall be allocated as provided in G.S. 96-11.2~~G.S. 96-9(c)(2) a~~ (except that G.S. 96-11.3~~G.S. 96-9(c)(2) b~~ shall not apply), and the applicable amount shall be charged to the account of the appropriate employer paying on a reimbursement basis in lieu of taxes.

On and after January 1, 1978, the federal portion of any extended benefits shall not be charged to the account of any employer who pays taxes as required by this Chapter but the State portion of such extended benefits shall be:

(1) Charged to the account of such employer; or

(2) Not charged to the account of the employer under the provisions of G.S. 96-11.3.~~G.S. 96-9(c)(2).~~

All state portions of the extended benefits paid shall be charged to the account of governmental entities or other employers not liable for FUTA taxes who are the base period employers."

SECTION 20.(j) G.S. 96-14.14(h), as recodified by S.L. 2013-2, reads as rewritten:

"(h) Notwithstanding the provisions of G.S. 96-9.6, G.S. 96-14.14(g),~~G.S. 96-9(d)(1)a, 96-9(d)(2)c, 96-12.01(g),~~ or any other provision of this Chapter, any extended benefits paid which are one hundred percent (100%) federally financed shall not be charged in any percentage to any employer's account."

SECTION 20.(k) G.S. 96-16(a), as enacted by S.L. 2013-2, reads as rewritten:

"(a) A seasonal pursuit is one which, because of seasonal conditions making it impracticable or impossible to do otherwise, customarily carries on production operations only within a regularly recurring active period or periods of less than an aggregate of 36 weeks in a calendar year. No pursuit shall be deemed seasonal unless and until so found by the Division; except that any successor under ~~G.S. 96-11.6~~ G.S. 96-11.7 to a seasonal pursuit shall be deemed seasonal unless such successor shall within 120 days after the acquisition request cancellation of the determination of status of such seasonal pursuit; provided further that this provision shall not be applicable to pending cases nor retroactive in effect."

SECTION 20.(l) G.S. 96-16(d) reads as rewritten:

"(d) A seasonal determination shall become effective unless an interested party files an application for review within 10 days after the beginning date of the first period of production operations to which it applies. Such an application for review shall be deemed to be an application for a determination of status, as provided in G.S. 96-4, subsections (q) through (u) ~~(m) through (q),~~ of this Chapter, and shall be heard and determined in accordance with the provisions thereof."

SECTION 21. G.S. 96-4, as amended by S.L. 2011-145, created a Board of Review to determine appeals policies and procedures and to hear appeals arising from the decisions and determinations of the Division of Employment Security. The Board is comprised of three members appointed by the Governor and confirmed by the General Assembly. The Governor is directed to appoint the members of the Board of Review by September 1, 2013. Notwithstanding G.S. 96-4(b), the initial Board of Review appointments made pursuant to this section do not require confirmation by the General Assembly.

SECTION 22. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 26th day of June, 2013.

Became law upon approval of the Governor at 3:50 p.m. on the 27th day of June, 2013.

Session Law 2013-225 **H.B. 343**

AN ACT TO ELIMINATE ARBITRATION CAPS IN DISTRICT COURT, TO MAKE CLARIFICATIONS TO COURT FEES, TO AMEND THE MOTION FEE EXEMPTION, TO REQUIRE COUNTIES AND MUNICIPALITIES TO ADVANCE FEES, TO PROVIDE PRIORITY FOR THE PAYMENT OF CRIMINAL COSTS AND FEES, AND TO REMOVE THE SUNSET ON CHANGES TO CERTAIN FEES COLLECTED BY REGISTER OF DEEDS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 7A-37.1(c), as amended by Section 3 of S.L. 2013-159, reads as rewritten:

"(c) Except as otherwise provided in rules promulgated by the Supreme Court of North Carolina pursuant to subsection (b) of this section, this procedure shall be employed in all civil actions in district court,~~where claims do not exceed twenty-five thousand dollars ($25,000),~~ unless all parties to the action waive arbitration under this section."

SECTION 2. G.S. 7A-305(a)(2) reads as rewritten:

"(2) For support of the General Court of Justice, the sum of one hundred eighty dollars ($180.00) in the superior ~~court, except that if a case is assigned to a special superior court judge as a complex business case under G.S. 7A-45.3, an additional one thousand dollars ($1,000) shall be paid upon its assignment,~~court and the sum of one hundred thirty dollars ($130.00) in the district court except that if the case is assigned to a magistrate the sum shall be eighty dollars ($80.00). If a case is assigned to a special superior court judge as a complex business case under G.S. 7A-45.3, upon assignment the party filing the notice of designation pursuant to G.S. 7A-45.4 or the motion for complex business designation shall pay an additional one thousand dollars ($1,000) for support of the General Court of Justice; if a case is assigned to a special superior court judge as a complex business case under G.S. 7A-45.3 by a court on its own motion, upon assignment the plaintiff shall pay an additional one thousand dollars ($1,000) for support of the General Court of Justice. Sums collected under this subdivision shall be remitted to the State Treasurer. The State Treasurer shall remit the sum of one dollar and fifty cents ($1.50) of each fee collected under this subdivision to the North Carolina State Bar for the provision of services described in G.S. 7A-474.4, and ninety-five cents ($.95) of each fee collected under this subdivision to the North Carolina State Bar for the provision of services described in G.S. 7A-474.19."

SECTION 3. G.S. 7A-305(a5) reads as rewritten:

"(a5) In every civil action in the superior or district court wherein a party files a pleading containing one or more ~~counterclaims~~ counterclaims, third-party complaints, or cross-claims, except for counterclaim and cross-claim actions brought under Chapter 50B of the General Statutes for which costs are assessed pursuant to subsection (a1) of this section, the following shall be assessed:

(1) For the use of the courtroom and related judicial facilities, the sum of twelve dollars ($12.00) in cases heard before a magistrate, and the sum of sixteen dollars ($16.00) in district and superior court, to be remitted to the municipality providing the facilities in which the judgment is rendered. If a municipality does not provide the facilities in which the judgment is rendered, the sum is to be remitted to the county in which the judgment is rendered. Funds derived from the facilities' fees shall be used in the same manner, for the same purposes, and subject to the same restrictions as facilities' fees assessed in criminal actions.

(2) For the upgrade, maintenance, and operation of the judicial and county courthouse phone systems, the sum of four dollars ($4.00), to be credited to the Court Information Technology Fund.

(3) For support of the General Court of Justice, the sum of one hundred eighty dollars ($180.00) in the superior court, except that if a case is assigned to a special superior court judge as a complex business case under G.S. 7A-45.3, ~~an additional one thousand dollars ($1,000) shall be paid upon its assignment,~~ filing fees shall be collected and disbursed in accordance with subsection (a) of this section, and the sum of one hundred thirty dollars ($130.00) in the district court, except that if the case is assigned to a magistrate, the sum shall be eighty dollars ($80.00). Sums collected under this subdivision shall be remitted to the State Treasurer. The State Treasurer shall remit the sum of one dollar and fifty cents ($1.50) of each fee collected under this subdivision to the North Carolina State Bar for the provision of services described in G.S. 7A-474.4, and ninety-five cents ($.95) of each fee collected under this subdivision to the North Carolina State Bar for the provision of services described in G.S. 7A-474.19."

SECTION 4.(a) G.S. 7A-305(f) reads as rewritten:

"(f) For the support of the General Court of Justice, the sum of twenty dollars ($20.00) shall accompany any filing containing one or more motions not listed in G.S. 7A-308 that is filed with the clerk. No costs shall be assessed to a motion containing as a sole claim for relief the taxing of costs, including attorneys' ~~fees.~~ fees, to a motion filed pursuant to G.S. 1C-1602 or G.S. 1C-1603, or to a motion filed by a child support enforcement agency established pursuant to Part D of Title IV of the Social Security Act."

SECTION 4.(b) G.S. 7A-306(g) reads as rewritten:

"(g) For the support of the General Court of Justice, the sum of twenty dollars ($20.00) shall accompany any filing containing one or more motions not listed in G.S. 7A-308 that is filed with the clerk. No costs shall be assessed to a motion containing as a sole claim for relief the taxing of costs, including attorneys' ~~fees.~~ fees, or to a motion filed pursuant to G.S. 1C-1602 or G.S. 1C-1603."

SECTION 4.(c) G.S. 7A-307(a)(4) reads as rewritten:

"(4) For the support of the General Court of Justice, the sum of twenty dollars ($20.00) shall accompany any filing requiring a notice of hearing and containing one or more motions not listed in G.S. 7A-308 that is filed with the clerk. No costs shall be assessed to a motion containing as a sole claim for relief the taxing of costs, including attorneys' ~~fees.~~ fees, or to a motion filed pursuant to G.S. 1C-1602 or G.S. 1C-1603."

SECTION 4.(d) G.S. 7A-308(a) reads as rewritten:

"(a) The following miscellaneous fees and commissions shall be collected by the clerk of superior court and remitted to the State for the support of the General Court of Justice:

…

(21) In civil matters, except in actions commenced or prosecuted by a child support enforcement agency established pursuant to Part D of Title IV of the Social Security Act, all alias and pluries summons issued and all endorsements issued on an original summons ..... $15.00."

SECTION 4.(e) Section 66.1 of Session Law 2011-391 is repealed.

SECTION 5. G.S. 7A-317 reads as rewritten:

"§ **7A-317. Counties and municipalities ~~not~~ required to advance ~~certain fees.~~ costs and fees.**

(a) Counties and municipalities are required to ~~advance~~ pay all costs ~~except for the following:~~ and fees due to the court at the time of filing. The clerk of superior court may consent to allow the county or municipality to pay all costs and fees within 45 days of the date of the filing of any action in lieu of paying costs and fees at the time of filing.

~~(1) The facilities fee.~~

~~(2) The General Court of Justice fee.~~

~~(3) The miscellaneous fees enumerated in G.S. 7A-308 in child support actions, child abuse actions, and other actions filed by the department of social services.~~

~~(4) The civil process fees enumerated in G.S. 7A-311.~~

(b) The clerk of superior court shall withhold all facilities fees due to be remitted to a county or municipality when the county or municipality does not pay costs and fees due to the court within 90 days of the date of filing any action."

SECTION 6. Notwithstanding the effective date provided for by Section 11 of S.L. 2012-146, effective on the date this act becomes law, all amounts assessed or collected in criminal matters shall be disbursed in accordance with G.S. 15A-1343(b), as amended by Section 4 of S.L. 2012-146.

SECTION 7.(a) Section 7 of S.L. 2011-296 reads as rewritten:

"**SECTION 7.** This act becomes effective October 1, 2011, and applies to instruments registered on or after that date. ~~Sections 1 through 3 of this act expire July 1, 2013.~~"

SECTION 7.(b) The lead-in language for Section 2.16 of S.L. 2012-79 reads as rewritten:

"**SECTION 2.16.** Effective when it becomes ~~law, but expiring at the same time as Section 1 of S.L. 2011-296 expires (currently July 1, 2013),~~ law, G.S. 161-10(a), as rewritten by S.L. 2011-296, reads as rewritten:"

SECTION 7.(c) G.S. 161-11.4 and G.S. 161-11.6 are repealed.

SECTION 7.(d) G.S. 143-215.56A reads as rewritten:

"§ **143-215.56A. Floodplain Mapping Fund.**

The Floodplain Mapping Fund is established as a special revenue fund. The Fund consists of the fees credited to it under ~~G.S. 161-11.4.~~G.S. 161-11.5. Revenue in the fund may be used only to offset the Department's cost in preparing floodplain maps and performing its other duties under this Part."

SECTION 7.(e) This section becomes effective July 1, 2013.

SECTION 8. Section 1 of this act becomes effective August 1, 2013, and applies to actions filed on or after that date. Section 2 of this act becomes effective January 1, 2014, and applies to all pleadings and motions filed on or after that date. Section 4 of this act becomes effective July 1, 2013, and applies to pleadings filed on or after that date. Except as otherwise provided, the remainder of this act is effective when it becomes law and applies to actions filed and to amounts assessed or collected on or after that date.

In the General Assembly read three times and ratified this the 27th day of June, 2013.

Became law upon approval of the Governor at 7:58 p.m. on the 30th day of June, 2013.

Session Law 2013-226 **S.B. 168**

AN ACT TO ELIMINATE UNNECESSARY REPORTS AND CLARIFY CURRENT EDUCATION PROGRAM REQUIREMENTS.

The General Assembly of North Carolina enacts:

PART I. REPEAL DISADVANTAGED STUDENT SUPPLEMENTAL FUNDING INITIATIVES REPORT

SECTION 1.(a) Section 7.8(b) of S.L. 2005-276 reads as rewritten:

"**SECTION 7.8.(b)** Funds are appropriated in this act to evaluate the Disadvantaged Student Supplemental Funding Initiatives and Low-Wealth Initiatives. The State Board of Education shall use these funds to:

(1) Evaluate the strategies implemented by local school administrative units with Disadvantaged Student Supplemental Funds and Low-Wealth Funds and assess their impact on student performance; and

(2) Evaluate the efficiency and effectiveness of the technical assistance and support provided to local school administrative units by the Department of Public Instruction.

~~The State Board of Education shall report the results of the evaluation to the Office of State Budget and Management, the Joint Legislative Education Oversight Committee, and the Fiscal Research Division by February 15, 2006, and by January 15 of each subsequent year.~~"

SECTION 1.(b) Section 7.8(b) of S.L. 2007-323 reads as rewritten:

"**SECTION 7.8.(b)** Funds are appropriated in this act to evaluate the Disadvantaged Student Supplemental Funding Initiatives and Low Wealth Initiatives. The State Board of Education shall use these funds to:

(1) Evaluate the strategies implemented by local school administrative units with Disadvantaged Student Supplemental Funds and Low Wealth Funds and assess their impact on student performance; and

(2) Evaluate the efficiency and effectiveness of the technical assistance and support provided to local school administrative units by the Department of Public Instruction.

~~The State Board of Education shall report the results of the evaluation to the Office of State Budget and Management, the Joint Legislative Education Oversight Committee, and the Fiscal Research Division by January 15 of each year.~~"

PART II. ELIMINATE STATE BOARD REPORT ON PERSONAL EDUCATION PLANS

SECTION 2. G.S. 115C-105.41(a) reads as rewritten:

"(a) In order to implement Part 1A of Article 8 of this Chapter, local school administrative units shall identify students who are at risk for academic failure and who are not successfully progressing toward grade promotion and graduation, beginning in kindergarten. Identification shall occur as early as can reasonably be done and can be based on grades, observations, diagnostic and formative assessments, State assessments, and other factors, including reading on grade level, that impact student performance that teachers and administrators consider appropriate, without having to await the results of end-of-grade or end-of-course tests. No later than the end of the first quarter, or after a teacher has had up to nine weeks of instructional time with a student, a personal education plan for academic improvement with focused intervention and performance benchmarks shall be developed or updated for any student at risk of academic failure who is not performing at least at grade level, as identified by the State end-of-grade test and other factors noted above. Focused instructional supports and services, reading interventions, and accelerated activities should include evidence-based practices that meet the needs of students and may include coaching, mentoring, tutoring, summer school, Saturday school, and extended days. Local school administrative units shall provide these activities free of charge to students. Local school administrative units shall

also provide transportation free of charge to all students for whom transportation is necessary for participation in these activities.

Local school administrative units shall give notice of the personal education plan and a copy of the personal education plan to the student's parent or guardian. Parents should be included in the implementation and ongoing review of personal education plans. If a student's school report card provides all the information required in a personal education plan, then no further personal education plan is mandated for the student.

~~Local school administrative units shall certify that they have complied with this section annually to the State Board of Education. The State Board of Education shall periodically review data on the progress of identified students and report to the Joint Legislative Education Oversight Committee.~~

No cause of action for monetary damages shall arise from the failure to provide or implement a personal education plan under this section."

PART III. REPEAL REPORT ON TEACHER MENTORING

SECTION 3. Section 7.8 of S.L. 2008-107, as amended by Section 1(b) of S.L. 2009-305, reads as rewritten:

"**SECTION 7.8.** The State Board of Education shall allot funds for mentoring services to local school administrative units based on the highest number of employees in the preceding three school years who (i) are paid with State, federal, or local funds and (ii) are either teachers paid on the first or second steps of the teacher salary schedule or instructional support personnel paid on the first step of the instructional support personnel salary schedule.

Local school administrative units shall use these funds to provide mentoring support to eligible employees in accordance with a plan approved by the State Board of Education. The plan shall include information on how all mentors in the local school administrative unit will be adequately trained to provide mentoring support. ~~The State Board of Education shall report to the Joint Legislative Education Oversight Committee prior to January 15 of each year on the use of funds for mentoring services. The report shall include, at a minimum, the impact of each unit's mentoring program on teacher retention and how all mentors in the unit are trained.~~"

PART IV. BOARD OF GOVERNORS' PROFESSIONAL DEVELOPMENT PROGRAMS FOR PUBLIC SCHOOL EMPLOYEES

SECTION 4. G.S. 116-11 reads as rewritten:

"§ **116-11. Powers and duties generally.**

…

~~(12a) The Board of Governors of The University of North Carolina shall implement, administer, and revise programs for meaningful professional development for professional public school employees based upon the evaluations and recommendations made by the State Board of Education under G.S. 115C-12(26). The programs shall be aligned with State education goals and directed toward improving student academic achievement.~~

…."

PART V. CLARIFY TEACHER LICENSE AND EDUCATOR PREPARATION PROGRAM REQUIREMENTS

SECTION 5.(a) Section 1 of S.L. 2013-11 is repealed.

SECTION 5.(b) G.S. 115C-296 reads as rewritten:

"§ **115C-296. Board sets licensure requirements; reports; lateral entry and mentor programs.**

…

(b) It is the policy of the State of North Carolina to maintain the highest quality teacher education programs and school administrator programs in order to enhance the competence of professional personnel licensed in North Carolina. To the end that teacher preparation programs

are upgraded to reflect a more rigorous course of study, the State Board of Education, as lead agency in coordination and cooperation with the University Board of Governors, the Board of Community Colleges and such other public and private agencies as are necessary, shall continue to refine the several licensure requirements, standards for approval of institutions of teacher education, standards for institution-based innovative and experimental programs, standards for implementing consortium-based teacher education, and standards for improved efficiencies in the administration of the approved programs.

(1) Licensure standards. –

a. The licensure program shall provide for initial licensure after completion of preservice training, continuing licensure after three years of teaching experience, and license renewal every five years thereafter, until the retirement of the teacher. The last license renewal received prior to retirement shall remain in effect for five years after retirement. The licensure program shall also provide for lifetime licensure after 50 years of teaching.

b. The State Board of Education, in consultation with the Board of Governors of The University of North Carolina, shall evaluate and develop enhanced requirements for continuing licensure. The new requirements shall reflect more rigorous standards for continuing licensure and shall be aligned with high-quality professional development programs that reflect State priorities for improving student achievement.

c. The State Board of Education, in consultation with local boards of education and the Board of Governors of The University of North Carolina, shall (i) reevaluate and enhance the requirements for renewal of teacher licenses and (ii) consider modifications in the license renewal achievement and to make it a mechanism for teachers to renew continually their knowledge and professional skills.

(2) Teacher education programs. –

a. The State Board of Education, as lead agency in coordination with the Board of Governors of The University of North Carolina, the North Carolina Independent Colleges and Universities, and any other public and private agencies as necessary, shall continue to raise standards for entry into teacher education programs.

b. **Reserved for future codification.**

c. To further ensure that teacher preparation programs remain current and reflect a rigorous course of study that is aligned to State and national standards, the State Board of Education, in consultation with the Board of Governors of The University of North Carolina, shall do all of the following to ensure that students ~~preparing~~are prepared to teach in elementary ~~schools~~ schools:

1. ~~(i) have~~Provide students with adequate coursework in the teaching of reading and ~~mathematics;~~mathematics.
2. ~~(ii) are assessed~~Assess students prior to ~~certification~~ licensure to determine that they possess the requisite knowledge in scientifically based reading and mathematics instruction that is aligned with the State Board's ~~expectations;~~expectations.
3. ~~(iii) continue to receive~~Continue to provide students with preparation in applying formative and summative assessments within the school and classroom setting through technology-based assessment systems available in North Carolina schools that measure and predict expected student ~~improvement; and~~improvement.

4. ~~(iv) are prepared~~Prepare students to integrate the arts ~~education~~ across the curriculum.

d. The State Board of Education, in consultation with local boards of education and the Board of Governors of The University of North Carolina, shall evaluate and modify, as necessary, the academic requirements of teacher preparation programs for students preparing to teach science in middle and high schools to ensure that there is adequate preparation in issues related to science laboratory safety.

~~The State Board of Education, in consultation with the Board of Governors of The University of North Carolina, shall evaluate and develop enhanced requirements for continuing licensure. The new requirements shall reflect more rigorous standards for continuing licensure and to the extent possible shall be aligned with quality professional development programs that reflect State priorities for improving student achievement.~~

~~The State Board of Education, in consultation with local boards of education and the Board of Governors of The University of North Carolina, shall reevaluate and enhance the requirements for renewal of teacher licenses. The State Board shall consider modifications in the license renewal achievement and to make it a mechanism for teachers to renew continually their knowledge and professional skills. The State Board shall adopt new standards for the renewal of teacher licenses by May 15, 1998.~~

e. The standards for approval of institutions of teacher education shall require that teacher education programs for all students include demonstrated competencies in (i) the identification and education of children with disabilities and (ii) positive management of student behavior and effective communication techniques for defusing and deescalating disruptive or dangerous behavior.

f. The State Board of Education shall incorporate the criteria developed in accordance with G.S. 116-74.21 for assessing proposals under the School Administrator Training Program into its school administrator program approval standards.

~~All North Carolina institutions of higher education that offer teacher education programs, masters degree programs in education, or masters degree programs in school administration shall provide performance reports to the State Board of Education. The performance reports shall follow a common format, shall be submitted according to a plan developed by the State Board, and shall include the information required under the plan developed by the State Board.~~

(b1) The State Board of Education shall ~~develop a plan to provide a focused review of~~require teacher education ~~programs~~programs, master's degree programs in education, and master's degree programs in school administration to submit annual performance reports. The performance reports shall provide the State Board of Education with a focused review of the programs and the current process of accrediting these programs in order to ensure that the programs produce graduates that are well prepared to teach.~~The plan shall include the development and implementation of a school of education performance report for each teacher education program in North Carolina.~~

(1) Report contents. – The performance report for each teacher education program and master's degree program in education and school administration in North Carolina shall follow a common format and include at least the following elements:

a. ~~(i) quality~~Quality of students entering the schools of education, including the average grade point average and average score on preprofessional skills tests that assess reading, writing, math and other ~~competencies;~~competencies.

b. ~~(ii) graduation rates;~~Graduation rates.

c. ~~(iii) time-to-graduation rates;~~Time-to-graduation rates.

d. ~~(iv) average~~Average scores of graduates on professional and content area examination for the purpose of ~~licensure;~~licensure.

e. ~~(v) percentage~~Percentage of graduates receiving initial ~~licenses;~~licenses.

f. ~~(vi) percentage~~Percentage of graduates hired as ~~teachers;~~teachers.

g. ~~(vii) percentage~~Percentage of graduates remaining in teaching for four ~~years;~~years.

h. ~~(viii) graduate~~Graduate satisfaction based on a common ~~survey; and~~survey.

i. ~~(ix) employer~~Employer satisfaction based on a common survey.

j. Effectiveness of teacher education program graduates.

~~The performance reports shall follow a common format. The performance reports shall be submitted annually. The State Board of Education shall develop a plan to be implemented beginning in the 1998-99 school year to reward and sanction approved teacher education programs and masters of education programs and to revoke approval of those programs based on the performance reports and other criteria established by the State Board of Education.~~

~~The State Board also shall develop and implement a plan for annual performance reports for all masters degree programs in education and school administration in North Carolina. To the extent it is appropriated, the performance report shall include similar indicators to those developed for the performance report for teacher education programs. The performance reports shall follow a common format.~~

(2) Submission of annual performance reports. – ~~Both plans for performance~~Performance reports ~~also~~ shall ~~include a method to provide the annual performance reports~~ be provided annually to the Board of Governors of The University of North Carolina, the State Board of Education, and the boards of trustees of the independent colleges. The State Board of Education shall review the schools of education performance reports and the performance reports for masters degree programs in education and school administration each year the performance reports are submitted.

(3) Educator preparation program report card. – The State Board shall create a higher education educator preparation program report card reflecting the information collected in the annual performance reports for each North Carolina institution offering teacher education programs and master of education programs. The report cards shall, at a minimum, summarize information reported on all of the performance indicators for the performance reports required by subdivision (1) of this subsection.

(4) Annual State Board of Education report. – ~~The State Board shall submit the performance report for the 1999-2000 school year to the Joint Legislative Education Oversight Committee by December 15, 2000. Subsequent performance reports~~The educator preparation program report cards shall be submitted to the Joint Legislative Education Oversight Committee on an annual basis by October 1.

(5) State Board of Education action based on performance. – The State Board of Education shall reward and sanction approved teacher education programs and master of education programs and revoke approval of those programs based on the performance reports and other criteria established by the State Board of Education.

…

(c1) The State Board of Community Colleges may provide a program of study for lateral entry teachers to complete the coursework necessary to earn a teaching license. To this end, the State Board of Education, in consultation with the State Board of Community Colleges, shall establish a competency-based program of study for lateral entry teachers to be implemented

within the Community College System no later than May 1, 2006. This program must meet standards set by the State Board of Education. To ensure that programs of study for lateral entry remain current and reflect a rigorous course of study that is aligned to State and national standards, the State Board of Education shall do all of the following to ensure that lateral entry personnel are prepared to teach:

~~(i)~~(1) Provide adequate coursework in the teaching of reading and mathematics is available for lateral entry teachers seeking certification in elementary ~~education;~~ education.

~~(ii)~~(2) Assess lateral entry teachers ~~are assessed~~ prior to certification to determine that they possess the requisite knowledge in scientifically based reading and mathematics instruction that is aligned with the State Board's ~~expectations;~~ expectations.

~~(iii)~~(3) Prepare all lateral entry teachers ~~continue to receive preparation in applying~~to apply formative and summative assessments within the school and classroom setting through technology-based assessment systems available in North Carolina schools that measure and predict expected student ~~improvement;and~~improvement.

~~(iv) are prepared to integrate arts education across the curriculum~~.

…."

SECTION 5.(c) G.S. 115C-296, as rewritten by Section 5(b) reads as rewritten:

"§ **115C-296. Board sets licensure requirements; reports; lateral entry and mentor programs.**

…

(b) It is the policy of the State of North Carolina to maintain the highest quality teacher education programs and school administrator programs in order to enhance the competence of professional personnel licensed in North Carolina. To the end that teacher preparation programs are upgraded to reflect a more rigorous course of study, the State Board of Education, as lead agency in coordination and cooperation with the University Board of Governors, the Board of Community Colleges and such other public and private agencies as are necessary, shall continue to refine the several licensure requirements, standards for approval of institutions of teacher education, standards for institution-based innovative and experimental programs, standards for implementing consortium-based teacher education, and standards for improved efficiencies in the administration of the approved programs.

(1) Licensure standards. –

a. The licensure program shall provide for initial licensure after completion of preservice training, continuing licensure after three years of teaching experience, and license renewal every five years thereafter, until the retirement of the teacher. The last license renewal received prior to retirement shall remain in effect for five years after retirement. The licensure program shall also provide for lifetime licensure after 50 years of teaching.

b. The State Board of Education, in consultation with the Board of Governors of The University of North Carolina, shall evaluate and develop enhanced requirements for continuing licensure. The new requirements shall reflect more rigorous standards for continuing licensure and shall be aligned with high quality professional development programs that reflect State priorities for improving student achievement.

c. The State Board of Education, in consultation with local boards of education and the Board of Governors of The University of North Carolina, shall (i) reevaluate and enhance the requirements for renewal of teacher licenses, ~~and~~(ii) consider modifications in the license renewal achievement and to make it a mechanism for teachers

to renew continually their knowledge and professional ~~skills.~~ skills, and (iii) integrate digital teaching and learning into the requirements for licensure renewal.

(2) Teacher education programs. –

a. The State Board of Education, as lead agency in coordination with the Board of Governors of The University of North Carolina, the North Carolina Independent Colleges and Universities, and any other public and private agencies as necessary, shall continue to raise standards for entry into teacher education programs.

b. The State Board of Education, in consultation with the Board of Governors of The University of North Carolina, shall require that all students preparing to teach demonstrate competencies in using digital and other instructional technologies to provide high-quality, integrated digital teaching and learning to all students.

c. To further ensure that teacher preparation programs remain current and reflect a rigorous course of study that is aligned to State and national standards, the State Board of Education, in consultation with the Board of Governors of The University of North Carolina, shall do all of the following to ensure that students are prepared to teach in elementary schools:

1. Provide students with adequate coursework in the teaching of reading and mathematics.
2. Assess students prior to licensure to determine that they possess the requisite knowledge in scientifically based reading and mathematics instruction that is aligned with the State Board's expectations.
3. Continue to provide students with preparation in applying formative and summative assessments within the school and classroom setting through technology-based assessment systems available in North Carolina schools that measure and predict expected student improvement.
4. Prepare students to integrate the arts across the curriculum.

d. The State Board of Education, in consultation with local boards of education and the Board of Governors of The University of North Carolina, shall evaluate and modify, as necessary, the academic requirements of teacher preparation programs for students preparing to teach science in middle and high schools to ensure that there is adequate preparation in issues related to science laboratory safety.

e. The standards for approval of institutions of teacher education shall require that teacher education programs for all students include demonstrated competencies in (i) the identification and education of children with disabilities and (ii) positive management of student behavior and effective communication techniques for defusing and deescalating disruptive or dangerous behavior.

f. The State Board of Education shall incorporate the criteria developed in accordance with G.S. 116-74.21 for assessing proposals under the School Administrator Training Program into its school administrator program approval standards.

…

(c1) The State Board of Community Colleges may provide a program of study for lateral entry teachers to complete the coursework necessary to earn a teaching license. To this end, the State Board of Education, in consultation with the State Board of Community Colleges, shall establish a competency-based program of study for lateral entry teachers to be implemented

within the Community College System no later than May 1, 2006. This program must meet standards set by the State Board of Education. To ensure that programs of study for lateral entry remain current and reflect a rigorous course of study that is aligned to State and national standards, the State Board of Education shall do all of the following to ensure that lateral entry personnel are prepared to teach:

(1) Provide adequate coursework in the teaching of reading and mathematics is available for lateral entry teachers seeking certification in elementary education.

(2) Assess lateral entry teachers prior to certification to determine that they possess the requisite knowledge in scientifically based reading and mathematics instruction that is aligned with the State Board's expectations.

(3) Prepare all lateral entry teachers to apply formative and summative assessments within the school and classroom setting through technology-based assessment systems available in North Carolina schools that measure and predict expected student improvement.

(4) Require that lateral entry teachers demonstrate competencies in using digital and other instructional technologies to provide high-quality, integrated digital teaching and learning to all students.

…."

PART VI. REPEAL CHILD NUTRITION STATE STANDARDS AND REPORT

SECTION 6. Section 2 of S.L. 2005-457 is repealed.

PART VII. ELIMINATE ESC REPORTING

SECTION 7. G.S. 96-33 is amended by adding a new subsection to read:

"(a1) Local school administrative units shall not be required to report directly to the Labor and Economic Analysis Division. The Department of Public Instruction shall be responsible for the collection of information from local school administrative units for input into the common follow-up information management system authorized under this Article and for such other official functions as are performed by the Division."

PART VIII. DISADVANTAGED STUDENT REPORT

SECTION 8. To the extent allowed by federal law, the State Board of Education shall consolidate and limit reports to the State Board by local school administrative units on data related to economically disadvantaged students, including household size and income information, to one report each school year.

PART IX. IIS REPORTING

SECTION 9.(a) The Department of Public Instruction shall simplify and minimize data entry requirements of local school administrative units to achieve the least burdensome administrative data entry workload possible, particularly as it relates to the implementation of the PowerSchool application and any other component of the Instructional Improvement System.

SECTION 9.(b) The Department of Public Instruction shall comply with G.S. 115C-12(19)(i) and not require as a separate submission at least all of the following reports to reduce unnecessary reporting requirements for local school administrative units:

(1) The Principal's Monthly Report (PMR) Final, required by the 30th of each month.

(2) The Teacher Vacancy Report, required by October 20th each year.

(3) The Professional Personnel Activity Report (PPAR), required annually.

(4) The Pupils in Membership by Race and Sex, required annually by October 31st.

(5) The Report of School Sales of Textbooks and Used Books, required annually by October 31st.

(6) The School Activity Report (SAR), required annually.

SECTION 9.(c) The Department of Public Instruction may collect any information contained in the reports eliminated in accordance with subsection (b) of this section that is necessary for compliance with State or federal law through the implementation of the PowerSchool application or any other component of the Instructional Improvement System.

SECTION 9.(d) Local school administrative units shall continue to be responsible for required data entry into the PowerSchool application or any other component of the Instructional Improvement System.

SECTION 9.(e) G.S. 115C-12(18) reads as rewritten:

"(18) Duty to Develop and Implement a Uniform Education Reporting System, Which Shall Include Standards and Procedures for Collecting Fiscal and Personnel Information. –

a. The State Board of Education shall adopt standards and procedures for local school administrative units to provide timely, accurate, and complete fiscal and personnel information, including payroll information, on all school personnel. ~~All local school administrative units shall comply with these standards and procedures by the beginning of the 1987-88 school year.~~

b. The State Board of Education shall develop and implement a Uniform Education Reporting System that shall include requirements for collecting, processing, and reporting fiscal, personnel, and student data, by means of electronic transfer of data files from local computers to the State Computer Center through the State Communications Network. ~~All local school administrative units shall comply with the requirements of the Uniform Education Reporting System by the beginning of the 1989-90 school year.~~

c. The State Board of Education shall comply with the provisions of G.S. 116-11(10a) to plan and implement an exchange of information between the public schools and the institutions of higher education in the State. The State Board of Education shall require local boards of education to provide to the parents of children at a school all information except for confidential information received about that school from institutions of higher education pursuant to G.S. 116-11(10a) and to make that information available to the general public.

d. The State Board of Education shall modify the Uniform Education Reporting System to provide clear, accurate, and standard information on the use of funds at the unit and school level. The plan shall provide information that will enable the General Assembly to determine State, local, and federal expenditures for personnel at the unit and school level. The plan also shall allow the tracking of expenditures for textbooks, educational supplies and equipment, capital outlay, at-risk students, and other purposes. ~~The revised Uniform Education Reporting System shall be implemented beginning with the 1999-2000 school year.~~

e. When practicable, reporting requirements developed by the State Board of Education as part of the Uniform Education Reporting System under this subdivision shall be incorporated into the PowerSchool application or any other component of the Instructional

Improvement System to minimize duplicative reporting by local school administrative units."

SECTION 9.(f) G.S. 115C-12(19) reads as rewritten:

"(19) Duty to Identify Required Reports and to Eliminate Unnecessary Reports and Paperwork. – Prior to the beginning of each school year, the State Board of Education shall identify all reports that are required at the State level for the school year.

The State Board of Education shall adopt policies to ensure that local school administrative units are not required by the State Board of Education, the State Superintendent, or the Department of Public Instruction staff to (i) provide information that is already available on the student information management system or housed within the Department of Public Instruction; (ii) provide the same written information more than once during a school year unless the information has changed during the ensuing period; ~~or~~ (iii) complete forms, for children with disabilities, that are not necessary to ensure compliance with the federal Individuals with Disabilities Education Act ~~(IDEA).~~(IDEA); or (iv) provide information that is unnecessary to comply with State or federal law and not relevant to student outcomes and the efficient operation of the public schools. Notwithstanding the foregoing, the State Board may require information available on its student information management system or require the same information twice if the State Board can demonstrate a compelling need and can demonstrate there is not a more expeditious manner of getting the information.

The State Board shall permit schools and local school administrative units to submit all reports to the Department of Public Instruction electronically.

The State Board of Education, in collaboration with the education roundtables within the Department of Public Instruction, shall consolidate all plans that affect the school community, including school improvement plans. The consolidated plan shall be posted on each school's Web site for easy access by the public and by school personnel.

The State Board shall report to the Joint Legislative Education Oversight Committee by November 15 of each year on the reports identified that are required at the State level, the evaluation and determination for continuing individual reports, including the consideration of whether those reports exceed what is required by State and federal law, and any reports that it has consolidated or eliminated for the upcoming school year."

PART X. SIMPLIFY INDIVIDUALIZED EDUCATION PROGRAM (IEP) REPORTING

SECTION 10. G.S. 115C-107.2(d) reads as rewritten:

"(d) The State Board shall develop forms for local educational agencies to use in order to comply with this Article. The forms ~~must~~ shall comply with ~~G.S. 115C-12(19) and may~~G.S. 115C-12(19), and whenever practicable, (i) limit the requirement for narrative reporting to essential components requiring personalized student information and (ii) be in an electronic format."

PART XI. ELIMINATION OF UNNECESSARY REPORTING BY EDUCATORS

SECTION 11.(a) G.S. 115C-105.27(b) is amended by adding a new subdivision to read:

"(b) The strategies for improving student performance:

…

(8) Shall include a plan to identify and eliminate unnecessary and redundant reporting requirements for teachers and, to the extent practicable, streamline the school's reporting system and procedures, including requiring forms and reports to be in electronic form when possible and incorporating relevant documents into the student accessible components of the Instructional Improvement System."

SECTION 11.(b) G.S. 115C-307(g) reads as rewritten:

"(g) To Make Required Reports. – A teacher shall make all reports required by the local board of education. The superintendent shall not approve the voucher for a teacher's pay until the required monthly and annual reports are made.

The superintendent may require a teacher to make reports to the principal.

A teacher shall be given access to the information in the student information management system to expedite the process of preparing reports or otherwise providing information. A teacher shall not be required by the local board, the superintendent, or the principal to (i) provide information that is already available on the student information management system; (ii) provide the same written information more than once during a school year unless the information has changed during the ensuing period; or (iii) complete forms, for children with disabilities, that are not necessary to ensure compliance with the federal Individuals with Disabilities Education Act (IDEA). Notwithstanding the forgoing, a local board may require information available on its student information management system or require the same information twice if the ~~local board can demonstrate~~ superintendent determines that there is (i) a compelling need and ~~can demonstrate there is not a~~(ii) no more expeditious manner of ~~getting~~providing the ~~information.~~information to the local board. A school improvement team may request that the superintendent consider the elimination of a redundant reporting requirement for the teachers at its school if it identifies in its school improvement plan a more expeditious manner of providing the information to the local board. The superintendent shall recommend to the local board whether the reporting requirement should be eliminated for that school. If the superintendent does not recommend elimination of the reporting requirement, the school improvement team may request a hearing by the local board as provided in G.S. 115C-45(c).

Any teacher who knowingly and willfully makes or procures another to make any false report or records, requisitions, or payrolls, respecting daily attendance of pupils in the public schools, payroll data sheets, or other reports required to be made to any board or officer in the performance of their duties, shall be guilty of a Class 1 misdemeanor and the certificate of such person to teach in the public schools of North Carolina shall be revoked by the Superintendent of Public Instruction."

PART XII. EFFECTIVE DATE

SECTION 12. Section 5(c) of this act becomes effective July 1, 2017, and applies beginning with the 2017-2018 school year. The remainder of this act is effective when it becomes law and applies beginning with the 2013-2014 school year.

In the General Assembly read three times and ratified this the 26th day of June, 2013.

Became law upon approval of the Governor at 10:30 a.m. on the 3rd day of July, 2013.

Session Law 2013-227 **S.B. 613**

AN ACT TO CREATE THE NORTH CAROLINA MILITARY AFFAIRS COMMISSION.

The General Assembly of North Carolina enacts:

SECTION 1. The North Carolina Advisory Commission on Military Affairs is hereby abolished.

SECTION 2. Chapter 127C of the General Statutes reads as rewritten:

"**Chapter 127C.**

"~~**Advisory Commission on Military Affairs.**~~**North Carolina Military Affairs Commission.**

"§ **127C-1.** ~~**Creation of the North Carolina Advisory Commission on Military Affairs.**~~**Commission established; purpose; transaction of business.**

(a) Establishment. – There is established the North Carolina Military Affairs Commission. The Commission shall be established within the Office of the Governor. The Department of Commerce is responsible for organizational, budgetary, and administrative purposes.

(b) Purpose. – The Commission shall provide advice, counsel, and recommendations to the Governor, the General Assembly, the Secretary of Commerce, and other State agencies on initiatives, programs, and legislation that will continue and increase the role that North Carolina's military installations, the National Guard, and Reserves play in America's defense strategy and the economic health and vitality of the State. The Commission is authorized to:

(1) Coordinate and provide recommendations to the Governor, General Assembly, and State agencies to protect North Carolina's military installations from encroachment or other initiatives that could result in degradation or restrictions to military operations, training ranges, or low-level routes.

(2) Cooperate with military installations to facilitate the military mission, training, and continued presence of major military installations in the State and notify the commanding military officer of a military installation and the governing body in affected counties and municipalities of any economic development or other projects that may impact military installations.

(3) Identify and support ways to provide a sound infrastructure, adequate housing and education, and transition support into North Carolina's workforce for military members and their families, military retirees, and veterans.

(4) Lead the State's initiative to prepare for the next round of Base Realignment and Closure (BRAC), as defined by the Governor and the General Assembly, with input from local military communities.

(5) Identify and support economic development organizations and initiatives that focus on leveraging the military and other business opportunities to help create jobs and expand defense and homeland security related economic development activity in North Carolina.

(6) Assist military installations located within the State by coordinating with commanders, communities, and State and federal agencies on affairs that affect military installations and may require State coordination and assistance.

(7) Support the long-term goal of a viable and prosperous military presence in the State, which shall include development of comprehensive economic impact studies of military activities in North Carolina, updated every two years with recommendations for initiatives to support this goal.

(8) Support the Army's Compatible Use Buffer Program, the Working Lands Group, and related initiatives.

(9) Adopt processes to ensure that all planning, coordination, and actions are conducted with timely consideration having been given to relevant military readiness or training concerns and with appropriate communications with all potentially affected military entities.

(10) Share information and coordinate efforts with the North Carolina congressional delegation and other federal agencies, as appropriate.

(11) Any other issue or matter that the Commission deems essential to fulfilling its purpose.

(c) Transaction of Business. – The Commission shall meet, at a minimum, at least once during each quarter and shall provide a report on military affairs to the Governor and to the General Assembly at least every six months. Prior to the start of a Regular Session of the General Assembly, the Commission shall report to the General Assembly with recommendations, if any, for legislation. Priority actions or issues may be submitted at any time.

~~There is created in the Office of the Governor the North Carolina Advisory Commission on Military Affairs to advise the Governor and the Secretary of Commerce on protecting the existing military infrastructure in this State and to promote new military missions and economic opportunities for the State and its citizens.~~

"§ **127C-2. Membership.**

(a) The North Carolina ~~Advisory Commission on~~ Military Affairs Commission shall consist of ~~21 voting members, who shall serve on the Executive Committee, and 17 nonvoting, ex officio members who shall serve by reason of their positions~~ 21 voting members who are appointed by the Governor, the Speaker of the House of Representatives, and the President Pro Tempore of the Senate, nonvoting members, and nonvoting ex officio members as designated in this section.

(b) The ~~Executive Committee~~ voting members of the Commission shall be appointed as follows:

(1) ~~Three members appointed by the Speaker of the House of Representatives, one of whom shall be a member of a recognized veterans' organization.~~Eleven members appointed by the Governor, consisting of:

a. One person residing near Camp Lejeune, who is retired from the military and is actively involved in a military affairs organization, or a person who is involved in military issues through civic, commercial, or governmental relationships.

b. One person residing near Marine Corps Air Station Cherry Point, who is retired from the military and is actively involved in a military affairs organization, or a person who is involved in military issues through civic, commercial, or governmental relationships.

c. One person residing near Seymour Johnson Air Force Base, who is retired from the military and is actively involved in a military affairs organization, or a person who is involved in military issues through civic, commercial, or governmental relationships.

d. One person residing near Ft. Bragg, who is retired from the military and is actively involved in a military affairs organization, or a person who is involved in military issues through civic, commercial, or governmental relationships.

e. One person residing near Coast Guard Station Elizabeth City, who is retired from the military and is actively involved in a military affairs organization, or a person who is involved in military issues through civic, commercial, or governmental relationships.

f. Six persons who may reside in any part of the State, who are involved in military issues through civic, commercial, or governmental relationships.

(2) ~~Three members appointed by the President Pro Tempore of the Senate, one of whom shall be a member of a recognized veterans' organization.~~Five members appointed by the Speaker of the House of Representatives, consisting of:

a. One member of the House of Representatives. A House member who has served in the military or has extensive experience in the area of military affairs shall be selected.

b. One person residing near Camp Lejeune, who is retired from the military and is actively involved in a military affairs organization, or a person who is involved in military issues through civic, commercial, or governmental relationships.

c. One person residing near Marine Corps Air Station Cherry Point, who is retired from the military and is actively involved in a military affairs organization, or a person who is involved in military issues through civic, commercial, or governmental relationships.

d. One person residing near Seymour Johnson Air Force Base, who is retired from the military and is actively involved in a military affairs organization, or a person who is involved in military issues through civic, commercial, or governmental relationships.

e. One person residing near Ft. Bragg, who is retired from the military and is actively involved in a military affairs organization, or a person who is involved in military issues through civic, commercial, or governmental relationships.

(3) ~~Fifteen members appointed by the Governor, consisting of:~~Five members appointed by the President Pro Tempore of the Senate, consisting of:

a. ~~Three representatives from the Jacksonville community.~~One member of the Senate. A Senate member who has served in the military or has extensive experience in the area of military affairs shall be selected.

b. ~~Three representatives from the Havelock community.~~One person residing near Camp Lejeune, who is retired from the military and is actively involved in a military affairs organization, or a person who is involved in military issues through civic, commercial, or governmental relationships.

c. ~~Three representatives from the Goldsboro community.~~One person residing near Marine Corps Air Station Cherry Point, who is retired from the military and is actively involved in a military affairs organization, or a person who is involved in military issues through civic, commercial, or governmental relationships.

d. ~~Three representatives from the Fayetteville community.~~One person residing near Seymour Johnson Air Force Base, who is retired from the military and is actively involved in a military affairs organization, or a person who is involved in military issues through civic, commercial, or governmental relationships.

e. ~~Three public members from across the State.~~One person residing near Ft. Bragg, who is retired from the military and is actively involved in a military affairs organization, or a person who is involved in military issues through civic, commercial, or governmental relationships.

(b1) The following members of the General Assembly shall serve as nonvoting members of the Commission:

(1) One member of the House of Representatives, appointed by the Speaker of the House of Representatives, who represents a district which contains all or any portion of one of the military installations described in sub-subdivisions b. through e. of subdivision (2) of subsection (b) of this section.

(2) One member of the Senate appointed by the President Pro Tempore of the Senate, who represents a district which contains all or any portion of one of the military installations described in sub-subdivisions b. through e. of subdivision (3) of subsection (b) of this section.

(c) The following ~~members,~~office holders or their designee, shall serve ~~ex officio:~~as nonvoting ex officio members of the Commission:

(1) The Lieutenant Governor.
~~(1a)~~(2) Secretary of Public Safety.
~~(2)~~(3) Secretary of Commerce.
~~(2a)~~(4) The Secretary of Transportation.
~~(2b)~~(5) The Secretary of the Department of Environment and Natural Resources.
~~(3)~~(6) ~~Commanding General 18th Airborne Corps, Fort Bragg.~~The Commissioner of Agriculture.
~~(4) Commanding General Marine Corps Base, Camp Lejeune.~~
~~(5) Commanding General Marine Corps Air Station, Cherry Point.~~
~~(6) Commander 4th FW, Seymour Johnson Air Force Base.~~
~~(7) Commander 43rd Airlift Wing, Pope Air Force Base.~~
~~(8) Commander of the U.S. Coast Guard Support Center, Elizabeth City.~~
~~(9)~~(7) Adjutant General of the North Carolina National Guard.
~~(10)~~(8) ~~The Executive Director of the North Carolina League of Municipalities.~~The Mayor of Elizabeth City, or designee.
(9) The Mayor of Fayetteville, or designee.
(10) The Mayor of Goldsboro, or designee.
(11) ~~The Executive Director of the North Carolina Association of County Commissioners.~~The Mayor of Havelock, or designee.
(12) The Mayor of Jacksonville, or designee.
~~(12)~~(13) The Assistant Secretary for Veterans Affairs, Department of Administration.
~~(13)~~(14) The President of The University of North Carolina.
~~(14)~~(15) The President of the North Carolina Community College System.
(16) The Superintendent of Public Instruction.

(c1) The following officers, or their designee, shall be invited to serve as nonvoting ex officio members of the Commission:

(1) Commanding General, 18th Airborne Corps, Ft. Bragg.
(2) Commanding General, Marine Corps Installations East.
(3) Commanding Officer, Marine Corps Air Station, Cherry Point.
(4) Commanding Officer, 4th Fighter Wing, Seymour Johnson Air Force Base.
(5) Commanding Officer, U.S. Army Corps of Engineers, Wilmington District.
(6) Commanding Officer, U.S. Coast Guard Base, Elizabeth City.
(7) Commanding Officer, Marine Corps Air Station, New River.
(8) Commanding Officer, Camp Lejeune Marine Corps Base.
(9) Commanding Officer, Fleet Readiness Center East.
(10) Commanding Officer, Military Ocean Terminal, Sunny Point.
(11) Commanding Officer, Coast Guard Sector North Carolina.
(12) Commanding Officer, Naval Support Activity Hampton Roads.

(d) The ~~Governor shall designate one member of the Executive Committee appointed pursuant to subsection (b) of this section to serve as chair. The Executive Committee shall elect four persons from amongst its membership to serve as vice-chairs.~~Chair of the Commission shall be appointed by the Governor from the voting members of the Commission.

~~(e) The terms of the members of the Executive Committee shall be as follows:~~
~~(1) The members initially appointed by the Speaker of the House of Representatives and the President Pro Tempore of the Senate shall serve terms ending on December 31, 2003.~~
~~(2) Seven of the members appointed by the Governor shall serve initial terms ending on December 31, 2002.~~
~~(3) Eight of the members appointed by the Governor shall serve initial terms ending on December 31, 2003.~~
~~Thereafter, all members shall serve two-year terms.~~

(e) The voting members of the Commission shall serve for two-year terms, with no prohibition against being reappointed, except initial appointments shall be for terms as follows:

(1) The Governor shall initially appoint seven members for a term of two years and four members for a term of three years.

(2) The President Pro Tempore of the Senate shall initially appoint the member of the Senate and two members for a term of two years and two members for a term of three years.

(3) The Speaker of the House of Representatives shall initially appoint the member from the House of Representatives and two members for a term of two years and two members for a term of three years.

Initial terms shall commence on August 1, 2013.

(f) The initial meeting of the Commission shall be within 30 days of the effective date of this act at a time and place to be determined by the Secretary of Commerce. The first order of business at the initial meeting of the Commission shall be the adoption of bylaws and establishment of committees, after which the Commission shall meet upon the call of the Chairman or the Military Advisor within the Office of the Governor. The members shall receive no compensation for attendance at meetings, except a per diem expense reimbursement. Members of the Commission who are not officers or employees of the State shall receive reimbursement for subsistence and travel expenses at rates set out in G.S. 138-5 from funds made available to the Commission. Members of the Commission who are officers or employees of the State shall be reimbursed for travel and subsistence at the rates set out in G.S. 138-6 from funds made available to the Commission. The Department of Commerce shall use funds within its budget for the per diem, subsistence, and travel expenses authorized by this subsection.

"§ **127C-3. Military Advisor.**

The Military Advisor within the Office of the Governor shall serve as the administrative head of the Commission and be responsible for the operations and normal business activities of the Commission, with oversight by the ~~Executive Committee.~~Commission.

"~~§ 127C-4. Purposes.~~

~~The Commission shall have the following responsibilities and duties:~~

~~(1) Advise the Governor and Secretary of Commerce on how to strengthen the State's relationship with the military to protect the installations of this State from the results of any future defense budget cuts or military downsizing by providing a sound infrastructure, affordable housing, and affordable education for military members and their families, working to be viewed by national military leaders as the most military-friendly State in the nation.~~

~~(2) Develop a strategic plan to provide initiatives to support the long-term viability and prosperity of the military of this State that shall include, at least:~~

~~a. A comprehensive Economic Impact Study of Military Activities in North Carolina to be conducted by the North Carolina State University Department of Economics and the East Carolina University Office of Regional Development.~~

~~b. A Strengths/Weaknesses/Opportunities/Threats (SWOT) Analysis conducted by a professional strategic planning group on the current status of the military in North Carolina.~~

~~(3) Study ways to improve educational opportunities for military personnel in North Carolina.~~

~~(4) Assist in coordinating the State's interests in future activities of the Department of Defense.~~

~~(5) Promote initiatives to improve the quality of life for military personnel in this State.~~"

SECTION 3. This act becomes effective August 1, 2013.

In the General Assembly read three times and ratified this the 27th day of June, 2013.

Became law upon approval of the Governor at 10:30 a.m. on the 3rd day of July, 2013.

Session Law 2013-228 **S.B. 205**

AN ACT TO ELIMINATE UNNECESSARY SOIL TESTING REQUIREMENTS IN ANIMAL WASTE MANAGEMENT PLANS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143-215.10C(e) reads as rewritten:

"(e) An animal waste management plan for an animal operation shall include all of the following components:

…

(6) Provisions regarding periodic testing of waste products used as nutrient sources as close to the time of application as practical and at least within 60 days of the date of application and periodic testing, at least ~~annually,~~ once every three years, of soils at crop sites where the waste products are applied. Nitrogen shall be a rate-determining element. Phosphorus shall be evaluated according to the nutrient management standard approved by the Soil and Water Conservation Commission of the Department of Agriculture and Consumer Services and the Natural Resources Conservation Service of the United States Department of Agriculture for facilities that are required to be permitted under 40 Code of Federal Regulations § 122, as amended at 73 Federal Register 70418 (November 20, 2008). If the evaluation demonstrates the need to limit the application of phosphorus in order to comply with the nutrient management standard, then phosphorus shall be a rate-determining element. Zinc and copper levels in the soils shall be monitored, and alternative crop sites shall be used when these metals approach excess levels.

…."

SECTION 2. This act becomes effective August 1, 2013, and applies to any animal waste management plan submitted to or approved by the Department after that date.

In the General Assembly read three times and ratified this the 27th day of June, 2013.

Became law upon approval of the Governor at 10:31 a.m. on the 3rd day of July, 2013.

Session Law 2013-229 **S.B. 264**

AN ACT TO STRENGTHEN THE NUISANCE LAWS TO CLOSE DOWN BUSINESSES THAT REPEATEDLY SELL CONTROLLED SUBSTANCES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 19-1 reads as rewritten:

"§ **19-1. What are nuisances under this Chapter.**

(a) The erection, establishment, continuance, maintenance, use, ownership or leasing of any building or place for the purpose of assignation, prostitution, gambling, illegal possession or sale of alcoholic beverages, illegal possession or sale of controlled substances as defined in the North Carolina Controlled Substances Act, or illegal possession or sale of obscene or lewd matter, as defined in this Chapter, shall constitute a nuisance. The activity sought to be abated

need not be the sole purpose of the building or place in order for it to constitute a nuisance under this Chapter.

(b) The erection, establishment, continuance, maintenance, use, ownership or leasing of any building or place wherein or whereon are carried on, conducted, or permitted repeated acts which create and constitute a breach of the peace shall constitute a nuisance.

(b1) The erection, establishment, continuance, maintenance, use, ownership or leasing of any building or place wherein or whereon are carried on, conducted, or permitted repeated activities or conditions which violate a local ordinance regulating sexually oriented businesses so as to contribute to adverse secondary impacts shall constitute a nuisance.

(b2) The erection, establishment, continuance, maintenance, use, ownership, or leasing of any building or place for the purpose of carrying on, conducting, or engaging in any activities in violation of G.S. 14-72.7.

(c) The building, place, vehicle, or the ground itself, in or upon which a nuisance as defined in subsection (a), (b), or (b1) of this section is carried on, and the furniture, fixtures, and contents, are also declared a nuisance, and shall be enjoined and abated as hereinafter provided.

(d) No nuisance action under this Article may be brought against a place or business which is subject to regulation under Chapter 18B of the General Statutes when the basis for the action constitutes a violation of laws or regulations under that Chapter pertaining to the possession or sale of alcoholic beverages."

SECTION 2. This act is effective when it becomes law and applies to nuisance actions filed on or after that date.

In the General Assembly read three times and ratified this the 25th day of June, 2013.

Became law upon approval of the Governor at 10:31 a.m. on the 3rd day of July, 2013.

Session Law 2013-230 **S.B. 377**

AN ACT TO ALLOW THE GOVERNOR TO TEMPORARILY SUSPEND ROUTINE WEIGHT INSPECTIONS OF TRUCKS UPON THE EXISTENCE OF AN IMMINENT THREAT OF SEVERE ECONOMIC LOSS OF LIVESTOCK OR POULTRY OR WIDESPREAD OR SEVERE DAMAGE TO CROPS READY TO BE HARVESTED.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 166A-19.70 reads as rewritten:

"§ **166A-19.70. Ensuring availability of emergency supplies and utility ~~services.~~services; protection of livestock, poultry, and agricultural crops.**

…

(g) Upon the recommendation of the Commissioner of Agriculture it shall be lawful for the Governor, by an executive order issued pursuant to G.S. 166A-19.20 or independently of such an order, to direct the Department of Public Safety to temporarily suspend weighing, pursuant to G.S. 20-118.1, those vehicles used to transport livestock, poultry, or crops from designated counties in an emergency area as defined in G.S. 166A-19.3(7), or counties designated by the Governor in an executive order issued independently of an order pursuant to G.S. 166A-19.20, if there exists an imminent threat of severe economic loss of livestock or poultry or widespread or severe damage to crops ready to be harvested. The Department of Public Safety shall develop procedures to carry out the provisions of this subsection. This subsection shall not be construed to permit the gross weight of any vehicle or combination in excess of the safe load carrying capacity established by the Department of Transportation on any bridge pursuant to G.S. 136-72, or to permit the operation of a vehicle when a law enforcement officer has probable cause to believe the vehicle is creating an imminent hazard to public safety. A suspension authorized pursuant to the provisions of this subsection shall end

when the Governor determines the threat of widespread or severe loss or damage in the designated counties has passed."

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

In the General Assembly read three times and ratified this the 25th day of June, 2013.

Became law upon approval of the Governor at 10:31 a.m. on the 3rd day of July, 2013.

Session Law 2013-231 **S.B. 568**

AN ACT TO ALLOW THE ISSUANCE OF A RESTRICTED LICENSE TO AN INDIVIDUAL THAT MEETS CERTAIN REQUIREMENTS FOR THE USE OF BIOPTIC TELESCOPIC LENSES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-7 is amended by adding a new subsection to read:

"(t) Use of Bioptic Telescopic Lenses. –

(1) An applicant using bioptic telescopic lenses shall be eligible for a regular Class C drivers license under this section if the applicant meets all of the following:

a. Demonstrates a visual acuity of at least 20/200 in one or both eyes and a field of 70 degrees horizontal vision with or without corrective carrier lenses, or if the person has vision in one eye only, the person demonstrates a field of at least 40 degrees temporal and 30 degrees nasal horizontal vision.

b. Demonstrates a visual acuity of at least 20/70 in one or both eyes with the bioptic telescopic lenses and without the use of field expanders.

c. Provides a report of examination by an ophthalmologist or optometrist, on a form prescribed by the Division, for the Division to determine if all field of vision requirements are met or additional testing is needed.

d. Successfully passes a road test administered by the Division. This requirement is waived if the applicant is a new resident of North Carolina who has a valid drivers license issued by another jurisdiction that requires a road test.

e. Meets all other criteria for licensure.

(2) In addition to the requirements listed in subdivision (1) of this subsection, the Division shall require an applicant using bioptic telescopic lenses to successfully complete a behind-the-wheel training and assessment program prescribed by the Division. This requirement is waived if the applicant has successfully completed a behind-the-wheel training and assessment program as a condition of licensure in another jurisdiction.

(3) Applicants using bioptic telescopic lenses shall be eligible for a limited learner's permit or provisional drivers license issued pursuant to G.S. 20-11, provided the requirements of this subsection are met and any other required testing or documentation is completed and submitted with the application.

(4) Applicants issued a regular Class C drivers license, limited learner's permit, or provisional drivers license shall be subject to the following restrictions on the license issued:

a. The license or permit holder shall not be eligible for any endorsements.

b. The license or permit shall permit the operation of motor vehicles only during the period beginning one-half hour after sunrise and ending one-half hour before sunset.

(5) Applicants issued a regular Class C drivers license may drive motor vehicles between the period beginning one-half hour before sunset and ending one-half hour after sunrise if the applicant meets the following requirements:

a. Demonstrates a visual acuity of at least 20/40 in one or both eyes with the bioptic telescopic lenses and without the use of field expanders.

b. Provides a report of examination by an ophthalmologist or optometrist in accordance with sub-subdivision c. of subdivision (1) of this subsection that does not recommend restricting the applicant to driving a motor vehicle only during the period beginning one-half hour after sunrise and ending one-half hour before sunset."

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

In the General Assembly read three times and ratified this the 25th day of June, 2013.

Became law upon approval of the Governor at 10:32 a.m. on the 3rd day of July, 2013.

Session Law 2013-232 **S.B. 635**

AN ACT TO CLARIFY THAT ONLY INCUMBENT PROVIDERS MAY CONSTRUCT A NEW ELECTRICITY TRANSMISSION LINE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 62-100 reads as rewritten:

"§ **62-100. Definitions.**

As used in this Article:

(1) The term "begin to construct" includes any clearing of land, excavation, or other action that would adversely affect the natural environment of the route of a transmission line; but that term does not include land surveys, boring to ascertain geological conditions, or similar preliminary work undertaken to determine the suitability of proposed routes for a transmission line that results in temporary changes to the ~~land;~~ land.

(2) The word "county" means any one of the counties listed in ~~G.S. 153A-10;~~ G.S. 153A-10.

(3) The word "land" means any real estate or any estate or interest in real estate, including water and riparian rights, regardless of the use to which it is ~~devoted;~~ devoted.

(4) The word "lines" means distribution lines and transmission lines ~~collectively;~~ collectively.

(5) The word "municipality" means any incorporated community, whether designated as a city, town, or village and any area over which it exercises any of the powers granted by Article 19 of Chapter 160A of the General ~~Statutes;~~ Statutes.

(6) The term "public utility" means any of the following:

a. A public utility, as defined in G.S. 62-3(23).

b. An electric membership corporation.

c. A joint municipal power agency.

d. A city or county that is ~~a person, whether organized under the laws of this State or under the laws of any other state or country,~~ engaged in producing, generating, transmitting, delivering, or furnishing electricity for private or public use. ~~use, including counties, municipalities, joint municipal power agencies, electric membership corporations, and public and private corporations; and~~

(7) The term "transmission line" means an electric line designed with a capacity of at least 161 kilovolts."

SECTION 2. G.S. 62-101(a) reads as rewritten:

"(a) No public utility or any other person may begin to construct a new transmission line without first obtaining from the Commission a certificate of environmental compatibility and public convenience and necessity. Only a public utility as defined in this Article may obtain a certificate to construct a new transmission line, except an entity may obtain a certificate to construct a new transmission line solely for the purpose of providing interconnection of an electric generation facility."

SECTION 3. This act is effective when it becomes law and applies to certificates of environmental compatibility and public convenience and necessity issued on or after that date.

In the General Assembly read three times and ratified this the 27th day of June, 2013.

Became law upon approval of the Governor at 10:32 a.m. on the 3rd day of July, 2013.

Session Law 2013-233 **S.B. 712**

AN ACT TO ALLOW THE DIVISION OF MOTOR VEHICLES TO DEVELOP A PROCESS WHEREBY PERSONS WHO ARE HOMEBOUND CAN APPLY FOR A SPECIAL PHOTO IDENTIFICATION CARD BY MEANS OTHER THAN PERSONAL APPEARANCE AND TO MAKE OTHER CLARIFYING CHANGES.

The General Assembly of North Carolina enacts:

SECTION 1. For a person who has a physician's letter certifying that a severe disability causes the person to be homebound, the Division shall adopt rules allowing for application for or renewal of a special photo identification card under G.S. 20-37.7 by means other than a personal appearance.

SECTION 2. G.S. 20-37.7(c) reads as rewritten:

"(c) Format. – A special identification card shall include a color photograph of the special identification card holder and be similar in size, shape, and design to a drivers license, but shall clearly state that it does not entitle the person to whom it is issued to operate a motor vehicle. A special identification card issued to an applicant must have the same background color that a drivers license issued to the applicant would have."

SECTION 3. By no later than October 1, 2013, the Division shall report to the Chairs of the Joint Legislative Transportation Oversight Committee on the status of the implementation of a system allowing persons who are homebound to apply for or renew a special photo identification card by means other than personal appearance.

SECTION 4. Section 3 of this act is effective when it becomes law. The remainder of this act becomes effective July 1, 2014.

In the General Assembly read three times and ratified this the 24th day of June, 2013.

Became law upon approval of the Governor at 10:32 a.m. on the 3rd day of July, 2013.

Session Law 2013-234 **H.B. 56**

AN ACT TO ESTABLISH THE CONTRACT MANAGEMENT SECTION OF THE DIVISION OF PURCHASE AND CONTRACT, DEPARTMENT OF ADMINISTRATION, TO AMEND THE LAWS REQUIRING NEGOTIATION AND REVIEW OF CERTAIN STATE CONTRACTS, TO PROVIDE OVERSIGHT AND REPORTING OF CERTAIN CONTRACT AWARDS, AND TO PROVIDE FOR CONTRACT MANAGEMENT AND ADMINISTRATION, AS RECOMMENDED BY THE JOINT LEGISLATIVE PROGRAM EVALUATION OVERSIGHT COMMITTEE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 114-8.3 reads as rewritten:

"§ **114-8.3. Attorney ~~General~~ General/General Counsel;~~to~~ review certain contracts.**

(a) Except as provided in ~~subsection~~ subsections (b) and (b1) of this section, the Attorney General or the Attorney General's designee shall perform the duties required pursuant to G.S. 143-49(3a) for ~~review all~~ proposed contracts for ~~supplies, materials, printing, equipment, and~~ contractual services that exceed ~~one~~ five million dollars ~~($1,000,000)~~ ($5,000,000). The designee shall confirm ~~to ensure~~ that the proposed contracts are (i) in proper legal form, (ii) contain all clauses required by North Carolina law, (iii) are legally enforceable, and (iv) accomplish the intended purposes of the proposed contract. The ~~term "review" as used in this section shall~~ designee's review does not constitute approval or disapproval of the policy merit or lack thereof of the proposed contract. For purposes of this subsection, the term "Attorney General's designee" ~~shall include~~ includes any attorney approved by the Attorney General to review contracts as provided in this subsection. The Attorney ~~General~~ General shall:

(1) Establish procedures regarding the review of contracts subject to this section and shall provide any attorney designated under G.S. 143-49(3a) with guidelines to be used in reviewing contracts. ~~shall require that any attorney designated under this subsection comply with any rules established by the Attorney General or the Department of Administration regarding the review of contracts.~~

(2) Advise and assist the Contract Management Section of the Division of Purchase and Contract, Department of Administration, in establishing procedures and guidelines for the review of contracts pursuant to G.S. 143-50.1.

(b) For the constituent institutions of The University of North Carolina, the General Counsel of each institution or the General Counsel's designee shall review all proposed contracts for supplies, materials, printing, equipment, and contractual services that exceed one million dollars ($1,000,000) to ensure that the proposed contracts are (i) in proper legal form, (ii) contain all clauses required by North Carolina law, (iii) are legally enforceable, and (iv) accomplish the intended purposes of the proposed contract. The term "review" as used in this section ~~shall~~ does not constitute approval or disapproval of the policy merit or lack thereof of the proposed contract. For purposes of this subsection, the term "General Counsel's designee" ~~shall include~~ includes any attorney approved by the General Counsel to review contracts as provided in this subsection. The General Counsel shall establish procedures regarding the review of contracts subject to this section and shall require that any attorney designated under this subsection comply with any ~~rules~~ procedures established by the Attorney General or the Department of Administration regarding the review of contracts.

(b1) The General Counsel of the Department of State Treasurer or the General Counsel's designee shall review all proposed investment contracts, as defined in subdivision (4) of this subsection, and all proposed contracts for investment-related services entered pursuant to the State Treasurer's authority under G.S. 147-69.3 not constituting consulting contracts, to confirm that the proposed contracts (i) are in proper legal form, (ii) contain all clauses required by North Carolina law, (iii) are legally enforceable to the extent governed by North Carolina law,

and (iv) accomplish the intended purposes of the proposed contract. The General Counsel shall establish, in consultation with the Attorney General and the Department of Administration, procedures regarding the review of contracts subject to this subsection. The following terms and requirements apply to contracts under this subsection:

(1) The term "review" as used in this section does not constitute approval or disapproval of the policy merit or lack thereof of the proposed contract.

(2) The term "General Counsel's designee" includes any attorney employed or retained by the General Counsel to review contracts as provided in this subsection.

(3) Any contract for services reviewed pursuant to this subsection must include the signature of the General Counsel or the General Counsel's designee confirming that the Department of State Treasurer has adhered to the procedures established by the General Counsel regarding the review of the contract. Except for a contract entered into as part of direct trading of bonds, instruments, equity securities, or other approved securities, a contract that has not been signed as required by this subdivision is voidable by the State, and any party or parties to the contract are entitled to receive the value of services rendered prior to the termination of the contract.

(4) For the purposes of this subsection, "investment contract" means any of the following:

a. Investments to be acquired, held, or sold, directly or indirectly, by or for the State Treasurer, the Department of State Treasurer, or an investment entity created by the Department of State Treasurer, either on its own behalf or on behalf of another beneficial owner.

b. Investments administered by the North Carolina Supplemental Retirement Board of Trustees.

(c) All State agencies, the constituent institutions of The University of North Carolina, or any person who will be entering into a contract on behalf of the State for supplies, materials, printing, equipment, or contractual services that exceeds one million dollars ($1,000,000) shall notify the Secretary of the Department of Administration or the Secretary's designee of the intent to enter into the contract and provide information as required by the Department for the purposes of maintaining a centralized log of contracts and identifying the location of the contract documents."

SECTION 2. G.S. 143-49 reads as rewritten:

"§ **143-49. Powers and duties of Secretary.**

The Secretary of Administration ~~shall have~~ has the power and authority, and it ~~shall be his~~ is the Secretary's duty, subject to the provisions of this Article:

...

(3a) To ~~request,~~ notify ~~and~~ the Attorney General of pending contracts for contractual services exceeding a cost of five million dollars ($5,000,000) and that are not otherwise excepted by this subdivision. Upon notification, the Attorney General shall assign a representative ~~of~~ from within the office of the Attorney ~~General~~General, the Contract Management Section of the Division of Purchase and Contract, Department of Administration, or other qualified counsel to assist in negotiation for the award of ~~any~~ the contract. ~~contract for contractual services exceeding a cost of one hundred thousand dollars ($100,000) that requires negotiation with prospective contractors.~~ It ~~shall be~~ is the duty of ~~such~~ the representative to assist and advise in obtaining the most favorable contract for the State, to evaluate all proposals available from prospective contractors for that purpose, to interpret proposed contract terms and to advise the Secretary or his representatives of the liabilities of the State and validity of the contract to be awarded. An attorney from within the office of the Attorney General shall review all~~All~~ contracts

and drafts of ~~such contracts shall be prepared by the office of the Attorney General~~ contracts, and the office shall retain copies ~~thereof shall be retained by such office~~ for a period of three years following the termination of ~~such~~ the contracts. The term "contractual services" as used in this subsection and G.S. 143-52.2 ~~shall mean~~ means work performed by an independent contractor requiring specialized knowledge, experience, expertise or similar capabilities wherein the service rendered does not consist primarily of acquisition by this State of equipment or materials and the rental of equipment, materials and supplies. ~~The term "negotiation" as used in this~~ This subdivision ~~shall~~ does not apply ~~be deemed to refer~~ to contracts entered into or to be entered into as a result of a competitive bidding process. In order to be valid, any contract for services reviewed pursuant to this subdivision must include the signature and title of the attorney designated from within the office of the Attorney General to review the contract. If the contract commences without the required signature, the State has the right to terminate the contract, and the other party or parties to the contract shall only be entitled to the value of all services provided to the State prior to the termination. The Secretary is not required to notify the Attorney General for the appointment of a representative for any contracts for contractual services to be entered into by the constituent institutions of The University of North Carolina pursuant to G.S. 114-8.3(b), or for contracts to be entered into by the Department of Treasurer pursuant to G.S. 114-8.3(b1), unless requested to do so by the General Counsel of The University of North Carolina or the General Counsel of the Department of State Treasurer, respectively.

…

~~(13) To implement a quality management system equivalent to the International Organization for Standardization (ISO) 9001:2008 to ensure that citizen and agency customer requirements are met. By September 1, 2012, and more frequently as requested, the Secretary shall report to the Joint Legislative Commission on Governmental Operations, the Program Evaluation Division, and the Fiscal Research Division concerning the progress of the Department's effort to comply with the provisions of this subdivision.~~

…

(16) To work in conjunction with the University of North Carolina School of Government to study and recommend improvements to State procurement laws, including the feasibility of adopting the provisions of the American Bar Association Model Procurement Code. The recommendations shall be reported by the Secretary to the Joint Legislative Commission on Governmental Operations and the Program Evaluation Division by June 30, 2014.

…."

SECTION 3. Article 3 of Chapter 143 of the General Statutes is amended by adding a new section to read:

"**§ 143-50.1. Division of Purchase and Contract; Contract Management Section.**

(a) The Contract Management Section (CMS) is established in the Division of Purchase and Contract, Department of Administration. The CMS shall include legal counsel with the duties and responsibilities included in this section.

(b) Unless otherwise provided in G.S. 114-8.3(b) or (b1), or in this section, for all proposed solicitations for supplies, materials, printing, equipment, or contractual services that exceed one million dollars ($1,000,000), the CMS shall:

(1) Participate and assist in the preparation of all proposed solicitations, and review all available proposals from prospective contractors, with the goal of obtaining the most favorable contract for the State.

(2) Interpret proposed contract terms and advise the Secretary or the Secretary's designee of the potential liabilities to the State.

(3) Review all proposed contracts to ensure that the contracts:

a. Are in proper legal form.

b. Contain all clauses required by law.

c. Are legally enforceable.

d. Require performance that will accomplish the intended purposes of the proposed contract.

The review and evaluation required by this subsection does not constitute approval or disapproval of the policy merit or lack thereof of the proposed contract.

(c) With respect to proposed contracts for services that exceed five million dollars ($5,000,000), the CMS shall perform the duties required under G.S. 143-49(3a).

(d) The CMS shall:

(1) Assist State departments, agencies, and institutions to establish formal contract administration procedures and functions.

(2) Advise personnel in contracting specialist roles as to appropriate contract management and administrative techniques and activities.

(3) Act as a general resource to State agencies on contracting issues related to procurement, including contract drafting, clarification of terms and conditions, proper solicitation and bid evaluation procedures, contract negotiation, and other matters as directed by the State Purchasing Officer.

(4) Assist representatives of the Attorney General, agency counsel, and other legal staff, as requested, in matters related to contracting for goods and services.

(e) The Department of Administration shall adopt procedures for the record keeping of the information provided by State agencies and that has been received by the Secretary or the Secretary's designee pursuant to G.S. 114-8.3(c). The Department shall keep the records, and shall include a log with information that provides identification of individual contracts and where the contract documents are located. The Secretary is authorized to require that entities reporting pursuant to G.S. 114-8.39(c) provide additional information that may be required to identify the individual contracts.

(f) The CMS shall consist of personnel designated by the Secretary and perform other functions as directed by the Secretary that are not inconsistent with this section."

SECTION 4. G.S. 143-52.1 reads as rewritten:

"§ **143-52.1. ~~Board of Awards.~~Award recommendations; State Purchasing Officer action.**

(a) Award Recommendation. – When the dollar value of a contract to be awarded under Article 3 of Chapter 143 of the General Statutes exceeds the benchmark established pursuant to G.S. 143-53.1, an award recommendation shall be submitted to the State Purchasing Officer for approval or other action. The State Purchasing Officer shall promptly notify the agency or institution making the recommendation, or for which the purchase is to be made, of the action taken.~~There is created the Board of Awards. The Board shall consist of three members at a time, appointed by the Chair of the Commission. Members of the Board shall be appointed on a rotating basis from the membership of the Commission and the Council of State. Two out of three members appointed for each meeting of the Board shall constitute a quorum of the Board.~~

~~(b) The Board shall meet weekly as called by the Chair of the Commission, except in weeks when no contracts have been submitted to the Board for review.~~

~~(c) When the dollar value of a contract exceeds the benchmark established either pursuant to G.S. 143 53.1 or G.S. 147 33.101, the Board shall review and make a recommendation on action to be taken by the Secretary of Administration on contracts to be awarded under Article 3 of Chapter 143 of the General Statutes and on contracts to be awarded~~

~~by the Chief Information Officer under Article 3D of Chapter 147 of the General Statutes, prior to the awarding of the contract.~~

~~(d) The State Budget Officer shall designate a secretary for the Board. The Secretary of Administration and the State Chief Information Officer shall each submit their matters for consideration to the secretary for inclusion on the Board's agenda. Records shall be kept of each meeting and made public by the Secretary of Administration or State Chief Information Officer, as applicable unless the Secretary of Administration or State Chief Information Officer, as applicable, determines a specific record of the meeting needs to be confidential due to the nature of the contract. The Secretary of Administration or State Chief Information Officer, as applicable, may elect to proceed with the award of a contract without a recommendation of the Board in cases of emergencies or in the event that a Board is not available. In those cases, contracts awarded without Board review shall be reported to the next meeting of the Board as a matter of record.~~

(e) Reporting. – ~~Reports on recommendations made by the Board on matters presented by the State Chief Information Officer to the Board shall be reported monthly by the Board.~~ The State Procurement Officer shall provide a monthly report of all contract awards greater than twenty-five thousand dollars ($25,000) approved through the Division of Purchase and Contract to the ~~chairs of the Joint Legislative Oversight Committee on Information Technology.~~Cochairs of the Joint Legislative Committee on Governmental Operations. The report shall include the amount of the award, the award recipient, the using agency, and a short description of the nature of the award."

SECTION 5. G.S. 147-33.101 reads as rewritten:

"§ **147-33.101. ~~Board of Awards review.~~Award recommendation; State Chief Information Officer action.**

(a) Award Recommendation. – When the dollar value of a contract for the procurement of information technology equipment, materials, and supplies exceeds the benchmark established by the State Chief Information Officer, an award recommendation shall be submitted to the State Chief Information Officer for approval or other action. The State Chief Information Officer shall promptly notify the agency or institution making the recommendation, or for which the purchase is to be made, of the action taken. ~~the contract shall be reviewed by the Board of Awards pursuant to G.S. 143-52.1 prior to the contract being awarded.~~

(b) Review. – Prior to submission ~~of any contract~~ for review ~~by the Board of Awards~~ pursuant to this section ~~for~~ of any contract for information technology being acquired for the benefit of the Office and not on behalf of any other State agency, the Director of the Budget shall review and approve the procurement to ensure compliance with the established processes, specifications, and standards applicable to all information technology purchased, licensed, or leased in State government, including established procurement processes, and compliance with the State government wide technical architecture as established by the State CIO.

(c) Reporting. – The State CIOs shall provide a report of all contract awards approved through the Statewide IT Procurement Office as indicated below. The report shall include the amount of the award, the contract term, the award recipient, the using agency, and a short description of the nature of the award.

(1) For contract awards greater than twenty-five thousand dollars ($25,000), to the Cochairs of the Joint Legislative Oversight Committee on Information Technology on a monthly basis.

(2) For all contract awards outside the established purchasing system, to the Secretary of the Department of Administration on a quarterly basis."

SECTION 6. G.S. 116-13(a) reads as rewritten:

"(a) The power and authority granted to the Board of Governors with regard to the acquisition, operation, maintenance and disposition of real and personal property and services shall be subject to, and exercised in accordance with, the provisions of Chapters 143 and 146 of

the General Statutes and related sections of the North Carolina Administrative Code, except when a purchase is being made that is not covered by a State term contract and either:

(1) The funds used to procure personal property or services are not moneys appropriated from the General Fund or received as tuition or, in the case of multiple fund sources, moneys appropriated from the General Fund or received as tuition do not exceed thirty percent (30%) of the total funds; or

(2) The funds used to procure personal property or services are contract and grant funds or, in the case of multiple fund sources, the contract and grant funds exceed fifty percent (50%) of the total funds.

When a special responsibility constituent institution makes a purchase under subdivision (1) or (2) of this subsection, the requirements of Chapter 143, Article 3 shall apply, except the approval or oversight of the Secretary of ~~Administration,~~ Administration or the State Purchasing ~~Officer, or the Board of Awards~~ Officer ~~shall not be~~ is not required, regardless of dollar value."

SECTION 7. G.S. 120-36.6 reads as rewritten:

"§ **120-36.6. Legislative Fiscal Research staff participation.**

The Legislative Services Officer shall designate a member of the Fiscal Research staff, and a member of the General Research or Bill Drafting staff who may attend all meetings of the ~~Board of Awards and~~ Council of State, unless the ~~Board or~~ Council has voted to exclude them from the specific meeting, provided that no final action may be taken while they are so excluded. The Legislative Services Officer and the Director of Fiscal Research shall be notified of all such meetings, hearings and trips in the same manner and at the same time as notice is given to members of the ~~Board or~~ Council. The Legislative Services Officer and the Director of Fiscal Research shall be provided with a copy of all reports, memoranda, and other informational material which are distributed to the members of the ~~Board or~~ Council; these reports, memoranda and materials shall be delivered to the Legislative Services Officer and the Director of Fiscal Research at the same time that they are distributed to the members of the ~~Board or~~ Council."

SECTION 8. G.S. 143-52(a) reads as rewritten:

"(a) The Secretary of Administration shall compile and consolidate all ~~such~~ estimates of goods and services needed and required by State departments, institutions and agencies to determine the total requirements of any given commodity. Where ~~such~~ the total requirements will involve an expenditure in excess of the expenditure benchmark established under the provisions of G.S. 143-53.1 and where the competitive bidding procedure is employed as hereinafter provided, sealed bids shall be solicited by advertisement in a newspaper widely distributed in this State or through electronic means, or both, as determined by the Secretary to be most advantageous, at least once and at least 10 days prior to the date designated for opening. Except as otherwise provided under this Article, contracts for the purchase of goods and services shall be based on competitive bids and suitable means authorized by the Secretary as provided in G.S. 143-49. The acceptance of bid(s) most advantageous to the State shall be determined upon consideration of the following criteria: prices offered; best value, as the term is defined in G.S. 143-135.9(a)(1); the quality of the articles offered; the general reputation and performance capabilities of the bidders; the substantial conformity with the specifications and other conditions set forth in the request for bids; the suitability of the articles for the intended use; the personal or related services needed; the transportation charges; the date or dates of delivery and performance; and such other factor(s) deemed pertinent or peculiar to the purchase in question, which if controlling shall be made a matter of record. Competitive bids on ~~such~~ contracts shall be received in accordance with rules and regulations to be adopted by the Secretary of Administration, which rules and regulations shall prescribe for the manner, time and place for proper advertisement for such bids, the time and place when bids will be received, the articles for which such bids are to be submitted and the specifications prescribed for ~~such~~ the articles, the number of the articles desired or the duration of the proposed contract, and the amount, if any, of bonds or certified checks to accompany the bids. Bids shall be publicly

opened. Any and all bids received may be rejected. Each and every bid conforming to the terms of the invitation, together with the name of the bidder, shall be tabulated and that tabulation shall become public record in accordance with the rules adopted by the Secretary. All contract information shall be made a matter of public record after the award of contract. Provided, that trade secrets, test data and similar proprietary information may remain confidential. A bond for the faithful performance of any contract may be required of the successful bidder at bidder's expense and in the discretion of the Secretary of Administration. When the dollar value of a contract for the purchase, lease, or lease/purchase of goods exceeds the benchmark established by G.S. 143-53.1, the contract shall be reviewed by the ~~Board of Awards~~ State Purchasing Officer pursuant to G.S. 143-52.1 prior to the contract being awarded. After contracts have been awarded, the Secretary of Administration shall certify to the departments, institutions and agencies of the State government the sources of supply and the contract price of the goods so contracted for."

SECTION 9. G.S. 143-59(b) reads as rewritten:

"(b) Reciprocal Preference. – For the purpose only of determining the low bidder on all contracts for equipment, materials, supplies, and services valued over twenty-five thousand dollars ($25,000), a percent of increase shall be added to a bid of a nonresident bidder that is equal to the percent of increase, if any, that the state in which the bidder is a resident adds to bids from bidders who do not reside in that state. Any amount due under a contract awarded to a nonresident bidder shall not be increased by the amount of the increase added by this subsection. On or before January 1 of each year, the Secretary of Administration shall electronically publish a list of states that give preference to in-State bidders and the amount of the percent increase added to out-of-state bids. All departments, institutions, and agencies of the State shall use this list when evaluating bids. If the reciprocal preference causes the nonresident bidder to no longer be the lowest bidder, the Secretary of Administration ~~may, after consultation with the Board of Awards,~~ may waive the reciprocal preference. In determining whether to waive the reciprocal preference, the Secretary of Administration ~~and the Board of Awards~~ shall consider factors that include competition, price, product origination, and available resources."

SECTION 10. G.S. 143-318.18(10) is repealed.

SECTION 11. The Department of Administration shall provide an individualized notice to the following State entities to ensure that the entities are aware of how the statutory amendments made in S.L. 2010-194, Section 15 of S.L. 2011-326, and this act apply to them:

(1) The North Carolina State Lottery Commission, which is subject to G.S. 18C-150.

(2) The Commissioner of Banks, who is subject to G.S. 53-320(d), 53-326(d), 53-391, and 53-401.

(3) The Commissioner of Insurance, who is subject to G.S. 53-401, 58-33-30(e)(4) and (5), 58-33-125(e), 58-33-130(a), and 58-71-40(d).

(4) The Global TransPark Authority, which is subject to G.S. 63A-24. The Secretary of Transportation shall be copied on the notice sent to the Global TransPark Authority.

(5) The North Carolina State Bar Council, which is subject to G.S. 84-23(d).

(6) The North Carolina Board for Licensing of Geologists, which is subject to G.S. 89E-5(e).

(7) The North Carolina Board for Licensing of Soil Scientists, which is subject to G.S. 89F-5(d).

(8) The constituent institutions of The University of North Carolina, which are subject to G.S. 114-8.3(b). For notification under this subdivision, the Department of Administration may provide The University of North Carolina system a notification to distribute to all of its constituent institutions. If the Department of Administration does so, The University of

North Carolina system shall distribute those notifications to the system's constituent institutions.

(9) The North Carolina Center for Applied Textile Technology, which is subject to G.S. 115D-67.4.

(10) The North Carolina State Health Plan for Teachers and State Employees, which is subject to G.S. 135-48.33(b).

(11) The Department of Transportation, which is subject to G.S. 136-28.1(h) and G.S. 143-134(b).

(12) The North Carolina Turnpike Authority, which is subject to G.S. 136-89.194(g)(1). The Secretary of Transportation shall be copied on the notice sent to the Turnpike Authority.

(13) The Department of Health and Human Services, which is subject to G.S. 143-48.1(c).

(14) The Division of Adult Correction of the Department of Public Safety, which is subject to G.S. 143-134(b). The Secretary of Public Safety shall be copied on the notice sent to the Division of Adult Correction.

(15) The North Carolina Code Officials Qualification Board, which is subject to G.S. 143-151.16(d). The Commissioner of Insurance shall be copied on the notice sent to the Code Officials Qualification Board.

(16) The Roanoke Island Commission, which is subject to G.S. 143B-131.2(b)(15). The Secretary of Cultural Resources shall be copied on the notice sent to the Roanoke Island Commission.

(17) Any other State entity subject to contract review under G.S. 114-8.3.

The Department of Administration, as part of its notice, shall provide a means by which an entity may acknowledge receipt and understanding of the notice. If the Department of Administration has not received an acknowledgement from a State entity within 30 days of sending the notice, the Department of Administration shall send a second notice. If the Department of Administration has not received an acknowledgement from a State entity within 30 days of sending the second notice, the Department of Administration shall notify (i) the Joint Legislative Program Evaluation Oversight Committee and (ii) the House Appropriations Subcommittee on General Government and the Senate Appropriations Committee on General Government and Information Technology.

SECTION 12. The Attorney General's Office, the Department of Administration, and the Office of the General Counsel for The University of North Carolina shall establish procedures to implement the provisions of this act no later than October 1, 2013.

SECTION 13. Sections 1 through 3 of this act become effective October 1, 2013, and apply to contracts entered into on or after that date. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 26th day of June, 2013.

Became law upon approval of the Governor at 10:32 a.m. on the 3rd day of July, 2013.

Session Law 2013-235 **H.B. 57**

AN ACT (1) TO PROHIBIT LOCAL SCHOOL ADMINISTRATIVE UNITS FROM ASSESSING INDIRECT COSTS TO A CHILD NUTRITION PROGRAM UNLESS THE PROGRAM IS FINANCIALLY SOLVENT AND (2) TO PROMOTE OPTIMAL PRICING FOR CHILD NUTRITION PROGRAM FOODS AND SUPPLIES, AS RECOMMENDED BY THE JOINT LEGISLATIVE PROGRAM EVALUATION OVERSIGHT COMMITTEE BASED ON RECOMMENDATIONS FROM THE PROGRAM EVALUATION DIVISION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 115C-450 reads as rewritten:

"§ **115C-450. School food services.**

(a) School food services shall be included in the budget of each local school administrative unit and the State Board of Education shall provide for school food services in the uniform budget format required by G.S. 115C-426.

(b) No local school administrative unit shall assess indirect costs to a child nutrition program unless the program has a minimum of one month's operating balance. One month's operating balance shall be derived from net cash resources divided by one month's operating costs. "Net cash resources" means all monies, as determined in accordance with the State agency's established accounting system, that are available to or have accrued to a school food authority's nonprofit child nutrition account at any given time, less cash payables and other liabilities. When calculating the average month's operating balance, the Department of Public Instruction shall use the complete and final figures obtained from the annual financial report from each child nutrition program's operation. An average month's operating balance shall be calculated and published by the Department of Public Instruction for each child nutrition program and shall be equal to the average of the three prior fiscal years' monthly operating balances. If complete and final financial reports for a given year are not yet available for a child nutrition program, the Department of Public Instruction may use projected figures but shall update the published average month's operating balance once complete and final financial reports become available. As used in this subsection, the term "indirect costs" is as defined in the United States Office of Budget and Management Circular A-87, as revised, and the term "net cash resources" is as defined in 7 C.F.R. § 210.2."

SECTION 2. The North Carolina Procurement Alliance shall promote optimal pricing for child nutrition program foods and supplies.

SECTION 3. This act becomes effective July 1, 2013.

In the General Assembly read three times and ratified this the 24th day of June, 2013.

Became law upon approval of the Governor at 10:32 a.m. on the 3rd day of July, 2013.

Session Law 2013-236 **H.B. 147**

AN ACT TO AMEND VARIOUS LAWS PERTAINING TO ADOPTION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 7B-909 reads as rewritten:

"§ **7B-909. Review of agency's plan for placement.**

(a) The director of social services or the director of the licensed private child-placing agency shall promptly notify the clerk to calendar the case for review of the department's or agency's plan for the juvenile at a session of court scheduled for the hearing of juvenile matters if the juvenile is in the custody of the department or agency and has not become the subject of a decree of adoption within six months following relinquishment of the juvenile for adoption by a parent, guardian, or guardian ad litem under the provisions of Part 7 of Article 3 of Chapter 48 of the General Statutes.~~in any case where:~~

~~(1) One parent has surrendered a juvenile for adoption under the provisions of Part 7 of Article 3 of Chapter 48 of the General Statutes and the termination of parental rights proceedings have not been instituted against the nonsurrendering parent within six months of the surrender by the other parent, or~~

~~(2) Both parents have surrendered a juvenile for adoption under the provisions of Part 7 of Article 3 of Chapter 48 of the General Statutes and that juvenile has not been placed for adoption within six months from the date of the more recent parental surrender.~~

(b) Repealed by 2007-276, s. 6, effective October 1, 2007.

(b1) If the court finds on motion of a department of social services or licensed child-placing agency that a consent or relinquishment for adoption necessary for the juvenile to be adopted cannot be obtained, and that no further steps are being taken to terminate the parental rights of the parent from whom consent or relinquishment has not been obtained, the court may order, upon finding that it is in the juvenile's best interest, that any relinquishment for adoption signed by a parent who has surrendered the child for adoption shall be voided pursuant to G.S. 48-3-707(a)(4). Before voiding any relinquishment under this subsection, the court shall require the county department of social services or licensed child-placing agency to give at least 15 days' notice to the relinquishing parent whose rights will be restored. The relinquishing parent shall have the right to be heard on (i) whether the relinquishment should be voided and (ii) the parent's plan to provide for the juvenile if the relinquishment is voided. If after due diligence the relinquishing parent cannot be located, the notice of hearing shall be deposited in the United States mail, return receipt requested, and sent to the address of the parent given in the relinquishment. The date of receipt of the notice is deemed the date of delivery or last attempted delivery.

(c) Notification of the court under this section shall be by a petition for review or motion for review, if the court is exercising jurisdiction over the juvenile. ~~The petition shall set forth the circumstances necessitating the review under subsection (a) of this section.~~ The review shall be conducted within 30 days following the filing of the petition for review unless the court shall otherwise direct. The court shall conduct reviews every six months until the juvenile is the subject of a decree of adoption. However, further reviews are not required after the voiding of a relinquishment under subsection (b1) of this section. The initial review and all subsequent ~~reviews~~ reviews, except a review hearing under subsection (b1) of this section, shall be conducted pursuant to G.S. 7B-908. Any individual whose parental rights have been terminated or who has relinquished the juvenile for adoption under the provisions of Part 7 of Article 3 of Chapter 48 of the General Statutes shall not be considered a party to the review unless an appeal of the order terminating parental rights is pending, and a court has stayed the order pending the appeal."

SECTION 2. G.S. 48-2-204 reads as rewritten:

"§ **48-2-204. Death of a joint petitioner or stepparent pending final decree.**

(a) When spouses have petitioned jointly to adopt and one spouse dies before entry of a final decree, the adoption may ~~nevertheless~~ proceed in the names of both spouses. ~~The~~ Upon completion of the adoption, the name of the deceased spouse shall be entered as one of the adoptive parents on the new birth certificate prepared pursuant to Article 9 of this ~~Chapter, and for~~Chapter. For purposes of inheritance, testate or intestate, the adoptee shall be treated as a child of the ~~deceased.~~deceased spouse.

(b) When a stepparent who has petitioned to adopt dies before entry of a final decree, the adoption may proceed in the name of the petitioning stepparent if the court causes to be mailed to any individual who executed a consent to adoption a notice advising that the petitioning stepparent has died and the individual may, within 15 days from the date the individual receives notice, request a hearing on the adoption. Notice is complete when mailed to the individual at the address given in the consent. Upon completion of the adoption, the name of the petitioning stepparent shall be entered as one of the adoptee's parents on the new birth certificate prepared in accordance with Article 9 of this Chapter. For purposes of inheritance, testate or intestate, the adoptee shall be treated as a child of the deceased stepparent."

SECTION 3. G.S. 48-2-207(a) reads as rewritten:

"(a) If any individual who is described in G.S. 48-3-601 or entitled to notice under G.S. 48-2-401(c)(3) is served with notice of the filing of the petition in accordance with G.S. 48-2-402 and fails to respond within the time specified in the notice, the court, upon motion by the petitioner, shall enter an order under G.S. 48-3-603(a)(7) that the individual's consent is not required for the adoption."

SECTION 4. G.S. 48-2-302 reads as rewritten:

"§ **48-2-302. ~~Time for filing petition.~~Concurrent petitions to adopt and terminate parental rights.**

~~(a)~~ Repealed by Session Laws 2012-16, s. 1, effective October 1, 2012.

~~(b) If a petition is not filed in accordance with subsection (a) of this section, any person may notify the county department of social services for appropriate action.~~

~~(c)~~ A petition for adoption may be filed concurrently with a petition to terminate parental rights."

SECTION 5. G.S. 48-2-305 reads as rewritten:

"§ **48-2-305. Petition for adoption; additional documents.**

~~At the time the petition is filed, the~~The petitioner shall file or cause to be filed the following documents:

(1) Any required affidavit of parentage executed under G.S. 48-3-206.

(2) Any required consent or relinquishment that has been executed.

(3) A certified copy of any court order terminating the rights and duties of a parent or a guardian of the adoptee.

(4) A certified copy of any court order or pleading in a pending proceeding concerning custody of or visitation with the adoptee.

(5) A copy of any required preplacement assessment certified by the agency that prepared ~~it and any certificate of service required by G.S. 48-3-307~~the assessment or an affidavit from the petitioner stating why the assessment is not available.

(6) A copy of any document containing the information required under G.S. 48-3-205 concerning the health, social, educational, and genetic history of the adoptee and the adoptee's original family which the petitioner received before the placement or at any later time, certified by the person who prepared it, or if this document is not available, an affidavit stating the reason why it is not available.

(7) Any signed copy of the form required by the Interstate Compact on the Placement of Children, Article 38 of Chapter 7B of the General Statutes, authorizing a minor to come into this State, or any statement required by G.S. 48-2-304(c) describing the circumstances of any noncompliance.

(8) A writing that states the name of any individual whose consent is or may be required, but who has not executed a consent or a relinquishment or whose parental rights have not been legally terminated, and any fact or circumstance that may excuse the lack of consent or relinquishment.

(9) In an adoption pursuant to Article 4 of this Chapter, a copy of any agreement to release past-due child support payments.

(10) Any consent to an agency by a placing parent and adopting parents to release identifying information under G.S. 48-9-109.

(11) A certificate as required by G.S. 48-3-307(c), if the person who placed the minor executes a consent before receiving a copy of the preplacement assessment.

(12) A certified copy of any judgment of conviction of a crime specified under G.S. 48-3-603(a)(9) establishing that an individual's consent to adoption is not required.

Any document required under this section that is available to the petitioner when the petition is filed shall be filed with the petition. Any document required under this section that is not available when the petition is filed shall be filed as the document becomes available. The petitioner may also file any other document necessary or helpful to the court's determination."

SECTION 6. G.S. 48-2-401(c)(3) reads as rewritten:

"(c) In the adoption of a minor, the petitioner shall also serve notice of the filing on each of the following:

…

(3) A man who to the actual knowledge of the petitioner claims to be or is named as the biological or possible biological father of the minor, and any biological or possible biological fathers who are unknown or whose whereabouts are unknown, but notice need not be served upon a man who has executed a consent, a relinquishment, or a notarized statement denying paternity or disclaiming any interest in the minor, a man whose parental rights have been legally terminated or who has been judicially determined not to be the minor's ~~parent,~~parent, a man whose consent to the adoption is not required under G.S. 48-3-603(a)(9) due to his conviction of a specified crime, or, provided the petition is filed within three months of the birth of the minor, a man whose consent to the adoption has been determined not to be required under G.S. 48-2-206.

…."

SECTION 7. G.S. 48-3-603(a) reads as rewritten:

"§ **48-3-603. Persons whose consent is not required.**

(a) Consent to an adoption of a minor is not required of a person or entity whose consent is not required under G.S. 48-3-601, ~~or:~~or any of the following:

(1) An individual whose parental rights and duties have been terminated under Article 11 of Chapter 7B of the General Statutes or by a court of competent jurisdiction in another ~~state;~~state.

(2) A man described in G.S. 48-3-601(2), other than an adoptive father, if (i) the man has been judicially determined not to be the father of the minor to be adopted, or (ii) another man has been judicially determined to be the father of the minor to be ~~adopted;~~adopted.

(3) Repealed by Session Laws 1997-215, s. 11(a).

(4) An individual who has relinquished parental rights or guardianship powers, including the right to consent to adoption, to an agency pursuant to Part 7 of this ~~Article;~~Article.

(5) A man who is not married to the minor's birth mother and who, after the conception of the minor, has executed a notarized statement denying paternity or disclaiming any interest in the ~~minor;~~minor.

(6) A deceased parent or the personal representative of a deceased parent's ~~estate; or~~estate.

(7) An individual listed in G.S. 48-3-601 who has not executed a consent or a relinquishment and who fails to respond to a notice of the adoption proceeding within 30 days after the service of the notice.

(8) An individual notified under G.S. 48-2-206 who does not respond in a timely manner or whose consent is not required as determined by the court.

(9) An individual whose actions resulted in a conviction under ~~G.S. 14-27.2~~G.S. 14-27.2, G.S. 14-27.2A, or G.S. 14-27.3 and the conception of the minor to be adopted.

(b) The court may issue an order dispensing with the consent ~~of:~~of the following:

(1) A guardian or an agency that placed the minor upon a finding that the consent is being withheld contrary to the best interest of the ~~minor; or~~minor.

(2) A minor 12 or more years of age upon a finding that it is not in the best interest of the minor to require the consent."

SECTION 8. G.S. 48-3-605(c) reads as rewritten:

"(c) An individual before whom a consent is signed and acknowledged under subsection (a) of this section shall certify in writing that to the best of the individual's knowledge or belief, the parent, guardian, or minor to be adopted executing the ~~consent:~~consent has met each of the following:

(1) Read, or had read to him or her, and understood the ~~consent;~~consent.

(2) Signed the consent ~~voluntarily;~~voluntarily.

(3) ~~Received or was offered a copy of the consent; and~~Been given an original or a copy of his or her fully executed consent.

(4) ~~Was~~ Been advised that ~~counselling~~ counseling services may be available through county departments of social services or licensed child-placing agencies."

SECTION 9. G.S. 48-3-606 reads as rewritten:

"§ **48-3-606. Content of consent; mandatory provisions.**

A consent required from a minor to be adopted, a parent, or a guardian under G.S. 48-3-601 must be in writing and ~~state:~~state each of the following:

(1) The date and place of the execution of the ~~consent;~~consent.

(2) The name, date of birth, and permanent address of the individual executing the ~~consent;~~consent.

(3) The date of birth or the expected delivery date, the sex, and the name of the minor to be adopted, if ~~known;~~known.

(4) That the individual executing the document is voluntarily consenting to the transfer of legal and physical custody to, and the adoption of the minor to be adopted by, the identified prospective adoptive ~~parent;~~parent.

(5) The name of a person and an address where any notice of revocation may be ~~sent;~~sent.

(6) That the individual executing the document understands that after the consent is signed and acknowledged in accord with the procedures set forth in G.S. 48-3-605, it may be revoked in accord with G.S. 48-3-608, but that it is otherwise final and irrevocable and may not be withdrawn or set aside except under a circumstance set forth in ~~G.S. 48-3-609;~~G.S. 48-3-609.

(7) That the consent shall be valid and binding and is not affected by any oral or separate written agreement between the individual executing the consent and the adoptive ~~parent;~~parent.

(8) That the individual executing the consent has not received or been promised any money or anything of value for the consent, and has not received or been promised any money or anything of value in relation to the adoption of the child except for lawful payments that are itemized on a schedule attached to the ~~consent;~~consent.

(9) That the individual executing the consent understands that when the adoption is final, all rights and obligations of the adoptee's former parents or guardian with respect to the adoptee will be extinguished, and every aspect of the legal relationship between the adoptee and the former parent or guardian will be ~~terminated;~~terminated.

(10) The name and address of the court, if known, in which the petition for adoption has been or will be ~~filed;~~filed.

(11) That the individual executing the consent waives notice of any proceeding for ~~adoption;~~adoption.

(12) If the individual executing the document is the minor to be adopted or the person placing the minor for adoption, a statement that the adoption shall be by a specific named adoptive ~~parent;~~parent.

(13) If the individual executing the document is the person placing the minor for adoption, that the individual executing the consent has provided the prospective adoptive parent, or the prospective adoptive parent's attorney, with the written document required by ~~G.S. 48-3-205; and~~G.S. 48-3-205.

(14) That the person executing the consent has:

~~a. Received or been offered an unsigned copy of the consent;~~

b. Been advised that ~~counselling~~ counseling services may be available through county departments of social services or licensed child-placing agencies; and

c. Been advised of the right to employ independent legal counsel."

SECTION 10. G.S. 48-3-702 reads as rewritten:

"§ **48-3-702. Procedures for relinquishment.**

(a) A relinquishment executed by a parent or guardian must conform substantially to the requirements in this Part and must be signed and acknowledged under oath before an individual authorized to administer oaths or take acknowledgments.

(b) The provisions of G.S. 48-3-605(b), ~~(c),~~ (e), and (f), also apply to a relinquishment executed under this Part.

(b1) An individual before whom a relinquishment is signed and acknowledged under subsection (a) of this section shall certify in writing that to the best of the individual's knowledge or belief, the parent, guardian, or minor to be adopted executing the relinquishment has met each of the following:

(1) Read, or had read to him or her, and understood the relinquishment.

(2) Signed the relinquishment voluntarily.

(3) Been given an original or copy of his or her fully executed relinquishment.

(4) Been advised that counseling services are available through the agency to which the relinquishment is given.

(c) An agency that accepts a relinquishment shall furnish each parent or guardian who signs the relinquishment a letter or other writing indicating the agency's willingness to accept that person's relinquishment."

SECTION 11. G.S. 48-3-703 reads as rewritten:

"§ **48-3-703. Content of relinquishment; mandatory provisions.**

~~(a)~~ A relinquishment executed by a parent or guardian under G.S. 48-3-701 must be in writing and ~~state:~~state the following:

(1) The date and place of the execution of the ~~relinquishment;~~relinquishment.

(2) The name, date of birth, and permanent address of the individual executing the ~~relinquishment;~~relinquishment.

(3) The date of birth or the expected delivery date, the sex, and the name of the minor, if ~~known;~~known.

(4) The name and address of the agency to ~~whom~~ which the minor is being ~~relinquished;~~relinquished.

(5) That the individual voluntarily consents to the permanent transfer of legal and physical custody of the minor to the agency for the purposes of adoption, and

a. The placement of the minor for adoption with a prospective adoptive parent selected by the agency; or

b. The placement of the minor for adoption with a prospective adoptive parent selected by the agency and agreed upon by the individual executing the ~~relinquishment;~~relinquishment.

(6) That the individual executing the relinquishment understands that after the relinquishment is signed and acknowledged in the manner provided in G.S. 48-3-702, it may be revoked in accord with G.S. 48-3-706 but that it is otherwise final and irrevocable except under the circumstances set forth in ~~G.S. 48-3-707;~~G.S. 48-3-707.

(7) That the relinquishment shall be valid and binding and shall not be affected by any oral or separate written agreement between the individual executing the consent and the ~~agency;~~agency.

(8) That the individual executing the relinquishment understands that when the adoption is final, all rights and duties of the individual executing the relinquishment with respect to the minor will be extinguished and all other aspects of the legal relationship between the minor child and the parent will be ~~terminated;~~terminated.

(9) That the individual executing the relinquishment has not received or been promised any money or anything of value for the relinquishment of the minor, and has not received or been promised any money or anything of value in relation to the relinquishment or the adoption of the minor except for lawful payments that are itemized on a schedule attached to the ~~relinquishment;~~relinquishment.

(10) That the individual executing the relinquishment waives notice of any proceeding for ~~adoption;~~adoption.

(11) That the individual executing the relinquishment has provided the agency with the written document required by G.S. 48-3-205, or that the individual has provided the agency with signed releases that will permit the agency to compile the information required by ~~G.S. 48-3-205; and~~G.S. 48-3-205.

(12) That the individual executing the relinquishment has:

~~a. Received or been offered an unsigned copy of the relinquishment;~~

b. Been advised that counseling services are available through the agency to which the relinquishment is given; and

c. Been advised of the right to employ independent legal counsel."

SECTION 12. G.S. 48-3-707(a) reads as rewritten:

"(a) A relinquishment shall become void if any of the following occur:

(1) Before the entry of the adoption decree, the individual who executed the relinquishment establishes by clear and convincing evidence that it was obtained by fraud or duress.

(2) Before placement with a prospective adoptive parent occurs, the agency and the person relinquishing the minor agree to rescind the relinquishment.

(3) After placement with a prospective adoptive parent occurs, but before the entry of the adoption decree, the agency, the person relinquishing the minor, and the prospective adoptive parent agree to rescind the relinquishment.

(4) Upon motion of a county department of social services or licensed child-placing agency under G.S. 7B-909, the court orders that the relinquishment shall be voided based on a finding that another consent or relinquishment necessary for an adoption cannot be obtained and that no further steps are being taken to terminate the parental rights of the parent from whom the consent or relinquishment has not been obtained."

SECTION 13. G.S. 50-13.1(a) reads as rewritten:

"(a) Any parent, relative, or other person, agency, organization or institution claiming the right to custody of a minor child may institute an action or proceeding for the custody of such child, as hereinafter provided. Any person whose actions resulted in a conviction under ~~G.S. 14-27.2~~G.S. 14-27.2, G.S. 14-27.2A, or G.S. 14-27.3 and the conception of the minor child may not claim the right to custody of that minor child. Unless a contrary intent is clear, the word "custody" shall be deemed to include custody or visitation or both."

SECTION 14. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 24th day of June, 2013.

Became law upon approval of the Governor at 10:32 a.m. on the 3rd day of July, 2013.

Session Law 2013-237 **H.B. 209**

AN ACT TO PROVIDE THAT A CONSENT PROTECTIVE ORDER ENTERED UNDER CHAPTER 50B OF THE GENERAL STATUTES MAY BE ENTERED WITHOUT FINDINGS OF FACT AND CONCLUSIONS OF LAW UPON THE WRITTEN AGREEMENT OF THE PARTIES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 50B-3 is amended by adding a new subsection to read:

"(b1) A consent protective order may be entered pursuant to this Chapter without findings of fact and conclusions of law if the parties agree in writing that no findings of fact and conclusions of law will be included in the consent protective order. The consent protective order shall be valid and enforceable and shall have the same force and effect as a protective order entered with findings of fact and conclusions of law."

SECTION 2. This act becomes effective October 1, 2013, and applies to orders entered on or after that date.

In the General Assembly read three times and ratified this the 24th day of June, 2013.

Became law upon approval of the Governor at 10:33 a.m. on the 3rd day of July, 2013.

Session Law 2013-238 **H.B. 220**

AN ACT DESIGNATING JULY TWENTY-SECOND OF EACH YEAR AS NORTH CAROLINA FRAGILE X AWARENESS DAY.

Whereas, Fragile X syndrome is a genetic condition that causes intellectual disability, behavioral and learning challenges, and various physical features; and

Whereas, although Fragile X syndrome occurs in both genders, males are more frequently affected than females and generally with greater severity; and

Whereas, over 100,000 people in the United States have Fragile X syndrome and an estimated 1,000,000 people in the United States carry a Fragile X mutation and have or are at risk of developing a Fragile X-associated disorder; and

Whereas, approximately one-third of all children with Fragile X syndrome also have autism or an autism spectrum disorder; and

Whereas, although the genetic defect that causes Fragile X is easily identified by testing, there is a lack of awareness about the disease, even within the medical community; and

Whereas, special care for an individual with Fragile X syndrome can cost over $2,000,000; and

Whereas, Fragile X research, both basic and applied, has the potential for the development of a cure and may be a model for neuropsychiatric disorders, such as autism, schizophrenia, pervasive developmental disorders, and other forms of X-linked intellectual disability; and

Whereas, several states have established a Fragile X Awareness Day to help raise public awareness of this genetic disorder; Now, therefore,

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 103 of the General Statutes is amended by adding the following new section to read:

"§ **103-13. Fragile X Awareness Day.**

The twenty-second of July of each year is designated as North Carolina Fragile X Awareness Day."

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

In the General Assembly read three times and ratified this the 26th day of June, 2013.

Became law upon approval of the Governor at 10:33 a.m. on the 3rd day of July, 2013.

Session Law 2013-239 **H.B. 243**

AN ACT AUTHORIZING AN OWNER OF A SELF-STORAGE FACILITY WHO HAS A LIEN UPON PERSONAL PROPERTY TO DELIVER NOTICE OF THE PUBLIC SALE OF THE PROPERTY TO THE OCCUPANT BY CERTIFIED MAIL OR BY VERIFIED ELECTRONIC MAIL, TO PUBLISH NOTICE IN ANY COMMERCIALLY REASONABLE MANNER, TO CONDUCT THE SALE THROUGH AN ONLINE, PUBLICLY ACCESSIBLE AUCTION WEB SITE, AND TO INCREASE THE MINIMUM LATE FEES FOR SELF-STORAGE FACILITY RENTAL CONTRACTS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 44A-40 reads as rewritten:

"§ **44A-40. Definitions.**

As used in this Article, unless the context clearly requires otherwise:

(1) "Last known address" means that mailing address or e-mail address provided by the occupant in the latest rental agreement or the address provided by the occupant in a subsequent written notice of a change of address.

...

(5) "Personal property" means movable property not affixed to land and includes, but is not limited to, goods, merchandise, ~~and household items.~~household items, and watercraft.

...

(8) "E-mail" or "electronic mail" means an electronic message or an executable program or computer file that contains an image of a message that is transmitted between two or more computers or electronic terminals. The term includes electronic messages that are transmitted within or between computer networks.

(9) "Independent bidder" means a person who is not related to the lienor, within the meaning of G.S. 25-9-102(62), in the case of a lienor who is an individual, or G.S. 25-9-102(63), in the case of a lienor that is an organization.

(10) "Verified electronic mail" means electronic mail that is transmitted to an e-mail address that the sender has verified by any reasonable means as being a working electronic mail address."

SECTION 2. G.S. 44A-43 reads as rewritten:

"§ **44A-43. Enforcement of self-service storage facility lien.**

...

(b) Notice and Hearing:

...

(1a) If the property upon which the lien is claimed is a motor ~~vehicle~~ vehicle, watercraft, or trailer, and rent and other charges related to the property

remain unpaid or unsatisfied for 60 days following the maturity of the obligation to pay rent, the lienor may have the property towed. If a motor vehicle is towed as authorized in this subdivision, the lienor shall not be liable for the motor vehicle or any damages to the motor vehicle once the tower takes possession of the property.

(2) If the property upon which the lien is claimed is other than a motor ~~vehicle,~~vehicle, watercraft, or trailer, the lienor following the expiration of the 15-day period provided by subsection (a) shall issue notice to the person having a security or other interest in the property, if reasonably ascertainable, and to the occupant, if different, at his last known address. Notice given pursuant to this subdivision shall be presumed delivered when it is properly addressed, first-class postage prepaid, and deposited with the United States Postal ~~Service.~~Service, or when it is sent by verified electronic mail to the occupant's last known address, if the occupant has made an election in the rental agreement to receive notice by electronic mail.

...

(c) Public Sale. –

(1) Not less than 20 days prior to sale by public sale the lienor:

a. Shall cause notice to be delivered by certified mail to the person having a security interest in the property if reasonably ascertainable, and to the occupant at the occupant's last known ~~address.~~address by certified mail or by verified electronic mail if the occupant has made an election in the rental agreement to receive notice by electronic mail. Notice given by certified mail pursuant to this subdivision shall be presumed delivered when it is properly addressed, first-class postage prepaid, and deposited with the United States Postal Service. Notice given by verified electronic mail pursuant to this subdivision shall be presumed delivered when it is transmitted.

b. Repealed by Session Laws 2009-201, s. 1, effective October 1, 2009.

(1a) Not less than five days prior to sale by public sale, the lienor shall publish notice of sale either (i) in a newspaper of general circulation in the county where the sale is to be ~~held. If there is no newspaper of general circulation in the county where the sale is to be held, notice of sale shall be published in any publication that accepts classified advertisements and has a general circulation in the county where the sale is to be held.~~held or (ii) in any other commercially reasonable manner. The manner of advertisement shall be deemed commercially reasonable if at least three independent bidders attend the sale at the time and place advertised and the sale is otherwise consistent with the definition set out in G.S. 25-9-627.

~~(2) The sale must be held on a day other than Sunday and between the hours of 9:00 A.M. and 4:00 P.M.:~~

~~a. At the self-service storage facility or at the nearest suitable place to where the property is held or stored; or~~

~~b. In the county where the obligation secured by the lien was contracted for.~~

(2a) The sale shall be conducted in a commercially reasonable manner, as defined in G.S. 25-9-627, including offering property to an audience of bidders through an online, publicly accessible auction Web site.

a. If the sale is a live auction conducted at the facility, the nearest suitable place where the property is held or stored, or in the county where the obligation secured by the lien was contracted for, the sale must be held on a day other than Sunday and between the hours of 9:00 A.M. and 4:00 P.M.

b. A lienor may purchase at public sale.

~~(3) A lienor may purchase at public sale.~~

~~(d) Notice of Sale. – The notice of sale shall include:~~

~~(1) The name and address of the lienor;~~

~~(2) A statement to the effect that various items of personal property are being sold pursuant to the assertion of a lien for rental at the self-service storage facility;~~

~~(3) The place, date, and time of the sale.~~"

SECTION 3. G.S. 66-306 reads as rewritten:

"§ **66-306. Late fees.**

(a) In all rental contracts in which a definite time for the payment of the rent is fixed, the late fee for each rental unit shall not exceed fifteen dollars ($15.00) or fifteen percent (15%) of the rental ~~payment~~ payment, whichever is greater, and shall not be imposed by the self-service storage business until the rental payment for that rental unit is five days or more late.

...."

SECTION 4. This act becomes effective October 1, 2013. Section 3 applies only to contracts entered into on or after the effective date.

In the General Assembly read three times and ratified this the 25th day of June, 2013.

Became law upon approval of the Governor at 10:33 a.m. on the 3rd day of July, 2013.

Session Law 2013-240 **H.B. 249**

AN ACT TO REQUIRE LOCAL SCHOOL ADMINISTRATIVE UNITS TO REFUND THE SUBSTITUTE DEDUCTION TO A TEACHER TAKING PERSONAL LEAVE IF NO SUBSTITUTE IS HIRED FOR THAT TEACHER.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 115C-302.1(d) reads as rewritten:

"(d) Personal Leave. – Teachers earn personal leave at the rate of .20 days for each full month of employment not to exceed two days per year. Personal leave may be accumulated without any applicable maximum until June 30 of each year. A teacher may carry forward to July 1 a maximum of five days of personal leave; the remainder of the teacher's personal leave shall be converted to sick leave on June 30. At the time of retirement, a teacher may also convert accumulated personal leave to sick leave for creditable service towards retirement.

Personal leave may be used only upon the authorization of the teacher's immediate supervisor. A teacher shall not take personal leave on the first day the teacher is required to report for the school year, on a required teacher workday, on days scheduled for State testing, or on the day before or the day after a holiday or scheduled vacation day, unless the request is approved by the principal. On all other days, if the request is made at least five days in advance, the request shall be automatically granted subject to the availability of a substitute teacher, and the teacher cannot be required to provide a reason for the request. Teachers may transfer personal leave days between local school administrative units. The local school administrative unit shall credit a teacher who has separated from service and is reemployed within 60 months from the date of separation with all personal leave accumulated at the time of separation. Local school administrative units shall not advance personal leave. ~~Teachers using personal leave receive full salary less the required substitute deduction, except for teachers using personal leave on non-protected teacher workdays.~~ Teachers using personal leave on ~~non-protected~~ teacher workdays shall receive full salary. Teachers using personal leave on other days shall receive full salary less the required substitute deduction. If, however, no substitute is hired for a teacher, the substitute reduction shall be refunded to that teacher."

SECTION 2. This act is effective when it becomes law and applies beginning with the 2013-2014 school year.

In the General Assembly read three times and ratified this the 24th day of June, 2013.

Became law upon approval of the Governor at 10:33 a.m. on the 3rd day of July, 2013.

Session Law 2013-241 **H.B. 626**

AN ACT TO PROMPTLY NOTIFY LOCAL LAW ENFORCEMENT AGENCIES OF CERTAIN INFORMATION ABOUT VEHICLES THAT HAVE BEEN TOWED AT THE DIRECTION OF A PERSON OTHER THAN THE OWNER OR OPERATOR OF THE VEHICLE.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 20 of the General Statutes is amended by adding a new Article to read:

"Article 7A.

"Notification of Towing.

"§ **20-219.20. Requirement to give notice of vehicle towing.**

(a) Whenever a vehicle is towed at the request of a person other than the owner or operator of the vehicle, the tower shall provide the following information to the local law enforcement agency having jurisdiction through calling the 10-digit telephone number designated by the local law enforcement agency having jurisdiction prior to moving the vehicle:

(1) A description of the vehicle.

(2) The place from which the vehicle was towed.

(3) The place where the vehicle will be stored.

(4) The contact information for the person from whom the vehicle owner may retrieve the vehicle.

If the vehicle is impeding the flow of traffic or otherwise jeopardizing the public welfare so that immediate towing is necessary, the notice to the local law enforcement agency having jurisdiction may be provided by a tower within 30 minutes of moving the vehicle rather than prior to moving the vehicle. If a caller to a local law enforcement agency having jurisdiction can provide the information required under subdivisions (1) and (2) of this subsection, then a local law enforcement agency having jurisdiction shall provide to the caller the information provided under subdivisions (3) and (4) of this subsection. The local law enforcement agency having jurisdiction shall preserve the information required under this subsection for a period of not less than 30 days from the date on which the tower provided the information to the local law enforcement agency having jurisdiction.

(b) This section shall not apply to vehicles that are towed at the direction of a law enforcement officer or to vehicles removed from a private lot where signs are posted in accordance with G.S. 20-219.2(a).

(c) Violation of this section shall constitute an infraction subject to a penalty of not more than one hundred dollars ($100.00)."

SECTION 2. G.S. 20-219.2 reads as rewritten:

"§ **20-219.2. Removal of unauthorized vehicles from private lots.**

(a) It shall be unlawful for any person other than the owner or lessee of a privately owned or leased parking space to park a motor or other vehicle in such private parking space without the express permission of the owner or lessee of such space if the private parking lot is clearly designated as such by ~~a sign~~ legible signs no smaller than 24 inches by 24 inches prominently displayed at ~~the entrance~~ all entrances thereto, displaying the current name and current phone number of the towing and storage company, and, if individually owned or leased,

the parking lot or spaces within the lot are clearly marked by signs setting forth the name of each individual lessee or owner. A vehicle parked in a privately owned parking space in violation of this section may be removed from such space upon the written request of the parking space owner or lessee to a place of storage and the registered owner of such motor vehicle shall become liable for removal and storage charges. Any person who removes a vehicle pursuant to this section shall not be held liable for damages for the removal of the vehicle to the owner, lienholder or other person legally entitled to the possession of the vehicle removed; however, any person who intentionally or negligently damages a vehicle in the removal of such vehicle, or intentionally or negligently inflicts injury upon any person in the removal of such vehicle, may be held liable for damages. The provisions of this section shall not apply until 72 hours after the required signs are posted.

(a1) If any vehicle is removed pursuant to this section and there is a place of storage within 15 miles, the vehicle shall not be transported for storage more than 15 miles from the place of removal. For all other vehicles, the vehicle shall not be transported for storage more than 25 miles from the place of removal.

(a2) Any person who tows or stores a vehicle subject to this section shall inform the owner in writing at the time of retrieval of the vehicle that the owner has the right to pay the amount of the lien asserted, request immediate possession, and contest the lien for towing charges pursuant to the provisions of G.S. 44A-4.

(a3) Any person who tows or stores a vehicle subject to this section shall not require any person retrieving a vehicle to sign any waiver of rights or other similar document as a condition of the release of the person's vehicle, other than a form acknowledging the release and receipt of the vehicle.

(b) Any person violating any of the provisions of this section shall be guilty of an infraction and upon conviction shall be only penalized not more than one hundred dollars ($100.00) in the discretion of the court.

(c) This section shall apply only to the Counties of Craven, Cumberland, Dare, Forsyth, Gaston, Guilford, Mecklenburg, New Hanover, Orange, Richmond, Robeson, Wake, Wilson and municipalities in those counties, and to the Cities of Durham, Jacksonville, Charlotte and Fayetteville.

(d) The provisions of this section shall not be interpreted to preempt the authority of any county or municipality to enact ordinances regulating towing from private lots, as authorized by general law."

SECTION 3. This act becomes effective December 1, 2013, and applies to violations committed on or after that date.

In the General Assembly read three times and ratified this the 24th day of June, 2013.

Became law upon approval of the Governor at 10:33 a.m. on the 3rd day of July, 2013.

Session Law 2013-242 **H.B. 628**

AN ACT TO REQUIRE NET SAVINGS IN ASSOCIATION WITH MAJOR FACILITY CONSTRUCTION AND RENOVATION PROJECTS AND PROTECT USE OF NORTH CAROLINA PRODUCTS IN MAJOR FACILITY CONSTRUCTION AND RENOVATION PROJECTS UNDER THE SUSTAINABLE ENERGY-EFFICIENT BUILDINGS PROGRAM.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143-135.37 is amended by adding two new subsections to read:

"(a1) Net Savings Required. – The requirements of this section apply to a major facility construction or renovation project only if the Department determines that the application of the requirements to the project will result in an anticipated net savings. There is an anticipated net

savings if the cost of construction or renovation in accordance with the requirements of this section plus the estimated operating costs for the first 10 years post-construction would be less than the cost of construction or renovation if the project were not subject to the requirements of this section plus the estimated operating costs for the first 10 years post-construction. All third-party certification costs before and after construction or renovation shall be included in determining construction and operating costs. Renovation projects that will include guaranteed energy savings contracts, as defined by G.S. 143-64.17, and executed in accordance with the provisions of Part 2 of Article 3B of Chapter 143 of the General Statutes, are exempt from the requirements of this subsection.

…

(f) Locally Sourced Materials. – To achieve sustainable building standards as required by this section, a major facility construction or renovation project may utilize a building rating system so long as the rating system (i) provides certification credits for, (ii) provides a preference to be given to, (iii) does not disadvantage, and (iv) promotes building materials or furnishings, including masonry, concrete, steel, textiles, or wood that are manufactured or produced within the State."

SECTION 2. This act becomes effective October 1, 2013, and applies to construction and renovation projects for which the bidding process is initiated on or after that date.

In the General Assembly read three times and ratified this the 24th day of June, 2013.

Became law upon approval of the Governor at 10:34 a.m. on the 3rd day of July, 2013.

Session Law 2013-243 **H.B. 656**

AN ACT TO REVISE THE LAWS GOVERNING THE SEIZURE, FORFEITURE, AND SALE OF MOTOR VEHICLES USED BY DEFENDANTS IN FELONY CASES INVOLVING SPEEDING TO ELUDE ARREST.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-28.2 reads as rewritten:

"§ **20-28.2. Forfeiture of motor vehicle for impaired driving after impaired driving license ~~revocation.~~revocation; forfeiture for felony speeding to elude arrest.**

(a) Meaning of "Impaired Driving License Revocation". – The revocation of a person's drivers license is an impaired driving license revocation if the revocation is pursuant to:

(1) G.S. 20-13.2, 20-16(a)(8b), 20-16.2, 20-16.5, 20-17(a)(2), 20-17(a)(12), or 20-138.5; or

(2) G.S. 20-16(a)(7), 20-17(a)(1), 20-17(a)(3), 20-17(a)(9), or 20-17(a)(11), if the offense involves impaired driving; or

(3) The laws of another state and the offense for which the person's license is revoked prohibits substantially similar conduct which if committed in this State would result in a revocation listed in subdivisions (1) or (2).

(a1) Definitions. – As used in this section and in G.S. 20-28.3, 20-28.4, 20-28.5, 20-28.7, 20-28.8, ~~and~~ 20-28.9, 20-54.1, and 20-141.5, the following terms mean:

(1) Impaired Driving Acknowledgment. – A written document acknowledging that:

a. The motor vehicle was operated by a person charged with an offense involving impaired driving, and:

1. That person's drivers license was revoked as a result of a prior impaired drivers license revocation; or

2. That person did not have a valid drivers license, and did not have liability insurance.

b. If the motor vehicle is again operated by this particular person, and the person is charged with an offense involving impaired driving, then the vehicle is subject to impoundment and forfeiture if (i) the offense occurs while that person's drivers license is revoked, or (ii) the offense occurs while the person has no valid drivers license, and has no liability ~~insurance; and~~insurance.

c. A lack of knowledge or consent to the operation will not be a defense in the future, unless the motor vehicle owner has taken all reasonable precautions to prevent the use of the motor vehicle by this particular person and immediately reports, upon discovery, any unauthorized use to the appropriate law enforcement agency.

(1a) Speeding to Elude Arrest Acknowledgment. – A written document acknowledging that:

a. The motor vehicle was operated by a person charged with felony speeding to elude arrest pursuant to G.S. 20-141.5(b) or (b1).

b. If the motor vehicle is again operated by this particular person and the person is charged with felony speeding to elude arrest pursuant to G.S. 20-141.5(b) or (b1), then the vehicle is subject to impoundment and forfeiture.

c. A lack of knowledge or consent to the operation will not be a defense in the future unless the motor vehicle owner has taken all reasonable precautions to prevent the use of the motor vehicle by this particular person and immediately reports upon discovery any unauthorized use to the appropriate law enforcement agency.

(1b) Fair Market Value. – The value of the seized motor vehicle, as determined in accordance with the schedule of values adopted by the Commissioner pursuant to G.S. 105-187.3.

(2) Innocent Owner. – A motor vehicle owner:

a. ~~Who~~ Who, if the offense resulting in seizure was an impaired driving offense, did not know and had no reason to know that (i) the defendant's drivers license was revoked, or (ii) that the defendant did not have a valid drivers license, and that the defendant had no liability insurance; or

b. ~~Who~~ Who, if the offense resulting in seizure was an impaired driving offense, knew that (i) the defendant's drivers license was revoked, or (ii) that the defendant had no valid drivers license, and that the defendant had no liability insurance, but the defendant drove the vehicle without the person's expressed or implied permission, and the owner files a police report for unauthorized use of the motor vehicle and agrees to prosecute the unauthorized operator of the motor ~~vehicle;~~vehicle, or who, if the offense resulting in seizure was a felony speeding to elude arrest offense, did not give the defendant express or implied permission to drive the vehicle, and the owner files a police report for unauthorized use of the motor vehicle and agrees to prosecute the unauthorized operator of the motor vehicle; or

c. Whose vehicle was reported stolen; or

d. Repealed by Session Laws 1999-406, s. 17.

e. Who is ~~in the business of renting vehicles,~~(i) a rental car company as defined in G.S. 66-201(a), and the vehicle was driven by a person who is not listed as an authorized driver on the rental ~~contract;~~ agreement, as defined in G.S. 66-201; or (ii) is an authorized driver and if the offense resulting in seizure was an impaired driving offense, the rental car company has no actual knowledge of the

revocation of the renter's drivers' license at the time the rental agreement is entered, or if the offense resulting in seizure was a felony speeding to elude arrest offense, the rental agreement expressly prohibits use of the vehicle while committing a felony; or

f. Who is in the business of leasing motor vehicles, who holds legal title to the motor vehicle as a lessor at the time of seizure ~~and~~ and, if the offense resulting in seizure was an impaired driving offense, who has no actual knowledge of the revocation of the lessee's drivers license at the time the lease is entered.

(2a) Insurance Company. – Any insurance company that has coverage on or is otherwise liable for repairs or damages to the motor vehicle at the time of the seizure.

(2b) Insurance Proceeds. – Proceeds paid under an insurance policy for damage to a seized motor vehicle less any payments actually paid to valid lienholders and for towing and storage costs incurred for the motor vehicle after the time the motor vehicle became subject to seizure.

(3) Lienholder. – A person who holds a perfected security interest in a motor vehicle at the time of seizure.

(3a) Motor Vehicle Owner. – A person in whose name a registration card or certificate of title for a motor vehicle is issued at the time of seizure.

(4) Order of Forfeiture. – An order by the court which terminates the rights and ownership interest of a motor vehicle owner in a motor vehicle and any insurance proceeds or proceeds of sale in accordance with G.S. 20-28.2.

(5) Repealed by Session Laws 1998-182, s. 2.

(6) Registered Owner. – A person in whose name a registration card for a motor vehicle is issued at the time of seizure.

(7) Repealed by Session Laws 1998-182, s. 2.

…

(b2) When a Motor Vehicle Becomes Property Subject to Order of Forfeiture; Felony Speeding to Elude Arrest. – A judge may determine whether the vehicle driven at the time of the offense becomes subject to an order of forfeiture. The determination may be made at any of the following times:

(1) A sentencing hearing for the underlying felony speeding to elude arrest offense.

(2) A separate hearing after conviction of the defendant.

(3) A forfeiture hearing held at least 60 days after the defendant failed to appear at the scheduled trial for the underlying offense, and the defendant's order of arrest for failing to appear has not been set aside.

The vehicle shall become subject to an order of forfeiture if the greater weight of the evidence shows that the defendant is guilty of felony speeding to elude arrest pursuant to G.S. 20-141.5(b) or (b1).

(c) Duty of Prosecutor to Notify Possible Innocent Parties. – In any case in which a prosecutor determines that a motor vehicle driven by a defendant may be subject to forfeiture under this section and the motor vehicle has not been permanently released to a nondefendant vehicle owner pursuant to G.S. 20-28.3(e1), a defendant owner pursuant to G.S. 20-28.3(e2), or a lienholder, pursuant to G.S. 20-28.3(e3), the prosecutor shall notify the defendant, each motor vehicle owner, and each lienholder that the motor vehicle may be subject to forfeiture and that the defendant, motor vehicle owner, or the lienholder may intervene to protect that person's interest. The notice may be served by any means reasonably likely to provide actual notice, and shall be served at least 10 days before the hearing at which an order of forfeiture may be entered.

(c1) Motor Vehicles Involved in Accidents. – If a motor vehicle subject to forfeiture was damaged while the defendant operator was committing the underlying ~~offense involving impaired driving,~~ offense resulting in seizure, or was damaged incident to the seizure of the motor vehicle, the Division shall determine the name of any insurance companies that are the insurers of record with the Division for the motor vehicle at the time of the seizure or that may otherwise be liable for repair to the motor vehicle. In any case where a seized motor vehicle was involved in an accident, the Division shall notify the insurance companies that the claim for insurance proceeds for damage to the seized motor vehicle shall be paid to the clerk of superior court of the county where the motor vehicle driver was charged to be held and disbursed pursuant to further orders of the court. Any insurance company that receives written or other actual notice of seizure pursuant to this section shall not be relieved of any legal obligation under any contract of insurance unless the claim for property damage to the seized motor vehicle minus the policy owner's deductible is paid directly to the clerk of court. The insurance company paying insurance proceeds to the clerk of court pursuant to this section shall be immune from suit by the motor vehicle owner for any damages alleged to have occurred as a result of the motor vehicle seizure. The proceeds shall be held by the clerk. The clerk shall disburse the insurance proceeds pursuant to further orders of the court.

(d) Forfeiture Hearing. – Unless a motor vehicle that has been seized pursuant to G.S. 20-28.3 has been permanently released to an innocent owner pursuant to G.S. 20-28.3(e1), a defendant owner pursuant to G.S. 20-28.3(e2), or to a lienholder pursuant to G.S. 20-28.3(e3), the court shall conduct a hearing on the forfeiture of the motor vehicle. The hearing may be held at the sentencing hearing on the underlying ~~offense involving impaired driving,~~offense resulting in seizure, at a separate hearing after conviction of the defendant, or at a separate forfeiture hearing held not less than 60 days after the defendant failed to appear at the scheduled trial for the underlying offense and the defendant's order of arrest for failing to appear has not been set aside. If at the forfeiture hearing, the judge determines that the motor vehicle is subject to forfeiture pursuant to this section and proper notice of the hearing has been given, the judge shall order the motor vehicle forfeited. If at the sentencing hearing or at a forfeiture hearing, the judge determines that the motor vehicle is subject to forfeiture pursuant to this section and proper notice of the hearing has been given, the judge shall order the motor vehicle forfeited unless another motor vehicle owner establishes, by the greater weight of the evidence, that such motor vehicle owner is an innocent owner as defined in this section, in which case the trial judge shall order the motor vehicle released to the innocent owner pursuant to the provisions of subsection (e) of this section. In any case where the motor vehicle is ordered forfeited, the judge shall:

(1) a. Authorize the sale of the motor vehicle at public sale or allow the county board of education to retain the motor vehicle for its own use pursuant to G.S. 20-28.5; or
   b. Order the motor vehicle released to a lienholder pursuant to the provisions of subsection (f) of this section; and
(2) a. Order any proceeds of sale or insurance proceeds held by the clerk of court to be disbursed to the county board of education; and
   b. Order any outstanding insurance claims be assigned to the county board of education in the event the motor vehicle has been damaged in an accident incident to the seizure of the motor vehicle.

If the judge determines that the motor vehicle is subject to forfeiture pursuant to this section, but that notice as required by subsection (c) has not been given, the judge shall continue the forfeiture proceeding until adequate notice has been given. In no circumstance shall the sentencing of the defendant be delayed as a result of the failure of the prosecutor to give adequate notice.

(e) Release of Vehicle to Innocent Motor Vehicle Owner. – At a forfeiture hearing, if a nondefendant motor vehicle owner establishes by the greater weight of the evidence that: (i) the motor vehicle was being driven by a person who was not the only motor vehicle owner or had

no ownership interest in the motor vehicle at the time of the underlying offense and (ii) the petitioner is an "innocent owner", as defined by this section, a judge shall order the motor vehicle released to that owner, conditioned upon payment of all towing and storage charges incurred as a result of the seizure and impoundment of the motor vehicle.

Release to an innocent owner shall only be ordered upon satisfactory proof of:

(1) The identity of the person as a motor vehicle owner;

(2) The existence of financial responsibility to the extent required by Article 13 of this Chapter or by the laws of the state in which the vehicle is registered; and

(3) Repealed by Session Laws 1998-182, s. 2, effective December 1, 1998.

(4) The execution ~~of~~ of:

a. ~~an~~ An impaired driving acknowledgment as defined in subdivision (a1)(1) of this ~~section.~~section if the seizure was for an offense involving impaired driving; or

b. A speeding to elude arrest acknowledgment as defined in subdivision (a1)(1a) of this section if the seizure was for violation of G.S. 20-141.5(b) or (b1).

If the nondefendant owner is a lessor, the release shall also be conditioned upon the lessor agreeing not to sell, give, or otherwise transfer possession of the forfeited motor vehicle to the defendant or any person acting on the defendant's behalf. A lessor who refuses to sell, give, or transfer possession of a seized motor vehicle to the defendant or any person acting on the behalf of the defendant shall not be liable for damages arising out of the refusal.

No motor vehicle subject to forfeiture under this section shall be released to a nondefendant motor vehicle owner if the records of the Division indicate the motor vehicle owner had previously signed an impaired driving acknowledgment or a speeding to elude arrest acknowledgment, as required by this section, and the same person was operating the motor vehicle ~~while that person's license was revoked~~ at the time of the current seizure unless the innocent owner shows by the greater weight of the evidence that the motor vehicle owner has taken all reasonable precautions to prevent the use of the motor vehicle by this particular person and immediately reports, upon discovery, any unauthorized use to the appropriate law enforcement agency. A determination by the court at the forfeiture hearing held pursuant to subsection (d) of this section that the petitioner is not an innocent owner is a final judgment and is immediately appealable to the Court of Appeals.

…."

SECTION 2. G.S. 20-28.3 reads as rewritten:

"§ **20-28.3. Seizure, impoundment, forfeiture of motor vehicles for offenses involving impaired driving while license revoked or without license and ~~insurance.~~insurance, and for felony speeding to elude arrest.**

(a) Motor Vehicles Subject to ~~Seizure.~~Seizure for Impaired Driving Offenses. – A motor vehicle that is driven by a person who is charged with an offense involving impaired driving is subject to seizure if:

(1) At the time of the violation, the drivers license of the person driving the motor vehicle was revoked as a result of a prior impaired driving license revocation as defined in G.S. 20-28.2(a); or

(2) At the time of the violation:

a. The person was driving without a valid drivers license, and

b. The driver was not covered by an automobile liability policy.

For the purposes of this subsection, a person who has a complete defense, pursuant to G.S. 20-35, to a charge of driving without a drivers license, shall be considered to have had a valid drivers license at the time of the violation.

(a1) Motor Vehicles Subject to Seizure for Felony Speeding to Elude Arrest. – A motor vehicle is subject to seizure if it is driven by a person who is charged with the offense of felony speeding to elude arrest pursuant to G.S. 20-141.5(b) or (b1).

(b) Duty of Officer. – If the charging officer has probable cause to believe that a motor vehicle driven by the defendant may be subject to forfeiture under this section, the officer shall seize the motor vehicle and have it impounded. If the officer determines prior to seizure that the motor vehicle had been reported stolen, the officer shall not seize the motor vehicle pursuant to this section. If the officer determines prior to seizure that the motor vehicle was a rental vehicle driven by a person not listed as an authorized driver on the rental contract, the officer shall not seize the motor vehicle pursuant to this section, but shall make a reasonable effort to notify the owner of the rental vehicle that the vehicle was stopped and that the driver of the vehicle was not listed as an authorized driver on the rental contract. Probable cause may be based on the officer's personal knowledge, reliable information conveyed by another officer, records of the Division, or other reliable ~~source.~~sources. The seizing officer shall notify the ~~executive agency designated under subsection (b1) of this section~~ Division as soon as practical but no later than 24 hours after seizure of the motor vehicle of the seizure in accordance with procedures established by the ~~executive agency designated under subsection (b1) of this section.~~Division.

(b1) Written Notification of Impoundment. – Within 48 hours of receipt within regular business hours of the notice of seizure, ~~an executive agency designated by the Governor shall issue written notification of impoundment to the Division,~~ the Division shall issue written notification of impoundment to any lienholder of record and to any motor vehicle owner who was not operating the motor vehicle at the time of the offense. A notice of seizure received outside regular business hours shall be considered to have been received at the start of the next business day. The notification of impoundment shall be sent by first-class mail to the most recent address contained in the Division's records. If the motor vehicle is registered in another state, notice shall be sent to the address shown on the records of the state where the motor vehicle is registered. This written notification shall provide notice that the motor vehicle has been seized, state the reason for the seizure and the procedure for requesting release of the motor vehicle. Additionally, if the motor vehicle was damaged ~~while the defendant operator was committing an offense involving impaired driving~~ while the operator was committing an offense resulting in seizure or incident to the seizure, the ~~agency~~ Division shall issue written notification of the seizure to the owner's insurance company of record and to any other insurance companies that may be insuring other motor vehicles involved in the accident. The Division shall prohibit title to a seized motor vehicle from being transferred by a motor vehicle owner unless authorized by court order.

(b2) Additional Notification to Lienholders. – In addition to providing written notification pursuant to subsection (b1) of this section, within eight hours of receipt within regular business hours of the notice of seizure, the ~~executive agency designated under subsection (b1) of this section~~ Division shall notify by facsimile any lienholder of record that has provided the ~~executive agency~~Division with a designated facsimile number for notification of impoundment. The facsimile notification of impoundment shall state that the vehicle has been seized, state the reason for the seizure, and notify the lienholder of the additional written notification that will be provided pursuant to subsection (b1) of this section. The ~~executive agency~~Division shall establish procedures to allow a lienholder to provide one designated facsimile number for notification of impoundment for any vehicle for which the lienholder is a lienholder of record and shall maintain a centralized database of the provided facsimile numbers. The lienholder must provide a facsimile number at which the ~~executive agency~~Division may give notification of impoundment at anytime.

…

(e) Release of Motor Vehicle Pending Trial. – A motor vehicle owner, other than the driver at the time of the underlying offense resulting in the seizure, may apply to the clerk of superior court in the county where the charges are pending for pretrial release of the motor vehicle.

The clerk shall release the motor vehicle to a nondefendant motor vehicle owner conditioned upon payment of all towing and storage charges incurred as a result of seizure and impoundment of the motor vehicle under the following conditions:

(1) The motor vehicle has been seized for not less than 24 hours;

(2) Repealed by Session Laws 1998-182, s. 3, effective December 1, 1998.

(3) A bond in an amount equal to the fair market value of the motor vehicle as defined by G.S. 20-28.2 has been executed and is secured by a cash deposit in the full amount of the bond, by a recordable deed of trust to real property in the full amount of the bond, by a bail bond under G.S. 58-71-1(2), or by at least one solvent surety, payable to the county school fund and conditioned on return of the motor vehicle, in substantially the same condition as it was at the time of seizure and without any new or additional liens or encumbrances, on the day of any hearing scheduled and noticed by the district attorney under G.S. 20-28.2(c), unless the motor vehicle has been permanently released;

(4) Execution of either:

a. ~~an~~ An impaired driving acknowledgment as described in ~~G.S. 20-28.2(a1);~~G.S. 20-28.2(a1)(1) if the seizure was for an offense involving impaired driving; or

b. A speeding to elude arrest acknowledgment as defined in G.S. 20-28.2(a1)(1a) if the seizure was for violation of G.S. 20-141.5(b) or (b1).

(5) A check of the records of the Division indicates that the requesting motor vehicle owner has not previously executed an acknowledgment naming the operator of the seized motor vehicle; and

(6) A bond posted to secure the release of this motor vehicle under this subsection has not been previously ordered forfeited under G.S. 20-28.5.

In the event a nondefendant motor vehicle owner who obtains temporary possession of a seized motor vehicle pursuant to this subsection does not return the motor vehicle on the day of the forfeiture hearing as noticed by the district attorney under ~~G.S. 20-28.3(c)~~G.S. 20-28.2(c) or otherwise violates a condition of pretrial release of the seized motor vehicle as set forth in this subsection, the bond posted shall be ordered forfeited and an order of seizure shall be issued by the court. Additionally, a nondefendant motor vehicle owner or lienholder who willfully violates any condition of pretrial release may be held in civil or criminal contempt.

(e1) Pretrial Release of Motor Vehicle to Innocent Owner. – A nondefendant motor vehicle owner may file a petition with the clerk of court seeking a pretrial determination that the petitioner is an innocent owner. The clerk shall consider the petition and make a determination as soon as may be feasible. At any proceeding conducted pursuant to this subsection, the clerk is not required to determine the issue of forfeiture, only the issue of whether the petitioner is an innocent owner. If the clerk determines that the petitioner is an innocent owner, the clerk shall release the motor vehicle to the petitioner subject to the same conditions as if the petitioner were an innocent owner under G.S. 20-28.2(e). The clerk shall send a copy of the order authorizing or denying release of the vehicle to the district attorney and the attorney for the county board of education. An order issued under this subsection finding that the petitioner failed to establish that the petitioner is an innocent owner may be reconsidered by the court as part of the forfeiture hearing conducted pursuant to G.S. 20-28.2(d).

(e2) Pretrial Release of Motor Vehicle to Defendant Owner. –

(1) ~~A~~ If the seizure was for an offense involving impaired driving, a defendant motor vehicle owner may file a petition with the clerk of court seeking a pretrial determination that the defendant's license was not revoked pursuant to an impaired driving license revocation as defined in G.S. 20-28.2(a). The clerk shall schedule a hearing before a judge of the division in which the underlying criminal charge is pending for a hearing to be held within 10 business days or as soon thereafter as may be feasible. Notice of the hearing shall be given to the defendant, the district attorney, and the attorney for the

county board of education. The clerk shall forward a copy of the petition to the district attorney for the district attorney's review. If, based on available information, the district attorney determines that the defendant's motor vehicle is not subject to forfeiture, the district attorney may note the State's consent to the release of the motor vehicle on the petition and return the petition to the clerk of court who shall enter an order releasing the motor vehicle to the defendant upon payment of all towing and storage charges incurred as a result of the seizure and impoundment of the motor vehicle, subject to the satisfactory proof of the identity of the defendant as a motor vehicle owner and the existence of financial responsibility to the extent required by Article 13 of this Chapter, and no hearing shall be held. The clerk shall send a copy of the order of release to the attorney for the county board of education. At any pretrial hearing conducted pursuant to this ~~subsection,~~subdivision, the court is not required to determine the issue of the underlying offense of impaired driving only the existence of a prior drivers license revocation as an impaired driving license revocation. Accordingly, the State shall not be required to prove the underlying offense of impaired driving. An order issued under this ~~subsection~~ subdivision finding that the defendant failed to establish that the defendant's license was not revoked pursuant to an impaired driving license revocation as defined in G.S. 20-28.2(a) may be reconsidered by the court as part of the forfeiture hearing conducted pursuant to G.S. 20-28.2(d).

(2) If the seizure was for a felony speeding to elude arrest offense, a defendant motor vehicle owner may apply to the clerk of superior court in the county where the charges are pending for pretrial release of the motor vehicle. The clerk shall release the motor vehicle to the defendant motor vehicle owner conditioned upon payment of all towing and storage charges incurred as a result of seizure and impoundment of the motor vehicle under the following conditions:

a. The motor vehicle has been seized for not less than 24 hours;

b. A bond in an amount equal to the fair market value of the motor vehicle as defined by G.S. 20-28.2 has been executed and is secured by a cash deposit in the full amount of the bond, by a recordable deed of trust to real property in the full amount of the bond, by a bail bond under G.S. 58-71-1(2), or by at least one solvent surety, payable to the county school fund and conditioned on return of the motor vehicle, in substantially the same condition as it was at the time of seizure and without any new or additional liens or encumbrances, on the day of any hearing scheduled and noticed by the district attorney under G.S. 20-28.2(c), unless the motor vehicle has been permanently released;

c. A bond posted to secure the release of this motor vehicle under this subdivision has not been previously ordered forfeited under G.S. 20-28.5.

In the event a defendant motor vehicle owner who obtains temporary possession of a seized motor vehicle pursuant to this subdivision does not return the motor vehicle on the day of the forfeiture hearing as noticed by the district attorney under G.S. 20-28.2(c) or otherwise violates a condition of pretrial release of the seized motor vehicle as set forth in this subdivision, the bond posted shall be ordered forfeited, and an order of seizure shall be issued by the court. Additionally, a defendant motor vehicle owner who willfully violates any condition of pretrial release may be held in civil or criminal contempt.

(e3) Pretrial Release of Motor Vehicle to Lienholder. –

(1) A lienholder may file a petition with the clerk of court requesting the court to order pretrial release of a seized motor vehicle. The lienholder shall serve a copy of the petition on all interested parties which shall include the registered owner, the titled owner, the district attorney, and the county board of education attorney. Upon 10 days' prior notice of the date, time, and location of the hearing sent by the lienholder to all interested parties, a judge, after a hearing, shall order a seized motor vehicle released to the lienholder conditioned upon payment of all towing and storage costs incurred as a result of the seizure and impoundment of the motor vehicle if the judge determines, by the greater weight of the evidence, that:

a. Default on the obligation secured by the motor vehicle has occurred;

b. As a consequence of default, the lienholder is entitled to possession of the motor vehicle;

c. The lienholder agrees to sell the motor vehicle in accordance with the terms of its agreement and pursuant to the provisions of Part 6 of Article 9 of Chapter 25 of the General Statutes. Upon sale of the motor vehicle, the lienholder will pay to the clerk of court of the county in which the driver was charged all proceeds from the sale, less the amount of the lien in favor of the lienholder, and any towing and storage costs paid by the lienholder;

d. The lienholder agrees not to sell, give, or otherwise transfer possession of the seized motor vehicle while the motor vehicle is subject to forfeiture, or the forfeited motor vehicle after the forfeiture hearing, to the defendant or the motor vehicle owner; and

e. The seized motor vehicle while the motor vehicle is subject to forfeiture, or the forfeited motor vehicle after the forfeiture hearing, had not previously been released to the lienholder as a result of a prior seizure involving the same defendant or motor vehicle owner.

(2) The clerk of superior court may order a seized vehicle released to the lienholder conditioned upon payment of all towing and storage costs incurred as a result of the seizure and impoundment of the motor vehicle at any time when all interested parties have, in writing, waived any rights that they may have to notice and a hearing, and the lienholder has agreed to the provision of subdivision ~~(1)(d)~~(1)d. above. A lienholder who refuses to sell, give, or transfer possession of a seized motor vehicle while the motor vehicle is subject to forfeiture, or a forfeited motor vehicle after the forfeiture hearing, to:

a. The defendant;

b. The motor vehicle owner who owned the motor vehicle immediately prior to seizure pending the forfeiture hearing, or to forfeiture after the forfeiture hearing; or

c. Any person acting on the behalf of the defendant or the motor vehicle owner,

shall not be liable for damages arising out of such refusal. However, any subsequent violation of the conditions of release by the lienholder shall be punishable by civil or criminal contempt.

…

(k) County Board of Education Right to Appear and Participate in Proceedings. – The attorney for the county board of education shall be given notice of all proceedings regarding offenses ~~involving impaired driving~~ related to a motor vehicle subject to ~~forfeiture.~~forfeiture under this section. However, the notice requirement under this subsection does not apply to proceedings conducted under G.S. 20-28.3(e1). The attorney for the county board of education

shall also have the right to appear and to be heard on all issues relating to the seizure, possession, release, forfeiture, sale, and other matters related to the seized vehicle under this section. With the prior consent of the county board of education, the district attorney may delegate to the attorney for the county board of education any or all of the duties of the district attorney under this section. Clerks of superior court, law enforcement agencies, and all other agencies with information relevant to the seizure, impoundment, release, or forfeiture of motor vehicles are authorized and directed to provide county boards of education with access to that information and to do so by electronic means when existing technology makes this type of transmission possible.

(l) Payment of Fees Upon Conviction. – If the driver of a motor vehicle seized pursuant to this section is convicted ~~of an offense involving impaired driving,~~ of the underlying offense resulting in the seizure of a motor vehicle pursuant to this section, the defendant shall be ordered to pay as restitution to the county board of education, the motor vehicle owner, or the lienholder the cost paid or owing for the towing, storage, and sale of the motor vehicle to the extent the costs were not covered by the proceeds from the forfeiture and sale of the motor vehicle. If the underlying offense resulting in the seizure is felony speeding to elude arrest pursuant to G.S. 20-141.5(b) or (b1) and the defendant's conviction is for misdemeanor speeding to elude arrest pursuant to G.S. 20-141.5(a), whether or not the reduced charge is by plea agreement, the defendant shall be ordered to pay as restitution to the county board of education, the motor vehicle owner, or the lienholder the cost paid or owing for the towing and storage of the motor vehicle. In addition, a civil judgment for the costs under this section in favor of the party to whom the restitution is owed shall be docketed by the clerk of superior court. If the defendant is sentenced to an active term of imprisonment, the civil judgment shall become effective and be docketed when the defendant's conviction becomes final. If the defendant is placed on probation, the civil judgment in the amount found by a judge during the probation revocation or termination hearing to be due shall become effective and be docketed by the clerk when the defendant's probation is revoked or terminated.

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

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

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

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

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

…."

SECTION 3. G.S. 20-28.4(a) reads as rewritten:

"(a) Release Upon Conclusion of Trial. – If the driver of a motor vehicle seized pursuant to G.S. 20-28.3:

(1) Is subsequently not convicted of ~~an offense involving impaired driving~~the underlying offense resulting in seizure due to dismissal or a finding of not guilty; or

(2) The judge at a forfeiture hearing conducted pursuant to G.S. 20-28.2(d) ~~fails to find that the drivers license was revoked as a result of a prior impaired driving license revocation as defined in G.S. 20-28.2;~~ finds that the criteria for forfeiture have not otherwise been met; and

(3) The vehicle has not previously been released to a lienholder pursuant to G.S. 20-28.3(e3),

the seized motor vehicle or insurance proceeds held by the clerk of court pursuant to G.S. 20-28.2(c1) or G.S. 20-28.3(h) shall be released to the motor vehicle owner conditioned upon payment of towing and storage costs. The court shall not waive the payment of towing and storage costs. The court shall include in its order notice to the owner of the seized motor vehicle still being held, that within 30 days of the date of the court's order, the owner must make payment of the outstanding towing and storage costs for the motor vehicle and retrieve the motor vehicle, or give notice to Division of Motor Vehicles requesting a judicial hearing on the validity of any mechanics' lien on the motor vehicle for towing and storage costs."

SECTION 4. G.S. 20-28.8 reads as rewritten:

"§ **20-28.8. Reports to the Division.**

In any case in which a vehicle has been seized pursuant to G.S. 20-28.3, in addition to any other information that must be reported pursuant to this Chapter, the clerk of superior court shall report to the Division by electronic means the execution of an impaired driving acknowledgment as defined in G.S. 20-28.2(a1)(1), a speeding to elude arrest acknowledgment as defined in G.S. 20-28.2(a1)(1a), the entry of an order of forfeiture as defined in G.S. 20-28.2(a1)(4), and the entry of an order of release as defined in G.S. 20-28.3 and G.S. 20-28.4. Each report shall include any of the following information that has not previously been reported to the Division in the case: the name, address, and drivers license number of the defendant; the name, address, and drivers license number of the nondefendant motor vehicle owner, if known; and the make, model, year, vehicle identification number, state of registration, and vehicle registration plate number of the seized vehicle, if known."

SECTION 5. G.S. 20-54.1 reads as rewritten:

"§ **20-54.1. Forfeiture of right of registration.**

(a) Upon receipt of notice of conviction of a violation of an offense involving impaired driving while the person's license is revoked as a result of a prior impaired driving license revocation as defined in G.S. 20-28.2, the Division shall revoke the registration of all motor vehicles registered in the convicted person's name and shall not register a motor vehicle in the convicted person's name until the convicted person's license is restored, except in such cases to abide by the ignition interlock installation requirements of G.S. 20-17.8. Upon receipt of notice of revocation of registration from the Division, the convicted person shall surrender the registration on all motor vehicles registered in the convicted person's name to the Division within 10 days of the date of the notice.

(a1) Upon receipt of notice of conviction of a felony speeding to elude arrest offense under G.S. 20-141.5(b) or (b1), the Division shall revoke the registration of all motor vehicles registered in the convicted person's name and shall not register a motor vehicle in the convicted person's name until the convicted person's license is restored. Upon receipt of notice of revocation of registration from the Division, the convicted person shall surrender the registration on all motor vehicles registered in the convicted person's name to the Division within 10 days of the date of the notice.

(b) Upon receipt of a notice of conviction under subsection (a) or (a1) of this section, the Division shall revoke the registration of the motor vehicle seized, and the owner shall not be allowed to register the motor vehicle seized until the convicted operator's drivers license has been restored. The Division shall not revoke the registration of the owner of the seized motor vehicle if the owner is determined to be an innocent owner. The Division shall revoke the

owner's registration only after the owner is given an opportunity for a hearing to demonstrate that the owner is an innocent owner as defined in G.S. 20-28.2. Upon receipt of notice of revocation of registration from the Division, the owner shall surrender the registration on the motor vehicle seized to the Division within 10 days of the date of the notice."

SECTION 6. G.S. 20-141.5(g) through (j) is repealed.

SECTION 7. G.S. 20-141.5 is amended by adding a new subsection to read:

"(k) If a person is convicted of a violation of subsection (b) or (b1) of this section, the motor vehicle that was driven by the defendant at the time the defendant committed the offense of felony speeding to elude arrest becomes property subject to forfeiture in accordance with the procedure set out in G.S. 20-28.2, 20-28.3, 20-28.4, and 20-28.5."

SECTION 8. This act becomes effective December 1, 2013, and applies to offenses committed on or after that date.

In the General Assembly read three times and ratified this the 25th day of June, 2013.

Became law upon approval of the Governor at 10:34 a.m. on the 3rd day of July, 2013.

Session Law 2013-244 **H.B. 784**

AN ACT TO PROVIDE THAT THE REMEDIES AND PENALTIES FOR WORTHLESS CHECKS ALSO APPLY WHEN A CHECK THAT HAS BEEN PAID IN FULL IS PRESENTED AGAIN FOR PAYMENT AND TO PROVIDE THAT CHECKS REFUSED TO BE HONORED BY A BANK MAY BE SUBMITTED AS EVIDENCE IF THEY ARE STAMPED OR MARKED WITH ONE OF A NUMBER OF DIFFERENT LISTED TERMS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 6-21.3(a) reads as rewritten:

"(a) Notwithstanding any criminal sanctions that may apply, a person, firm, or corporation who knowingly draws, makes, utters, or issues and delivers to another any check or draft drawn on any bank or depository that refuses to honor the same because the maker or drawer does not have sufficient funds on deposit in or credit with the bank or depository with which to pay the check or draft upon ~~presentation,~~ presentation or because the check has previously been presented and honored for the payment of money or its equivalent, and who fails to pay the same amount, any service charges imposed on the payee by a bank or depository for processing the dishonored check, and any processing fees imposed by the payee pursuant to G.S. 25-3-506 in cash to the payee within 30 days following written demand therefor, shall be liable to the payee (i) for the amount owing on the check, the service charges, and processing fees and (ii) for additional damages of three times the amount owing on the check, not to exceed five hundred dollars ($500.00) or to be less than one hundred dollars ($100.00). If the amount claimed in the first demand letter is not paid, the claim for the amount of the check, the service charges and processing fees, and the treble damages provided for in this subsection may be made by a subsequent letter of demand prior to filing an action. In an action under this section the court or jury may, however, waive all or part of the additional damages upon a finding that the defendant's failure to satisfy the dishonored check or draft was due to economic hardship.

The initial written demand for the amount of the check, the service charges, and processing fees shall be mailed by certified mail to the defendant at the defendant's last known address and shall be in the form set out in subsection (a1) of this section. The subsequent demand letter demanding the amount of the check, the service charges, the processing fees, and treble damages shall be mailed by certified mail to the defendant at the defendant's last known address and shall be in the form set out in subsection (a2) of this section. If the payee chooses to send the demand letter set out in subsection (a2) of this section, then the payee may not file

an action to collect the amount of the check, the service charges, the processing fees, or treble damages until 30 days following the written demand set out in subsection (a2) of this section."

SECTION 2. G.S. 6-21.3(d) reads as rewritten:

"(d) The remedy provided for herein shall apply only if the check was drawn, made, uttered or issued with knowledge there were insufficient funds in the ~~account or~~account, that no credit existed with the bank or depository with which to pay the check or draft upon ~~presentation.~~presentation, or that the check was presented with the knowledge that the check had previously been presented and honored for the payment of money or its equivalent."

SECTION 3. G.S. 6-21.3 is amended by adding a new subsection to read:

"(e) A check or draft refused by a bank or depository, or the image of that check or draft, may be submitted as evidence for the remedy provided by this section if the bank or depository has returned it in the regular course of business stamped, marked, or with an attachment indicating the reason for the dishonor with terms that include, but are not limited to, the following: "insufficient funds," "no account," "account closed," "NSF," "uncollected," "unable to locate," "stale dated," "postdated," "endorsement irregular," "signature irregular," "nonnegotiable," "altered," "unable to process," "refer to maker," "duplicate presentment," "forgery," "noncompliant," or "UCD noncompliant.""

SECTION 4. G.S. 14-107 reads as rewritten:

"§ **14-107. Worthless ~~checks.~~checks; multiple presentment of checks.**

(a) It is unlawful for any person, firm or corporation, to draw, make, utter or issue and deliver to another, any check or draft on any bank or depository, for the payment of money or its equivalent, knowing at the time of the making, drawing, uttering, issuing and delivering the check or draft, that the maker or drawer of ~~it~~ it:

(1) ~~has~~ Has not sufficient funds on deposit in or credit with the bank or depository with which to pay the check or draft upon ~~presentation.~~presentation, or

(2) Has previously presented the check or draft for the payment of money or its equivalent.

(b) It is unlawful for any person, firm or corporation to solicit or to aid and abet any other person, firm or corporation to draw, make, utter or issue and deliver to any person, firm or corporation, any check or draft on any bank or depository for the payment of money or its equivalent, being informed, knowing or having reasonable grounds for believing at the time of the soliciting or the aiding and abetting that the maker or the drawer of the check or ~~draft~~ draft:

(1) ~~has~~ Has not sufficient funds on deposit in, or credit with, the bank or depository with which to pay the check or draft upon ~~presentation.~~presentation, or

(2) Has previously presented the check or draft for the payment of money or its equivalent.

(c) The word "credit" as used in this section means an arrangement or understanding with the bank or depository for the payment of a check or draft.

(d) A violation of this section is a Class I felony if the amount of the check or draft is more than two thousand dollars ($2,000). If the amount of the check or draft is two thousand dollars ($2,000) or less, a violation of this section is a misdemeanor punishable as follows:

(1) Except as provided in subdivision (3) or (4) of this subsection, the person is guilty of a Class 2 misdemeanor. Provided, however, if the person has been convicted three times of violating this section, the person shall on the fourth and all subsequent convictions (i) be punished as for a Class 1 misdemeanor and (ii) be ordered, as a condition of probation, to refrain from maintaining a checking account or making or uttering a check for three years.

(2) Repealed by Session Laws 1999-408, s. 1.

(3) If the check or draft is drawn upon a nonexistent account, the person is guilty of a Class 1 misdemeanor.

(4) If the check or draft is drawn upon an account that has been closed by the drawer, or that the drawer knows to have been closed by the bank or depository, prior to time the check is drawn, the person is guilty of a Class 1 misdemeanor.

(e) In deciding to impose any sentence other than an active prison sentence, the sentencing judge shall consider and may require, in accordance with the provisions of G.S. 15A-1343, restitution to the victim for (i) the amount of the check or draft, (ii) any service charges imposed on the payee by a bank or depository for processing the dishonored check, and (iii) any processing fees imposed by the payee pursuant to G.S. 25-3-506, and each prosecuting witness (whether or not under subpoena) shall be entitled to a witness fee as provided by G.S. 7A-314 which shall be taxed as part of the cost and assessed to the defendant."

SECTION 5. G.S. 14-107.1(e) reads as rewritten:

"(e) If the bank or depository dishonoring a check or draft has returned it in the regular course of business stamped or marked or with an attachment indicating the reason for ~~dishonor ("insufficient funds," "no account," "account closed" or words of like meaning),~~ dishonor, the check or draft and any attachment may be introduced in evidence and constitute prima facie evidence of the facts of dishonor if the conditions of subdivisions (5) through (7) of subsection (b) or subdivisions (5) through (7) of subsection (c) have been met. The reason for dishonor may be indicated with terms that include, but are not limited to, the following: "insufficient funds," "no account," "account closed," "NSF," "uncollected," "unable to locate," "stale dated," "postdated," "endorsement irregular," "signature irregular," "nonnegotiable," "altered," "unable to process," "refer to maker," "duplicate presentment," "forgery," "noncompliant," or "UCD noncompliant." The fact that the check or draft was returned dishonored may be received as evidence that the check passer had no credit with the bank or depository for payment of the check or draft."

SECTION 6. This act becomes effective December 1, 2013, and applies to offenses committed on or after that date.

In the General Assembly read three times and ratified this the 25th day of June, 2013.

Became law upon approval of the Governor at 10:34 a.m. on the 3rd day of July, 2013.

Session Law 2013-245 **H.B. 785**

AN ACT TO CREATE A STATEWIDE PILOT PROGRAM TO ENABLE COST-SHARING FOR TRANSPORTATION IMPROVEMENTS AND TO AUTHORIZE THE DEPARTMENT OF TRANSPORTATION TO CREATE A STATEWIDE PILOT PROGRAM FOR CONTRACTED SERVICES COST-SAVINGS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 136-28.6 is amended by adding three new subsections to read:

"§ **136-28.6. Participation by the Department of Transportation with private developers.**

…

(j) The Department is authorized to create a statewide pilot program for participation in cost-sharing for transportation improvements in connection with driveway permits. The Department may create a fair share allocation formula and other procedures to facilitate the pilot program. The formula shall uniformly determine the value of transportation improvements and apportion these costs, on a project-by-project basis, among applicable parties, including the Department and private property developers. Transportation improvement projects developed under the pilot program may include the provision of ingress and egress to new private development prior to acceptance of the improved portion of the roads constructed providing

access to the development by the State or local government for maintenance as a public street or highway. Nothing in this section shall require a private developer to participate in the pilot program to obtain a driveway permit or other approval from the Department or any local government.

(k) Nothing in this section shall obligate the Department to custodial responsibility for managing or distributing monies in the application of this program.

(l) The Department shall report on the pilot program to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division of the Legislative Services Commission no later than the convening date of the 2021 Regular Session of the General Assembly."

SECTION 2. DOT contracted services cost-savings pilot program authorized. – The Department of Transportation is authorized to study a statewide pilot program for contracted services cost savings for the 2013-2014 budget cycle. The Department of Transportation shall study methods to reduce its existing facilities maintenance, repair, operation, and service costs by ten percent (10%) by implementing cost-effective and streamlined procurement strategies as recommended in this act. The ten percent (10%) reduction provided for in this section shall be based upon the funds appropriated to the Department in the Appropriations Act of 2013. The Department shall report its findings to the Joint Legislative Commission on Governmental Operations and the Joint Legislative Transportation Oversight Committee on or before April 1, 2014. Any implementation plans may include, but are not limited to, the following: to obtain the reduction provided for in this section, the Department shall investigate and study, among other things, whether cost reductions can be achieved by efforts to (i) procure services through integrated facility service contracts to maintain, repair, or operate all facilities under the Department's control and (ii) consolidate facility service contracts to award a single contract, where feasible, for similar or identical services at separate and distinct facilities. Contracts awarded under this subsection shall not be subject to the requirements of Article 3 or Article 8 of Chapter 143 of the General Statutes.

The following facility maintenance, repair, operation, and service contracts may be subject to the requirements of this section:

(1) Janitorial, custodial, and commercial cleaning services, including blind cleaning, carpet care, document disposal, waste disposal, escalator cleaning, food service sanitation, hard surface floor care, light industrial cleaning, pressure washing, recycling services, restroom sanitation, upholstery cleaning, and window cleaning.

(2) Landscaping, grounds maintenance, and lawn care, including fertilization, seeding, weeding, tree trimming, aerification, verticutting, irrigation maintenance, pest control, floral planting and care, landscape design, parking lot maintenance, interior plant maintenance, and snow removal.

(3) Security, access control, and public safety, including background checks, alarm response, security consulting, security surveys, and special event staffing.

(4) Electrical distribution systems maintenance, repair, and testing, including interior and exterior lighting maintenance, thermal imaging, exit and emergency lighting systems, landscape lighting, pole and fixture installation, ultrasonic inspection, and sign repair.

(5) HVAC and mechanical systems maintenance, repair, testing, and operation, including boiler repairs, building controls, exhaust heat, chiller repairs, climate control systems, retro-commissioning, continuous commissioning, lighting retrofit and re-lamp projects, and lighting control systems.

(6) Parking, fleet management, and transportation management, including shuttle transportation services, valet parking, meter collections, parking revenue management and collection, vehicle maintenance, vehicle tracking, driver management, speed management, fuel management, and health and safety management.

(7) Other general maintenance and repair services, including, but not limited to, fire and security alarms, appliance repair, awnings, backflow testing, building repairs, carpentry, carpet or upholstery cleaning, ceiling repair, disaster recovery, loading dock repairs, doors and hardware, duct cleaning, electrical repair, floor carpeting tile, furniture refinishing, generator maintenance and repair, glass, gutters, waste hauling, hazardous waste removal, locksmiths, masonry, mold remediation, overhead door repair, pest control, plaster, plumbing, power washing, roof repair, drain service, snow removal, sprinklers and irrigation systems, and welding.

SECTION 3. Any contract not subject to the provisions of Section 2 of this act shall be bid and awarded as provided in Article 3 and Article 8 of Chapter 143 of the General Statutes.

SECTION 4. The Department of Transportation shall submit a written report of their progress to the Joint Legislative Transportation Oversight Committee, the Fiscal Research Division, and the Office of the Governor no later than December 31, 2015.

SECTION 5. If the Department achieves the savings provided for in Section 2 of this act, the Department shall retain the funds saved and may use the funds for any purpose authorized by applicable law.

SECTION 6. This act becomes effective July 1, 2013.

In the General Assembly read three times and ratified this the 24th day of June, 2013.

Became law upon approval of the Governor at 10:35 a.m. on the 3rd day of July, 2013.

Session Law 2013-246 **H.B. 832**

AN ACT TO PROTECT THE PUBLIC'S HEALTH BY INCREASING ACCESS TO IMMUNIZATIONS AND VACCINES THROUGH THE EXPANDED ROLE OF IMMUNIZING PHARMACISTS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 90-85.3 is amended by adding the following new subsection to read:

"(i1) "Immunizing pharmacist" means a licensed pharmacist who meets all of the following qualifications:

(1) Holds a current provider level cardiopulmonary resuscitation certification issued by the American Heart Association or the American Red Cross, or an equivalent certification.

(2) Has successfully completed a certificate program in vaccine administration accredited by the Centers for Disease Control and Prevention, the Accreditation Council for Pharmacy Education, or a similar health authority or professional body approved by the Board.

(3) Maintains documentation of three hours of continuing education every two years, designed to maintain competency in the disease states, drugs, and vaccine administration.

(4) Has successfully completed training approved by the Division of Public Health's Immunization Branch for participation in the North Carolina Immunization Registry.

(5) Has notified the North Carolina Board of Pharmacy and the North Carolina Medical Board of immunizing pharmacist status.

(6) Administers vaccines or immunizations in accordance with G.S. 90-18.15B."

SECTION 2. G.S. 90-85.3(r) reads as rewritten:

"(r) "Practice of pharmacy" ~~means the responsibility for: interpreting and evaluating drug orders, including prescription orders; compounding, dispensing and labeling prescription drugs and devices; properly and safely storing drugs and devices; maintaining proper records; and controlling pharmacy goods and services. A pharmacist may advise and educate patients and health care providers concerning therapeutic values, content, uses and significant problems of drugs and devices; assess, record and report adverse drug and device reactions; take and record patient histories relating to drug and device therapy; monitor, record and report drug therapy and device usage; perform drug utilization reviews; and participate in drug and drug source selection and device and device source selection as provided in G.S. 90-85.27 through G.S. 90-85.31. A pharmacist who has received special training may be authorized and permitted to administer drugs pursuant to a specific prescription order in accordance with rules adopted by each of the Boards of Pharmacy, the Board of Nursing, and the North Carolina Medical Board. The rules shall be designed to ensure the safety and health of the patients for whom such drugs are administered. An approved clinical pharmacist practitioner may collaborate with physicians in determining the appropriate health care for a patient, subject to the provisions of G.S. 90-18.4.~~is as specified in G.S. 90-85.3A."

SECTION 3. Article 4A of Chapter 90 of the General Statutes is amended by adding a new section to read:

"§ **90-85.3A. Practice of pharmacy.**

(a) A pharmacist is responsible for interpreting and evaluating drug orders, including prescription orders; compounding, dispensing, and labeling prescription drugs and devices; properly and safely storing drugs and devices; maintaining proper records; and controlling pharmacy goods and services.

(b) A pharmacist may advise and educate patients and health care providers concerning therapeutic values, content, uses, and significant problems of drugs and devices; assess, record, and report adverse drug and device reactions; take and record patient histories relating to drug and device therapy; monitor, record, and report drug therapy and device usage; perform drug utilization reviews; and participate in drug and drug source selection and device and device source selection as provided in G.S. 90-85.27 through G.S. 90-85.31.

(c) An immunizing pharmacist is authorized and permitted to administer drugs as provided in G.S. 90-85.15B, and in accordance with rules adopted by each of the Board of Pharmacy, the Board of Nursing, and the North Carolina Medical Board. These rules shall be designed to ensure the safety and health of the patients for whom such drugs are administered.

(d) An approved clinical pharmacist practitioner may collaborate with physicians in determining the appropriate health care for a patient subject to the provisions of G.S. 90-18.4."

SECTION 4. Article 4A of Chapter 90 of the General Statutes is amended by adding a new section to read:

"§ **90-85.15B. Immunizing pharmacists.**

(a) Except as provided in subsection (b) and (c) of this section, an immunizing pharmacist may administer vaccinations or immunizations only if the vaccinations or immunizations are recommended or required by the Centers for Disease Control and Prevention and administered to persons at least 18 years of age pursuant to a specific prescription order.

(b) An immunizing pharmacist may administer the vaccinations or immunizations listed in subdivisions (1) through (5) of this subsection to persons at least 18 years of age if the vaccinations or immunizations are administered under written protocols as defined in 21 NCAC 46 .2507(b)(12) and 21 NCAC 32U .0101(b)(12) and in accordance with the supervising physician's responsibilities as defined in 21 NCAC 46 .2507(e) and 21 NCAC 32U .0101(e), and the physician is licensed in and has a practice physically located in North Carolina:

(1) Pneumococcal polysaccharide or pneumococcal conjugate vaccines.
(2) Herpes zoster vaccine.
(3) Hepatitis B vaccine.
(4) Meningococcal polysaccharide or meningococcal conjugate vaccines.
(5) Tetanus-diphtheria, tetanus and diphtheria toxoids and pertussis, tetanus and diphtheria toxoids and acellular pertussis, or tetanus toxoid vaccines. However, a pharmacist shall not administer any of these vaccines if the patient discloses that the patient has an open wound, puncture, or tissue tear.

(c) An immunizing pharmacist may administer the influenza vaccine to persons at least 14 years of age pursuant to 21 NCAC 46 .2507 and 21 NCAC 32U .0101.

(d) An immunizing pharmacist who administers a vaccine or immunization to any patient pursuant to this section shall do all of the following:

(1) Maintain a record of any vaccine or immunization administered to the patient in a patient profile.
(2) Within 72 hours after administration of the vaccine or immunization, notify any primary care provider identified by the patient. If the patient does not identify a primary care provider, the immunizing pharmacist shall direct the patient to information describing the benefits to a patient of having a primary care physician, prepared by any of the following: North Carolina Medical Board, North Carolina Academy of Family Physicians, North Carolina Medical Society, or Community Care of North Carolina.
(3) Except for influenza vaccines administered under G.S. 90-85.15B(b)(6), access the North Carolina Immunization Registry prior to administering the vaccine or immunization and record any vaccine or immunization administered to the patient in the registry within 72 hours after the administration. In the event the registry is not operable, an immunizing pharmacist shall report as soon as reasonably possible."

SECTION 5. G.S. 130A-153 reads as rewritten:

"§ **130A-153. Obtaining immunization; reporting by local health departments; access to immunization information in patient records; immunization of minors.**

(a) The required immunization may be obtained from a physician licensed to practice ~~medicine or~~ medicine, from a local health ~~department.~~ department, or in the case of a person at least 18 years of age, from an immunizing pharmacist. Local health departments shall administer required and State-supplied immunizations at no cost to uninsured or underinsured patients with family incomes below two hundred percent (200%) of the federal poverty level. A local health department may redistribute these vaccines only in accordance with the rules of the Commission.

(b) Local health departments shall file monthly immunization reports with the Department. The report shall be filed on forms prepared by the Department and shall state, at a minimum, each patient's age and the number of doses of each type of vaccine administered.

(c) Immunization certificates and information concerning immunizations contained in medical or other records shall, upon request, be shared with the Department, local health departments, an immunizing pharmacist, and the patient's attending physician. In addition, an insurance institution, agent, or insurance support organization, as those terms are defined in G.S. 58-39-15, may share immunization information with the Department. The Commission may, for the purpose of assisting the Department in enforcing this Part, provide by rule that other persons may have access to immunization information, in whole or in part.

(d) A physician or local health department may immunize a minor with the consent of a parent, guardian, or person standing in loco parentis to the minor. A physician or local health department may also immunize a minor who is presented for immunization by an adult who signs a statement that he or she is authorized by a parent, guardian, or person standing in loco parentis to the minor to obtain the immunization for the minor."

SECTION 6. Representatives of the North Carolina Academy of Family Physicians, the North Carolina Medical Society, the North Carolina Pediatric Society, the North Carolina Association of Community Pharmacists, the North Carolina Association of Pharmacists, and the North Carolina Retail Merchants Association are directed to cooperate and collaborate to recommend a minimum standard screening questionnaire and safety procedures for written protocols for vaccinations or immunizations administered under G.S. 90-85.15B(b). The questionnaire and recommended standards shall be submitted to the North Carolina Board of Medicine, the North Carolina Board of Nursing, the North Carolina Board of Pharmacy, and the Joint Legislative Oversight Committee on Health and Human Services no later than October 1, 2013. In the event agreement is not reached on a minimum standard screening questionnaire and safety procedures for written protocols by October 1, 2013, the Immunization Branch of the North Carolina Division of Public Health shall develop the questionnaire and standards and submit them to the North Carolina Board of Medicine, the North Carolina Board of Nursing, the North Carolina Board of Pharmacy, and the Joint Legislative Oversight Committee on Health and Human Services by January 1, 2014.

SECTION 7. Notwithstanding the provisions of Sections 1 through 5 of this act, pharmacists who were qualified to administer influenza, pneumococcal, and zoster vaccines prior to the effective date of this act may continue to administer these vaccines in accordance with the provisions of 21 NCAC 46 .2507 until June 30, 2014. Notwithstanding the provisions of Sections 1 through 5 of this act, 21 NCAC 46 .2507(c)(5), 21 NCAC 32U .0101(c)(5), or any other provision of law, pharmacists who were qualified to administer influenza, pneumococcal, and zoster vaccines prior to the effective date of this act may administer the influenza vaccine to persons at least 14 years old in accordance with the provisions of 21 NCAC 46 .2507 until June 30, 2014.

SECTION 8. Sections 1 through 5 of this act become effective October 1, 2013. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 27th day of June, 2013.

Became law upon approval of the Governor at 10:35 a.m. on the 3rd day of July, 2013.

Session Law 2013-247 **H.B. 868**

A BILL TO BE ENTITLED

AN ACT TO REPEAL UNNECESSARY STATUTES, MAKE CONFORMING CHANGES TO THE GENERAL STATUTES, AND CLARIFY OPERATION AND OVERSIGHT OF CERTAIN RESIDENTIAL SCHOOLS FORMERLY GOVERNED BY THE DEPARTMENT OF HEALTH AND HUMAN SERVICES.

The General Assembly of North Carolina enacts:

SECTION 1.(a) G.S.115C-383 is repealed.

SECTION 1.(b) Part 9A of Article 3 of Chapter 143B of the General Statutes is repealed.

SECTION 1.(c) Part 30 of Article 3 of Chapter 143B of the General Statutes is repealed.

SECTION 2. Chapter 115C of the General Statutes is amended by adding a new Article to read:

"Article 9C.

"Schools for Students with Visual and Hearing Impairments.

"**§ 115C-150.11. State Board of Education as governing agency.**

The State Board of Education shall be the sole governing agency for the Governor Morehead School for the Blind, the Eastern North Carolina School for the Deaf, and the North

Carolina School for the Deaf. The Department of Public Instruction shall be responsible for the administration and oversight of a school governed by this Article.

"**§ 115C-150.12. Applicability of Chapter.**

Except as otherwise provided, the requirements of this Chapter shall apply to the schools governed by this Article.

"**§ 115C-150.13. Rule making.**

(a) The State Board of Education shall adopt rules necessary for the Department of Public Instruction to implement this Article, including, at a minimum, rules to address eligibility for admission criteria. In determining rules for admission criteria, the State Board of Education shall take into account the following factors:

(1) State and federal laws.
(2) Optimal academic and communicative outcomes for the child.
(3) Parental input and choice.
(4) Recommendations in a child's Individualized Education Program (IEP).

(b) Rules shall be adopted in accordance with Chapter 150B of the General Statutes.

"**§ 115C-150.14. Tuition and room and board.**

Only children who are residents of North Carolina are entitled to free tuition and room and board at a school governed by this Article."

SECTION 3. G.S. 143B-138.1(b) reads as rewritten:

"(b) All functions, powers, duties, and obligations previously vested in the following commissions, boards, councils, committees, or subunits of the Department of Human Resources are transferred to and vested in the Department of Health and Human Services by a Type II transfer, as defined in G.S. 143A-6:

(1) Respite Care Program.
(2) Governor's Advisory Council on Aging.
(3) Commission for the Blind.
(4) Professional Advisory Committee.
(5) Consumer and Advocacy Advisory Committee for the Blind.
(6) Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services.
(7) Social Services Commission.
(8) Child Day Care Commission.
(9) Medical Care Commission.
(10) Emergency Medical Services Advisory Council.
~~(11) Board of Directors of the Governor Morehead School.~~
~~(12) Board of Directors for the North Carolina Schools for the Deaf.~~
(13) North Carolina Council for the Hearing Impaired.
(14) Repealed by Session Laws 2002, ch. 126, s. 10.10D(c), effective October 1, 2002.
(15) Council on Developmental Disabilities."

SECTION 4. G.S. 143B-146.1(b) reads as rewritten:

"(b) The following definitions apply in this Part:

(1) ABC's Program or Program. – The School-Based Management and Accountability Program developed by the State Board.
(2) Department. – The Department of Health and Human Services.
(3) Instructional personnel. – Assistant principals, teachers, instructional personnel, instructional support personnel, and teacher assistants employed in a residential school.
(4) Participating school. – A residential school that is required to participate in the ABC's Program.

(4a) Residential school. – A school operated by the Department of Health and Human Services that provides residential services to students. For the purposes of this Part, "residential school" does not include a school operated pursuant to Article 9C of Chapter 115C.

(5) Residential school personnel. – The individuals included in G.S. 143B-146.16(a)(2).

(6) Schools. – The residential schools under the control of the Secretary.

(7) Secretary. – The Secretary of Health and Human Services.

(8) State Board. – The State Board of Education.

~~(9) Superintendent. – The Superintendent of the Office of Education Services of the Department of Health and Human Services.~~"

SECTION 5. G.S. 143B-146.2(a) reads as rewritten:

"(a) ~~The Governor Morehead School and the schools for the deaf shall participate in the ABC's Program.~~ The Secretary, in consultation with the General Assembly and the State Board, may designate ~~other~~ residential schools that must participate in the ABC's Program. The primary goal of the ABC's Program is to improve student performance. The Program is based upon an accountability, recognition, assistance, and intervention process in order to hold each participating school, its principal, and the instructional personnel accountable for improved student performance in that school."

SECTION 6. G.S. 143B-146.8(f) reads as rewritten:

"(f) Evaluation of Principals. – Each year the Secretary ~~or the Superintendent~~ shall evaluate the principals."

SECTION 7. G.S. 143B-146.15 reads as rewritten:

"§ **143B-146.15. Duty to report certain acts to law enforcement.**

When the principal has personal knowledge or actual notice from residential school personnel or other reliable source that an act has occurred on school property involving assault resulting in serious personal injury, sexual assault, sexual offense, rape, kidnapping, indecent liberties with a minor, assault involving the use of a weapon, possession of a firearm in violation of the law, possession of a weapon in violation of the law, or possession of a controlled substance in violation of the law, the principal shall immediately report the act to the appropriate local law enforcement agency. Failure to report under this section is a Class 3 misdemeanor. For purposes of this section, "school property" shall include any building, bus, campus, grounds, recreational area, or athletic field, in the charge of the principal or while the student is under the supervision of school personnel. It is the intent of the General Assembly that the principal notify the Secretary ~~or the Superintendent~~ of any report made to law enforcement under this section."

SECTION 8. G.S. 143B-146.21 reads as rewritten:

"§ **143B-146.21. Policies, reports, and other miscellaneous provisions.**

(a) The Secretary of Health and Human Services shall consult with the State Board of Education in its implementation of this act as it pertains to improving the educational programs at the residential schools. The Secretary also shall fully inform and consult with the chairs of the Appropriations Subcommittees on Education and Health and Human Services of the Senate and the House of Representatives on a regular basis as the Secretary carries out his duties under this act.

~~(b) The Secretary of Health and Human Services shall adopt policies and offer training opportunities to ensure that personnel who provide direct services to children in the State schools for the deaf become proficient in sign language within two years of their initial date of employment or within two years of the effective date of this act, whichever occurs later. This subsection shall not apply to preschool personnel in any oral, auditory, or cued speech preschool.~~

(c) The Department of Public Instruction, the Board of Governors of The University of North Carolina, and the State Board of Community Colleges shall offer and communicate the availability of professional development ~~opportunities, including those to improve sign~~

~~language skills,~~ opportunities to the personnel assigned to the ~~State's~~ residential ~~schools, particularly the Governor Morehead School and the schools for the deaf.~~schools.

(d) The Secretary of Health and Human Services shall adopt policies to ensure that students of the residential schools are given priority to residing in the independent living facilities on each school's campus.

(e) The Secretary of Health and Human Services, in consultation with the Office of State Personnel, shall set the salary supplement paid to teachers, instructional support personnel, and school-based administrators who are employed in the programs operated by the Department of Health and Human Services and are licensed by the State Board of Education. The salary supplement shall be at least five percent (5%), but not more than the percentage supplement they would receive if they were employed in the local school administrative unit where the job site is located. These salary supplements shall not be paid to central office staff. Nothing in this subsection shall be construed to include "merit pay" under the term "salary supplement"."

SECTION 9. Unless inconsistent with the provisions of Article 9C of Chapter 115C of the General Statutes, as enacted by Section 2 of this act, the rules adopted pursuant to former Part 9A or Part 30 of Article 3, or any other statutory provisions of Chapter 143B of the General Statutes, prior to amendment by this act, governing the Governor Morehead School, the North Carolina School for the Deaf, and the Eastern North Carolina School for the Deaf shall remain in effect until superseded by rules adopted under Article 9C of Chapter 115C of the General Statutes, as enacted by Section 2 of this act.

SECTION 10. Notwithstanding G.S. 143C-6-4, the Department of Public Instruction may reorganize, if necessary, staffing of the Governor Morehead School, the North Carolina School for the Deaf, and the Eastern North Carolina School for the Deaf to meet needed functions.

SECTION 11.(a) Notwithstanding Section 10.21A of S.L. 2010-31 and G.S. 115C-150.11, as enacted by this act, the Department of Health and Human Services shall continue to be responsible for the maintenance and repair of all buildings, grounds, and facilities of the Governor Morehead School and for providing utilities for the Governor Morehead School, provided that the Department of Health and Human Services may enter into a memorandum of understanding with the Department of Public Instruction for the Department of Public Instruction to assume any of those responsibilities.

SECTION 11.(b) Notwithstanding Section 10.21A of S.L. 2010-31 and G.S. 115C-150.11, as enacted by this act, the Department of Health and Human Services shall continue to be responsible for information technology support for Eastern North Carolina School for the Deaf, the North Carolina School for the Deaf, and the Governor Morehead School, provided the Department of Health and Human Services may enter into a memorandum of understanding with the Department of Public Instruction for the Department of Public Instruction to assume any of those responsibilities.

SECTION 12.(a) The Department of Public Instruction shall study and develop recommendations on educational options, including residential services, for students with visual and hearing impairments. The Department of Public Instruction shall report its findings and recommendations from the study to the Joint Legislative Education Oversight Committee on or before January 1, 2014.

SECTION 12.(b) Prior to the initial adoption of rules required by Section 2 of this act, the Department of Public Instruction and the State Board of Education shall present a draft of the proposed rules to the Joint Legislative Education Oversight Committee on or before January 1, 2014.

SECTION 13. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 24th day of June, 2013.

Became law upon approval of the Governor at 10:35 a.m. on the 3rd day of July, 2013.

Session Law 2013-248 **S.B. 177**

AN ACT TO REMOVE CERTAIN RESTRICTIONS ON SATELLITE ANNEXATIONS FOR THE TOWNS OF HOOKERTON AND MAYSVILLE.

The General Assembly of North Carolina enacts:

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

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

…

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

This subdivision does not apply to the Cities of Belmont, Claremont, Concord, Conover, Durham, Elizabeth City, Gastonia, Greenville, Hickory, Kannapolis, Locust, Marion, Mount Airy, Mount Holly, New Bern, Newton, Oxford, Randleman, Roanoke Rapids, Rockingham, Sanford, Salisbury, Southport, Statesville, and Washington and the Towns of Ahoskie, Angier, Apex, Ayden, Benson, Bladenboro, Bridgeton, Burgaw, Calabash, Catawba, Clayton, Columbia, Columbus, Cramerton, Creswell, Dallas, Dobson, Four Oaks, Fuquay-Varina, Garner, Godwin, Granite Quarry, Green Level, Grimesland, Holly Ridge, Holly Springs, Hookerton, Huntersville, Jamestown, Kenansville, Kenly, Knightdale, Landis, Leland, Lillington, Louisburg, Maggie Valley, Maiden, Mayodan, Maysville, Middlesex, Midland, Mocksville, Morrisville, Mount Pleasant, Nashville, Oak Island, Ocean Isle Beach, Pembroke, Pine Level, Princeton, Ranlo, Richlands, Rolesville, Rutherfordton, Shallotte, Smithfield, Spencer, Stem, Stovall, Surf City, Swansboro, Taylorsville, Troutman, Troy, Wallace, Warsaw, Watha, Waynesville, Weldon, Wendell, Windsor, Yadkinville, and Zebulon."

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

In the General Assembly read three times and ratified this the 9th day of July, 2013.

Became law on the date it was ratified.

Session Law 2013-249 **H.B. 196**

AN ACT TO PROVIDE FOR VACANCIES ON THE WINSTON-SALEM/FORSYTH COUNTY SCHOOL BOARD TO BE FILLED BY APPOINTMENT BY THE REMAINING MEMBERS OF THE BOARD.

The General Assembly of North Carolina enacts:

SECTION 1. Section 2(a)(5)(iv) of Chapter 112, Session Laws of 1961, reads as rewritten:

"(iv) ~~All~~Notwithstanding the provisions of G.S. 115C-37(f), all vacancies occurring during a term of office shall be filled by appointment by the ~~Board of Commissioners of Forsyth County~~remaining members of the Winston-Salem/Forsyth County Board of Education for the unexpired ~~portion of the term.~~term of the vacated seat."

SECTION 2. This act is effective when it becomes law and applies to vacancies on the Winston-Salem/Forsyth County Board of Education occurring on or after that date.

In the General Assembly read three times and ratified this the 9th day of July, 2013.

Became law on the date it was ratified.

Session Law 2013-250 **H.B. 318**

AN ACT TO EXEMPT FROM SEISMIC UPGRADE REQUIREMENTS A TEMPORARY OCCUPANCY BY AN EMERGENCY OPERATIONS CENTER TO ALLOW SIMILAR UPGRADES TO BE PERFORMED ON THE BUILDING PERMANENTLY HOUSING THE CENTER.

The General Assembly of North Carolina enacts:

SECTION 1. Notwithstanding any provision of the State Building Code or any public or local law to the contrary, including, but not limited to, Article 9 of Chapter 143 of the General Statutes, requirements for seismic upgrades to Occupancy Category IV shall not apply to structures occupied by an emergency preparedness communications and operations center for a period of less than five years while the structure ordinarily occupied by the center is undergoing seismic upgrades to Occupancy Category IV.

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

SECTION 3. This act is effective when it becomes law and expires June 30, 2018.

In the General Assembly read three times and ratified this the 9th day of July, 2013.

Became law on the date it was ratified.

Session Law 2013-251 **H.B. 334**

AN ACT AUTHORIZING BUNCOMBE COUNTY TO USE SOME LOTTERY FUNDS TO EXPAND DIGITAL LEARNING IN THE PUBLIC SCHOOLS.

Whereas, the North Carolina Education Lottery legislation requires the distribution of lottery net proceeds for specific education purposes, including 40% of the net proceeds to the Public School Building Capital Fund for school construction; and

Whereas, lottery funds may not currently be used for school connectivity, digital textbooks, digital devices, or professional development for teachers to learn how to most effectively use digital learning for teaching; and

Whereas, since the lottery's enactment in 2005, the innovation of digital learning and its growing use throughout schools in North Carolina have significantly altered the landscape of public education in the State; and

Whereas, while the lottery money is currently designated for other necessary education causes, the expansion of digital learning is also a crucial component to ensure North Carolina's students graduate from high school globally competitive for work and postsecondary education and prepared for life in the 21st Century; and

Whereas, Buncombe County has designated one-half of the local government sales and use tax revenue distributed to the County under Article 39 of Chapter 105 of the General Statutes to be used for school construction, improvement, and renovation; and

Whereas, Buncombe County currently has lottery funds on hand that are not needed for the purposes to which they are limited; Now, therefore,

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 115C-546.2(d) reads as rewritten:

"(d) Monies transferred into the Fund in accordance with Chapter 18C of the General Statutes shall be allocated for capital projects for school construction projects as follows:

(1) A sum equal to sixty-five percent (65%) of those monies transferred in accordance with G.S. 18C-164 shall be allocated on a per average daily membership basis according to the average daily membership for the budget year as determined and certified by the State Board of Education.

(2) A sum equal to thirty-five percent (35%) of those monies transferred in accordance with G.S. 18C-164 shall be allocated to those local school administrative units located in whole or part in counties in which the effective county tax rate as a percentage of the State average effective tax rate is greater than one hundred percent (100%), with the following definitions applying to this subdivision:
   a. "Effective county tax rate" means the actual county rate for the previous fiscal year, including any countywide supplemental taxes levied for the benefit of public schools, multiplied by a three-year weighted average of the most recent annual sales assessment ratio studies.
   b. "State average effective tax rate" means the average effective county tax rates for all counties.
   c. "Sales assessment ratio studies" means sales assessment ratio studies performed by the Department of Revenue under G.S. 105-289(h).

(3) No county shall have to provide matching funds required under subsection (c) of this section.

(4) A county may use monies in this Fund to pay for school construction projects in local school administrative units and to retire indebtedness incurred for school construction projects.

(5) ~~A county may not use monies in this Fund to pay for school technology needs.~~A county may use monies in this Fund for digital learning needs such as school connectivity, digital textbooks and instructional resources, digital devices, and associated ongoing professional development for teachers."

SECTION 2. This act applies only to Buncombe County.

SECTION 3. This act is effective when it becomes law and applies only to unencumbered funds received by the County prior to that date.

In the General Assembly read three times and ratified this the 9th day of July, 2013.

Became law on the date it was ratified.

Session Law 2013-252 **H.B. 347**

AN ACT TO AMEND THE GREENSBORO FIREFIGHTERS' SUPPLEMENTAL RETIREMENT SYSTEM AND TO AMEND THE CHARTER OF THE CITY OF GREENSBORO TO CHANGE CERTAIN REFERENCES FROM BUILDING INSPECTOR TO COMPLIANCE OFFICER.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 899 of the 1953 Session Laws, as amended by Chapter 289 of the 1979 Session Laws, Chapter 466 of the 1983 Session Laws, Chapter 178 of the 1987 Session Laws, and Chapter 431 of the 1993 Session Laws, reads as rewritten:

"**Section 1.** There is hereby created and established a supplemental retirement system for the members of the Fire Department of the City of Greensboro to be known as the 'Greensboro ~~Firemen's~~ Firefighters' Supplemental Retirement System', hereinafter referred to in this Act as 'supplemental retirement system.' The purpose of the creation and establishment of the supplemental retirement system, as provided for in this Act, shall be to increase, augment and add to the benefits received by the firemen of the City of Greensboro who have already retired and who may hereafter retire and become eligible for benefits under the provisions of the North Carolina Local Governmental Employees' Retirement System in the sums and amounts hereinafter provided under this Act. Notwithstanding the provisions of G.S. 58-84-35, the board of trustees of the ~~Firemen's~~ Firefighters' Relief Fund of the City of Greensboro, duly appointed under G.S. 58-84-30, shall pay ~~over to the board of trustees of the Greensboro Firemen's Supplemental Retirements System~~ into the Supplemental Retirement System on July 1 of each

year all sums entrusted to the Relief Fund's board of trustees in excess of the sum of ten thousand dollars ($10,000).

"**Sec. 2.** The general administration and responsibility for the proper operation of the supplemental retirement system herein created and established and for the carrying out and making effective the provisions of this Act are hereby vested in ~~a board of trustees who shall be chosen and selected as follows:~~ the Board of Trustees of the Firefighters' Relief Fund of the City of Greensboro, duly appointed under G.S. 58-84-30.

~~(a) Two members of said board of trustees shall be chosen from the membership of the Greensboro Fire Department and shall be elected by a majority vote of the uniformed members of the Fire Department of the City of Greensboro; one of said members shall hold office for a period of one year, and the other member so appointed shall hold office for a period of two years; thereafter, each of said two members chosen from the Greensboro Fire Department shall be appointed for a term of office consisting of a period of two years each.~~

The members of the Board of Trustees of the Greensboro Firemen's Supplemental Retirement System serving upon the abolition of that Board shall serve as ex officio members of the Board of Trustees of the Firefighters' Relief Fund of the City of Greensboro without privilege of voting on matters before that Board.

~~(b) Two members shall be appointed by the President of the Greensboro Fire Insurance Exchange; one of said members shall hold office for a period of one year, the other member so appointed shall hold office for a period of two years; and thereafter, each of said members shall be appointed for a term of office consisting of a period of two years.~~

~~(c) One member of said board of trustees is to be a member of the Greensboro City Council and shall be elected for a term of two years by a majority vote of the City Council of the City of Greensboro.~~

~~All members of the board of trustees shall be elected or appointed as specified in Section 2 (a), (b) and (c) prior to the third Tuesday in May. They shall take office on the third Tuesday in May. Any member of said board of trustees shall be eligible to succeed himself or herself, and all vacancies occurring in the membership of the board of trustees by death, resignation, disqualification or otherwise shall be filled by a special election for the members elected in Section 2 (a) and (c), to fill the unexpired term, and likewise by special appointment under Section 2 (b).~~

~~(d) The board of trustees shall be organized immediately after the trustees provided for in this Section shall have qualified and taken the oath of office. The board of trustees shall be a body politic and corporate under the name of the Board of Trustees of Greensboro Firemen's Supplemental Retirement System, and as a body politic and corporate shall have the right to sue and be sued, shall have perpetual succession and a common seal, and in said corporate name shall be able and capable in law to take, receive and demand and possess all kinds of property hereinafter specified, and to bargain, sell, grant, alien, or dispose of all such property as it may lawfully acquire. All such property owned or acquired by said body politic and corporate shall be exempt from all taxes imposed by the State or any political subdivision thereof and shall not be subject to income taxes.~~

~~(e)~~ The ~~board of trustees~~ Board of Trustees may invest and deposit funds received under this act to any of those classes of securities, including certificates of deposits, as authorized for local government pursuant to G.S. 159-30.

~~(f) Compensation of Trustees. The members of the Board of Trustees of the Greensboro Firemen's Supplemental Retirement System shall serve without compensation, but they shall be reimbursed for all necessary expenses incurred through service upon said board.~~

~~(g) Each trustee shall, within 10 days after his appointment, take an oath of office before the mayor that, so far as it devolves upon him, he will diligently and honestly administer the affairs of said board and that he will not knowingly violate or willingly permit to be violated any of the provisions of law applicable to the retirement system. Such oath shall be subscribed to by the member making it, and certified by the officer by whom it is taken, and immediately filed in the office of the city clerk.~~

~~(h) Meetings. The board of trustees shall hold regular quarterly meetings at such time and place as the board may determine. In addition thereto, the chairman or vice-chairman of the board of trustees may call special meetings and upon request of two members of the board of trustees in writing, shall call a special meeting of the board of trustees. When so called, the secretary shall give notice in person or by special delivery mail to all members of the board at least 24 hours prior to such meeting, specifying the purpose of such meeting and time and place. The business of the special meeting shall be limited to the purpose as set forth in the notice.~~

~~(i) Voting rights. Each trustee shall be entitled to one vote. Three affirmative votes shall be necessary for a decision by the trustees at any meeting of said board and the chairman shall only vote in case of a tie.~~

~~(j) The chairman shall preside at all meetings and in his absence the vice-chairman shall preside.~~

~~(k) Officers. The Chairman, Vice-Chairman, Secretary and the Treasurer of the Greensboro Firemen's Supplemental Retirement System shall be elected by the board of trustees from the membership of the board at the first organizational meeting and thereafter at the first regular quarterly meeting in each year.~~

~~(l) Rules and Regulations. Subject to the limitations of this Act, the board of trustees shall, from time to time, establish rules and regulations for the administration of the funds created by this Act and for the transaction of its business. The board of trustees shall also, from time to time, in its discretion, adopt rules and regulations to prevent injustices and inequalities which might arise in the administration of this Act.~~

~~(m) Evaluation. The secretary shall keep in convenient form, at a place designated by the trustees, such data as shall be necessary for evaluating the system and for checking the expense of the system.~~

~~(n) Record of Proceedings. Annual Report. The board of trustees shall keep a record of all its proceedings which shall be open to public inspection. It shall publish at the end of each fiscal year a report showing the fiscal transactions of the system for the preceding year, the amount of the accumulated cash of the system, and the last balance sheet, showing the financial condition of the system, including the valuation of the assets and liabilities of the retirement system. A copy of such annual report shall be provided for each of the fire stations of the City of Greensboro. The term 'fiscal year', as used in this Act, shall be defined to mean a period of time from July 1st to June 30th, inclusive.~~

~~(o) Legal Adviser. The attorney or attorneys for the City of Greensboro shall be the legal adviser or advisers of the board of trustees.~~

~~(p) Custodian of Funds. Disbursements. Bond of Treasurer. The treasurer shall handle all funds. The treasurer shall furnish such bond as shall be required by the board of trustees. He shall be custodian of all funds paid into the Greensboro Firemen's Supplemental Retirement System and shall deposit said funds in a bank or banks designated by the board of trustees. The premium for said bond shall be paid out of the funds of the system. All payments from such funds shall be made by him only upon voucher signed by two persons designated by the board of trustees. The books of the system shall be audited each two years and when a new treasurer is elected by a certified public accountant, and said report shall be presented at the first regular quarterly meeting of each year.~~

~~(q) Liabilities of Trustees. No member of the board of trustees shall be personally liable by reason of his service as a trustee for any acts performed by him as a trustee, except for malfeasance in office.~~

~~(r) Trustee Member Disqualified. In the event any uniformed member shall make application for benefits under this Act, and shall at such time be serving as a member of the board of trustees, he shall first disqualify himself and his vacancy shall be filled before the board of trustees receives such application.~~

"**Sec. 3.** There is hereby created and established in the Greensboro ~~Firemen's~~ Firefighters' Supplemental Retirement System a fund to be known as the 'supplemental retirement fund' and hereinafter referred to as the 'fund'. The fund shall consist of all moneys and funds paid into the system from the ~~Firemen's~~ Firefighters' Relief Fund of the City of Greensboro from time to time and as provided by law; all gifts of money, property of all kinds and description, proceeds from property of all kinds and description, all moneys, funds or property transferred to the fund by will, devise, bequest or by other means provided by law for the transfer or devolution of property, donations and gifts made by the firemen of the City of Greensboro, investments, earnings on investments, interest, dividends and any other funds or property that may accrue to the fund, and the board of trustees is authorized to accept gifts, devises and bequests, and any property or funds that may in anywise be transferred in operation of law. The moneys and property of the fund may be invested by the board of trustees as heretofore provided in this Act. Refunds may be made from the fund to anyone entitled thereby by reason of clerical mistake or any clerical error or inadvertence. The fund shall be liable for the payment of the supplemental benefits hereinafter referred to and defined. Any donations made to the Greensboro City Fire Department in excess of the amount of one hundred dollars ($100.00) may be given and transferred to the fund by a majority vote of the members of the Greensboro City Fire Department. The fund shall be liable for all reasonable and necessary expenses of administration as shall be determined by the board of trustees.

"**Sec. 4.** Eligibility for supplemental benefits. For the purpose of this Section 'supplemental benefit' as used in this Section shall be defined to mean any sum of money payable by the fund to a fireman of the Greensboro City Fire Department who retires from the Local Governmental Employees' Retirement System, as established by Article 3 of Chapter 128 of the General Statutes of North Carolina, including disability retirement, as provided in said system. On and after July 1, 1983, all firemen of the Greensboro City Fire Department who have attained 30 years of creditable service or who have attained the age of 55 years and who retire from the Local Governmental Employees' Retirement System, including disability retirement, as provided in the system, shall receive a minimum supplemental benefit of twenty-five dollars ($25.00) per month, except that the total amount paid all retired members of the Greensboro City Fire Department shall not exceed eighty percent (80%) of the income received by the fund during the preceding fiscal year from interest on investment of capital funds, plus the amount derived from other sources; provided, that firemen who have retired prior to July 1, 1983, and who have not attained 30 years of creditable service or who have not attained the age of 55 years shall receive benefits equal to benefits paid other retired firemen under this retirement system. In the event that eighty percent (80%) of the income above mentioned is insufficient to pay such minimum of twenty-five dollars ($25.00) per month to each person receiving supplemental benefit, the amount shall be equally prorated among the retired members of the Greensboro City Fire Department. Each retired fireman receiving supplemental benefit in accordance with this act shall receive the same amount of supplemental benefit per month; provided, that the maximum payment to any retired member of the Greensboro City Fire Department from said fund shall be one hundred thirty dollars ($130.00) per month. All amounts received for the fund, except eighty percent (80%) of the interest and funds received from other sources, which is to be used for the payment of supplemental benefits to retired members of the Greensboro City Fire Department, as herein provided, together with any part of said eighty percent (80%) which is not paid out during the next fiscal year, shall become a part of said fund and may be invested as provided in this Act. Should any fireman die, subsequent to the payment of a supplemental benefit for any preceding month and prior to the payment of any supplemental benefit in the month in which such fireman dies, then such supplemental benefit for that month shall be paid to the deceased fireman's personal representative. The board of trustees shall have the authority and power to promulgate rules and regulations to the end that the supplemental benefits herein provided may be properly administered and carried out and for the purpose of achieving the objectives herein sought.

"**Sec. 5.** The provisions of Section 4 of this Act shall not become effective as to the payment of any supplemental benefits thereunder until on and after July 1, 1953.

"**Sec. 6.** All laws and clauses of laws in conflict with this Act are hereby repealed.

"**Sec. 7.** None of the provisions of this act shall create a liability for the Greensboro ~~Firemen's~~ Firefighters' Supplemental Retirement System or for the State of North Carolina unless sufficient current assets are available in the fund to pay fully for this liability."

SECTION 2. Section 5.65 of the Charter of the City of Greensboro, being Chapter 1137 of the 1959 Session Laws, as amended by Chapter 29 of the 1971 Session Laws and Chapter 807 of the 1985 Session Laws, reads as rewritten:

"Section 5.65. Creation and Duties of Board of Adjustment.

(a) The City Council may provide for the creation and organization of a Board of Adjustment to which appeals may be taken from the decision of the ~~building inspector~~compliance officer concerning provisions of the zoning, subdivision, mobile home, and sign ordinances of the City of Greensboro and any other provisions of the Greensboro Code of Ordinances in which appeals to the Board of Adjustment may be provided.

(b) The Board shall consist of seven (7) members to serve for three year overlapping terms. The City Council may fix the duties, procedure for appeals to the Board and the vote required to reverse the ~~building inspector.~~compliance officer. The Board of Adjustment shall have the power to elect its own officers, to fix the times and places for its meetings, to adopt necessary rules of procedure, and to adopt all other rules and regulations not inconsistent with the duties conferred by the City Council and which may be necessary for the proper discharge of its duties; and it shall keep an accurate record of all its proceedings.

(c) Every decision of the Board shall be subject to review by the Superior Court of Guilford County by proceedings in the nature of certiorari instituted within thirty days of the decision of the Board, but not otherwise."

SECTION 3. Section 5.74 of the Charter of the City of Greensboro, being Chapter 1137 of the 1959 Session Laws, as amended by Chapter 686 of the 1961 Session Laws, Chapter 55 of the 1963 Session Laws, and Chapter 74 of the 1967 Session Laws, reads as rewritten:

"Sec. 5.74. Housing Commission. (a) The city council may provide for the creation and organization of a housing commission to which appeals may be taken from the decision of the ~~building inspector~~compliance officer upon any provision of the housing code of the city.

(b) The commission shall consist of seven members to serve for three-year overlapping terms. It shall have power to elect its own officers, to fix the times and places for its meetings, to adopt necessary rules of procedure, and to adopt all other rules and regulations not inconsistent herewith which may be necessary for the proper discharge of its duties; and it shall keep an accurate record of all its proceedings.

(c) An appeal from any decision or order of the ~~building inspector~~compliance officer may be taken by any person aggrieved thereby or by any officer, board or commission of the city. Any appeal from the ~~building inspector~~compliance officer to the commission shall be taken within such reasonable time as shall be prescribed by the commission by general rule and shall be taken by filing with the ~~building inspector~~compliance officer and with the secretary of the commission a notice of appeal which shall specify the grounds upon which the appeal is based. Upon the filing of any notice of appeal, the ~~building inspector~~compliance officer shall forthwith transmit to the commission all the papers constituting the record upon which the decision appealed from was made. When an appeal is from a decision of the ~~building inspector~~compliance officer refusing to allow the person aggrieved thereby to do any act, his decision shall remain in force until modified or reversed. When any appeal is from a decision of the ~~building inspector~~compliance officer requiring the person aggrieved to do any act, the appeal shall have the effect of suspending the requirement of the ~~building inspector~~compliance officer until the hearing by the commission, unless the ~~building inspector~~compliance officer certifies to the commission, after the notice of appeal is filed with him, that by reason of the facts stated in the certificate (a copy of which shall be furnished the appellant), a suspension of his requirement would cause imminent peril to life or property, in which case the requirement

shall not be suspended except by a restraining order, which may be granted, for due cause shown and upon not less than one day's written notice to the ~~building inspector,~~compliance officer, by the commission or by the Superior Court of Guilford County.

(d) The commission shall fix a reasonable time for the hearing of all appeals and shall render its decision within a reasonable time. Any party may appear in person or by agent or attorney. The commission may reverse or affirm, wholly or partly, or may modify the decision appealed from, and may make such decision and order as in its opinion ought to be made in the matter, and to that end it shall have all the powers of the ~~building inspector;~~compliance officer; but the concurring vote of four members of the commission shall be necessary to reverse or modify any decision of the ~~building inspector.~~compliance officer. The commission shall have power also in passing upon appeals, in any case where there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of the housing code, to adapt the application of the code to the necessities of the case to the end that the spirit of the code shall be observed, public safety and welfare secured and substantial justice done.

(e) Every decision of the commission shall be subject to review by the Superior Court of Guilford County by proceedings in the nature of certiorari instituted within fifteen days of the decision of the commission, but not otherwise.

(f) If a person fails to comply with an order of the ~~Building Inspector~~compliance officer or, upon appeal, an order of the Housing Commission to repair, alter, improve, vacate, close or demolish a building or dwelling, the ~~Building Inspector~~compliance officer may cause such building or dwelling to be repaired, altered, improved, vacated, closed or demolished; provided that the duties of the ~~Building Inspector~~compliance officer as set forth herein shall not be exercised until the Housing Commission shall have, by resolution or other written decree, ordered the ~~Inspector~~ compliance officer to proceed to effectuate the above purposes with respect to the particular property or properties involved."

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

In the General Assembly read three times and ratified this the 9th day of July, 2013.

Became law on the date it was ratified.

Session Law 2013-253 **H.B. 404**

AN ACT TO ALLOW CAMDEN COUNTY TO COLLECT DELINQUENT STORMWATER UTILITY FEES IN THE SAME MANNER AS DELINQUENT PERSONAL AND REAL PROPERTY TAXES.

The General Assembly of North Carolina enacts:

SECTION 1. Section 1(c) of S.L. 2012-55 reads as rewritten:

"**SECTION 1.(c)** This section applies only to the Counties of Camden, Granville and Person."

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

In the General Assembly read three times and ratified this the 9th day of July, 2013.

Became law on the date it was ratified.

Session Law 2013-254 **H.B. 441**

AN ACT TO INCREASE THE MEMBERSHIP OF THE BOARD OF DRAINAGE COMMISSIONERS OF ROBESON COUNTY DRAINAGE DISTRICT NUMBER ONE FROM THREE PERSONS TO FOUR PERSONS AND TO ALLOW TWO OF THEM TO SERVE EACH WATERSHED WITHIN THE DISTRICT.

The General Assembly of North Carolina enacts:

SECTION 1. Notwithstanding the provisions of G.S. 156-79 and Chapter 332 of the 1967 Session Laws, the Board of Drainage Commissioners of Robeson County Drainage

District Number One shall consist of four members. Notwithstanding the provisions of G.S. 156-81 and Chapter 332 of the 1967 Session Laws, the Board of Drainage Commissioners of Robeson County Drainage District Number One shall serve four-year terms.

SECTION 2.(a) The three current members of the Board of Drainage Commissioners of Robeson County Drainage District Number One shall serve the remainder of their terms. A fourth member shall be appointed to serve until September 30, 2016. Two members shall serve the Jacob Swamp Watershed and two shall serve the Back Swamp Watershed.

SECTION 2.(b) Successors shall be appointed by the Clerk of Superior Court of Robeson County in accordance with Article 6 of Chapter 156 of the General Statutes, except that the successor to each member shall serve the watershed designated under subsection (a) of this section. If a vacancy shall occur in the office of any commissioner by death, resignation, or otherwise, the remaining members are to discharge the necessary duties of the board until the vacancy shall be filled; and if the vacancy shall be in the office of chairman or secretary, the remaining members may elect a secretary, and the clerk or clerks, as the case may be, shall appoint one of the remaining members to act as chairman to hold until the vacancy in the board shall be filled.

SECTION 3. The Board of Drainage Commissioners of Robeson County Drainage District Number One may by resolution assign duties under Subchapter III of Chapter 156 of the General Statutes for a particular watershed to the two persons serving that watershed.

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

In the General Assembly read three times and ratified this the 9th day of July, 2013.

Became law on the date it was ratified.

Session Law 2013-255 **H.B. 529**

AN ACT TO AUTHORIZE EDGECOMBE COUNTY TO LEVY AN OCCUPANCY TAX.

The General Assembly of North Carolina enacts:

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

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

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

The following definitions apply in this subsection:

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

(2) Promote travel and tourism. – To advertise or market an area or activity, publish and distribute pamphlets and other materials, conduct market

research, or engage in similar promotional activities that attract tourists or business travelers to the area. The term includes administrative expenses incurred in engaging in the listed activities.

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

SECTION 2. Tourism Development Authority. – (a) Appointment and Membership. – When the Edgecombe County Board of Commissioners adopts a resolution levying a room occupancy tax under this Act, it shall also adopt a resolution creating a county Tourism Development Authority, which shall be a public authority under the Local Government Budget and Fiscal Control Act. The resolution shall provide for the membership of the Authority, including the members' terms of office, and for the filling of vacancies on the Authority. At least one-third of the members shall be individuals who are affiliated with businesses that collect tax in the county, and at least one-half of the members shall be individuals who are currently active in the promotion of travel and tourism in the county. The resolution shall provide that the Authority shall be composed of the following nine members:

(1) An Edgecombe County Commissioner appointed by the board of commissioners.

(2) A member of the Tarboro Town Council appointed by the town council.

(3) Three owners or operators of motels, hotels, or other taxable accommodations in Edgecombe County, one of whom shall be appointed by the Tarboro Town Council, one by the Edgecombe County Board of Commissioners, and one by the Edgecombe County Chamber of Commerce.

(4) Two individuals involved in the tourist business who have demonstrated an interest in tourism development and do not own or operate hotels, motels, or other taxable tourist accommodations, appointed as follows: one by the Tarboro Town Council and one by the Edgecombe County Board of Commissioners.

(5) An individual who is interested in the tourism business, has demonstrated an interest in tourism development, and is appointed by the Edgecombe County Board of Commissioners.

(6) An individual who is interested in the tourism business, has demonstrated an interest in tourism development, and is appointed by the Tarboro Town Council.

The Edgecombe County Board of Commissioners shall designate one member of the Authority as chair and shall determine the compensation, if any, to be paid to members of the Authority.

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

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

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

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

"(g) Applicability. – Subsection (c) of this section applies to all counties and county districts that levy an occupancy tax. To the extent subsection (c) conflicts with any provision of a local act, subsection (c) supersedes that provision. The remainder of this section applies only to Alleghany, Anson, Brunswick, Buncombe, Burke, Cabarrus, Camden, Carteret, Caswell,

Chatham, Cherokee, Chowan, Clay, Craven, Cumberland, Currituck, Dare, Davie, Duplin, Durham, Edgecombe, Forsyth, Franklin, Granville, Halifax, Haywood, Henderson, Jackson, Madison, Martin, McDowell, Montgomery, Moore, Nash, New Hanover, Northampton, Pasquotank, Pender, Perquimans, Person, Randolph, Richmond, Rockingham, Rowan, Rutherford, Sampson, Scotland, Stanly, Swain, Transylvania, Tyrrell, Vance, Washington, and Wilson Counties, to New Hanover County District U, to Surry County District S, to Watauga County District U, to Wilkes County District K, to Yadkin County District Y, and to the Township of Averasboro in Harnett County and the Ocracoke Township Taxing District."

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

In the General Assembly read three times and ratified this the 9th day of July, 2013.

Became law on the date it was ratified.

Session Law 2013-256 **H.B. 107**

AN ACT TO ALLOW A COUNTY FROM THE EASTERN REGION TO RECEIVE A DISBURSEMENT OF ITS SHARE OF THE MOTOR VEHICLE REGISTRATION TAX PROCEEDS AS WELL AS PAYMENTS MADE BY THE COUNTY IN LIEU OF TAXES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 158-42 is amended by adding the following new subsection:

"(g) Disbursement of Tax Proceeds. – Upon receipt of a resolution adopted by a participating county's board of county commissioners, the Region shall disburse to the county its net share of tax proceeds placed in trust under this section. A participating county's net share of tax proceeds is the total amount in the trust fund attributable to that county less the total amount of outstanding loans from the Region to the county and less any amount attributable to an appropriation made to the Region by the General Assembly. If this calculation results in a negative amount, the county is not entitled to a disbursement under this subsection. Funds disbursed under this subsection may be used only for economic development purposes. For purposes of this subsection, "economic development purposes" includes the provision of land, buildings, facilities, programs, information and data systems, or infrastructure required to promote business or industry in the county."

SECTION 2. G.S. 158-41(a) is repealed.

SECTION 2.1. This act applies only to Carteret, Craven, Duplin, Edgecombe, Greene, Jones, Lenoir, Nash, Onslow, Pamlico, Pitt, Wayne, and Wilson Counties.

SECTION 3. This act becomes effective July 1, 2013.

In the General Assembly read three times and ratified this the 10th day of July, 2013.

Became law on the date it was ratified.

Session Law 2013-257 **H.B. 546**

AN ACT TO PROVIDE FOR THE TERM OF THE CHAIRPERSON FOR THE BOARD OF TRUSTEES OF THE ROANOKE RAPIDS GRADED SCHOOL DISTRICT.

The General Assembly of North Carolina enacts:

SECTION 1. Section 7 of S.L. 2006-87 reads as rewritten:

"**SECTION 7.** The trustees at their first meeting in December of 2007 shall elect from among their number a ~~chairman~~chairperson who shall serve for the two following years, and that thereafter at the first meeting in December after each election they shall elect a ~~chairman~~chairperson to serve for the two following years ~~unless the present chairman's term has not expired.~~ until the chairperson's successor is elected."

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

In the General Assembly read three times and ratified this the 10th day of July, 2013.

Became law on the date it was ratified.

Session Law 2013-258 **H.B. 543**

AN ACT ADDRESSING PERMISSIBLE GUARDIANSHIP ROLES FOR CORPORATIONS AND INDIVIDUALS THAT PROVIDE MENTAL HEALTH, DEVELOPMENTAL DISABILITIES, OR SUBSTANCE ABUSE SERVICES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 35A-1213(c) reads as rewritten:

"(c) A corporation may be appointed as guardian only if it is authorized by its charter to serve as a guardian or in similar fiduciary capacities. A corporation shall meet the requirements outlined in Chapters 55 and 55D of the General Statutes. A corporation will provide a written copy of its charter to the clerk of superior court. A corporation contracting with a public agency to serve as guardian is required to attend guardianship training and provide verification of attendance to the contracting agency. A corporation shall not be appointed as guardian for any individual to whom it provides mental health, developmental disabilities, or substance abuse services for compensation as part of a contractual or other arrangement with a local management entity (LME), including an LME that has been approved to operate the 1915(b)/(c) Medicaid Waiver."

SECTION 2. G.S. 35A-1213(f) reads as rewritten:

"(f) An individual who contracts with or is employed by an entity that contracts with a local management entity (LME) for the delivery of mental health, developmental disabilities, and substance abuse services may not serve as a guardian for a ward for whom the individual or entity is providing these services, unless the individual is ~~a~~ one of the following:

(1) A parent of that ward. ~~The prohibition provided in this subsection shall not apply to a~~

(2) A member of the ward's immediate ~~family~~family, a licensed family foster care provider, or a licensed therapeutic foster care provider who is under contract with a local management entity (LME) for the delivery of mental health, developmental disabilities, and substance abuse services and is serving as a guardian as of January 1, 2013. For the purposes of this subsection, the term "immediate family" is defined as a spouse, child, sibling, parent, grandparent, or grandchild. The term also includes stepparents, stepchildren, stepsiblings, and adoptive relationships.

(3) A biologically unrelated individual who was serving on March 1, 2013, as a guardian without compensation for guardianship services."

SECTION 3. The Joint Legislative Oversight Committee on Health and Human Services shall appoint a subcommittee to examine the impact of the 1915(b)/(c) Medicaid Waiver and other mental health system reforms on public guardianship services, including guardianship roles, responsibilities, and procedures and the effect on existing relationships between guardians and wards. The subcommittee shall report its findings and recommendations to the Joint Legislative Oversight Committee on Health and Human Services on or before May 9, 2014, at which time it shall terminate.

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

In the General Assembly read three times and ratified this the 1st day of July, 2013.

Became law upon approval of the Governor at 4:15 p.m. on the 10th day of July, 2013.

Session Law 2013-259 **S.B. 490**

AN ACT TO EXCLUDE CUSTOM SOFTWARE FROM PROPERTY TAX.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-275(40) reads as rewritten:

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

The following classes of property are designated special classes under Article V, Sec. 2(2), of the North Carolina Constitution and are excluded from tax:

…

(40) Computer software and any documentation related to the computer software. As used in this subdivision, the term "computer software" means any program or routine used to cause a computer to perform a specific task or set of tasks. The term includes system and application programs and database storage and management programs.

The exclusion established by this subdivision does not apply to computer software and its related documentation if the computer software meets one or more of the following descriptions:

a. It is embedded software. "Embedded software" means computer instructions, known as microcode, that reside permanently in the internal memory of a computer system or other equipment and are not intended to be removed without terminating the operation of the computer system or equipment and removing a computer chip, a circuit, or another mechanical device.

b. It is purchased or licensed from a person who is unrelated to the taxpayer and it is capitalized on the books of the taxpayer in accordance with generally accepted accounting principles, including financial accounting standards issued by the Financial Accounting Standards Board. A person is unrelated to a taxpayer if (i) the taxpayer and the person are not subject to any common ownership, either directly or indirectly, and (ii) neither the taxpayer nor the person has any ownership interest, either directly or indirectly, in the other. <u>The foregoing does not include development of software or any modifications to software, whether done internally by the taxpayer or externally by a third party, to meet the customer's specified needs.</u>

This subdivision does not affect the value or taxable status of any property that is otherwise subject to taxation under this Subchapter.

The provisions of the exclusion established by this subdivision are not severable. If any provision of this subdivision or its application is held invalid, the entire subdivision is repealed.

…."

SECTION 2. Section 1 of this act shall not be construed to affect the interpretation of any statute that is the subject of litigation pending as of the effective date of this act in the General Court of Justice or to affect any other aspect of such pending litigation.

SECTION 3. Section 1 of this act is effective for taxes imposed for taxable years beginning on or after July 1, 2014. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 1st day of July, 2013.

Became law upon approval of the Governor at 4:16 p.m. on the 10th day of July, 2013.

Session Law 2013-260 **H.B. 422**

AN ACT AMENDING THE CHARTER OF THE TOWN OF MARSHVILLE TO DELETE THE PROVISIONS FOR UTILITY BILLING AND TERMINATION OF UTILITY SERVICES.

The General Assembly of North Carolina enacts:

SECTION 1. Section 6.1 of the Charter of the Town of Marshville, being S.L. 2011-70, is repealed.

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

In the General Assembly read three times and ratified this the 11th day of July, 2013.

Became law on the date it was ratified.

Session Law 2013-261 **H.B. 468**

AN ACT TO CHANGE THE METHOD OF ELECTION OF THE MAYOR AND CITY COUNCIL MEMBERS OF THE CITY OF HIGH POINT TO HOLD THE ELECTIONS IN ODD-NUMBERED YEARS AND BY A NONPARTISAN PRIMARY AND ELECTION METHOD AS PROVIDED BY GENERAL LAW AND TO AMEND THE CHARTER OF THE TOWN OF TRYON.

The General Assembly of North Carolina enacts:

SECTION 1. Section 3.1 of the Charter of the City of High Point, being Chapter 501 of the 1979 Session Laws, as amended by Ordinance Number 86-7 under Part 4 of Article 5 of Chapter 160A of the General Statutes and Section 2(a) of S.L. 2006-171, reads as rewritten:

"Sec. 3.1. Method of election. ~~Regular~~Beginning with the 2017 election, regular municipal elections shall be held in the City biennially in ~~even-numbered~~ odd-numbered years, and shall be conducted in accordance with State law governing municipal elections. The mayor and members of the council shall be elected by the nonpartisan ~~plurality~~ primary and election method provided for in ~~G.S. 163-292.~~G.S. 163-294."

SECTION 2. If the referendum provided in Section 3 is approved, and notwithstanding any other provision of law, in the 2014 election, the terms of the mayor and council members elected shall be for three years.

SECTION 3. Sections 1 and 2 of this act become effective only if approved by a majority of the qualified voters of the City of High Point in a referendum. The election shall be conducted by the appropriate county board(s) of elections in the November 2014 general election. The question on the ballot shall be:

"[ ] FOR [ ] AGAINST

Beginning in the 2017 election and every two years thereafter, electing the mayor and the city council members by using the nonpartisan primary and election method pursuant to State law, and the mayor and city council members elected at the 2014 election serving a three-year term to expire in 2017."

SECTION 4. The Charter of the Town of Tryon, being Section 1 of Chapter 441 of the 1971 Session Laws, reads as rewritten:

"THE CHARTER OF THE TOWN OF TRYON

…

"ARTICLE III. MAYOR AND BOARD OF COMMISSIONERS

…

"Sec. 3.2. Mayor and Mayor Pro Tempore. The Mayor shall be elected by and from the qualified voters of the Town voting at large in the manner provided in Article IV. The Mayor shall be the official head of the Town government and shall preside at all meetings of the Board of Commissioners. Where there is an equal division on a question, the Mayor shall determine

the matter by his or her vote, but he or she shall vote in no other case. The Mayor shall exercise such powers and perform such duties as are or may be conferred upon him or her by the general laws of North Carolina, by this Charter, and by the ordinances of the Town. The Board of Commissioners shall choose one of its number to act as Mayor Pro Tempore, and he or she shall perform the duties of the Mayor in the Mayor's absence or disability. The Mayor Pro Tempore as such shall have no fixed term of office, but shall serve in such capacity at the pleasure of the remaining members of the Board.

"Sec. 3.3. Terms; Qualifications; Vacancies.

…

(b) No person shall be eligible to be a candidate or be elected as Mayor or as a member of the Board of Commissioners or to serve in such capacity, unless he or she is a resident and a qualified voter of the Town.

…

"ARTICLE V. TOWN MANAGER

"Sec. 5.1. The Board of Commissioners shall appoint a Town Manager who shall be the administrative head of the Town government responsible for the supervision and administration of all departments and ~~employees~~ employees, except the Town ~~Attorney.~~Attorney and Town Clerk. Notwithstanding G.S. 160A-148(1), the Board of Commissioners shall appoint the Town Clerk, but may grant to the Town Manager the authority to direct and supervise the Town Clerk to the extent and in the manner deemed appropriate by the Board of Commissioners. The Town Manager shall be appointed with regard to merit only, and he or she need not be a resident of the Town at the time of his or her appointment. He or she shall hold office during the pleasure of the Board of Commissioners and shall receive such compensation as it shall fix by ordinance.

The Town Manager so appointed shall (1) be the administrative head of the Town government; (2) see that within the Town the laws of the State and the ordinances, resolutions and regulations, of the Board of Commissioners are faithfully executed; (3) attend all meetings of the Board of Commissioners, and recommend for adoption such measures as he or she shall deem expedient; (4) make reports to the Board of Commissioners from time to time upon the affairs of the Town, and keep the Board fully advised of the Town's financial condition and its future financial needs; (5) appoint and remove all employees of the Town, except the Town Attorney and Town Clerk, and all appointments and removals of department heads made by the Manager shall be reported to the Board of Commissioners at its next succeeding meeting; and, (6) perform all other duties as may be required by the Board of Commissioners.

"ARTICLE VI. TOWN ATTORNEY

"Sec. 6.1. Appointment; Qualifications; Term; Compensation. The Board of Commissioners shall appoint a Town Attorney who shall be an attorney at law licensed to engage in the practice of law in North Carolina and who need not be a resident of the Town during his or her tenure. The Town Attorney shall serve at the pleasure of the Board and shall receive such compensation as the Board shall determine.

"Sec. 6.2. Duties of Town Attorney. It shall be the duty of the Town Attorney to prosecute and defend suits for and against the Town; to advise the Mayor, Board of Commissioners, Town Manager, and other Town officials with respect to the affairs of the Town; to draw all legal documents relating to the affairs of the Town; to draw proposed ordinances when requested to do so; to inspect and pass upon all agreements, contracts, franchises and other instruments with which the Town may be concerned; and to perform such other duties as may be required of him or her by virtue of his or her position of Town Attorney.

"ARTICLE VII. ADMINISTRATIVE OFFICERS AND EMPLOYEES

"Sec. 7.1. Town Clerk. ~~The Town Manager~~Notwithstanding G.S. 160A-148(1), the Board of Commissioners may appoint a Town Clerk to keep a journal of the proceedings of the Board of Commissioners and to maintain in a safe place all records and documents pertaining to the affairs of the Town, and to perform such other duties as may be required by law or as the ~~Town Manager~~Board may direct. The Board of Commissioners may grant to the Town Manager the

authority to direct and supervise the Town Clerk to the extent and in the manner deemed appropriate by the Board of Commissioners.

"Sec. 7.2. Town Tax Collector. The Town Manager may appoint a Tax Collector to collect all taxes, licenses, fees and other moneys belonging to the Town, subject to the provisions of this Charter and the ordinances of the Town, and he or she shall diligently comply with and enforce all the general laws of North Carolina relating to the collection, sale, and foreclosure of taxes by municipalities.

…

"Sec. 7.4. Consolidation of Functions. The Town Manager may, with the approval of the Board of Commissioners, consolidate any two or more of the positions of Town Clerk, Town Tax Collector, and Town Accountant, or may assign the functions of any one or more of these positions to the holder or holders of any other of these positions. The Town Manager may also, with the approval of the Board of Commissioners, himself or herself perform all or any part of the functions of any of the named offices, in lieu of appointing other persons to perform the same.

"ARTICLE VIII. FINANCE

…

"Sec. 8.2. Independent Audit. As soon as practicable after the close of each fiscal year, an independent audit shall be made of all books and accounts of the Town government as provided in G.S. 159-34 by a certified public accountant or a qualified public accountant ~~registered~~ certified under Chapter 93 of the General Statutes of North Carolina, who shall have no personal interest directly or indirectly in the affairs of the Town or of any of its officers. The Board of Commissioners shall select the public accountant, and the results of such audit shall be made available for inspection by any interested citizen of the Town, and may be published if so ordered by the Board of Commissioners.

"ARTICLE IX. ZONING

"The Town of Tryon Planning and Adjustment Board shall be comprised of seven members and two alternates. The Board of Commissioners shall appoint four members and one alternate who shall be residents of the Town. The Board of Commissioners of Polk County shall appoint ~~five~~ three members and one alternate who shall be residents of the area outside of and within one mile of the corporate limits of the Town of ~~Tryon, to serve as members of the Town Planning Board, and five residents of such area to serve as members of the Town Zoning Board of Adjustment.~~Tryon. ~~Such~~ The members appointed by the Board of Commissioners of Polk County shall have equal rights and privileges with the other members of ~~such Boards~~the Board in all matters pertaining to the planning and zoning of the territory outside of and within one mile of the corporate limits of the Town. The concurring vote of ~~eight members~~ eighty percent (80%) of the ~~Zoning Board of Adjustment~~Planning and Adjustment Board shall be necessary in order to reverse any order, requirement, decision, or determination of any administrative official with respect to the territory outside of and within one mile of the corporate limits of the Town.

The Board of Commissioners may require that, prior to the beginning of any construction, reconstruction or alteration of any building or structure located within the extraterritorial zoning jurisdiction, a permit be obtained from the Town. The permit shall be issued if the proposed construction, reconstruction or alteration complies with the provisions of the zoning ordinance and map.

…

"ARTICLE XII. WATER AND SEWER

"Sec. 12.1. Alternative Methods of Assessment. In addition to, and as alternatives, to the method provided in G.S. 160-241 for assessing the costs of water and sewer lines and laterals, the Board of Commissioners, if in its opinion it would be more equitable to do so, is hereby authorized in its discretion to levy any such assessments according to either of the following methods: (1) equally against each of the lots capable of being served by such line or lines, or

(2) on the basis of the footage of land upon a public street by an equal rate per foot of such frontage.

In lieu of assessing the total cost of a particular project as herein provided, the governing body may annually, between the first days of January and July of each year, determine the average cost of installing water and sewer mains or lines and on the basis of such determination may make assessments of such average cost during the following fiscal year beginning July 1. The average cost of such installation shall include the cost of the particular size and material of lines completed during the preceding calendar year. It may also include the anticipated increase in labor and materials costs based upon the average of such increases during the preceding five calendar years. The assessment of the average cost of such line shall not be made until after the particular assessment project has been completed. The purpose of this Section is to distribute more equitably the cost of the installation of water and sewer lines throughout the Town; to permit a property owner to know in advance what the cost of installation of water and sewer lines benefiting his or her property will be; and to permit the most expeditious assessment of cost against property after completion of the installation of such lines. The actual cost of acquisition of rights-of-way may also be assessed as a part of the cost of an individual project. If the right-of-way costs have not been determined and assessed with the assessment of the average installation costs at the time of the completion of the project, such costs may be assessed separately when they are determined.

…

"ARTICLE XIII. REFUSE, WEEDS, AND TRASH

"Sec. 13.1. Property Kept Free of Offensive Matter. It shall be the duty of every property owner in the Town to keep his or her property free from noxious weeds, trash, and all other forms of offensive animal or vegetable matter or refuse which may be dangerous or prejudicial to the public health or which may constitute a public nuisance.

…."

SECTION 5. Except as otherwise provided, this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 11th day of July, 2013.
Became law on the date it was ratified.

Session Law 2013-262 **H.B. 418**

AN ACT AUTHORIZING BUNCOMBE COUNTY TO ESTABLISH A CULTURE AND RECREATION AUTHORITY.

The General Assembly of North Carolina enacts:

SECTION 1. Culture and Recreation Authority; creation; membership. – Buncombe County may create a Culture and Recreation Authority (hereinafter "Authority"). The Authority shall be a body corporate and politic.

(a) The Authority shall be created by ordinance. The Authority shall consist of seven members (hereinafter "Board"). All Board members shall be appointed by the Board of Commissioners of Buncombe County (hereinafter "Board of Commissioners" or "County").

(b) At least one of the members appointed shall be a member of the governing board of the County. Nothing in this act shall prohibit the appointment of only elected officials to the Authority. All appointments shall be for a term of three years, except that initial members shall serve one-, two-, or three-year terms to provide for staggering. The date from which regular three-year terms shall run shall be established in the ordinance.

(c) The members of the Authority shall elect a chair and vice-chair from the membership of the Authority. They shall also elect a secretary who may or may not be a member of the Authority.

(d) A majority of the members shall constitute a quorum for the transaction of business, and an affirmative vote of the majority of the members present at a meeting of the Authority shall be required to constitute action of the Authority. Members of the Authority shall receive such compensation, if any, as may be fixed by the participating units.

(e) The Board of Commissioners has the right to assign Buncombe County employees to the Authority, and the Buncombe County Personnel Ordinance shall not be applicable to such employees assigned to the Authority. Such employees shall be considered employees of the Authority from and after the date of the assignment.

SECTION 2. Purpose of the Authority. **–** The purpose of the Authority shall be to manage or operate libraries, parks, greenways, recreation facilities, or cultural organizations, as designated by the units of local government who are parties to the agreement.

SECTION 3. General powers of the Authority. **–** The general powers of the Authority shall be to:

(1) Make rules and regulations not inconsistent with this act for its organization and internal management.

(2) Employ persons deemed necessary to carry out functions and duties assigned to them by the Authority and to fix their compensation within the limit of available funds.

(3) To use officers, employees, agents, and facilities of the county or city on such basis as may be agreed upon.

(4) Appoint a full-time Director to serve at its pleasure. The Director is responsible to the Authority for the administration of all departments within the Authority. The Director shall appoint, suspend, or remove all Authority employees. The Director shall make his or her appointments, suspensions, and removals in accordance with any general personnel rules, regulations, policies, or ordinances that the Authority may adopt.

(5) Acquire, maintain, and operate any buildings, structures, and facilities as may be necessary or convenient for the operations of the Authority.

(6) Establish rules governing the use of the cultural and recreational facilities under the jurisdiction of the Authority.

(7) Enter into contracts and leases for facilities and services.

(8) Acquire and dispose of real and personal property under the jurisdiction of the Authority with the approval of the county.

(9) Surrender to the county any property no longer required by the Authority.

(10) Allocate funds for repairs, renovations, and improvements of real and personal property under the jurisdiction of the Authority.

(11) Solicit financial and material support from public and private sources.

(12) Receive public and private donations, appropriations, and grants.

(13) Prepare and submit an annual budget to the county in the same manner as other county and city departments, but the budget is subject to adoption only by the county.

(14) Make recommendations and an annual report to the participating units concerning the operation of the Authority and the status of cultural and recreational programs under the jurisdiction of the Authority.

(15) Make plans, surveys, and studies of libraries, parks, greenways, recreational facilities, and cultural organizations under the jurisdiction of the Authority and to prepare and make recommendations to the county in regard thereto.

(16) Retain and employ counsel, auditors, engineers, and private consultants on an annual salary contract basis or otherwise for rendering professional or technical services and advice.

(17) Sue and be sued.

(18) Have a seal.

(19) Do all things necessary or convenient to carry out the purposes provided for in this act and for the exercise of the powers granted to the Authority.

SECTION 4. Funds. – (a) Participating units may appropriate funds to support the establishment and operation of the Authority. The county may also dedicate, sell, convey, donate, or lease any of its interest in any property to the Authority. Further, the Authority may establish any license and regulatory fees and charges as it may deem appropriate, subject to the approval of the governing board of the county. In accordance with G.S. 153A-149, Buncombe County may separately levy and collect an ad valorem tax in the county, but not exceeding seven cents (7¢) on the one hundred dollars ($100.00) valuation of property in the county from year to year and shall keep the same as a separate and special fund to be used only for cultural and recreational purposes under the jurisdiction of the Authority. The county may also issue general obligation bonds as authorized by the Local Government Bond Act, Article 4 of Chapter 159 of the General Statutes.

(b) The Authority shall have no authority to tax property within its jurisdictional boundaries and shall have no powers of eminent domain. The Authority is not eligible to receive local sales or use or any other taxes allocated by the State to taxing counties and cities.

SECTION 5. Fiscal accountability. – The Authority shall be fiscally accountable to the county, which has the authority to examine all records and accounts of the Authority at any time.

SECTION 6. Termination. – The county shall have the authority to terminate the existence of the Authority at any time by a majority vote of the governing boards of the county. In the event of termination, (i) all property and assets of the Authority which were conveyed to the Authority shall automatically become the property of the county which conveyed the asset to the Authority and (ii) the county units shall jointly succeed to all other rights, obligations, and liabilities of the Authority as provided by the agreement.

SECTION 7. Insofar as the provisions of this act are not consistent with the provisions of any other act or law, public or private, the provisions of this act shall be controlling.

SECTION 8. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 16th day of July, 2013.

Became law on the date it was ratified.

Session Law 2013-263 **H.B. 512**

AN ACT TO CORRECT ELECTIONS MADE OUTSIDE OF STATUTORY AUTHORITY TO THE BOARD OF TRUSTEES OF CENTRAL CAROLINA COMMUNITY COLLEGE.

The General Assembly of North Carolina enacts:

SECTION 1. The terms of all individuals elected solely by the Lee County Board of Education to the Board of Trustees of Central Carolina Community College shall expire effective August 1, 2013.

SECTION 2. No later than August 1, 2013, as required by G.S. 115D-12(a) for elections to Group One of the board of trustees for a community college, four trustees shall be jointly elected to the Central Carolina Community College Board of Trustees by the Board of Education of Chatham County, the Board of Education of Lee County, and the Board of Education of Harnett County with each board having one vote in the election of each trustee. No board of education shall elect a member of the board of education or any person employed by the board of education to serve as a trustee. No board of education shall reelect an individual elected solely by the Lee County Board of Education whose term expires August 1, 2013, as provided in Section 1 of this act, to one of the terms of office provided in Section 3 of this act.

SECTION 3. The four trustees elected as provided in Section 2 of this act shall serve the following terms:

(1) One trustee shall be elected to a one-year term expiring July 1, 2014, and quadrennially thereafter.

(2) One trustee shall be elected to a two-year term expiring July 1, 2015, and quadrennially thereafter.

(3) One trustee shall be elected to a three-year term expiring July 1, 2016, and quadrennially thereafter.

(4) One trustee shall be elected to a four-year term expiring July 1, 2017, and quadrennially thereafter.

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

In the General Assembly read three times and ratified this the 17th day of July, 2013.

Became law on the date it was ratified.

Session Law 2013-264 **H.B. 538**

AN ACT TO ALLOW THE TOWN OF APEX TO CONTINUE COMMUNICATIONS WITH RESIDENTS AND OTHERS ON OTHER MATTERS PENDING A QUASI-JUDICIAL DECISION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 160A-388(e)(2), as enacted by Section 2 of S.L. 2013-126, reads as rewritten:

"(2) A member of any board exercising ~~quasi-judicial functions pursuant to this Article~~ the functions of a board of adjustment shall not participate in or vote on any quasi-judicial matter in a manner that would violate affected persons' constitutional rights to an impartial decision maker. Impermissible violations of due process include, but are not limited to, a member having a fixed opinion prior to hearing the matter that is not susceptible to change, undisclosed ex parte communications, a close familial, business, or other associational relationship with an affected person, or a financial interest in the outcome of the matter. If an objection is raised to a member's participation and that member does not recuse himself or herself, the remaining members shall by majority vote rule on the objection."

SECTION 2. G.S. 160A-393 is repealed.

SECTION 3. G.S. 160A-377 is repealed.

SECTION 4. This act applies to the Town of Apex only.

SECTION 5. This act becomes effective October 1, 2013, and applies to quasi-judicial decisions of the Town on or after that date.

In the General Assembly read three times and ratified this the 17th day of July, 2013.

Became law on the date it was ratified.

Session Law 2013-265 **S.B. 638**

AN ACT TO ENACT THE NORTH CAROLINA FARM ACT OF 2013 TO (1) LIMIT THE LIABILITY OF NORTH CAROLINA COMMODITY PRODUCERS ARISING FROM FOOD SAFETY ISSUES RELATED TO THEIR PRODUCTS; (2) LIMIT THE LIABILITY OF FARM ANIMAL ACTIVITY SPONSORS, FARM ANIMAL PROFESSIONALS, AND AGRITOURISM OPERATORS AND CLARIFY THAT EQUINE RECREATION WHERE THE LANDOWNER RECEIVES NO COMPENSATION IS SUBJECT TO THE RECREATIONAL USE STATUTE AND NOT THE EQUINE ACTIVITY LIABILITY STATUTE; (3) ALLOW THE COMMISSIONER OF AGRICULTURE TO ASSESS NONMONETARY PENALTIES TO ADDRESS

VIOLATIONS WHEN APPROPRIATE; (4) DECREASE THE FREQUENCY OF THE AGRICULTURAL WATER USE SURVEY; (5) LIMIT THE PERSONALLY IDENTIFYING INFORMATION THAT THE DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES MAY DISCLOSE ABOUT ITS ANIMAL HEALTH PROGRAMS; (6) MAKE CONFORMING CHANGES TO THE NAME OF THE STRUCTURAL PEST CONTROL AND PESTICIDES DIVISION AND CLARIFY THE RESPONSIBILITIES OF THE DIVISION; (7) AMEND CERTAIN EGG LABELING REQUIREMENTS; (8) REPEAL THE INTERSTATE PEST CONTROL COMPACT; (9) REPEAL CERTAIN CLEANLINESS STANDARDS FOR CREAMERIES AND DAIRY FACILITIES THAT ARE ADDRESSED BY THE NC FOOD, DRUG, AND COSMETIC ACT; (10) CHANGE SETBACK DISTANCES AND BURN TIMES FOR FLAMMABLE MATERIALS RESULTING FROM GROUND CLEARING ACTIVITIES; (11) REPEAL THE STATE SULFUR CONTENT STANDARDS FOR GASOLINE; (12) EXEMPT FORESTRY AND SILVICULTURE OPERATIONS FROM TEMPORARY DRIVEWAY PERMITTING; (13) ALLOW A FARM BUILDING THAT IS USED FOR PUBLIC OR PRIVATE EVENTS TO MAINTAIN ITS FARM BUILDING STATUS FOR PURPOSES OF THE STATE BUILDING CODE; (14) EXEMPT CERTAIN STRUCTURES FROM THE SPRINKLER SYSTEM REQUIREMENTS OF THE NORTH CAROLINA BUILDING CODE; (15) ALLOW RETAILERS TO DISPLAY MORE THAN FOUR HUNDRED SQUARE FEET OF NURSERY STOCK FOR SALE IN THEIR PARKING LOTS; (16) EXPAND THE AGRICULTURAL DAM EXEMPTION TO THE DAM SAFETY ACT; (17) ALLOW A LANDOWNER TO WITHDRAW WATER FOR AGRICULTURAL USE DURING WATER SHORTAGE EMERGENCIES UNDER CERTAIN CONDITIONS; (18) DIRECT THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES AND THE DEPARTMENT OF TRANSPORTATION TO JOINTLY PETITION THE WILMINGTON DISTRICT OF THE UNITED STATES ARMY CORPS OF ENGINEERS TO ALLOW FOR GREATER FLEXIBILITY AND OPPORTUNITY TO PERFORM STREAM AND WETLANDS MITIGATION BEYOND THE IMMEDIATE WATERSHED WHERE DEVELOPMENT WILL OCCUR; AND (19) ACCELERATE THE SUNSET DATE OF THE PETROLEUM DISPLACEMENT PLAN AS A RESULT OF THE STATE HAVING SUBSTANTIALLY ACHIEVED ITS TWENTY PERCENT REDUCTION GOAL OF THE USE OF PETROLEUM PRODUCTS.

The General Assembly of North Carolina enacts:

PART I. TITLE

SECTION 1. This act shall be known and may be cited as the "North Carolina Farm Act of 2013."

PART II. LIMIT THE LIABILITY OF NORTH CAROLINA COMMODITY PRODUCERS ARISING FROM FOOD SAFETY ISSUES RELATED TO THEIR PRODUCTS

SECTION 2. Chapter 99B of the General Statutes is amended by adding a new section to read:

"§ **99B-12. Burden of proof in certain cases.**

(a) A commodity producer shall be entitled to a rebuttable presumption that the commodity producer was not negligent when death or injury is proximately caused by the consumption of the producer's raw agricultural commodity if the producer (i) is certified by the United States Department of Agriculture Agricultural Marketing Service Good Agricultural Practices and Good Handling Practices Audit Verification Program or other third-party certification program designated by the Commissioner for purposes of this section; (ii) has a written food safety policy that complies with the certification program's standard and can provide evidence that the producer trains employees on the policy on an annual basis; (iii) has

had no formal administrative findings or sanctions or legal judgments entered against the producer during the previous three years based on a claim that the commodity producer's negligence was the proximate cause of a plaintiff's death or injury; and (iv) has had no settlement agreements concluding litigation where the settlement exceeded twenty-five thousand dollars ($25,000), or in which the producer admitted liability, during the previous three years based on a claim that the commodity producer's negligence was the proximate cause of a plaintiff's death or injury. This presumption may be overcome only by clear and convincing evidence that the commodity producer's negligence was the proximate cause of the death or injury.

(b) As used in this section:

(1) Commodity producer means a producer of raw agricultural commodities.

(2) Raw agricultural commodity means any food in its raw or natural state, including all fruits that are washed, colored, or otherwise treated in their unpeeled natural form prior to marketing, and which is covered by the United States Department of Agriculture Agricultural Marketing Service Good Agricultural Practices and Good Handling Practices Audit Verification Program."

PART III. LIMIT THE LIABILITY OF FARM ANIMAL ACTIVITY SPONSORS, FARM ANIMAL PROFESSIONALS, AND AGRITOURISM OPERATORS AND CLARIFY THAT EQUINE RECREATION WHERE THE LANDOWNER RECEIVES NO COMPENSATION IS SUBJECT TO THE RECREATIONAL USE STATUTE AND NOT THE EQUINE ACTIVITY LIABILITY STATUTE

SECTION 3.1. G.S. 38A-2(5) reads as rewritten:

"§ **38A-2. Definitions.**

The following definitions shall apply throughout this Chapter, unless otherwise specified:

…

(5) "Recreational purpose" means any activity undertaken for recreation, exercise, education, relaxation, refreshment, diversion, or ~~pleasure.~~pleasure or sport, including equestrian recreation as defined in G.S. 99E-1."

SECTION 3.2. Article 1 of Chapter 99E of the General Statutes reads as rewritten:

"Article 1.

"Equine and Farm Animal Activity Liability.

"Part 1. Equine Activity Liability.

"§ **99E-1. Definitions.**

As used in this ~~Article,~~Part, the term:

(1) "Engage in an equine activity" means participate in an equine activity, assist a participant in an equine activity, or assist an equine activity sponsor or equine professional. The term "engage in an equine activity" does not include being a spectator at an equine activity, except in cases in which the spectator places himself in an unauthorized area and in immediate proximity to the equine activity.

(2) "Equine" means a horse, pony, mule, donkey, or hinny.

(3) "Equine activity" means any activity involving an equine. Actions to preserve, maintain, or regulate the use of land for equestrian recreation shall not be considered an equine activity.

(4) "Equine activity sponsor" means an individual, group, club, partnership, or corporation, whether the sponsor is operating for profit or nonprofit, which sponsors, organizes, or provides the facilities for an equine activity. The term includes operators and promoters of equine facilities. A landowner who allows equine recreation on the landowner's property shall not be considered an equine activity sponsor.

(5) "Equine professional" means a person engaged for compensation in any one or more of the following:
   a. Instructing a participant.
   b. Renting an equine to a participant for the purpose of riding, driving, or being a passenger upon the equine.
   c. Renting equipment or tack to a participant.
   d. Examining or administering medical treatment to an equine.
   e. Hooftrimming or placing or replacing horseshoes on an equine.

(5a) "Equine recreation" means use of a landowner's property for an equine activity (i) where the landowner is neither the equine activity sponsor nor the equine professional and (ii) when the landowner permits use of the property without charge. For purposes of this subdivision, "charge" has the meaning set forth in G.S. 38A-2 and G.S. 38A-3.

(6) "Inherent risks of equine activities" means those dangers or conditions that are an integral part of engaging in an equine activity, including any of the following:
   a. The possibility of an equine behaving in ways that may result in injury, harm, or death to persons on or around them.
   b. The unpredictability of an equine's reaction to such things as sounds, sudden movement, unfamiliar objects, persons, or other animals.

   Inherent risks of equine activities does not include a collision or accident involving a motor vehicle.

(7) "Participant" means any person, whether amateur or professional, who engages in an equine activity, whether or not a fee is paid to participate in the equine activity.

"§ **99E-2. Liability.**

(a) Except as provided in subsection (b) of this section, an equine activity sponsor, an equine professional, or any other person engaged in an equine activity, including a corporation or partnership, shall not be liable for an injury to or the death of a participant resulting from the inherent risks of equine activities and, except as provided in subsection (b) of this section, no participant or participant's representative shall maintain an action against or recover from an equine activity sponsor, an equine professional, or any other person engaged in an equine activity for injury, loss, damage, or death of the participant resulting exclusively from any of the inherent risks of equine activities. In any action for damages against an equine activity sponsor or an equine professional for an equine activity, the equine activity sponsor or equine professional must plead the affirmative defense of assumption of the risk of the equine activity by the participant.

(b) Nothing in subsection (a) of this section shall prevent or limit the liability of an equine activity sponsor, an equine professional, or any other person engaged in an equine activity if the equine activity sponsor, equine professional, or person engaged in an equine activity does any one or more of the following:

(1) Provides the equipment or tack, and knew or should have known that the equipment or tack was faulty, and such faulty equipment or tack proximately caused the injury, damage, or death.

(2) Provides the equine and failed to make reasonable and prudent efforts to determine the ability of the participant to engage safely in the equine activity or to safely manage the particular equine.

(3) Commits an act or omission that constitutes willful or wanton disregard for the safety of the participant, and that act or omission proximately caused the injury, damage, or death.

~~(4) Commits any other act of negligence or omission that proximately caused the injury, damage, or death.~~

(c) Nothing in subsection (a) of this section shall prevent or limit the liability of an equine activity sponsor, an equine professional, or any other person engaged in an equine activity under liability provisions as set forth in the products liability laws.

(d) Nothing in this section shall be construed to conflict with or render ineffectual a liability release, indemnification, assumption, or acknowledgment of risk agreement between a participant and an equine activity sponsor or an equine professional.

"§ **99E-3. Warning required.**

(a) Every equine professional and every equine activity sponsor shall post and maintain signs which contain the warning notice specified in subsection (b) of this section. The signs required by this section shall be placed in a clearly visible location on or near stables, corrals, or arenas where the equine professional or the equine activity sponsor conducts equine activities. The warning notice specified in subsection (b) of this section shall be designed by the Department of Agriculture and Consumer Services and shall consist of a sign in black letters, with each letter to be a minimum of one inch in height. Every written contract entered into by an equine professional or by an equine activity sponsor for the providing of professional services, instruction, or the rental of equipment or tack or an equine to a participant, whether or not the contract involves equine activities on or off the location or site of the equine professional's or the equine activity sponsor's business, shall contain in clearly readable print the warning notice specified in subsection (b) of this section.

(b) The signs and contracts described in subsection (a) of this section shall contain the following warning notice:

"**WARNING**

Under North Carolina law, an equine activity sponsor or equine professional is not liable for an injury to or the death of a participant in equine activities resulting exclusively from the inherent risks of equine activities. Chapter 99E of the North Carolina General Statutes."

(c) Failure to comply with the requirements concerning warning signs and notices provided in this ~~Article~~Part shall prevent an equine activity sponsor or equine professional from invoking the privileges of immunity provided by this ~~Article.~~Part."

SECTION 3.3. Article 1 of Chapter 99E of the General Statutes is amended by adding a new section to read:

"§ **99E-4. Exception.**

The liability of a landowner for injury or death associated with participation in equine recreation shall be subject to the limitation set forth in G.S. 38A-4 and shall not be subject to this Part.

"Part 2. Farm Animal Activity Liability.

"§ **99E-5. Definitions.**

As used in this Part, the term:

(1) "Engage in a farm animal activity" means participate in a farm animal activity, assist a participant in a farm animal activity, or assist a farm animal activity sponsor or farm animal activity professional. The term "engage in a farm animal activity" does not include being a spectator at a farm animal activity, except in cases in which the spectator voluntarily places himself or herself in an unauthorized area and in immediate proximity to the farm animal activity.

(2) "Equine" means a horse, pony, mule, donkey, or hinny.

(3) "Equine activity" means a farm animal activity involving only equines.

(4) "Farm animal" means one or more of the following domesticated animals: cattle, oxen, bison, sheep, swine, goats, horses, ponies, mules, donkeys, hinnies, llamas, alpacas, lagomorphs, ratites, and poultry.

(5) "Farm animal activity" means an activity in which participants engage with one or more farm animals, including, but not limited to, all of the following:
  a. Shows, fairs, exhibits, competitions, performances, or parades that involve farm animals.
  b. Training or teaching activities, or both, involving farm animals.
  c. Boarding farm animals, including normal daily care.
  d. Rides, trips, shows, clinics, hunts, parades, games, exhibitions, or other activities of any kind that are sponsored by a farm animal activity sponsor.
  e. Testing, riding, inspecting, or evaluating a farm animal belonging to another, whether or not the owner has received some monetary consideration or other thing of value for the use of the farm animal or is permitting a prospective purchaser of the farm animal to ride, inspect, or evaluate the farm animal.
  f. Placing or repairing horseshoes, trimming the hooves on a farm animal, or otherwise providing farrier services.
  g. Examining or administering medical treatment to a farm animal by a veterinarian.

(6) "Farm animal activity sponsor" means an individual, group, club, partnership, corporation, educational organization, or other legally constituted entity, whether the sponsor is operating for profit or nonprofit, which sponsors, organizes, allows, or provides the facilities for a farm animal activity, including, but not limited to, pony clubs; 4-H clubs; Future Farmers of America organizations; hunt clubs; riding clubs; polo clubs; school-and college-sponsored classes, programs, and activities; therapeutic riding programs; and operators, instructors, and promoters of farm animal facilities, including, but not limited to, stables, clubhouses, ponyride strings, fairs, exhibitions, and arenas at which the activity is held.

(7) "Farm animal facility" means any area used for any farm animal activity, including, but not limited to, farms, ranches, riding arenas, training stables or barns, pastures, riding trails, show rings, polo fields, petting zoos, and other areas or facilities used or provided by farm animal activity sponsors or where participants engage in farm animal activities.

(8) "Farm animal professional" means a person engaged for compensation in any of the following:
  a. Instructing a participant.
  b. Renting a farm animal to a participant for the purpose of riding, driving, or being a passenger upon the farm animal.
  c. Providing daily care of farm animals boarded at a farm animal facility.
  d. Renting equipment or tack to a participant.
  e. Training a farm animal.
  f. Examining or administering medical treatment to a farm animal.
  g. Providing farrier services to a farm animal.
  h. Hooftrimming or placing or replacing horseshoes on a farm animal.

(9) "Inherent risks of farm animal activities" means those dangers or conditions that are an integral part of engaging in a farm animal activity, including any of the following:
  a. The possibility of a farm animal behaving in ways that may result in injury, harm, or death to persons on or around them.
  b. The unpredictability of a farm animal's reaction to such things as sounds, sudden movement, unfamiliar objects, persons, or other animals.

c. The risk of contracting an illness due to coming into physical contact with animals, animal feed, animal waste, or surfaces that have been in contact with animal waste.

Inherent risks of farm animal activities does not include a collision or accident involving a motor vehicle.

(10) "Participant" means any person, whether amateur or professional, who engages in a farm animal activity, whether or not a fee is paid to participate in the farm animal activity.

"**§ 99E-6. Liability.**

(a) Except as provided in subsection (b) of this section, a farm animal activity sponsor, a farm animal professional, or any other person engaged in a farm animal activity, including a corporation or partnership, shall not be liable for an injury to or the death of a participant resulting from the inherent risks of farm animal activities, and, except as provided in subsection (b) of this section, no participant or participant's representative shall maintain an action against or recover from a farm animal sponsor, a farm animal professional, or any other person engaged in a farm animal activity for injury, loss, damage, or death of the participant resulting exclusively from any of the inherent risks of farm animal activities. In any action for damages against a farm animal activity sponsor or a farm animal professional for a farm animal activity, the farm animal activity sponsor or farm animal professional must plead the affirmative defense of assumption of the risk of the farm animal activity by the participant.

(b) Nothing in subsection (a) of this section shall prevent or limit the liability of a farm animal activity sponsor, a farm animal professional, or any other person engaged in a farm animal activity if the farm animal activity sponsor, professional, or person engaged in a farm animal activity does any one or more of the following:

(1) Provides the equipment or tack and knew or should have known that the equipment or tack was faulty, and such faulty equipment or tack proximately caused the injury, damage, or death.

(2) Provides the farm animal and failed to make reasonable and prudent efforts to determine the ability of the participant to engage safely in the farm animal activity or to safely manage the particular farm animal.

(3) Commits an act or omission that constitutes willful or wanton disregard for the safety of the participant, and that act or omission proximately caused the injury, damage, or death.

(c) Nothing in subsection (a) of this section shall prevent or limit the liability of a farm animal activity sponsor, a farm animal professional, or any other person engaged in a farm animal activity under liability provisions as set forth in the products liability laws.

"**§ 99E-7. Warning required.**

(a) Every farm animal activity sponsor and every farm animal professional shall post and maintain signs which contain the warning notices specified in subsection (b) or (c) of this section. The signs required by this section shall be placed in a clearly visible location on or near stables, corrals, arenas, or other farm animal facilities where the farm animal professional or the farm animal activity sponsor conducts animal activities. The warning notices specified in subsections (b) and (c) of this section shall be designed by the Department of Agriculture and Consumer Services and shall consist of a sign in black letters, with each letter to be a minimum of one inch in height. Every written contract entered into by a farm animal professional or by a farm animal activity sponsor for the providing of professional services, instruction, or the rental of equipment or tack or a farm animal to a participant, whether or not the contract involves farm animal activities on or off the location or site of the farm animal professional's or farm animal activity sponsor's business, shall contain in clearly readable print the warning notice specified in subsection (b) or (c) of this section.

(b) The signs and contracts described in subsection (a) of this section shall contain the following warning notice:

"**WARNING**

Under North Carolina law, a farm animal activity sponsor or farm animal professional is not liable for an injury to or the death of a participant in farm animal activities resulting exclusively from the inherent risks of farm animal activities. Chapter 99E of the North Carolina General Statutes."

(c) If a farm animal activity sponsor or farm animal professional sponsors or engages in farm animal activities only involving equines, the signs and contracts described in subsection (a) of this section may contain the following warning notice:

"**WARNING**

Under North Carolina law, an equine activity sponsor or equine professional is not liable for an injury to or the death of a participant in equine activities resulting exclusively from the inherent risks of equine activities. Chapter 99E of the North Carolina General Statutes."

(d) Failure to comply with the requirements concerning warning signs and notices provided in this Part shall prevent a farm animal activity sponsor or farm animal professional from invoking the privileges of immunity provided by this Part."

SECTION 3.4. G.S. 38A-3 reads as rewritten:

"§ **38A-3. Exclusions.**

For purposes of this Chapter, the term "charge" does not include:

(1) Any contribution in kind, services or cash contributed by a person, legal entity, nonprofit organization, or governmental entity other than the owner, whether or not sanctioned or solicited by the owner, the purpose of which is to (i) remedy damage to land caused by educational or recreational use; ~~or~~ (ii) provide warning of hazards on, or remove hazards from, land used for educational or recreational ~~purposes.~~purposes; or (iii) pay expenses related to the use of land for a recreational or educational purpose.

(2) Unless otherwise agreed in writing or otherwise provided by the State or federal tax codes, any property tax abatement or relief received by the owner from the State or local taxing authority in exchange for the owner's agreement to open the land for educational or recreational purposes.

(3) Dues or fees charged by an individual, group, club, partnership, corporation, or governmental entity sponsoring the educational or recreational use when (i) the sponsor is operating as a nonprofit or in a nonprofit capacity and (ii) the dues or fees are used to pay expenses relating to the educational or recreational use or to raise funds to support the sponsor's mission."

SECTION 3.5. G.S. 38A-4 reads as rewritten:

"§ **38A-4. Limitation of liability.**

(a) Except as specifically recognized by or provided for in this Chapter, an owner of land who either directly or indirectly invites or permits without charge any person to use such land for educational or recreational purposes owes the person the same duty of care that he owes a trespasser, except nothing in this Chapter shall be construed to limit or nullify the doctrine of attractive nuisance and the owner shall inform direct invitees of artificial or unusual hazards of which the owner has actual knowledge. This section does not apply to an owner who invites or permits any person to use land for a purpose for which the land is regularly used and for which a price or fee is usually charged even if it is not charged in that instance, or to an owner whose purpose in extending an invitation or granting permission is to promote a commercial enterprise.

(b) Nothing in this section shall be construed to conflict with or render ineffectual a liability release, indemnification, assumption, or acknowledgment of risk agreement between the landowner and a person who uses the land for educational or recreational purposes."

SECTION 4. G.S. 99E-31 reads as rewritten:

"§ **99E-31. Liability.**

(a) Except as provided in subsection (b) of this section, an agritourism professional is not liable for injury to or death of a participant resulting from the inherent risks of agritourism activities, so long as the warning contained in G.S. 99E-32 is posted as required and, except as provided in subsection (b) of this section, no participant or participant's representative can maintain an action against or recover from an agritourism professional for injury, loss, damage, or death of the participant resulting exclusively from any of the inherent risks of agritourism activities. In any action for damages against an agritourism professional for agritourism activity, the agritourism professional must plead the affirmative defense of assumption of the risk of agritourism activity by the participant.

(b) Nothing in subsection (a) of this section prevents or limits the liability of an agritourism professional if the agritourism professional does any one or more of the following:

(1) Commits an act or omission that constitutes ~~negligence or~~ willful or wanton disregard for the safety of the participant, and that act or omission proximately causes injury, damage, or death to the participant.

(2) Has actual knowledge or reasonably should have known of ~~a~~an existing dangerous condition on the land, facilities, or equipment used in the activity or the dangerous propensity of a particular animal used in such activity and does not make the danger known to the participant, and the danger proximately causes injury, damage, or death to the participant.

(c) Nothing in subsection (a) of this section prevents or limits the liability of an agritourism professional under liability provisions as set forth in Chapter 99B of the General Statutes.

(d) Any limitation on legal liability afforded by this section to an agritourism professional is in addition to any other limitations of legal liability otherwise provided by law."

PART IV. ALLOW THE COMMISSIONER OF AGRICULTURE TO ASSESS NONMONETARY PENALTIES TO ADDRESS VIOLATIONS WHEN APPROPRIATE

SECTION 5. Chapter 106 of the General Statutes is amended by adding a new section to read:

"**§ 106-22.6. Exercise of enforcement powers.**

When any board, commission, or official within the North Carolina Department of Agriculture and Consumer Services has the authority to assess civil penalties, such authority shall not be construed to require the issuance of a monetary penalty when the board, commission, or official determines that nonmonetary sanctions, education, or training are sufficient to address the underlying violation."

PART V. DECREASE THE FREQUENCY OF THE AGRICULTURAL WATER USE SURVEY

SECTION 6. G.S. 106-24 reads as rewritten:

"§ **106-24. Collection and publication of information relating to agriculture; cooperation.**

(a) The Department of Agriculture and Consumer Services shall collect, compile, systematize, tabulate, and publish statistical information relating to agriculture. The Department is authorized to use sample surveys to collect primary data relating to agriculture. The Department is authorized to cooperate with the United States Department of Agriculture and the several boards of county commissioners of the State, to accomplish the purpose of this Part.

(b) The Department of Agriculture and Consumer Services shall ~~annually~~biennially collect information on water use by persons who withdraw 10,000 gallons per day or more of water from the surface or groundwater sources of the State for activities directly related or incidental to the production of crops, fruits, vegetables, ornamental and flowering plants, dairy products, livestock, poultry, and other agricultural products. The information shall be collected

by survey conducted pursuant to subsection (a) of this section and in accordance with Title 7 United States Code Section 2276 (Confidential Information Protection and Statistical Efficiency Act). The Department shall develop the survey form in consultation with the Department of Environment and Natural Resources. The Department shall report the results of the water use survey to the Environmental Review Commission no later than July 1 of each year in which the survey was collected and shall provide a copy of the report to the Department of Environment and Natural Resources. The report shall include recommendations about modifications to the survey, including changes in the gallons per day threshold for water use data collection. The report shall provide agricultural water use data by county. If the county is located in more than one river basin, the report shall separate the county data to show agricultural water use by river basin within the county. If publication of county or watershed data would result in disclosure of an individual operation's water use, the data will be combined with data from another county or watershed."

PART VI. LIMIT THE PERSONALLY IDENTIFYING INFORMATION THAT THE DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES MAY DISCLOSE ABOUT ITS ANIMAL HEALTH PROGRAMS

SECTION 7. G.S. 106-24.1 reads as rewritten:

"§ **106-24.1. Confidentiality of information collected and published.**

All information published by the Department of Agriculture and Consumer Services pursuant to this Part shall be classified so as to prevent the identification of information received from individual farm operators. All information received pursuant to this Part from individual farm operators shall be held confidential by the Department and its employees. ~~Information~~All information collected by the Department from individual farm operators for the purposes of its animal health ~~programs may be disclosed by the State Veterinarian when, in his judgment, the disclosure will assist in the implementation of these programs. Animal disease diagnostic tests that identify the owner of the animal~~ programs, including, but not limited to, certificates of veterinary inspection, animal medical records, laboratory reports, or other records that may be used to identify a person or private business entity subject to regulation by the Department shall not be disclosed without the permission of the owner unless the State Veterinarian determines that disclosure is necessary to prevent the spread of an animal disease or to protect the public ~~health.~~health, or the disclosure is necessary in the implementation of these animal health programs."

PART VII. MAKE CONFORMING CHANGES TO THE NAME OF THE STRUCTURAL PEST CONTROL AND PESTICIDES DIVISION AND CLARIFY THE RESPONSIBILITIES OF THE DIVISION

SECTION 8. G.S. 106-65.23 reads as rewritten:

"§ **106-65.23. Structural Pest Control and Pesticides Division of Department of Agriculture and Consumer Services recreated; Director; powers and duties of Commissioner; Structural Pest Control Committee created; appointment; terms; powers and duties; quorum.**

(a) There is recreated, within the North Carolina Department of Agriculture and Consumer Services, a Division to be known as the Structural Pest Control and Pesticides Division. The Commissioner of Agriculture may appoint a Director of the Division, chosen from a list of nominees submitted to him or her by the Structural Pest Control Committee created in this section, whose duties and authority shall be determined by the Commissioner in consultation with the Committee. The Director shall be responsible for and answerable to the Commissioner of Agriculture and the Structural Pest Control Committee as to the operation and conduct of the Structural Pest Control and Pesticides Division. The Director shall act as secretary to the Structural Pest Control Committee.

(b) The Commissioner shall have the following powers and duties under this Article:

(1) To administer and enforce the provisions of this Article and the rules adopted thereunder by the Structural Pest Control Committee. In order to carry out these powers and duties, the Commissioner may delegate to the Director of the Structural Pest Control and Pesticides Division the powers and duties assigned to him or her under this Article.

(2) To assign the administrative and enforcement duties assigned to him or her in this Article.

(3) To direct, in consultation with the Structural Pest Control Committee, the work of the personnel employed by the Structural Pest Control Committee and the work of the personnel of the Department assigned to perform the administrative and enforcement functions of this Article.

(4) To develop, for the Structural Pest Control Committee's consideration for adoption, proposed rules, policies, new programs, and revisions of existing programs under this Article.

(5) To monitor existing enforcement programs and to provide evaluations of these programs to the Structural Pest Control Committee.

(6) To attend all meetings of the Structural Pest Control Committee, but without the power to vote unless the Commissioner attends as the designee on the Committee from the Department of Agriculture and Consumer Services.

(7) To keep an accurate and complete record of all meetings of the Structural Pest Control Committee and to have legal custody of all books, papers, documents, and other records of the Committee.

(8) To perform such other duties as may be assigned to him or her by the Structural Pest Control Committee.

…

(d) The Structural Pest Control Committee shall have the following powers and duties:

(1) To adopt rules and make policies as provided in this Article.

(2) To issue, deny, suspend, revoke, modify, or restrict licenses, certified applicator cards, and registered technician cards under the provisions of this Article. In all matters affecting licensure, the decision of the Committee shall constitute the final agency decision.

~~(3) To report annually to the Board of Agriculture the action taken in the Committee's final decisions and the financial status of the Structural Pest Control Division.~~

…."

SECTION 9. G.S. 106-65.24 reads as rewritten:

"§ **106-65.24. Definitions.**

As used in this Article:

…

(8a) "Director" means the Director of the Structural Pest Control and Pesticides Division of the Department of Agriculture and Consumer Services.

…

(9a) "Enforcement agency" means the Structural Pest Control and Pesticides Division of the Department of Agriculture and Consumer Services.

…

(19a) "Registered technician" means any individual who is required to be registered with the Structural Pest Control and Pesticides Division under G.S. 106-65.31.

…."

SECTION 10. G.S. 106-65.30 reads as rewritten:

"§ **106-65.30. Inspectors; inspections and reports of violations; designation of resident agent.**

…

(c) The Commissioner shall have authority to appoint personnel of the Structural Pest Control and Pesticides Division as special inspectors and said special inspectors are hereby vested with the authority to arrest with a warrant, or to arrest without a warrant when a violation of this Article is being committed in their presence or they have reasonable grounds to believe that a violation of this Article is being committed in their presence. Said special inspectors shall take offenders before the several courts of this State for prosecution or other proceedings. The provisions of this section do not apply to any person holding a valid structural pest control license, or a certified applicator's identification card, or a registered technician's identification card as issued under the provisions of this Article. Special inspectors shall not be entitled to the benefits of the Law Enforcement Officers' Benefit and Retirement Fund or the benefits of the Law Enforcement Officers' and Others Death Benefit Act as provided for in Articles 12 and 12A of Chapter 143 of the General Statutes, respectively."

PART VIII. AMEND CERTAIN EGG LABELING REQUIREMENTS

SECTION 11. G.S. 106-245.20 reads as rewritten:

"§ **106-245.20. Advertisements.**

No person shall advertise eggs for sale at a given price unless the unabbreviated grade or quality and size-weight are conspicuously designated in block letters at least half as high as the tallest letter in the word "eggs" or the tallest figure in the price, whichever is larger. The provisions of this section shall not apply to retailers who (i) display egg prices in the same manner as other products sold by the retailer at the retail establishment, excluding any items on sale or subject to a promotion, and (ii) comply with G.S. 106-245.15."

PART IX. REPEAL THE INTERSTATE PEST CONTROL COMPACT AND CERTAIN CLEANLINESS STANDARDS FOR CREAMERIES, AND DAIRY FACILITIES THAT ARE ADDRESSED BY THE NC FOOD, DRUG, AND COSMETIC ACT

SECTION 12. Article 4E of Chapter 106 of the General Statutes is repealed.

SECTION 13. G.S. 106-246 is repealed.

SECTION 14. G.S. 106-248 is repealed.

PART X. CHANGE SETBACK DISTANCES AND BURN TIMES FOR FLAMMABLE MATERIALS RESULTING FROM GROUND CLEARING ACTIVITIES

SECTION 15. G.S. 106-942 reads as rewritten:

"§ **106-942. High hazard counties; permits required; standards.**

…

(c) It is unlawful for any person to willfully burn any debris, stumps, brush or other flammable materials resulting from ground clearing activities and involving more than five contiguous acres, regardless of the proximity of the burning to woodland and on which such materials are placed in piles or windrows without first having obtained a special permit from the Department. Areas less than five acres in size will require a regular permit in accordance with G.S. 106-942(b).

…

(2) The location of the burning must be at least ~~1,000~~500 feet from any dwelling or structure located in a predominately residential area other than a dwelling or structure located on the property on which the burning is conducted unless permission is granted by the occupants.

…

(6) Initial burning may be commenced only between the hours of ~~9:00~~8:00 A.M. and ~~3:00~~4:00 P.M. and no combustible material may be added to the fire between ~~3:00~~4:00 P.M. on one day and ~~9:00~~8:00 A.M. on the following day, except that when favorable meteorological conditions exist, any forest ranger

authorized to issue the permit may authorize in writing a deviation from the restrictions."

PART XI. REPEAL THE STATE SULFUR CONTENT STANDARDS FOR GASOLINE

SECTION 16. G.S. 119-26.2 is repealed.

PART XII. EXEMPT FORESTRY AND SILVICULTURE OPERATIONS FROM TEMPORARY DRIVEWAY PERMITTING

SECTION 17. Article 7 of Chapter 136 of the General Statutes is amended by adding a new section to read:

"**§ 136-92.1. Exemption from temporary driveway permitting for forestry operations.**

Forestry operations and silviculture operations, including the harvesting of timber, and other related management activities that require temporary ingress from a property to State roads shall be exempt from the temporary driveway permit process of the Department for State roads, except for controlled access facilities, if the operator of the temporary driveway has attended an educational course on timbering access and obtained a safety certification. Driveway access points covered by this section shall be temporary and shall be removed upon the earlier of six months or the end of forestry or silviculture operations on the property."

PART XIII. EXEMPT CERTAIN STRUCTURES FROM THE SPRINKLER SYSTEM REQUIREMENTS OF THE NORTH CAROLINA BUILDING CODE AND ALLOW FARM BUILDINGS THAT ARE USED FOR PUBLIC OR PRIVATE EVENTS TO MAINTAIN THEIR FARM BUILDING STATUS FOR PURPOSES OF THE STATE BUILDING CODE

SECTION 18. G.S. 143-138, as amended by S.L. 2013-75, reads as rewritten:

"§ **143-138. North Carolina State Building Code.**

…

(b) Contents of the Code. – The North Carolina State Building Code, as adopted by the Building Code Council, may include reasonable and suitable classifications of buildings and structures, both as to use and occupancy; general building restrictions as to location, height, and floor areas; rules for the lighting and ventilation of buildings and structures; requirements concerning means of egress from buildings and structures; requirements concerning means of ingress in buildings and structures; rules governing construction and precautions to be taken during construction; rules as to permissible materials, loads, and stresses; rules governing chimneys, heating appliances, elevators, and other facilities connected with the buildings and structures; rules governing plumbing, heating, air conditioning for the purpose of comfort cooling by the lowering of temperature, and electrical systems; and such other reasonable rules pertaining to the construction of buildings and structures and the installation of particular facilities therein as may be found reasonably necessary for the protection of the occupants of the building or structure, its neighbors, and members of the public at large.

(b1) Fire Protection; Smoke Detectors. – The Code may regulate activities and conditions in buildings, structures, and premises that pose dangers of fire, explosion, or related hazards. Such fire prevention code provisions shall be considered the minimum standards necessary to preserve and protect public health and safety, subject to approval by the Council of more stringent provisions proposed by a municipality or county as provided in G.S. 143-138(e). These provisions may include regulations requiring the installation of either battery-operated or electrical smoke detectors in every dwelling unit used as rental property, regardless of the date of construction of the rental property. For dwelling units used as rental property constructed prior to 1975, smoke detectors shall have an Underwriters' Laboratories, Inc., listing or other equivalent national testing laboratory approval, and shall be installed in accordance with either the standard of the National Fire Protection Association or the minimum protection designated in the manufacturer's instructions, which the property owner shall retain or provide as proof of compliance.

(b2) Carbon Monoxide Detectors. – The Code may contain provisions requiring the installation of either battery-operated or electrical carbon monoxide detectors in every dwelling unit having a fossil-fuel burning heater, appliance, or fireplace, and in any dwelling unit having an attached garage. Carbon monoxide detectors shall be those listed by a nationally recognized testing laboratory that is OSHA-approved to test and certify to American National Standards Institute/Underwriters Laboratories Standards ANSI/UL2034 or ANSI/UL2075 and shall be installed in accordance with either the standard of the National Fire Protection Association or the minimum protection designated in the manufacturer's instructions, which the property owner shall retain or provide as proof of compliance. A carbon monoxide detector may be combined with smoke detectors if the combined detector does both of the following: (i) complies with ANSI/UL2034 or ANSI/UL2075 for carbon monoxide alarms and ANSI/UL217 for smoke detectors; and (ii) emits an alarm in a manner that clearly differentiates between detecting the presence of carbon monoxide and the presence of smoke.

(b3) Applicability of the Code. – Except as provided by subsections (b4) and (c1) of this section, the Code may contain provisions regulating every type of building or structure, wherever it might be situated in the State.

(b4) Exclusion for Certain Farm Buildings. – Building rules do not apply to (i) farm buildings that are located outside the building-rules jurisdiction of any municipality, (ii) farm buildings that are located inside the building-rules jurisdiction of any municipality if the farm buildings are greenhouses, (iii) a primitive camp, or (iv) a primitive farm building. For the purposes of this subsection:

(1) A "farm building" shall include any structure used or associated with equine activities, including, but not limited to, the care, management, boarding, or training of horses and the instruction and training of riders. Structures that are associated with equine activities include, but are not limited to, free standing or attached sheds, barns, or other structures that are utilized to store any equipment, tools, commodities, or other items that are maintained or used in conjunction with equine activities. The specific types of equine activities, structures, and uses set forth in this subdivision are for illustrative purposes, and should not be construed to limit, in any manner, the types of activities, structures, or uses that may be considered under this subsection as exempted from building rules. A farm building that might otherwise qualify for exemption from building rules shall remain subject only to an annual safety inspection by the applicable city or county building inspection department of any grandstand, bleachers, or other spectator-seating structures in the farm building. An annual safety inspection shall include an evaluation of the overall safety of spectator-seating structures as well as ensuring the spectator-seating structure's compliance with any building codes related to the construction of spectator-seating structures in effect at the time of the construction of the spectator-seating.

(2) A "greenhouse" is a structure that has a glass or plastic roof, has one or more glass or plastic walls, has an area over ninety-five percent (95%) of which is used to grow or cultivate plants, is built in accordance with the National Greenhouse Manufacturers Association Structural Design manual, and is not used for retail sales. Additional provisions addressing distinct life safety hazards shall be approved by the local building-rules jurisdiction.

(3) A "farm building" shall include any structure used for the display and sale of produce, no more than 1,000 square feet in size, open to the public for no more than 180 days per year, and certified by the Department of Agriculture and Consumer Services as a Certified Roadside Farm Market.

(4) A "primitive camp" shall include any structure primarily used or associated with outdoor camping activities, including structures used for educational, instructional, or recreational purposes for campers and for management

training, that are (i) not greater than 4,000 square feet in size and (ii) are not intended to be occupied for more than 24 hours consecutively. "Structures primarily used or associated with outdoor camping activities" include, but are not limited to, shelters, tree stands, outhouses, sheds, rustic cabins, campfire shelters, picnic shelters, tents, tepees or other indigenous huts, support buildings used only for administrative functions and not for activities involving campers or program participants, and any other structures that are utilized to store any equipment, tools, commodities, or other items that are maintained or used in conjunction with outdoor camping activities such as hiking, fishing, hunting, or nature appreciation, regardless of material used for construction. The specific types of primitive camping activities, structures, and uses set forth in this subdivision are for illustrative purposes and should not be construed to limit, in any manner, the types of activities, structures, or uses that are exempted from building rules.

(5) A "primitive farm building" shall include any structure used for activities, instruction, training, or reenactment of traditional or heritage farming practices. "Primitive farm buildings" include, but are not limited to, sheds, barns, outhouses, doghouses, or other structures that are utilized to store any equipment, tools, commodities, livestock, or other items supporting farm management. These specific types of farming activities, structures, and uses set forth by this subdivision are for illustrative purposes and should not be construed to limit in any manner the types of activities, structures, or uses that are exempted from building rules.

(6) A "farm building" shall not lose its status as a farm building because it is used for public or private events, including, but not limited to, weddings, receptions, meetings, demonstrations of farm activities, meals, and other events that are taking place on the farm because of its farm or rural setting.

(b5) Exclusion for Certain Minor Activities in Residential and Farm Structures. – No building permit shall be required under the Code or any local variance thereof approved under subsection (e) for any construction, installation, repair, replacement, or alteration costing five thousand dollars ($5,000) or less in any single family residence or farm building unless the work involves: the addition, repair, or replacement of load bearing structures; the addition (excluding replacement of same capacity) or change in the design of plumbing; the addition, replacement or change in the design of heating, air conditioning, or electrical wiring, devices, fixtures (excluding repair or replacement of electrical lighting devices and fixtures of the same type), appliances (excluding replacement of water heaters, provided that the energy use rate or thermal input is not greater than that of the water heater which is being replaced, and there is no change in fuel, energy source, location, capacity, or routing or sizing of venting and piping), or equipment, the use of materials not permitted by the North Carolina Uniform Residential Building Code; or the addition (excluding replacement of like grade of fire resistance) of roofing. The exclusions from building permit requirements set forth in this paragraph for electrical lighting devices and fixtures and water heaters shall apply only to work performed on a one- or two-family dwelling. In addition, exclusions for electrical lighting devices and fixtures and electric water heaters shall apply only to work performed by a person licensed under G.S. 87-43 and exclusions for water heaters, generally, to work performed by a person licensed under G.S. 87-21.

(b6) No State Agency Permit. – No building permit shall be required under such Code from any State agency for the construction of any building or structure, the total cost of which is less than twenty thousand dollars ($20,000), except public or institutional buildings.

(b7) Appendices. – For the information of users thereof, the Code shall include as appendices the following:

(1) Any rules governing boilers adopted by the Board of Boiler and Pressure Vessels Rules,
(2) Any rules relating to the safe operation of elevators adopted by the Commissioner of Labor, and
(3) Any rules relating to sanitation adopted by the Commission for Public Health which the Building Code Council believes pertinent.

~~(b7)~~ The Code may include references to such other rules of special types, such as those of the Medical Care Commission and the Department of Public Instruction as may be useful to persons using the Code. No rule issued by any agency other than the Building Code Council shall be construed as a part of the Code, nor supersede that Code, it being intended that they be presented with the Code for information only.

(b8) Exclusion for Certain Utilities. – Nothing in this Article shall extend to or be construed as being applicable to the regulation of the design, construction, location, installation, or operation of (1) equipment for storing, handling, transporting, and utilizing liquefied petroleum gases for fuel purposes or anhydrous ammonia or other liquid fertilizers, except for liquefied petroleum gas from the outlet of the first stage pressure regulator to and including each liquefied petroleum gas utilization device within a building or structure covered by the Code, or (2) equipment or facilities, other than buildings, of a public utility, as defined in G.S. 62-3, or an electric or telephone membership corporation, including without limitation poles, towers, and other structures supporting electric or communication lines.

(b9) Exclusion for Industrial Machinery. – Nothing in this Article shall extend to or be construed as being applicable to the regulation of the design, construction, location, installation, or operation of industrial machinery. However, if during the building code inspection process, an electrical inspector has any concerns about the electrical safety of a piece of industrial machinery, the electrical inspector may refer that concern to the Occupational Safety and Health Division in the North Carolina Department of Labor but shall not withhold the certificate of occupancy nor mandate third-party testing of the industrial machinery based solely on this concern. For the purposes of this paragraph, "industrial machinery" means equipment and machinery used in a system of operations for the explicit purpose of producing a product or acquired by a State-supported center providing testing, research, and development services to manufacturing clients. The term does not include equipment that is permanently attached to or a component part of a building and related to general building services such as ventilation, heating and cooling, plumbing, fire suppression or prevention, and general electrical transmission.

(b10) Replacement Water Heaters. – The Code may contain rules concerning minimum efficiency requirements for replacement water heaters, which shall consider reasonable availability from manufacturers to meet installation space requirements and may contain rules concerning energy efficiency that require all hot water plumbing pipes that are larger than one-fourth of an inch to be insulated.

(b11) School Seclusion Rooms. – No State, county, or local building code or regulation shall prohibit the use of special locking mechanisms for seclusion rooms in the public schools approved under G.S. 115C-391.1(e)(1)e., provided that the special locking mechanism shall be constructed so that it will engage only when a key, knob, handle, button, or other similar device is being held in position by a person, and provided further that, if the mechanism is electrically or electronically controlled, it automatically disengages when the building's fire alarm is activated. Upon release of the locking mechanism by a supervising adult, the door must be able to be opened readily.

(b12) Cisterns. – The Code may include rules pertaining to the construction or renovation of residential or commercial buildings and structures that permit the use of cisterns to provide water for flushing toilets and for outdoor irrigation. No State, county, or local building code or regulation shall prohibit the use of cisterns to provide water for flushing toilets and for outdoor irrigation. As used in this subsection, "cistern" means a storage tank that is watertight; has smooth interior surfaces and enclosed lids; is fabricated from nonreactive materials such as

reinforced concrete, galvanized steel, or plastic; is designed to collect rainfall from a catchment area; may be installed indoors or outdoors; and is located underground, at ground level, or on elevated stands.

(b13) Migrant Housing. – The Council shall provide for an exemption from any requirements in the fire prevention code for installation of an automatic sprinkler system applicable to buildings meeting all of the following:

(1) Has one floor.

(2) Meets all requirements of 29 C.F.R. § 1910.142, as amended.

(3) Meets all requirements of Article 19 of Chapter 95 of the General Statutes and rules implementing that Article.

For purposes of this subsection, "migrant housing" and "migrant" shall be defined as in G.S. 95-223.

…."

PART XIV. ALLOW RETAILERS TO DISPLAY MORE THAN 400 SQUARE FEET OF NURSERY STOCK FOR SALE IN THEIR PARKING LOTS

SECTION 19. G.S. 143-214.7(d1) is repealed.

PART XV. EXPAND THE AGRICULTURAL DAM EXEMPTION TO THE DAM SAFETY ACT

SECTION 20. G.S. 143-215.25A reads as rewritten:

"§ **143-215.25A. Exempt dams.**

(a) Except as otherwise provided in this Part, this Part does not apply to any dam:

(1) Constructed by the United States Army Corps of Engineers, the Tennessee Valley Authority, or another agency of the United States government, when the agency designed or approved plans for the dam and supervised its construction.

(2) Constructed with financial assistance from the United States ~~Soil~~Natural Resources Conservation Service, when that agency designed or approved plans for the dam and supervised its construction.

(3) Licensed by the Federal Energy Regulatory Commission, or for which a license application is pending with the Federal Energy Regulatory Commission.

(4) For use in connection with electric generating facilities regulated by the Nuclear Regulatory Commission.

(5) Under a single private ownership that provides protection only to land or other property under the same ownership and that does not pose a threat to human life or property below the dam.

(6) That is less than 25 feet in height or that has an impoundment capacity of less than 50 acre-feet, unless the Department determines that failure of the dam could result in loss of human life or significant damage to property below the dam.

(7) Constructed for and maintains the purpose of providing water for agricultural use, when a person who is licensed as a professional engineer or is employed by the Natural Resources Conservation Service, county, or local Soil and Water Conservation District, and has federal engineering job approval authority under Chapter 89C of the General Statutes designed or approved plans for the dam, supervised its construction, and registered the dam with the Division of Energy, Mineral, and Land Resources of the ~~Department.~~Department prior to construction of the dam. This exemption shall not apply to dams that are determined to be high-hazard by the Department.

…."

PART XVI. ALLOW A LANDOWNER TO WITHDRAW WATER FOR AGRICULTURAL USE DURING WATER SHORTAGE EMERGENCIES UNDER CERTAIN CONDITIONS

SECTION 21. G.S. 143-355.3 reads as rewritten:

"§ **143-355.3. Water shortage emergency powers.**

(a) Declaration of Water Shortage Emergency. – If, after consultation with the affected water system and the unit of local government with jurisdiction over the area served by the water system, the Secretary determines that the needs of human consumption, necessary sanitation, and public safety require emergency action, the Secretary shall provide the Governor with written findings setting out the basis for declaration of a water shortage emergency. The Governor shall have the authority to declare a water shortage emergency in the area affected by the water shortage emergency, which may include both the water system experiencing a water shortage emergency and the area served by a water system required under subdivision (1) of subsection (b) of this section to provide water in response to the water shortage emergency. No emergency period shall exceed 30 days, but the Governor may declare successive emergencies based upon the written findings of the Secretary.

…

(f) Nothing in this section shall limit a landowner from withdrawing water for use in agricultural activities, as described in G.S. 106-581.1, when the water is withdrawn from any of the following:

(1) Surface water sources located wholly on the landowner's property, including, but not limited to, impoundments constructed by or owned by the landowner and captured stormwater.

(2) Groundwater sources, including, but not limited to, wells constructed on the landowner's property, springs, and artesian wells. This subsection shall not apply if the Governor determines that withdrawal of water from a groundwater source is causing negative impacts to groundwater sources not located on the landowner's property, including the diminution of water available from neighboring groundwater sources or saltwater intrusion into neighboring groundwater sources."

PART XVII. DIRECT THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES AND THE DEPARTMENT OF TRANSPORTATION TO JOINTLY PETITION THE WILMINGTON DISTRICT OF THE UNITED STATES ARMY CORPS OF ENGINEERS TO ALLOW FOR GREATER FLEXIBILITY AND OPPORTUNITY TO PERFORM STREAM AND WETLANDS MITIGATION BEYOND THE IMMEDIATE WATERSHED WHERE DEVELOPMENT WILL OCCUR

SECTION 22.1. No later than October 1, 2013, the Department of Environment and Natural Resources and the Department of Transportation shall jointly petition the Wilmington District of the United States Army Corps of Engineers (Wilmington District) to allow for greater flexibility and opportunity to perform stream and wetlands mitigation outside of the eight-digit Hydrologic Unit Code (HUC) where development will occur. The Departments shall seek this greater flexibility and opportunity for mitigation for both public and private development. The Departments shall request that the Wilmington District review the flexibility and opportunities for mitigation allowed by other Districts of the United States Army Corps of Engineers.

SECTION 22.2. The Departments shall jointly report on their progress in petitioning the Wilmington District as required by Section 22.1 of this act to the Environmental Review Commission no later than January 1, 2014.

PART XVIII. ACCELERATE SUNSET DATE OF PETROLEUM DISPLACEMENT PLAN AS A RESULT OF THE STATE HAVING SUBSTANTIALLY ACHIEVED ITS TWENTY PERCENT REDUCTION GOAL OF THE USE OF PETROLEUM PRODUCTS

SECTION 23. Section 19.5(a) of S.L. 2005-276, as amended by Section 14.14(a) of S.L. 2009-451 and Section 14.2B(a) of S.L. 2011-145, reads as rewritten:

"**SECTION 19.5.(a)** All State agencies, universities, and community colleges that have State-owned vehicle fleets shall continue to ~~develop and~~ implement petroleum displacement plans to improve the State's use of alternative fuels, synthetic lubricants, and efficient vehicles. ~~The plans shall achieve a twenty percent (20%) reduction or displacement of the current petroleum products consumed by July 1, 2016. Before implementation of any plan, all affected agencies shall report their plan to the State Energy Office within the Department of Commerce. The State Energy Office shall compile a report on the plans submitted and report to the Joint Legislative Commission on Governmental Operations. Agencies shall implement their plans by January 1, 2006. Reductions may be met by petroleum or oils displaced through~~ Such efforts shall include the use of biodiesel, ethanol, synthetic oils or lubricants, and other alternative ~~fuels,~~ fuels; the use of hybrid electric ~~vehicles,~~vehicles or other fuel-efficient or low-emission ~~vehicles, or additional methods as may be approved by the State Energy Office, thereby reducing the amount of harmful emissions. The plan shall not impede mission fulfillment of the agency and shall specifically address a long-term cost-benefit analysis, allowances for changes in vehicle usage, total miles driven, and exceptions due to technology, budgetary limitations, and emergencies.~~vehicles; and the use of advanced technology to manage and reduce the consumption of petroleum products. No State agency, university, or community college shall alter its petroleum displacement plan in a way that increases the amount of petroleum products consumed."

PART XIX. EFFECTIVE DATE

SECTION 24. Sections 2, 3, and 4 of this act become effective August 1, 2013, and apply to claims arising on or after that date. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 9th day of July, 2013.

Became law upon approval of the Governor at 4:11 p.m. on the 17th day of July, 2013.

Session Law 2013-266 **H.B. 192**

AN ACT TO PERMIT LOCAL GOVERNMENTS TO ENACT SIDEWALK DINING ORDINANCES FOR USE OF STATE-OWNED RIGHT-OF-WAY.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 136-18(9) reads as rewritten:

"(9) To employ appropriate means for properly selecting, planting and protecting trees, shrubs, vines, grasses or legumes in the highway right-of-way in the promotion of erosion control, landscaping and general protection of said highways; to acquire by gift or otherwise land for and to construct, operate and maintain roadside parks, picnic areas, picnic tables, scenic overlooks and other appropriate turnouts for the safety and convenience of highway users; and to cooperate with municipal or county authorities, federal agencies, civic bodies and individuals in the furtherance of those objectives. None of the roadside parks, picnic areas, picnic tables, scenic overlooks or other turnouts, or any part of the highway right-of-way shall be used for commercial purposes except ~~(i) for~~ for any of the following:

a. ~~materials~~ Materials displayed in welcome centers in accordance with ~~G.S. 136-89.56, and (ii) for~~ G.S. 136-89.56.

b. ~~vending~~ Vending machines permitted by the Department of Transportation and placed by the Division of Services for the Blind, Department of Health and Human Services, as the State licensing agency designated pursuant to Section 2(a)(5) of the Randolph-Sheppard Act (20 USC 107a(a)(5)). The Department of Transportation shall regulate the placing of the vending machines in highway rest areas and shall regulate the articles to be dispensed. ~~Every other use or attempted use of any of these areas for commercial purposes shall constitute a Class 1 misdemeanor and each day's use shall constitute a separate offense.~~

c. Activities permitted by a local government pursuant to an ordinance meeting the requirements of G.S. 136-27.4.

Every other use or attempted use of any of these areas for commercial purposes shall constitute a Class 1 misdemeanor, and each day's use shall constitute a separate offense."

SECTION 2. Article 2 of Chapter 136 of the General Statutes is amended by adding a new section to read:

"**§ 136-27.4. Use of certain right-of-way for sidewalk dining.**

(a) The Department may enter into an agreement with any local government permitting use of the State right-of-way associated with components of the State highway system and located within the zoning jurisdiction of the local government for sidewalk dining activities. For purposes of this section, "sidewalk dining activities" means serving food and beverages from a restaurant abutting State right-of-way to customers seated in the State right-of-way. The agreement between the Department and the local government shall provide that the local government is granted the administrative right to permit sidewalk dining activities that, at a minimum, comply with all of the following requirements and conditions:

(1) Tables, chairs, and other furnishings shall be placed a minimum of six feet from any travel lane.

(2) Tables, chairs, and other furnishings shall be placed in such a manner that at least five feet of unobstructed paved space of the sidewalk, measured from any permanent or semi-permanent object, remains clear for the passage of pedestrians and provides adequate passing space that complies with the Americans with Disabilities Act.

(3) Tables, chairs, and other furnishings shall not obstruct any driveway, alleyway, building entrance or exit, emergency entrance or exit, fire hydrant or standpipe, utility access, ventilations areas, or ramps necessary to meet accessibility requirements under the Americans with Disabilities Act.

(4) The maximum posted speed permitted on the roadway adjacent to the right-of-way to be used for sidewalk dining activities shall not be greater than 45 miles per hour.

(5) The restaurant operator shall provide evidence of adequate liability insurance in an amount satisfactory to the local government, but in no event in an amount less than the amount specified by the local government under G.S. 160A-485 as the limit of the local government's waiver of immunity or the amount of Tort Claim liability specified in G.S. 143-299.2, whichever is greater. The insurance shall protect and name the Department and the local government as additional insureds on any policies covering the business and the sidewalk activities.

(6) The restaurant operator shall provide an agreement to indemnify and hold harmless the Department or the local government from any claim resulting from the operation of sidewalk dining activities.

(7) The restaurant operator shall provide a copy of all permits and licenses issued by the State, county or city, including health and ABC permits, if any, necessary for the operation of the restaurant or business, or a copy of the application for the permit if no permit has been issued. This requirement includes any permits or certificates issued by the county or city for exterior alterations or improvements to the restaurant.

(8) The restaurant operator shall cease part or all sidewalk dining activities in order to allow construction, maintenance, or repair of any street, sidewalk, utility, or public building, by the Department, the local government, its agents or employees, or by any other governmental entity or public utility.

(9) Any other requirements deemed necessary by the Department, either for a particular local government or a particular component of the State highway system.

A local government given the administrative right to permit sidewalk dining activities under this section may impose additional requirements on a case-by-case basis, and nothing in this section requires the local government to issue or maintain any permit for sidewalk dining activities if, in the opinion of the local government, such activities cannot be conducted in a safe manner. Nothing in this section requires the Department to give a local government the right to establish a permit program for sidewalk dining activities if, in the opinion of the Department, such activities cannot be conducted in a safe manner.

(b) A municipality applying to the Department for administrative rights under this section shall:

(1) Enact an ordinance consistent with, but not necessarily limited to, the requirements of this section.

(2) For applications along a federal-aid route or where the laws of the United States otherwise require, obtain permission from the Federal Highway Administration to permit the right-of-way to be used for the sidewalk dining."

SECTION 3. This act shall not preempt or override local ordinances currently in place.

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

In the General Assembly read three times and ratified this the 10th day of July, 2013.

Became law upon approval of the Governor at 4:22 p.m. on the 17th day of July, 2013.

Session Law 2013-267 **H.B. 110**

AN ACT TO PROVIDE FOR FAIR AND OPEN COMPETITION IN GOVERNMENTAL CONSTRUCTION CONTRACTS AND TO PROHIBIT REQUIREMENTS FOR CERTAIN TERMS IN GOVERNMENT CONTRACTS.

The General Assembly of North Carolina enacts:

SECTION 1. Article 8 of Chapter 143 of the General Statutes is amended by adding a new section to read as follows:

"**§ 143-133.5. Public contracts; labor organizations.**

(a) It is the intent of the General Assembly that the provisions of this section will provide for more economical, nondiscriminatory, neutral, and efficient procurement of construction-related services by the State and political subdivisions of the State as market participants. The General Assembly finds that providing for fair and open competition best effectuates this intent.

(b) Every officer, board, department, commission, or commissions charged with the responsibility of preparation of specifications or awarding or entering into contracts for the erection, construction, alteration, or repair of any buildings for the State, or for any county,

municipality, or other public body subject to this Article shall not in any bid specifications, project agreements, or other controlling documents:

(1) Require or prohibit a bidder, offeror, contractor, or subcontractor from adhering to an agreement with one or more labor organizations in regard to that project or a related construction project.

(2) Otherwise discriminate against a bidder, offeror, contractor, or subcontractor for becoming, remaining, refusing to become or remain a signatory to, or for adhering or refusing to adhere to an agreement with one or more labor organizations in regard to that project or a related construction project.

(c) No officer, board, department, commission, or commissions charged with the responsibility of awarding grants or tax incentives, or any county, municipality, or other public body in the award of grants or tax incentives, may award a grant or tax incentive that is conditioned upon a requirement that the awardee include a term described in subsection (b) of this section in a contract document for any construction, improvement, maintenance, or renovation to real property or fixtures that are the subject of the grant or tax incentive.

(d) This section does not prohibit any officer, board, department, commission, or commissions or any county, municipality, or other public body from awarding a contract, grant, or tax incentive to a private owner, bidder, contractor, or subcontractor who enters into or who is party to an agreement with a labor organization if being or becoming a party or adhering to an agreement with a labor organization is not a condition for award of the contract, grant, or tax incentive, and if the State agent, employee, or board or the political subdivision does not discriminate against a private owner, bidder, contractor, or subcontractor in the awarding of that contract, grant, or tax incentive based upon the person's status as being or becoming, or the willingness or refusal to become, a party to an agreement with a labor organization.

(e) This section does not prohibit a contractor or subcontractor from voluntarily entering into or complying with an agreement entered into with one or more labor organizations in regard to a contract with the State or a political subdivision of the State or funded in whole or in part from a grant or tax incentive from the State or political subdivision.

(f) The State or the governing body of a political subdivision may exempt a particular project, contract, subcontract, grant, or tax incentive from the requirements of any or all of the provisions of subsection (b) or (c) of this section if the State or governing body of the political subdivision finds, after public notice and a hearing, that special circumstances require an exemption to avert a significant, documentable threat to public health or safety. A finding of special circumstances under this section shall not be based on the possibility or presence of a labor dispute concerning the use of contractors or subcontractors who are nonsignatories to, or otherwise do not adhere to, agreements with one or more labor organizations, or concerning employees on the project who are not members of or affiliated with a labor organization.

(g) This section does not do either of the following:

(1) Prohibit employers or other parties from entering into agreements or engaging in any other activity protected by the National Labor Relations Act, 29 U.S.C. §§ 151 to 169.

(2) Interfere with labor relations of parties that are left unregulated under the National Labor Relations Act, 29 U.S.C. §§ 151 to 169."

SECTION 2. This act becomes effective October 1, 2013, and applies to all contracts awarded on or after that date.

In the General Assembly read three times and ratified this the 9th day of July, 2013.

Became law upon approval of the Governor at 4:27 p.m. on the 17th day of July, 2013.

Session Law 2013-268 **H.B. 767**

AN ACT ENACTING THE CORPORAL PRUITT RAINEY BRASS TO CLASS ACT, WHICH DIRECTS THE STATE BOARD OF EDUCATION TO ESTABLISH RULES FOR AWARDING CREDIT FOR PRIOR WORK EXPERIENCE GIVEN TO CERTAIN VETERANS FOR THE PURPOSE OF PLACING THEM ON STATE SALARY SCHEDULES.

Whereas, formal education and training for both officers and enlisted ranks includes a tremendous breadth and depth of credentialed, technical, and vocational training, which is applied operationally for years with additional follow-up support and continuing education; and

Whereas, in addition to technical and vocational training, many military members who spend more than one tour and certainly multiple tours in uniform take one or several professional military education courses of study; and

Whereas, select members of the military complete unique, rigorous programs that are the envy of some of the best graduate and postgraduate institutions in the United States, and these professional military education programs are college programs and certainly worthy of credit;

Whereas Corporal Pruitt Rainey, North Carolina native and star high school wrestler, served during Operation Enduring Freedom and wished to become a physical education teacher and wrestling coach but was killed in action at the age of 22 on July 13, 2008, in the Battle of Wanat, Afghanistan; this act is named in his memory; Now, therefore,

The General Assembly of North Carolina enacts:

SECTION 1. The State Board of Education shall establish rules for awarding credit for salary purposes to principals, assistant principals, and teachers who served in the Armed Forces of the United States and who have retired or who have received an Honorable Discharge. The rules shall include the following provisions:

(1) One full year of experience credit shall be awarded for each year of full-time relevant nonteaching work experience completed (i) while on active military duty in the Armed Forces of the United States and (ii) after earning a bachelor's degree.

(2) One full year of experience credit shall be awarded for each two years of full-time relevant nonteaching work experience completed (i) while on active duty in the Armed Forces of the United States and (ii) before earning a bachelor's degree.

(3) One full year of experience credit shall be awarded for every two years of full-time instructional or leadership duties while on active military duty in the Armed Forces of the United States, regardless of academic degree held while in instruction or leadership roles.

SECTION 2. The State Board of Education shall establish specific criteria within the rules for determining the relevance of nonteaching work experience earned while on active military duty that shall be credited toward an individual's total licensure experience rating for salary purposes. The criteria shall include the following components:

(1) A clearly defined process to explore, identify, recognize, and quantify the breadth and depth of career experiences, formal professional military education, and pertinent credentials of military veterans.

(2) A transparent and timely decision-making process for awarding complete credit for pertinent experience and education.

(3) A process for reviewing and accepting military transcripts and corresponding American Council on Education (ACE) recommendations for awarding academic and experiential credit.

SECTION 3. The State Board shall have continuing authority to cap nonteaching experience credit for Junior Reserve Officer Training Corps instructors as their pay formula includes both a State and federal funding component.

SECTION 4. The State Board of Education shall report to the Joint Legislative Education Oversight Committee by February 28, 2014, on the rules drafted to implement this act.

SECTION 5. This act is effective when it becomes law and applies to military veterans initially employed by local school administrative units in the 2014-2015 school year and beyond.

In the General Assembly read three times and ratified this the 10th day of July, 2013.

Became law upon approval of the Governor at 4:31 p.m. on the 17th day of July, 2013.

Session Law 2013-269 **S.B. 229**

AN ACT TO AUTHORIZE THE TOWN OF OCEAN ISLE BEACH TO CREATE A SEA TURTLE SANCTUARY AND TO EXCHANGE A PARCEL OF REAL PROPERTY FOR SERVICES.

The General Assembly of North Carolina enacts:

SECTION 1. The Town of Ocean Isle Beach may create and establish a sea turtle sanctuary within the areas of the town limits above the mean low watermark, to include the foreshore. Any ordinance adopted by the town to regulate activities within the sea turtle sanctuary which may or will disturb or destroy a sea turtle, a sea turtle nest, or sea turtle eggs must be consistent with the ordinance powers found in G.S. 160A-174, G.S. 160A-308, and any other law. The ordinance adopted by the town may by cross-reference incorporate the criminal statutes regarding the taking of sea turtles in G.S. 113-189 and G.S. 113-337. It shall be unlawful for any person within the sea turtle sanctuary to disturb or destroy a sea turtle, a sea turtle nest, or sea turtle eggs in violation of an ordinance adopted by the Town of Ocean Isle Beach.

SECTION 2.(a) G.S. 160A-266(a) reads as rewritten:

"(a) Subject to the limitations prescribed in subsection (b) of this section, and according to the procedures prescribed in this Article, a city may dispose of real or personal property belonging to the city by:

(1) Private negotiation and sale;
(2) Advertisement for sealed bids;
(3) Negotiated offer, advertisement, and upset bid;
(4) Public auction; or
(5) ~~Exchange.~~Exchange for other real or personal property or for services."

SECTION 2.(b) G.S. 160A-271 reads as rewritten:

"§ **160A-271. Exchange of property.**

A city may exchange any real or personal property belonging to the city for other real or personal property by private ~~negotiation~~negotiation, or for services by private negotiation, if the city receives a full and fair consideration in exchange for its property. A city may also exchange facilities of a city-owned enterprise for like facilities located within or outside the corporate limits. Property shall be exchanged only pursuant to a resolution authorizing the exchange adopted at a regular meeting of the council upon 10 days' public notice. Notice shall be given by publication describing the properties to be exchanged, stating the value of the properties and other consideration changing hands, and announcing the council's intent to authorize the exchange at its next regular meeting."

SECTION 3. This act applies to the Town of Ocean Isle Beach only.

SECTION 4. Section 1 of this act is effective when it becomes law. Section 2 of this act is effective when it becomes law and applies only to land used for the construction and

exchange of an Alcoholic Beverage Control building. Section 2 of this act expires on July 1, 2018.

In the General Assembly read three times and ratified this the 18th day of July, 2013.
Became law on the date it was ratified.

Session Law 2013-270 **S.B. 288**

AN ACT CONCERNING FILLING OF VACANCIES ON THE BOARD OF COMMISSIONERS OF WAKE COUNTY AND ESTABLISHING A DOMESTIC VIOLENCE FATALITY PREVENTION AND PROTECTION REVIEW TEAM IN WAKE COUNTY AND TO PERMIT MULTIFAMILY DEVELOPMENT ON CERTAIN PARCELS IN THE TOWN OF ABERDEEN.

The General Assembly of North Carolina enacts:

SECTION 1. Article 4 of Chapter 153A of the General Statutes is amended by adding a new section to read:

"**§ 153A-27.2. Vacancies on the board of commissioners in certain counties.**

(a) This section applies to Wake County only, which is not subject to G.S. 153A-27.

(b) If a vacancy occurs on the board of commissioners, the remaining members of the board shall appoint a qualified person to fill the vacancy. If the vacating member was elected as the nominee of a political party, the board of commissioners shall consult the county executive committee of that party before filling the vacancy. The board shall vote on that nomination within 30 days of its submission, and, if it is not approved, the board shall request that county executive committee to submit another name. The board shall vote on that second nomination within 30 days of its submission, and, if it is not approved, the board may appoint any person eligible under subsection (d) of this section. If the remaining board members are unable to fill the vacancy within 30 days of the failure to approve the second nomination and the vacating member was elected as the nominee of a political party, a special primary election shall be called under subsection (e) of this section.

(c) If the vacancy occurs later than 90 days before the general election held after the first two years of the term, the appointment to fill the vacancy is for the remainder of the unexpired term. Otherwise, the term of the person appointed to fill the vacancy extends to the first Monday in December next following the first general election held more than 90 days after the day the vacancy occurs; at that general election, a person shall be elected to the seat vacated for the remainder of the unexpired term.

(d) To be eligible for appointment to fill a vacancy, a person must (i) be a member of the same political party as the member being replaced if that member was elected as the nominee of a political party and (ii) be a resident of the same district as the member being replaced if the county is divided into electoral districts.

(e) If a special primary election is required under subsection (b) of this section, the county board of commissioners shall call that special primary election for the purpose of allowing the members of the party with which the vacating member was affiliated when elected to make a recommendation. The special primary election shall be conducted in accordance with Article 10 of Chapter 163 of the General Statutes, except that the county board of elections may, with the approval of the State Board of Elections, set deadlines for filing notices of candidacy and for absentee voting in the special primary election. The date of the special primary election shall be set by the county board of commissioners, but the date shall be governed by G.S. 163-287. Only persons who are affiliated with the party may vote, except that if the party has allowed unaffiliated voters to participate in primary elections of that party under G.S. 163-119 then unaffiliated voters may also participate. No such special primary shall be held, however, if (i) less than 120 days remain in the term of office or (ii) if the vacancy is being filled for the remainder of the term at the mid-term election under subsection (c) of this section and less than 120 days remain until the date of that election. The county board of

commissioners shall immediately upon the certification of the primary returns appoint the winner to serve until the first Monday in December following the next general election which occurs after the date of the vacancy. This subsection applies only if the vacating member was elected as the nominee of a political party.

(f) If the number of vacancies on the board is such that a quorum of the board cannot be obtained for any action under this section, the chairman of the board shall appoint enough members to make up a quorum. If the number of vacancies on the board is such that a quorum of the board cannot be obtained and the office of chairman is vacant, the clerk of superior court of the county shall fill the vacancies upon the request of any remaining member of the board or upon the petition of any registered voters of the county."

SECTION 2.(a) Section 5 of S.L. 2009-52, as amended by S.L. 2013-70, reads as rewritten:

"**SECTION 5.** This act applies to Alamance County, Pitt County, ~~and~~ Mecklenburg ~~County.~~County, and Wake County."

SECTION 2.(b) Section 5 of S.L. 2013-70 reads as rewritten:

"**SECTION 5.** This act applies to the following counties: Alamance, Pitt, ~~and Mecklenburg.~~Mecklenburg, and Wake."

SECTION 3.(a) Notwithstanding Article 19 of Chapter 160A of the General Statutes or any zoning, occupancy, or other ordinance or statute to the contrary, multifamily development, including apartments, is permitted on the following described properties in the Town of Aberdeen:

TRACT I: lying and being in Sandhills Township, Moore County, North Carolina, and BEING all of that lot, tract, or parcel of land, containing 4.25 acres, as recorded in Deed Book 1059, at Page 267, in the Moore County Registry, reference to which is hereby made for a more complete and accurate description of the aforesaid tract.

TRACT II: lying and being in Sandhills Township, Moore County, North Carolina, and BEING all of that lot, tract, or parcel of land, containing 0.49 acres, as recorded in Deed Book 980, at Page 295, in the Moore County Registry, reference to which is hereby made for a more complete and accurate description of the aforesaid tract.

TRACT III: lying and being in Sandhills Township, Moore County, North Carolina, and BEING all of that lot, tract, or parcel of land, containing 2.67 acres, as recorded in Deed Book 3109, at Page 467, in the Moore County Registry, reference to which is hereby made for a more complete and accurate description of the aforesaid tract.

SECTION 3.(b) Multifamily development on the above described property shall be subject to the zoning, development, and other land-use plans, laws, and regulations of the Town of Aberdeen in existence and effective for the properties zoned R-10 on March 1, 1989.

SECTION 3.(c) This section applies to the Town of Aberdeen only.

SECTION 4. Section 1 of this act is effective when it becomes law but only applies to vacancies occurring on or after that date. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 18th day of July, 2013.

Became law on the date it was ratified.

Session Law 2013-271 **H.B. 537**

AN ACT TO PROVIDE FOR FOUR-YEAR TERMS RATHER THAN SIX-YEAR TERMS FOR THE MEMBERS OF THE EDENTON-CHOWAN BOARD OF EDUCATION AND CHANGE THE ELECTION SCHEDULE FOR ONE DISTRICT SEAT.

The General Assembly of North Carolina enacts:

SECTION 1. Section 1 of Chapter 974, Session Laws of 1973, as amended by Chapter 103 of the 1989 Session Laws, reads as rewritten:

"Section 1. The Edenton-Chowan Board of Education shall consist of seven members who shall serve for terms of ~~six~~four years each. In the general election to be held for county officers in ~~1990,~~2014 and biennially thereafter, there shall be elected members of the Edenton-Chowan Board of Education to take the place of the members whose terms next expire. They shall be elected in accordance with this act and Chapter 30, Session Laws of 1967, to the extent that that act does not conflict with this act, and said election shall be non-partisan."

SECTION 2. Section 1.5 of Chapter 974, Session Laws of 1973, as amended by Chapter 103 of the 1989 Session Laws, reads as rewritten:

"Sec. 1.5. In ~~1990~~2014 and each ~~six~~four years thereafter, one member shall be elected ~~from seat 1 of District 2 and one member~~ from seat 1 of District ~~3,~~3 for ~~six-year terms.~~a four-year term. In ~~1992~~2016 and each ~~six~~four years thereafter, one member shall be elected from seat 1 of District ~~1~~1, one member from seat 1 of District 2, and one member from seat 2 of District 3, for ~~six-year~~four-year terms. In ~~1994~~2018 and each ~~six~~four years thereafter, one member shall be elected from seat 2 of District 1, one member from seat 2 of District 2, and one member at-large, for ~~six-year~~four-year terms."

SECTION 3. Notwithstanding any other provision of law, in the 2014 election, one member shall be elected to fill seat 1 of District 2 on the Edenton-Chowan Board of Education to serve a term of two years. In 2016 and each four years thereafter, one member shall be elected to fill seat 1 of District 2 for a four-year term in accordance with Section 1.5 of Chapter 974, Session Laws of 1973, as amended by Chapter 103 of the 1989 Session Laws and as amended by this act.

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

In the General Assembly read three times and ratified this the 18th day of July, 2013.

Became law on the date it was ratified.

Session Law 2013-272 **S.B. 81**

AN ACT TO CREATE THE CHARLOTTE DOUGLAS INTERNATIONAL AIRPORT AUTHORITY.

The General Assembly of North Carolina enacts:

SECTION 1. This act shall be known and may be cited as the "Charlotte Douglas International Airport Authority Act."

SECTION 2. There is hereby created the Charlotte Douglas International Airport Authority, which shall be a body corporate and politic, having the powers, authority, and jurisdiction hereinafter enumerated and such other and additional powers and authority as shall be conferred upon it by future acts of the General Assembly.

SECTION 3. Unless the context requires otherwise, the following definitions apply throughout this act to the defined words and phrases and their cognates:

(1) "Airport" means Charlotte Douglas International Airport in Mecklenburg County.

(2) "Airport Facilities" means airport facilities of all kinds, including, but not limited to, landing fields, hangars, fixed base operations, shops, restaurants and catering facilities, terminals, buildings, automobile parking facilities, and all other facilities necessary, beneficial, and/or helpful for the landing, taking off, operating, servicing, repairing, and parking of aircraft, the loading, unloading, and handling of cargo and mail, express and freight, and the accommodation, convenience, and comfort of crews and passengers, together with related transportation facilities, all necessary, beneficial, and/or helpful appurtenances, machinery, and equipment, and all lands, properties, rights, easements, and franchises relating thereto and considered necessary, beneficial, and/or helpful by the Authority in connection therewith.

(3) "Airport Property" means all the real property and improvements thereto designated as airport property on the Airport Layout Plan or Airport Development Plan of the Airport conditionally approved by the FAA on February 13, 2013.

(4) "Appointing Authorities" means the entities described in Section 4(a) of this act who are empowered to appoint Members of the Authority and referred to collectively as "Appointing Authorities" and individually as "Appointing Authority."

(5) "Authority" means the Charlotte Douglas International Airport Authority created by this act or, if such Authority is abolished or otherwise ceases to exist, the authority, board, body, commission, or other entity succeeding to the principal functions thereof.

(6) "FAA" means the Federal Aviation Administration or any successor agency.

(7) "Member" means an individual who is appointed to the Authority, as provided by this act.

(8) "Servants" means accountants, auditors, agents, contractors, design professionals, attorneys, and other persons and entities whose services may from time to time be deemed by the Authority to be necessary, beneficial, or helpful.

SECTION 4.(a) The Authority shall consist of 11 members appointed as follows:

(1) Two registered voters of the City of Charlotte appointed by the Mayor, at least one of whom shall be a resident of the west side of the City of Charlotte.

(2) Two registered voters of the City of Charlotte appointed by the City Council, at least one of whom shall be a resident of the west side of the City of Charlotte.

(3) One registered voter of Mecklenburg County appointed by the Mecklenburg County Board of Commissioners.

(4) One registered voter of Cabarrus County appointed by the Cabarrus County Board of Commissioners.

(5) One registered voter of Gaston County appointed by the Gaston County Board of Commissioners.

(6) One registered voter of Iredell County appointed by the Iredell County Board of Commissioners.

(7) One registered voter of Lincoln County appointed by the Lincoln County Board of Commissioners.

(8) One registered voter of Union County appointed by the Union County Board of Commissioners.

(9) One member appointed by the other 10 members.

In order to effectuate a seamless transfer of the Airport from the ownership and operation of the City of Charlotte to the ownership and operation by the Authority, and to give the Appointing Authorities time to consider candidates for and to appoint members as provided herein, the initial Members of the Authority from the time this act becomes law shall be the members of the Airport Advisory Committee of the City of Charlotte who shall serve only until six Members shall have been appointed by the Appointing Authorities and qualified by taking their oath of office. The powers of the Airport Advisory Committee serving as initial members shall be limited to ministerial acts, and no employment or management contracts shall be awarded or entered into by the initial Members, and any such contracts as the initial Members shall award or enter into shall not be effective or binding on the Members selected by the Appointing Authorities; provided, however, the initial Members may take such actions as are appropriate in accordance with Section 11 of this act. The Appointing Authorities shall appoint initial members no later than October 1, 2013. The Authority shall appoint the 11th member no

later than December 1, 2013. Members, when practical, shall have experience in aviation, logistics, construction and/or facilities management, law, accounting, and/or finance.

SECTION 4.(a1) No person may be appointed as a member who:

(1) Is employed by a Servant of the Authority as defined in Section 3 of this act;

(2) Is a tenant or employee of a tenant of an airport owned, operated, or controlled by the Authority, or other commercial user or employee of a commercial user of any airport operated by the Authority; or

(3) Has been convicted of a felony or a crime of moral turpitude.

SECTION 4.(b) Members shall serve four-year terms and may serve up to a total of two successive four-year terms. A member who has reached this limit may not be reappointed to the Authority except after a lapse of four years following the most recent term served. In the event a member is appointed to fill an unexpired term, and at least two years of the unexpired term remain to be served, such appointment shall be counted in applying the two-term limit; otherwise, it shall not be counted. In order to ensure that the terms of all members of the Authority do not expire at the same time, the initial terms of the members of the Authority, appointed by the Counties of Cabarrus, Gaston, Iredell, Lincoln, Mecklenburg, and Union, shall be for two years. All initial four-year terms expire December 31, 2017, and all initial two-year terms expire December 31, 2015.

SECTION 4.(c) Any vacancy occurring among the membership of the Authority shall be filled within 60 days after notice thereof by the appointment of a successor by the Appointing Authority of the previous member. Such successor member shall serve for the remainder of the unexpired term.

SECTION 4.(d) Members and their successors shall take and subscribe to an oath of office before an officer authorized to administer oaths, which oath shall be filed with the Authority.

SECTION 4.(e) Any member may be suspended or removed from office by that member's Appointing Authority or a majority vote of the other members for cause affecting that member's duties and responsibilities as a member; for misfeasance, malfeasance, or nonfeasance in office; or for conduct tending to undermine any decisions of the Authority, or for conduct exposing the Authority to liability for damages.

SECTION 4.(f) Except for malfeasance, members shall not be personally liable, in any manner, for their acts or omissions as members.

SECTION 4.(g) Each member may continue to serve until a successor has been duly appointed and qualified, but not for more than 60 days beyond the end of the term.

SECTION 5.(a) The organization and business of the Authority shall be conducted as provided in this act.

SECTION 5.(b) Members shall constitute the governing board of the Authority and may, among other things and from time to time, adopt suitable bylaws not inconsistent with the provisions of this act.

SECTION 5.(c) The Authority shall appoint from its members a chair, vice-chair, and such other officers as it may from time to time deem necessary, beneficial, and/or helpful for the orderly conduct of its business. The term of office of the chair and vice-chair is one year.

SECTION 5.(d) Each member, including the chair, shall have one vote. A majority of the members in office shall constitute a quorum, and, unless otherwise provided in this act, all actions of the Authority shall be determined by a majority vote of the members present and voting in a duly called meeting at which a quorum is present.

SECTION 5.(e) The Authority shall hold meetings at least monthly at such times and places as it from time to time may designate and at such other times on the call of the chair or by seven members of the Authority; provided a monthly meeting need not be held if it is determined by the chair or seven members that such meeting is not required. Notice of meetings shall be provided as required by Article 33C of Chapter 143 of the General Statutes.

SECTION 5.(f) Members may receive payment or reimbursement for travel, lodging, and meal expenses incurred in transacting business on behalf of the Authority. Members may also receive free parking at any airport owned, leased, subleased, or controlled by the Authority, which members may use for official purposes during the respective member's term of office.

SECTION 5.(g) The fiscal year of the Authority shall begin on July 1 and end on June 30. On or before May 15 of each year, the Authority shall prepare and adopt a proposed budget for the next ensuing fiscal year and deliver copies of such proposed budget to the Cabarrus, Gaston, Iredell, Lincoln, Mecklenburg, and Union County Boards of Commissioners and the Charlotte City Council. In order to effectuate a seamless transfer of the Airport from the ownership and operation by the City of Charlotte to the ownership and operation by the Authority, the initial budget of the Authority shall be the budget established by the City Council of the City of Charlotte for the Airport for the period July 1, 2013, through June 30, 2014, until the initial budget shall be revised by the Authority. The financial affairs of the Authority shall be governed by the Local Government Finance Act.

SECTION 5.(h) All meetings and closed sessions of the Authority shall be conducted in accordance with Article 33C of Chapter 143 of the General Statutes as it may be amended or in accordance with any successor statute.

SECTION 6.(a) The Authority shall constitute a body, both corporate and politic, and shall have the power and authority to do the following:

(1) Adopt and from time to time revise an official seal.

(2) Maintain an office or offices at such place or places as it may designate within Mecklenburg County only.

(3) Purchase, acquire, develop, establish, construct, own, control, lease, equip, improve, administer, maintain, operate, and/or regulate airports and/or landing fields for the use of airplanes and other aircraft and all facilities incidental thereto, within the limits of Mecklenburg County; and for any of such purposes, purchase, acquire, own, develop, hold, lease, sublease, and operate real and/or personal property comprising such airports.

(4) Purchase real and personal property.

(5) Sue and be sued in the name of the Authority.

(6) In addition to the powers granted by subdivision (3) of this subsection, (i) upon the consent of the governing bodies of such airports, to acquire by purchase or otherwise and to hold lands for the purpose of constructing, maintaining, and/or operating existing airports in Cabarrus, Gaston, Iredell, Lincoln, and Union Counties and (ii) upon the consent and agreement of the Board of county commissioners of Cabarrus, Gaston, Iredell, Lincoln, and Union Counties, to acquire land and construct, make improvement, extension, enlargement, or equipping of future airport facilities in such counties.

(7) Charge and collect fees, royalties, rents, and/or other charges, including fuel flowage fees, for the use and/or occupancy by persons of the airports and other property owned, leased, subleased or controlled by the Authority or for services rendered in the operation thereof.

(8) Make all reasonable rules and regulations, and policies as it may from time to time deem to be necessary, beneficial or helpful for the proper maintenance, use, occupancy, operation and/or control of any airport or airport facility owned, leased, subleased, or controlled by the Authority and provide and enforce civil and criminal penalties for the violation of such rules, regulations and/or policies; provided that such rules, regulations, policies, and penalties are not in conflict with any applicable law, rules or regulation of the State of North Carolina, the United States, or any agency,

department, or subdivision of either of them, including the rules and regulations of the FAA or the Transportation Security Administration.

(9) Sell, exchange, lease, sublease, or otherwise dispose of any property, real or personal, belonging to the Authority and not needed by the Authority to operate any airport owned or operated by it or to generate revenues to pay debt obligations of the Authority, or grant easements over, through, under, or across any real property belonging to the Authority, or donate to another governmental entity within North Carolina or to the United States any surplus, obsolete, or unused personal property; provided Article 12 of Chapter 160A of the General Statutes does not apply and is not applicable to any such sale, exchange, lease, sublease, grant, donation, or other disposition.

(10) Purchase such insurance and insurance coverages as the Authority may from time to time deem to be necessary, beneficial, or helpful.

(11) Deposit, invest, and/or reinvest any of its funds as provided by the Local Government Finance Act for the deposit or investment of unit funds.

(12) Issue revenue bonds and/or refunding revenue bonds pursuant to the State and Local Government Revenue Bond Act, Article 5 of Chapter 159 of the General Statutes.

(13) Purchase any of its outstanding bonds or notes.

(14) Operate, own, lease, sublease, control, regulate, and/or grant to others the right to operate on any airport premises owned, operated, or controlled by the Authority, general aviation terminal and fixed base operations, aircraft deicing equipments and systems, restaurants, snack bars and vending machines, food and beverage dispensing outlets, rental car services, catering services, novelty shops insurance sales, advertising media, merchandise outlets, motels, hotels, barber shops, automobile parking and storage facilities, automobile service stations, garage service facilities, motion picture shows, personal service establishments, and/or all other types of facilities, activities, and enterprises as may be directly or indirectly related to the maintenance and/or furnishing of public commercial service and/or general aviation airport facilities.

(15) Accept grants of money and/or materials or property of any kind for any existing or future airport facilities from the State of North Carolina, the United States, or any agency, department or subdivision of either of them, including the FAA or from any private agency, entity, or individual, upon such terms and conditions as may be imposed, and enter into contracts and grant agreements with the FAA and/or with the State of North Carolina or any of its agencies, departments or subdivisions, in the capacity of sponsor or cosponsor of any airport development project involving the acquisition, construction, development, reconstruction, improvement, extension, enlargement, or equipping of any existing or future airport facilities.

(16) Employ and fix the compensation of an Executive Director, who shall serve at the pleasure of the Authority or pursuant to the terms of an employment contract awarded by the Authority and who shall manage the affairs of the Authority under the supervision of the Authority.

(17) Employ, or provide for the employment of such employees, including law enforcement officers, as the Authority may from time to time deem to be necessary, beneficial, or helpful. All such employees shall be employees at will, and no such employee shall have a defined or definite term of employment, an expectation of continued employment, or an expectation of continued indefinite employment.

(18) Employ, hire, retain, or contract with such Servants whose services may from time to time be deemed by the Authority to be necessary, beneficial, or helpful. In order to effectuate a seamless transfer of the Airport from the ownership and operation by the City of Charlotte to the ownership and operation by the Authority, the Authority will honor and be bound by all existing contracts between the City and such Servants as presently are engaged to assist the City with respect to the Airport.

(19) Make or cause to be made such surveys, investigations, studies, borings, maps, plans, drawings, and/or estimates of cost and revenues as the Authority may from time to time deem necessary, beneficial, or helpful and prepare and adopt a comprehensive plan or plans for the location, construction, improvement, and development of any project.

(20) Undertake and/or enter into leases, subleases, agreements, easements, and contracts, and/or grant concessions, with respect to alternative energy, energy conservation, energy reduction, and/or renewable energy activities, programs, projects, and/or ventures, and the administration, construction, development, enlargement, equipment, improvement, maintenance, management, operation, regulation, and/or repair thereof.

(21) Exercise the power of eminent domain, pursuant to Article 3 of Chapter 40A of the General Statutes to expand the boundaries of an airport already owned, operated, or controlled by the Authority or to comply with the requirements of the United States and the FAA with respect to such airport, but only for public use as a public airport purpose. For the purposes of Chapter 40A of the General Statutes, the Authority is a public condemnor under G.S. 40A-3(c). In the exercise of its authority of eminent domain for the acquisition of property to be used for public airports, the authority is authorized to use the procedure and authority prescribed in Article 9 of Chapter 136 of the General Statutes, as now written or hereafter amended. For the purposes of this paragraph, whenever a reference is made in Article 9 of Chapter 136 of the General statutes to an official of the State of North Carolina, the Executive Director of the Authority shall be deemed to be such an official. The exercise of the power of eminent domain of the authority shall be restricted as follows:

a. No such power of eminent domain shall exist except as to property that is contiguous to property of an airport already owned, operated, or controlled by the Authority; provided that the contiguity of such property to existing airport property shall not be deemed to be interrupted by a railroad or public roadway or waterway running with or adjacent to the boundary of such existing airport property;

b. No such power of eminent domain shall be used for a purpose that is not necessary for the operation or expansion or to comply with FAA regulations or requirements for or provide protection from or to ameliorate noncompatible land uses of property that is contiguous to property of an airport already owned, operated, or controlled by the Authority;

c. No such power of eminent domain shall exist to condemn property for such uses as hotels, motels, restaurants, or industrial parks; and

d. No such power of eminent domain shall exist with respect to property already publically owned and dedicated to public use.

(22) Exercise all of the powers conferred by Chapter 63 of the General Statutes or any successor Chapter or law.

SECTION 6.(b) The Authority has the same exemptions with respect to payment of taxes and license fees as provided for municipal corporations by the laws of the State of North Carolina.

SECTION 7.(a) The Authority may acquire from the County of Mecklenburg and the City of Charlotte, by agreement therewith, and such County and City may grant and convey, either by gift or for such consideration as allowed by federal law and as it may be deemed wise, any real and/or personal property which it now owns or may hereafter acquire, and which may be necessary, beneficial, or helpful for the construction, development, operation, and/or maintenance of any airport or facilities of same located in the County of Mecklenburg. If any such airport ceases to operate or if the Authority is dissolved or otherwise ceases to exist, any applicable real property of the County of Mecklenburg or the City of Charlotte conveyed or transferred to the Authority under this act shall revert to the grantor.

SECTION 7.(b1) All right, title, and interest of the City of Charlotte in and to the Airport Property, Airport Facilities, and Charlotte Douglas International Airport shall be deemed to have been transferred to the Authority as a matter of law when this act becomes law, and no action by the City shall be necessary to effect such transfer nor be effective to prevent such transfer. Thereafter, this act shall serve as evidence of chain of title of the Authority to such Airport Property and Airport Facilities. The transfer is deemed to include the Airport Property, Airport Facilities, and all other property held or owned by the City of Charlotte with respect to the Airport, real or personal, tangible or intangible, and includes all cash and cash equivalents and checking, investment, and demand deposit bank accounts held by the City pertaining to or generated from revenues of the Airport, including, without limiting the generality hereof, amounts on deposit in or with respect to the Discretionary Fund, the Cannon Fund, the Revenue Fund, the Operating Fund, the Bond Funds, the Debt Service Funds, the Construction Funds, the Capital Projects Funds, the Discretionary Fund, Passenger Facility Charges, Contract Facility Charges, and all other funds and accounts of the City with respect to the Airport. Upon such transfer from the City to the Authority, the Authority will be and is hereby deemed to have assumed and become successor to the City of Charlotte, and is hereby deemed to have assumed and become successor to the City with respect to the FAA Part 139 Certificate, the FAA Sponsor's Assurances entered into by the City with the FAA, and all liabilities of the City with respect to and arising out of its ownership and operation of the Airport, including the City's obligations to servants and employees of the Authority and bondholders of the City's General Airport Revenue Bonds, and including, without limiting the generality hereof, the obligations under the Revenue Bond Order adopted November 18, 1985, and all Series Resolutions issued under the Bond Order, the Special Facility Bond Order adopted May 11, 1987, and all Series Resolutions adopted under the Special Facility Bond Order, and the Taxable Special Facility Revenue Bonds (Consolidated Car Rental Facilities Project) Series 2011 General Trust Indenture and the Series Indenture, Number 1, both dated November 1, 2011, and all agreements and understandings with respect to trustee(s) or paying agent(s) of the City's airport revenue bonds, letters of credit or other credit facilities of the City with respect to airport revenue bonds, and all leases, licenses, options to purchase, and other encumbrances on the Airport Property and Airport Facilities, whether or not those encumbrances are recorded. Upon transfer of the Airport Property and Airport Facilities, the Authority assumes and becomes the successor to the City of Charlotte with respect to all rights, duties, and obligations of the City of Charlotte in any commercial or development agreements pertaining to or related to the Airport Property and Airport Facilities that are in effect at the time of the transfer, and any commercial agreements, development agreements, and other contracts of the City of Charlotte pertaining to or related to the Airport Property and Airport Facilities that are in effect at the time of the transfer, including without limitation any contracts of insurance, shall remain in full force and effect after the transfer.

SECTION 7.(b2) In order to effectuate a seamless transfer of the Airport from the ownership and operation by the City of Charlotte to the ownership and operation by the Authority, the Authority shall initially:

(1) Honor and be bound by all pending or executory land or real property purchase contracts by the City of Charlotte with respect to property and lands to be acquired for and in connection with the Airport.

(2) Honor and be bound by all existing rules and regulations of the Aviation Department of the City of Charlotte with respect to the Airport, including the Airport Security Plan, until such rules and regulations shall be amended by the Authority in accordance with the provisions of this act.

(3) Honor and be bound by all existing contracts of the City of Charlotte with third-party concessionaires and management contractors with respect to the Airport.

(4) Honor and be bound by all existing contracts and grant agreements of the City of Charlotte with respect to the Airport.

(5) Be deemed as a matter of law to have appointed as its initial Executive Director the Aviation Director of the City of Charlotte as of February 14, 2013, with initial compensation and benefits of the initial Executive Director, being the same compensation and benefits as were being received from the City of Charlotte on February 14, 2013, and the initial Executive Director shall be entitled as a matter of law to the continuation of the rights and benefits extended to him under the existing retirement system of the City of Charlotte.

(6) Be deemed as a matter of law to have adopted initially the employment and human resources policies of the Authority, such policies of the City of Charlotte as they apply to employees of the Airport, and the Authority shall be deemed to have adopted the current employee handbook of the City of Charlotte applicable to the Airport until the Authority adopt different policies or a different employee handbook.

(7) Honor and be bound by all existing contracts of the City with respect to the matters described in subdivision (20) of subsection (a) of Section 6 of this act.

SECTION 7.(b3) Upon the request of the Executive Director of the Authority, the City of Charlotte shall continue to provide such administrative services to the Authority as it currently provides and shall receive as compensation therefor from the Authority such amount as is appropriate for such services as provided by OMB Circular A-87 until the Authority shall direct the City to terminate such services.

SECTION 7.(b4) From the enactment of this act until December 31, 2013, unless earlier terminated by the agreement of the City and Authority (the "Employee Transition Period"), the City shall continue to employ, subject to the provisions of this subsection, the employees of the City's Aviation Department and under the direction of the Aviation Director as of the date of this act (the "Airport Employees"), and the Authority shall lease the Airport Employees from the City. The City shall provide the following services in support of the Authority's lease of the Airport Employees, upon the terms and compensation set forth in this section, and the following provisions of this section shall be applicable during the Employee Transition Period:

(1) During the Employee Transition Period, the Airport Employees shall be employees of the City and not of the Authority. The City shall be responsible for all matters related to the payment of federal, State, and local payroll taxes, workers' compensation insurance or self-insurance under Chapter 97 of the General Statutes, salaries, and benefits, including health care and retirement benefits, for Airport Employees. The Airport Employees shall be directed by the City to perform work in a manner that meets the standards established by the Authority and that conforms to the Authority's policies, procedures, practices, and rules with respect to the Airport's operation. The Airport Employees shall be subject to all of the City's employment-related

policies, as in effect from time to time (such as policies relating to terms of employment and eligibility for employee benefits). The City, as the employer, shall have ultimate control over the Airport Employees during the Employee Transition Period, including, but not limited to, the right to terminate the employment of any Airport Employee. Notwithstanding the foregoing, the Authority may at any time request the removal of any specific Airport Employee if, in the good-faith judgment of the Authority, removal would be in the best interests of the operation of the Airport. In such event, the City will remove any such person within a reasonable time, subject to compliance with applicable personnel policies and procedures, applicable law, and the City's ability to secure a replacement reasonably acceptable to the Authority.

(2) The City shall process the payroll for the Airport Employees during the Employee Transition Period. As consideration for such service and the lease of the Airport Employees, the Authority shall compensate the City by reimbursing the City the cost of all salaries, wages, bonuses, and benefits, including health care and retirement benefits, of the Airport Employees for their time worked during the Employee Transition Period and as required by law, as well as administrative costs incurred in processing such payroll. Upon the City's request, the Authority shall transfer to and deposit with the City sufficient funds to process payroll for Airport Employees in advance of each payroll date during the Employee Transition Period. At the conclusion of the Employee Transition Period, the City shall then refund the Authority any portion of such advance payments not used to process the payroll for the Airport Employees.

(3) During the Employee Transition Period, the City shall continue to provide all employment benefits currently available to the Airport Employees, including, but not limited to, health care benefits, retirement benefits, disability insurance, life insurance, and accrued time off or leave, and the Authority shall promptly reimburse the City the costs of providing such benefits.

(4) During the Employee Transition Period, the City shall keep in full force and effect workers' compensation insurance, self-insurance under Chapter 97 of the General Statutes, and any other insurance policy concerning the Airport Employees, and the Authority shall promptly reimburse the City the costs of maintaining such insurance.

(5) The Authority shall indemnify, defend, and hold harmless the City from and against any and all losses and expenses incurred as a result of or in connection with any action or inaction taken by the Authority with respect to the Airport Employees during the Employee Transition Period, unless caused by the gross negligent action or willful misconduct of the City.

(6) On January 1, 2014, or upon the earlier termination of the Employee Transition Period as provided in this subsection, the City shall terminate the employment of all Airport Employees, and the Authority shall be deemed to have hired the Airport Employees as of that date as the initial employees of the Authority. The initial terms of employment, compensation, and benefits of the Airport Employees under their employment with the Authority shall be the same as those provided or made available to them by the City of Charlotte as of December 31, 2013, or as of the earlier termination of the Employee Transition Period if terminated by agreement of the City and the Authority as provided in this subsection.

SECTION 7.(c) Property needed by the Authority for any airport, landing field, or facility may be acquired by the Authority by gift, devise, or purchase. Aviation easements needed by the Authority for any airport, landing field, or facility may likewise be acquired by gift, devise, or purchase.

SECTION 7.(d) Any lands acquired, owned, controlled, or occupied by the Authority shall and/or are hereby declared to be acquired, owned, controlled, and occupied for a public purpose.

SECTION 7.(e) The Authority is not authorized to levy any tax.

SECTION 7.(f) In consideration of the transfer of the Airport Property and Airport assets and liabilities to the Authority pursuant to Section 7(b1) of this act, and subject to the approval of the FAA, the Authority shall agree to pay to the City as compensation therefor, the amount equal to the unreimbursed or unrecovered cost to the City of acquiring the Airport Property that was not ultimately paid with Airport revenues or funds or the proceeds of federal, State, or private grants. Any amount to be paid by the Authority to the City pursuant to this subsection shall be paid from future revenues from the operation of the Airport by the Authority remaining after payment by the Authority in the year of such payment all costs and expenses of the Airport including the payment of principal installments and interest on all bonds outstanding and other indebtedness of the Authority with respect to the Airport. Upon entering into such agreement by the Authority any claim by the City of Charlotte on account of transfer of property to the Authority pursuant to Section 7(b) of this act or otherwise, is hereby extinguished.

SECTION 8. The Authority shall make annual reports to the Cabarrus, Gaston, Iredell, Lincoln, Mecklenburg, and Union County Boards of Commissioners and the Charlotte City Council setting forth a summary of its general operations and transactions conducted by it pursuant to this act.

SECTION 9. All rights, powers, and authority given to the counties and/or municipalities by the statutes of North Carolina, which may now be in effect, or which may be enacted in the future, relating to the development, operation, maintenance, regulation, and/or control of municipal or other governmental airports and the regulations of aircraft are hereby vested in the Authority.

SECTION 10. The Authority is hereby expressly authorized to make and enter into contracts, leases, subleases, conveyances, and other agreements with any political subdivision, agency, department, or instrumentality of this State; any agency, department, or subdivision of the United States; or any other legal entity or person for the purpose of carrying out the provisions of this act.

SECTION 11. The powers of the Authority created by this act shall be construed liberally in favor of the Authority. No listing of powers included in this act is intended to be exclusive or restrictive, and the specific mention of, or failure to mention, particular powers in this act shall not be construed as limiting in any way the general powers of the Authority as stated in Section 6(a) of this act. It is the intent of this act to grant the Authority full power and right to exercise all authority necessary for the effective operation and conduct of the Authority. It is further intended that the Authority should have all implied powers necessary or incidental to carrying out the expressed powers and the expressed purposes for which the Authority is created. The fact that this act specifically states that the Authority possesses a certain power does not mean that the Authority must exercise such power unless this act specifically so requires.

SECTION 12. G.S. 66-58(a) shall not apply to the Authority or a lessee or sublessee of it.

SECTION 13. In its initial decisions, the Authority shall consider the consultant recommendations made to the City of Charlotte in 2013 concerning governance of the Airport.

SECTION 14. The Authority may make recommendations to the 2013 General Assembly prior to its reconvening in 2014 concerning amendments to this act as it deems

advisable, and such recommendations shall be eligible for consideration as if it were a committee or commission.

SECTION 15. If any provision of this act or its application is held invalid, the invalidity does not affect other provisions or applications of this act that can be given effect without the invalid provisions or application, and to this end the provisions of this act are severable.

SECTION 16. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 18th day of July, 2013.

Became law on the date it was ratified.

Session Law 2013-273 **H.B. 895**

AN ACT TO RENAME THE BILTMORE CAMPUS OF THE MOUNTAIN AREA HEALTH EDUCATION CENTER IN ASHEVILLE THE MARY CORDELL NESBITT CAMPUS.

Whereas, Mary Cordell Nesbitt, the daughter of Joseph and Mary Cordell, was a lifelong resident of Asheville, North Carolina; and

Whereas, Mary Cordell Nesbitt earned a bachelor's degree and master's degree from Western Carolina University; and

Whereas, Mary Cordell Nesbitt married Martin Nesbitt, Sr., and raised two children; and

Whereas, Mary Cordell Nesbitt was an educator and an educational consultant after her retirement; and

Whereas, Mary Cordell Nesbitt was a member of the National Education Association and the North Carolina Education Association, of which she served a term as president, and received the Western Carolina University Alumni Award for Distinguished Service to Education; and

Whereas, Mary Cordell Nesbitt was active in her community and was admired by all who knew her; and

Whereas, on July 11, 1974, Governor James E. Holshouser, Jr., appointed Mary Cordell Nesbitt to fill an unexpired term in the House of Representatives; and

Whereas, Mary Cordell Nesbitt was elected to three terms, serving with honor and distinction in the House of Representatives between 1975 and 1979; and

Whereas, Mary Cordell Nesbitt died on August 1, 1979, before completing her term of office; and

Whereas, Mary Cordell Nesbitt's unexpired term was filled by her son, Martin Nesbitt, Jr., who still serves in the General Assembly; and

Whereas, Mary Cordell Nesbitt should be honored for her contributions to education, her community, and this State; Now, therefore,

The General Assembly of North Carolina enacts:

SECTION 1. The Biltmore Campus of the "Mountain Area Health Education Center" in Asheville, North Carolina, shall henceforth be known as the "Mary C. Nesbitt Campus of the Mountain Area Health Education Center," in honor of former General Assembly member, Representative Mary Cordell Nesbitt.

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

In the General Assembly read three times and ratified this the 9th day of July, 2013.

Became law upon approval of the Governor at 6:07 p.m. on the 18th day of July, 2013.

Session Law 2013-274 **H.B. 982**

AN ACT TO MODIFY THE MEDICAID SUBROGATION STATUTE IN RESPONSE TO THE UNITED STATES SUPREME COURT DECISION IN WOS V. E.M.A.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 108A-57 reads as rewritten:

"§ **108A-57. Subrogation rights; withholding of information a misdemeanor.**

(a) Notwithstanding any other provisions of the law, to the extent of payments under this Part, the ~~State, or the county providing medical assistance benefits,~~ State shall be subrogated to all rights of recovery, contractual or otherwise, of the beneficiary of this assistance, or of the beneficiary's personal representative, heirs, or the administrator or executor of the estate, against any person. ~~The county attorney, or an attorney retained by the county or the State or both, or an attorney retained by the beneficiary of the assistance if this attorney has actual notice of payments made under this Part shall enforce this section.~~A personal injury or wrongful death claim brought by a medical assistance beneficiary against a third party shall include a claim for all medical assistance payments for health care items or services furnished to the medical assistance beneficiary as a result of the injury, hereinafter referred to as the "Medicaid claim." Any personal injury or wrongful death claim brought by a medical assistance beneficiary against a third party that does not state the Medicaid claim shall be deemed to include the Medicaid claim.

(a1) If the amount of the Medicaid claim does not exceed one-third of the medical assistance beneficiary's gross recovery, it is presumed that the gross recovery includes compensation for the full amount of the Medicaid claim. If the amount of the Medicaid claim exceeds one-third of the medical assistance beneficiary's gross recovery, it is presumed that one-third of the gross recovery represents compensation for the Medicaid claim.

(a2) A medical assistance beneficiary may dispute the presumptions established in subsection (a1) of this section by applying to the court in which the medical assistance beneficiary's claim against the third party is pending, or if there is none, then to a court of competent jurisdiction, for a determination of the portion of the beneficiary's gross recovery that represents compensation for the Medicaid claim. An application under this subsection shall be filed with the court and served on the Department pursuant to the Rules of Civil Procedure no later than 30 days after the date that the settlement agreement is executed by all parties and, if required, approved by the court, or in cases in which judgment has been entered, no later than 30 days after the date of entry of judgment. The court shall hold an evidentiary hearing no sooner than 30 days after the date the action was filed. All of the following shall apply to the court's determination under this subsection:

(1) The medical assistance beneficiary has the burden of proving by clear and convincing evidence that the portion of the beneficiary's gross recovery that represents compensation for the Medicaid claim is less than the portion presumed under subsection (a1) of this section.

(2) The presumption arising under subsection (a1) of this section is not rebutted solely by the fact that the medical assistance beneficiary was not able to recover the full amount of all claims.

(3) If the beneficiary meets its burden of rebutting the presumption arising under subsection (a1) of this section, then the court shall determine the portion of the recovery that represents compensation for the Medicaid claim and shall order the beneficiary to pay the amount so determined to the Department in accordance with subsection (a5) of this section. In making this determination, the court may consider any factors that it deems just and reasonable.

(4) If the beneficiary fails to rebut the presumption arising under subsection (a1) of this section, then the court shall order the beneficiary to pay the amount presumed pursuant to subsection (a1) of this section to the Department in accordance with subsection (a5) of this section.

(a3) Notwithstanding the presumption arising pursuant to subsection (a1) of this section, the medical assistance beneficiary and the Department may reach an agreement on the portion of the recovery that represents compensation for the Medicaid claim. If such an agreement is reached after an application has been filed pursuant to subsection (a2) of this section, a stipulation of dismissal of the application signed by both parties shall be filed with the court.

(a4) ~~Any~~Within 30 days of receipt of the proceeds of a settlement or judgment related to a claim described in subsection (a) of this section, the medical assistance beneficiary or any attorney retained by the beneficiary shall notify the Department of the receipt of the proceeds.

(a5) The medical assistance beneficiary or any attorney retained by the beneficiary ~~of the assistance~~ shall, out of the proceeds obtained by or on behalf of the beneficiary by settlement with, judgment against, or otherwise from a third party by reason of injury or death, distribute to the Department ~~the amount of assistance paid by the Department on behalf of or to the beneficiary, as prorated with the claims of all others having medical subrogation rights or medical liens against the amount received or recovered, but the amount paid to the Department shall not exceed one-third of the gross amount obtained or recovered.~~ the amount due pursuant to this section as follows:

(1) If, upon the expiration of the time for filing an application pursuant subsection (a2) of this section, no application has been filed, then the amount presumed pursuant to subsection (a1) of this section, as prorated with the claims of all others having medical subrogation rights or medical liens against the amount received or recovered, shall be paid to the Department within 30 days of the beneficiary's receipt of the proceeds, in the absence of an agreement pursuant to subsection (a3) of this section.

(2) If an application has been filed pursuant to subsection (a2) of this section and no agreement has been reached pursuant to subsection (a3) of this section, then the Department shall be paid as follows:

a. If the beneficiary rebuts the presumption arising under subsection (a1) of this section, then the amount determined by the court pursuant to subsection (a2) of this section, as prorated with the claims of all others having medical subrogation rights or medical liens against the amount received or recovered, shall be paid to the Department within 30 days of the entry of the court's order.

b. If the beneficiary fails to rebut the presumption arising under subsection (a1) of this section, then the amount presumed pursuant to subsection (a1) of this section, as prorated with the claims of all others having medical subrogation rights or medical liens against the amount received or recovered, shall be paid to the Department within 30 days of the entry of the court's order.

(3) If an agreement has been reached pursuant to subsection (a3) of this section, then the agreed amount, as prorated with the claims of all others having medical subrogation rights or medical liens against the amount received or recovered, shall be paid to the Department within 30 days of the execution of the agreement by the medical assistance beneficiary and the Department.

(a6) The United States and the State of North Carolina shall be entitled to shares in each net recovery by the Department under this section. Their shares shall be promptly paid under this section and their proportionate parts of such sum shall be determined in accordance with the matching formulas in use during the period for which assistance was paid to the recipient.

(b) It is a Class 1 misdemeanor for any person seeking or having obtained assistance under this Part for himself or another to willfully fail to disclose to the county department of social services or its attorney and to the Department the identity of any person or organization against whom the recipient of assistance has a right of recovery, contractual or otherwise.

(c) This section applies to the administration of and claims payments made by the Department of Health and Human Services under the NC Health Choice Program established under Part 8 of this Article.

(d) As required to ensure compliance with this section, the Department may apply to the court in which the medical assistance beneficiary's claim against the third party is pending, or if there is none, then to a court of competent jurisdiction for enforcement of this section."

SECTION 2. This act is effective when it becomes law and applies (i) to Medicaid claims that arise on or after that date and (ii) to Medicaid claims arising prior to that date for which the Department has not been paid in full. For Medicaid claims that arose prior to the effective date of this act for which the Department has not been paid in full, the medical assistance beneficiary shall have 90 days from the effective date of this act within which to apply to the court pursuant to G.S. 108A-57(a2).

In the General Assembly read three times and ratified this the 10th day of July, 2013.

Became law upon approval of the Governor at 6:09 p.m. on the 18th day of July, 2013.

Session Law 2013-275 **H.B. 783**

AN ACT TO MAKE TECHNICAL AND CONFORMING CHANGES TO THE LAWS GOVERNING PYROTECHNICS DISPLAYS.

The General Assembly of North Carolina enacts:

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

"§ **14-410. Manufacture, sale and use of pyrotechnics prohibited; exceptions; ~~permit~~ license required; sale to persons under the age of 16 prohibited.**

…

(a1) It shall be permissible for pyrotechnics to be exhibited, used, handled, manufactured, or discharged within the State, provided all of the following apply:

(1) The exhibition, use, or discharge is at a concert or public exhibition.

(2) All individuals who exhibit, use, handle, or discharge pyrotechnics in connection with a concert or public exhibition have completed the training and licensing required under Article 82A of Chapter 58 of the General Statutes. The display operator or proximate audience display operator, as required under Article 82A of Chapter 58 of the General Statutes, must be present at the concert or public exhibition and must personally direct all aspects of exhibiting, using, handling, or discharging the pyrotechnics. Notwithstanding this subdivision, the display operator for the University of North Carolina School of the Arts may appoint an on-site representative to supervise any performances that include a proximate audience display subsequent to the opening performance, provided that the representative (i) is a minimum of 21 years of age and (ii) is properly trained in the safe discharge of proximate audience displays.

(3) The display operator has secured written authority under G.S. 14-413 from the board of county commissioners of the county, or the city if authorized under G.S. 14-413(a1), in which the pyrotechnics are to be exhibited, used or discharged. Written authority from the board of commissioners or city is not required under this subdivision for a concert or public exhibition provided the display operator has secured written authority from (i) The University of North Carolina or the University of North Carolina at Chapel Hill under

G.S. 14-413, and pyrotechnics are exhibited on lands or buildings in Orange County owned by The University of North Carolina or the University of North Carolina at Chapel ~~Hill.~~Hill or (ii) the University of North Carolina School of the Arts and pyrotechnics are exhibited on lands or in buildings owned by the State and used by the University of North Carolina School of the Arts.

…

(a4) It shall be permissible for pyrotechnics to be exhibited, used, handled, manufactured, or discharged within the State as a special effect by a production company, as defined in G.S. 105-164.3(30), for a motion picture production, if the motion picture set is closed to the public or is separated from the public by a minimum distance of 500 feet.

(a5) It shall be permissible for pyrotechnics to be exhibited, used, handled, manufactured, or discharged within the State for pyrotechnic or proximate audience display instruction consisting of classroom and practical skills training approved by the Office of State Fire Marshal.

…

(c) The following definitions apply in this Article:

(1) Concert or public exhibition. – A fair, carnival, show of any description, or public celebration.

(2) Display operator. – An individual issued a display operator ~~permit~~ license under G.S. 58-82A-3.

(3) State Fire Marshal. – Defined in G.S. 58-80-1."

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

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

(a) For the purpose of enforcing the provisions of this Article, the board of county commissioners of any county, or the governing board of a city authorized pursuant to subsection (a1) of this section, may issue permits for use in connection with the conduct of concerts or public exhibitions, such as fairs, carnivals, shows of all descriptions and public celebrations, but only after satisfactory evidence is produced to the effect that said pyrotechnics will be used for the aforementioned purposes and none other. Provided that no such permit shall be required for a public exhibition under any of the following circumstances:

(1) The exhibition is authorized by The University of North Carolina or the University of North Carolina at Chapel Hill and conducted on lands or in buildings in Orange County owned by The University of North Carolina or the University of North Carolina at Chapel Hill.

(2) The exhibition is authorized by the University of North Carolina School of the Arts and conducted on lands or in buildings owned by the State and used by the University of North Carolina School of the Arts.

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

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

(1) Adequate fire suppression will be used at the site.

(2) The structure is safe for the use of such pyrotechnics with the type of fire suppression to be used.

(3) Adequate egress from the building is available based on the size of the expected crowd.

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

(d) A board of county commissioners or the governing board of a city shall not issue a permit under this section unless the display operator provides proof of insurance in the amount of at least five hundred thousand dollars ($500,000) or the minimum amount required under the North Carolina State Building Code pursuant to G.S. 143-138(e), whichever is greater. A board of county commissioners or the governing board of a city may require proof of insurance that exceeds these minimum requirements."

SECTION 3. G.S. 58-82A-3 reads as rewritten:

"§ **58-82A-3. Pyrotechnics display operator license.**

(a) License Required. – A display operator license issued by the Commissioner is required for an individual to obtain the necessary authorization under Article 54 of Chapter 14 of the General Statutes to exhibit, use, handle, manufacture, or discharge pyrotechnics at a concert or public exhibition in this State. A license issued under this section is valid for three years unless it is revoked by the Commissioner.

(b) Requirements. – The Commissioner may issue a display operator license to an individual if all of the following conditions are met:

(1) The individual is at least 21 years of age.

(2) The individual has assisted a display operator as an assistant display operator in the exhibition, use, or display of pyrotechnics at a concert or public exhibition, as allowed under Article 54 of Chapter 14 of the General Statutes, on at least three ~~occasions, or is a proximate audience display operator.~~occasions.

(3) The individual successfully completes the minimum training requirements established by the State Fire Marshal.

(4) The individual successfully passes an examination approved by the State Fire Marshal that demonstrates the individual has the knowledge to safely handle, store, and exhibit Class 1.4g, 1.3g, 1.2g, and 1.1g pyrotechnics or provides satisfactory evidence of current certification by a third party acceptable to the State Fire Marshal.

(5) Repealed by Session Laws 2010-22, s. 6, effective October 1, 2010.

(6) The individual has no violations of any provision of this Article or of any similar provision of any other state and submits an "Employer Possessor Letter of Clearance" issued to the individual by the Bureau of Alcohol, Tobacco and Firearms pursuant to ~~18 U.S.C. Chapter 40 or, if the Bureau of Alcohol, Tobacco and Firearms has not issued a Letter of Clearance to the individual, the individual signs a statement provided by the Commissioner affirming that the individual has not been convicted of violating 18 U.S.C. Chapter 40, Section 842(i).~~18 U.S.C. Chapter 40.

(b1) The Commissioner may issue a Limited Pyrotechnic Operator license to an individual meeting all the requirements of subsection (b) of this section with the exception of the "Employer Possessor Letter of Clearance" required by subdivision (6) of subsection (b) of

this section if the individual signs a statement provided by the Commissioner affirming that the individual has not been convicted of violating 18 U.S.C. Chapter 40, Section 842(i), and is not otherwise prohibited from possessing pyrotechnic materials by any provision of 18 U.S.C. Chapter 40, Section 842(i).

…

(e) Public exhibitions consisting of materials exempted by G.S. 14-414 are exempt from the operator license requirements."

SECTION 4. G.S. 58-82A-25 reads as rewritten:

"§ **58-82A-25. Qualifications for event employees.**

Notwithstanding the provisions of this Article, the Commissioner or the fire code official for the jurisdiction issuing the pyrotechnics permit under G.S. 14-413 may certify an individual as an event employee if the individual meets the following requirements:

(1) Is at least 18 years of age.

(2) Possesses and provides a valid drivers license or other state-issued identification card.

(3) Correctly passes an on-site examination, administered by the Office of the State Fire Marshal or fire code official for the jurisdiction issuing the permit under G.S. 14-413, of a minimum of five questions to test basic pyrotechnic safety knowledge.

(4) Provides written confirmation from the licensed display operator or proximate audience display operator that the event employee is working under the supervision of the operator and that the event employee will not ~~handle the pyrotechnic materials.~~ be in the presence of the pyrotechnic materials without signing a statement provided by the Commissioner affirming that the individual has not been convicted of violating 18 U.S.C. Chapter 40, Section 842(i), or is not otherwise prohibited from possessing pyrotechnic materials by any provision of 18 U.S.C. Chapter 40, Section 842(i). The event employee shall not be allowed to discharge or be in the presence of the pyrotechnic materials unless under direct supervision of a licensed pyrotechnic operator or an on-site representative as provided in G.S. 14-410(a1)(2). An event employee certification is valid only for the concert or public exhibition listed on the pyrotechnic permit and cannot be renewed."

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

In the General Assembly read three times and ratified this the 10th day of July, 2013.

Became law upon approval of the Governor at 6:10 p.m. on the 18th day of July, 2013.

Session Law 2013-276 **H.B. 137**

AN ACT TO INCREASE THE REWARD AMOUNT THAT THE GOVERNOR MAY OFFER FOR THE APPREHENSION OF A FUGITIVE FROM JUSTICE OR FOR INFORMATION LEADING TO THE ARREST AND CONVICTION OF A FUGITIVE FROM JUSTICE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 15-53 reads as rewritten:

"§ **15-53. Governor may employ agents, and offer rewards.**

The Governor, on information made to ~~him~~ the Governor of any person, whether the name of such person be known or unknown, having committed a felony or other infamous crime within the State, and of having fled out of the jurisdiction thereof, or who conceals himself or herself within the State to avoid arrest, or who, having been convicted, has escaped and cannot otherwise be apprehended, may either employ a special agent, with a sufficient escort, to

pursue and apprehend such fugitive, or issue ~~his~~ a proclamation, and therein offer a reward, not exceeding ~~ten thousand dollars ($10,000),~~one hundred thousand dollars ($100,000), according to the nature of the case, as in ~~his~~ the Governor's opinion may be sufficient for the purpose, to be paid to ~~him~~ anyone who shall apprehend and deliver the fugitive to such person and at such place as in the proclamation shall be directed."

SECTION 2. G.S. 15-53.1 reads as rewritten:

"§ **15-53.1. Governor may offer rewards for information leading to arrest and conviction.**

When it shall appear to the Governor, upon satisfactory information furnished to ~~him,~~ the Governor, that a felony or other infamous crime has been committed within the State, whether the name or names of the person or persons suspected of committing the said crime be known or unknown, the Governor may issue ~~his~~ a proclamation and therein offer an award [reward] not exceeding ~~ten thousand dollars ($10,000),~~one hundred thousand dollars ($100,000), according to the nature of the case as, in ~~his~~ the Governor's opinion, may be sufficient for the purpose, to be paid to ~~him~~ anyone who shall provide information leading to the arrest and conviction of such person or persons. The proclamation shall be upon such terms as the Governor may deem proper, but it shall identify the felony or felonies and the authority to whom the information is to be delivered and shall state such other terms as the Governor may require under which the reward is payable."

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

In the General Assembly read three times and ratified this the 9th day of July, 2013.

Became law upon approval of the Governor at 6:12 p.m. on the 18th day of July, 2013.

Session Law 2013-277 **H.B. 161**

AN ACT TO ESTABLISH A MANDATORY RETIREMENT AGE FOR MAGISTRATES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 7A-170 reads as rewritten:

"§ **7A-170. Nature of office and ~~oath.~~oath; age limit for service.**

(a) A magistrate is an officer of the district court. Before entering upon the duties of his office, a magistrate shall take the oath of office prescribed for a magistrate of the General Court of Justice. A magistrate possesses all the powers of his office at all times during his term.

(b) No magistrate may continue in office beyond the last day of the month in which the magistrate reaches the mandatory retirement age for justices and judges of the General Court of Justice specified in G.S. 7A-4.20."

SECTION 2. This act becomes effective January 1, 2015, and applies to individuals whose terms of office as magistrates begin on or after the effective date.

In the General Assembly read three times and ratified this the 9th day of July, 2013.

Became law upon approval of the Governor at 6:12 p.m. on the 18th day of July, 2013.

Session Law 2013-278 **H.B. 168**

AN ACT GRANTING THE NORTH CAROLINA INDUSTRIAL COMMISSION JURISDICTION TO DECIDE DISPUTES BETWEEN AN EMPLOYEE'S PAST AND CURRENT ATTORNEYS REGARDING THE DIVISION OF A FEE AS APPROVED BY THE COMMISSION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 97-90 is amended by adding a new subsection to read:

"(f) The Commission shall hear and determine any dispute between an employee's current and past attorney or attorneys regarding the division of a fee as approved by the Commission pursuant to this section. An attorney who is a party to an action under this subsection shall have the same rights of appeal as outlined in subsection (c) of this section."

SECTION 2. This act is effective when it becomes law and applies to fee disputes for which no action to adjudicate has been filed in superior court prior to that date.

In the General Assembly read three times and ratified this the 11th day of July, 2013.

Became law upon approval of the Governor at 6:12 p.m. on the 18th day of July, 2013.

Session Law 2013-279 **H.B. 176**

AN ACT TO AUTHORIZE CORVIAN COMMUNITY SCHOOL, AN EXISTING CHARTER SCHOOL, TO ELECT TO PARTICIPATE IN THE TEACHERS' AND STATE EMPLOYEES' RETIREMENT SYSTEM AND THE STATE HEALTH PLAN FOR TEACHERS AND STATE EMPLOYEES.

The General Assembly of North Carolina enacts:

SECTION 1. Notwithstanding the time limitation contained in G.S. 135-5.3 and G.S. 135-48.54, the Board of Directors of Corvian Community School, a charter school located in Charlotte, may elect to become a participating employer in the Teachers' and State Employees' Retirement System in accordance with Article 1 of Chapter 135 of the General Statutes and may also elect to become a participating employing unit in the State Health Plan for Teachers and State Employees in accordance with Article 3B of Chapter 135 of the General Statutes. The elections authorized by this act shall be made no later than 30 days after the effective date of this act and shall be made in accordance with all other requirements of G.S. 135-5.3 and G.S. 135-48.54.

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

In the General Assembly read three times and ratified this the 9th day of July, 2013.

Became law upon approval of the Governor at 6:12 p.m. on the 18th day of July, 2013.

Session Law 2013-280 **H.B. 214**

AN ACT EXEMPTING FROM PUBLIC RECORDS DOCUMENTS COLLECTED OR COMPILED IN CONNECTION WITH AN APPLICATION FOR LICENSURE UNDER THE LAWS REGULATING REAL ESTATE BROKERS AND SALESPERSONS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 93A-4 is amended by adding the following new subsection to read:

"(b2) Records, papers, and other documentation containing personal information collected or compiled by the Commission in connection with an application for examination, licensure, certification, or renewal or reinstatement, or the subsequent update of information shall not be considered public records within the meaning of Chapter 132 of the General Statutes unless admitted into evidence in a hearing held by the Commission."

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

In the General Assembly read three times and ratified this the 10th day of July, 2013.

Became law upon approval of the Governor at 6:12 p.m. on the 18th day of July, 2013.

Session Law 2013-281 **H.B. 257**

AN ACT TO AMEND THE STATUTES GOVERNING THE ESCHEAT FUND TO PROTECT THE PRIVACY OF INFORMATION COLLECTED FOR THE PROCESS OF PAYING CLAIMS; TO ELIMINATE THE FEE PAID BY HOLDERS FOR FILING AN EXTENSION REQUEST; TO REDUCE THE AMOUNT OF PAPERWORK REQUIRED BY HOLDERS; AND TO IMPROVE THE EFFICIENCY AND EFFECTIVENESS OF PROCESSING HOLDER REPORTS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 116B-6 reads as rewritten:

"§ **116B-6. Administration of Escheat Fund; Escheat Account.**

…

(i) Records. – ~~Before making a deposit to the Escheat Fund, or retaining or destroying property, the Treasurer shall record the name and address of the holder, the name and last known address of each person appearing from the holder's reports to be entitled to the abandoned property, the name and last known address of each insured person or annuitant, the amount or description of the property, and, with respect to each policy or contract listed in the report of an insurer, its number and the name of the corporation. The records shall be available for public inspection at all reasonable business hours.~~ The State Treasurer must maintain the records it receives from holders who report unclaimed property in accordance with G.S. 116B-60. To protect the privacy of the owners of unclaimed property, the information that may be subject to public inspection will be limited to the information the State Treasurer is required to annually submit to the clerks of superior court in accordance with G.S. 116B-62.

…."

SECTION 2. G.S. 116B-52(11) reads as rewritten:

"§ **116B-52. Definitions.**

…

(11) "Property" means (i) money or tangible personal property held by a holder that is physically located in a safe deposit box or other safekeeping depository held by a financial institution within this State or (ii) a fixed and certain interest in intangible property that is held, issued, or owed in the course of a holder's business, or by a government, governmental subdivision, agency, or instrumentality, and all income or increments therefrom. The term includes property that is referred to as or evidenced by:

a. Money, a check, draft, deposit, interest, or dividend;

b. Credit balance, customer's overpayment, gift certificate, security deposit, refund, credit memorandum, unpaid wage, unused ticket, mineral proceeds, or unidentified remittance;

c. Stock or other evidence of ownership of an interest in a business association;

d. A bond, debenture, note, or other evidence of indebtedness;

e. Money deposited to redeem stocks, bonds, coupons, or other securities, or to make distributions;

f. An amount due and payable under the terms of an annuity or insurance policy, including policies providing life insurance, property and casualty insurance, workers' compensation insurance, or health and disability insurance; and

g. An amount distributable from a trust or custodial fund established under a plan to provide health, welfare, pension, vacation, severance, retirement, death, stock purchase, profit sharing, employee savings, supplemental unemployment insurance, or similar benefits.

…."

SECTION 3. G.S. 116B-60 reads as rewritten:

"§ **116B-60. Report of abandoned property; certification by holders with tax return.**

(a) A holder of property presumed abandoned shall make a report to the Treasurer concerning the property. Holders reporting 50 or more property owner records shall file the report in an electronic format prescribed by the Treasurer. Holders reporting less than 50 property owner records may file the report electronically. ~~Holders reporting electronically may file an electronically signed affidavit in order to comply with subsection (f) of this section.~~Holders reporting electronically may file an electronic certification and verification in order to comply with subsection (f) of this section.

…

(e) Before the date for filing the report, the holder of property presumed abandoned may request the Treasurer to extend the time for filing the report. ~~A request for an extension for filing a report shall be accompanied by an extension processing fee of ten dollars ($10.00).~~ The Treasurer may grant the extension for good cause. The holder, upon receipt of the extension, may make an interim payment on the amount the holder estimates will ultimately be due, which terminates the accrual of additional interest on the amount paid.

(f) The holder of property presumed abandoned ~~shall file with the report an affidavit stating that the holder has complied with G.S. 116B-59.~~ shall file with the report a certification and verification that the holder has complied with G.S. 116B-59.

…."

SECTION 4. This act is effective when it becomes law and applies to reports filed or records created on or after that date.

In the General Assembly read three times and ratified this the 10th day of July, 2013.

Became law upon approval of the Governor at 6:14 p.m. on the 18th day of July, 2013.

Session Law 2013-282 **H.B. 241**

AN ACT TO MAKE THE BLUE MONDAY SHAD FRY IN EAST ARCADIA LOCATED ON THE CAPE FEAR RIVER LOCK AND DAM #1 IN BLADEN COUNTY AND SOUTHEAST COLUMBUS COUNTY THE OFFICIAL STATE BLUE MONDAY SHAD FRY.

Whereas, the community of East Arcadia has been holding an Annual Shad Fry on the Monday following Easter Sunday for more than 60 years; and

Whereas, this Annual Shad Fry was founded and financed by Bernard Carter, Chester Graham, and Archie Graham around 1950; and

Whereas, Jesse Blanks, Wendell Brown, and Jerry Graham have assumed this position since the 1988 death of Mr. Carter; and

Whereas, this event has been supported by local men such as Teddy Hall, John Leslie Carter, Harry Blanks, Curtis Bowen, Cleo Spaulding, Odell Graham, George Graham, Sr., and Thurman Blanks, who catch, clean, and donate the shad; and

Whereas, this event garners support from the Town of East Arcadia and surrounding communities and hosts visitors from across North Carolina and other states such as Maryland, New Jersey, Connecticut, Texas, and Washington; and

Whereas, this is a day of reunion, remembering, and fellowship for all comers with upward of 1,000 individuals attending during the day; and

Whereas, it is the desire of the community to continue this tradition; Now, therefore,

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 145-33 is amended by adding a new subsection to read:

"§ **145-33. State Shad ~~festival.~~Festival; Blue Monday Shad Fry.**

(a) The Grifton Shad Festival is adopted as the official Shad Festival of the State of North Carolina.

(b) The East Arcadia Blue Monday Shad Fry is adopted as the official Blue Monday Shad Fry of the State of North Carolina."

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

In the General Assembly read three times and ratified this the 9th day of July, 2013.

Became law upon approval of the Governor at 6:14 p.m. on the 18th day of July, 2013.

Session Law 2013-283 **H.B. 296**

AN ACT TO (1) ADJUST THE FEES CHARGED FOR CERTAIN HUNTING AND FISHING LICENSES ISSUED BY THE WILDLIFE RESOURCES COMMISSION AND REPEAL THE COUNTY HUNTING, FISHING, AND TRAPPING LICENSES AND THE NONCOMMERCIAL SPECIAL DEVICE LICENSES; (2) ESTABLISH A BLACK BEAR MANAGEMENT STAMP THAT MUST BE PROCURED BEFORE TAKING BEAR WITHIN THE STATE AND AMEND THE LAW RESTRICTING THE TAKING OF BLACK BEAR WITH BAIT; (3) ADJUST THE AGE FOR DISCOUNTED SPECIAL LICENSES FROM AGE SIXTY-FIVE TO AGE SEVENTY; (4) PROVIDE THAT EFFECTIVE JANUARY 1, 2015, THOSE HUNTING AND FISHING LICENSE FEES IN EFFECT SHALL REMAIN AT THE EXISTING LEVELS UNTIL THE WILDLIFE RESOURCES COMMISSION ESTABLISHES NEW FEES THROUGH RULE MAKING, AND AUTHORIZE THE WILDLIFE RESOURCES COMMISSION TO ESTABLISH LICENSE FEES THROUGH RULE MAKING BEGINNING IN 2015; (5) REPLACE THE CURRENT SIX PERCENT WILDLIFE SERVICE AGENT COMMISSION FEE WITH A TWO-DOLLAR TRANSACTION FEE; (6) PROVIDE THAT NO MORE THAN TWENTY-FIVE PERCENT OF THE WILDLIFE RESOURCES COMMISSION'S AUTHORIZED OPERATING BUDGET SHALL BE KEPT IN RESERVE; AND (7) PROVIDE AN ANNUAL TARGET FOR UTILIZATION OF THE ANNUAL EXPENDABLE INTEREST OF THE WILDLIFE ENDOWMENT FUND.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 113-270.1C(b) reads as rewritten:

"(b) Combination hunting and inland fishing licenses issued by the Wildlife Resources Commission are:

(1) Resident Annual Combination Hunting and Inland Fishing License – ~~$20.00.~~$25.00. This license shall be issued only to an individual resident of the State.

…."

SECTION 2. G.S. 113-270.1D reads as rewritten:

"§ **113-270.1D. Sportsman licenses.**

(a) Annual Sportsman License – ~~$40.00.~~ $50.00. This license shall be issued only to an individual resident of the State and entitles the licensee to take all wild animals and wild birds, including waterfowl, by all lawful methods in all open seasons, including the use of game lands, and to fish with hook and line for all fish in all inland and joint fishing waters, including public mountain trout waters. An annual sportsman license issued under this subsection does not entitle the licensee to engage in recreational fishing in coastal fishing waters that are not joint fishing waters.

(b) Lifetime Sportsman Licenses. Except as provided in subdivision (7) of this subsection, lifetime sportsman licenses are valid for the lifetime of the licensees. Lifetime sportsman licenses entitle the licensees to take all wild animals and wild birds by all lawful

methods in all open seasons, including the use of game lands, and to fish with hook and line for all fish in all inland and joint fishing waters, including public mountain trout waters. A lifetime sportsman license issued under this subsection does not entitle the licensee to engage in recreational fishing in coastal fishing waters that are not joint fishing waters. Lifetime sportsman licenses issued by the Wildlife Resources Commission are:

…

(4) Nonresident Lifetime Sportsman License – ~~$1,000.~~$1,200. This license shall be issued only to an individual nonresident of the State.

(5) Age ~~65~~70 Resident Lifetime Sportsman License – $15.00.This license shall be issued only to an individual resident of the State who is at least ~~65~~70 years of age.

(6) Repealed by Session Laws 2005-455, s. 1.7 effective January 1, 2007.

(7) Resident Disabled Veteran Lifetime Sportsman License – $100.00. This license shall be issued only to an individual who is a resident of the State and who is a fifty percent (50%) or more disabled veteran as determined by the United States Department of Veterans ~~Affairs.~~ Affairs or as established by rules of the Wildlife Resources Commission. This license remains valid for the lifetime of the licensee so long as the licensee remains fifty percent (50%) or more disabled.

(8) Resident Totally Disabled Lifetime Sportsman License – $100.00. This license shall be issued only to an individual who is a resident of the State and who is totally and permanently disabled as determined by the Social Security ~~Administration.~~Administration or as established by rules of the Wildlife Resources Commission."

SECTION 3. G.S. 113-270.2(c) reads as rewritten:

"(c) The hunting licenses issued by the Wildlife Resources Commission are as follows:

(1) Resident State Hunting License – ~~$15.00.~~ $20.00. This license shall be issued only to an individual resident of the State.

…

~~(3) Resident County Hunting License – $10.00. This license shall be issued only to an individual resident of the State and is valid only in the county of residence of the license holder.~~

(4) Controlled Hunting Preserve Hunting License – ~~$15.00.~~ $20.00. This license shall be issued to an individual resident or nonresident to take only foxes and domestically raised game birds, other than wild turkey, only within a controlled hunting preserve licensed and operated in accordance with G.S. 113-273(g) and implementing rules of the Wildlife Resources Commission.

(5) Resident Annual Comprehensive Hunting License – ~~$30.00.~~$36.00. This license shall be issued only to an individual resident of the State.

(6) Nonresident State Hunting License. This license shall be issued only to a nonresident. The nonresident State hunting licenses issued by the Wildlife Resources Commission are:

a. Season License – ~~$60.00.~~$80.00.

b. ~~Six-Day~~ Ten-Day License – ~~$40.00.~~$60.00. This license is valid for the ~~six~~10 consecutive dates indicated on the license."

SECTION 4. G.S. 113-270.3 reads as rewritten:

"§ **113-270.3. Special activity licenses; stamps; big game kill reports.**

(a) In addition to any hunting, trapping, or fishing license that may be required pursuant to G.S. 113-270.1B(a), individuals engaging in specially regulated activities must have the appropriate special activity license and stamp prescribed in this section before engaging in the regulated activity.

(b) The special activity licenses and stamp issued by the Wildlife Resources Commission are as follows:

(1) Resident Big Game Hunting License – ~~$10.00.~~ $13.00. This license shall be issued only to an individual resident of the State and entitles the holder to take big game by all lawful methods and during all open seasons.

(1a) Nonresident Bear Hunting License – ~~$125.00.~~$225.00. This license is valid for use only by an individual within the State and must be procured before taking any bear within the State. Notwithstanding any other provision of law, a nonresident individual may not take any bear within the State without procuring this license; provided, that those persons who have a nonresident lifetime sportsman combination license purchased prior to May 24, 1994, shall not have to purchase this license.

(1b) Bear Management Stamp – $10.00. This electronically generated stamp must be procured before taking any bear within the State. Notwithstanding any other provision of law, a resident or nonresident individual may not take any bear within the State without procuring this stamp; provided, that those persons who have purchased a lifetime license established by G.S. 113-270.1D(b), 113-270.2(c)(2), or 113-351(c)(3) prior to July 1, 2014, and those persons exempt from the license requirements as set forth in G.S. 113-276(c) and G.S. 113-276(n) shall obtain this stamp free of charge. All of the revenue generated by this stamp shall be dedicated to black bear research and management.

(2) Nonresident Big Game Hunting License. This license shall be issued only to an individual nonresident of the State and entitles the holder to take big game by all lawful methods and during all open seasons. The nonresident big game hunting licenses issued by the Wildlife Resources Commission are:

a. Season License – ~~$60.00.~~ $80.00.

b. ~~Six-Day~~Ten-Day License – ~~$40.00.~~ $60.00. This license is only valid for the ~~six~~10 consecutive dates indicated on the license.

…

(5) Migratory Waterfowl Hunting License – ~~$10.00.~~$13.00. This license shall be issued to an individual resident or nonresident of the State and entitles the holder to take migratory waterfowl in accordance with applicable laws and regulations. The Wildlife Resources Commission may implement this license requirement through the sale of an official waterfowl stamp which may be a facsimile, in an appropriate size, of the waterfowl conservation print authorized by G.S. 113-270.2B. An amount not less than one-half of the annual proceeds from the sale of this license shall be used by the Commission for cooperative waterfowl habitat improvement projects through contracts with local waterfowl interests, with the remainder of the proceeds to be used by the Commission in its statewide programs for the conservation of waterfowl."

SECTION 5. G.S. 113-270.4(b) reads as rewritten:

"(b) The hunting and fishing guide licenses issued by the Wildlife Resources are:

(1) Resident Hunting and Fishing Guide License – ~~$10.00.~~ $15.00. This license is valid for use only by an individual resident of the State.

(2) Nonresident Hunting and Fishing Guide License – ~~$100.00.~~$150.00. This license is valid for use by a nonresident individual in the State."

SECTION 6. G.S. 113-270.5(b) reads as rewritten:

"(b) The trapping licenses issued by the Wildlife Resources Commission are as follows:

(1) Resident State Trapping License – ~~$25.00.~~$30.00. This license is valid only for use by an individual resident of the State.

~~(2) Resident County Trapping License – $10.00. This license is valid only for use by an individual resident of the State within the county in which he resides.~~

(3) Nonresident State Trapping License – ~~$100.00.~~$125.00. This license is valid for use by an individual within the State."

SECTION 7. G.S. 113-271(d) reads as rewritten:

"(d) The hook-and-line fishing licenses issued by the Wildlife Resources Commission are as follows:

(1) Resident Annual Comprehensive Inland Fishing License – ~~$20.00.~~ $25.00. This license shall be issued only to an individual resident of the State.

(2) Resident State Inland Fishing License – ~~$15.00.~~ $20.00. This license shall be issued only to an individual resident of the State.

…

~~(4) Resident County Inland Fishing License – $10.00. This license shall be issued only to an individual resident of the State and is valid only within the county of residence of the licensee.~~

(5) Nonresident State Inland Fishing License – ~~$30.00.~~ $36.00. This license shall be issued to an individual nonresident of the State.

(6) Short-Term Inland Fishing Licenses. Short-term inland fishing licenses are valid only for the date or consecutive dates indicated on the licenses. Short-term inland fishing licenses issued by the Wildlife Resources Commission are:

a. Resident 10-day Inland Fishing License – ~~$5.00.~~ $7.00. This license shall be issued only to a resident of the State.

b. Nonresident 10-day Inland Fishing License – ~~$10.00.~~ $18.00. This license shall be issued only to a nonresident of the State.

c. Repealed by Session Laws 2005-455, s. 1.8, effective January 1, 2007.

(6a) Age ~~65~~70 Resident Lifetime Inland Fishing License – $15.00. This license shall be issued only to an individual resident of the State who is at least ~~65~~70 years of age.

(6b) Resident Disabled Veteran Lifetime Inland Fishing License – $10.00. This license shall be issued only to an individual who is a resident of the State and who is a fifty percent (50%) or more disabled veteran as determined by the United States Department of Veterans ~~Affairs.~~Affairs or as established by rules of the Wildlife Resources Commission. This license remains valid for the lifetime of the licensee so long as the licensee remains fifty percent (50%) or more disabled.

(6c) Resident Totally Disabled Lifetime Inland Fishing License – $10.00. This license shall be issued only to an individual who is a resident of the State and who is totally and permanently disabled as determined by the Social Security ~~Administration.~~ Administration or as established by rules of the Wildlife Resources Commission. This license remains valid for the lifetime of the licensee.

(7), (8) Repealed by Session Laws 2005-455, s. 1.8, effective January 1, 2007.

(9) Special Landholder and Guest Fishing License – ~~$50.00.~~ $100.00. This license shall be issued only to the landholder of private property bordering inland or joint fishing waters. This license shall entitle the landholder and guests of the landholder to fish from the shore or any pier or dock originating from the property without any additional fishing license. This license is applicable only to private property and private docks and piers and is not valid for any public property, pier, or dock nor for any private property, pier, or dock operated for any commercial purpose whatsoever.

This license shall not be in force unless displayed on the premises of the property and only entitles fishing without additional license to persons fishing from the licensed property and then only when fishing within the private property lines. This license is not transferable as to person or location. For purposes of this subdivision, a guest is any individual invited by the landholder to fish from the property at no charge. A charge includes any fee, assessment, dues, rent, or other consideration which must be paid, whether directly or indirectly, in order to be allowed to fish from the property, regardless of the stated reason for such charge."

SECTION 8. G.S. 113-272 reads as rewritten:

"§ **113-272. Special trout license; mountain heritage trout waters 3-day fishing license.**

…

(d) Special Trout License: Fee. – ~~$10.00.~~ $13.00. This license shall be issued to an individual resident or nonresident of the State and entitles the holder to fish with hook and line in public mountain trout waters.

(e) Mountain Heritage Trout Waters 3-Day Fishing License: Fee. – $5.00. This license shall be issued to an individual resident or nonresident of the State and shall entitle the holder to fish in waters designated by the Wildlife Resources Commission as mountain heritage trout waters for the three consecutive days indicated on the license. An individual who holds a mountain heritage trout waters 3-day fishing license does not need to hold a hook-and-line fishing license issued pursuant to G.S. 113-271 in order to fish in mountain heritage trout waters."

SECTION 9. G.S. 113-272.2(c) reads as rewritten:

"(c) The special device licenses issued by the Wildlife Resources Commission are as follows:

~~(1) Resident Noncommercial Special Device License – $10.00. Except as rules of the Wildlife Resources Commission provide for use of equipment by more than one person, this license is valid only for use by an individual resident of the State. It authorizes the taking of nongame fish from inland fishing waters with no more than three special devices authorized by the rules of the Wildlife Resources Commission for use in specified waters. The Wildlife Resources Commission may restrict the user of the license to specified registered equipment, require tagging of items of equipment, charge up to one dollar ($1.00) per tag issued, and require periodic catch data reports. Unless specifically prohibited, nongame fish lawfully taken under this license may be sold.~~

(1a) Resident ~~Commercial~~ Special Device License – ~~$100.00.~~ $75.00. Except as rules of the Wildlife Resources Commission provide for use of equipment by more than one person, this license is valid only for use by an individual resident of the State. It authorizes the taking of nongame fish from inland fishing waters with ~~four or more~~ special devices authorized by the rules of the Wildlife Resources Commission for use in specified waters. The Wildlife Resources Commission may restrict the user of the license to specified registered equipment, require tagging of items of equipment, charge up to one dollar ($1.00) per tag issued, and require periodic catch data reports. Nongame fish lawfully taken under this license may be sold.

~~(2) Nonresident Noncommercial Special Device License – $50.00. Except as rules of the Wildlife Resources Commission provide for use of equipment by more than one person, this license is valid for use only by an individual within the State. It is otherwise subject to the terms and conditions set out in subdivision (1) of this subsection.~~

(2a) Nonresident ~~Commercial~~ Special Device License – ~~$200.00.~~ $500.00. Except as rules of the Wildlife Resources Commission provide for use of equipment by more than one person, this license is valid only for use by an individual within the State. It is otherwise subject to the terms and conditions set out in subdivision (1a) of this subsection.

(3), (4) Repealed by Session Laws 1987, c. 156, s. 11."

SECTION 10. G.S. 113-351(c) reads as rewritten:

"(c) Types of Unified Hunting and Fishing Licenses; Fees; Duration. – The Wildlife Resources Commission shall issue the following Unified Hunting and Fishing Licenses:

(1) Annual Resident Unified Sportsman/Coastal Recreational Fishing License. – ~~$55.00.~~$65.00. This license is valid for a period of one year from the date of issuance. This license shall be issued only to an individual who is a resident of the State. This license authorizes the licensee to take all wild animals and wild birds, including waterfowl, by all lawful methods in all open seasons, including the use of game lands; to fish with hook and line for all fish in all inland fishing waters and joint fishing waters, including public mountain trout waters; and to engage in recreational fishing in coastal fishing waters.

(2) Annual Resident Unified Inland/Coastal Recreational Fishing License. – ~~$35.00.~~$40.00. This license is valid for a period of one year from the date of issuance. This license shall be issued only to an individual who is a resident of the State. This license authorizes the licensee to fish with hook and line for all fish in all inland fishing waters and joint fishing waters, including public mountain trout waters, and to engage in recreational fishing in coastal fishing waters.

(3) Lifetime Unified Sportsman/Coastal Recreational Fishing Licenses. – Except as provided in sub-subdivision f. of this subdivision, a license issued under this subdivision is valid for the lifetime of the licensee. A license issued under this subdivision authorizes the licensee to take all wild animals and wild birds, including waterfowl, by all lawful methods in all open seasons, including the use of game lands; to fish with hook and line for all fish in all inland fishing waters and joint fishing waters, including public mountain trout waters; and to engage in recreational fishing in coastal fishing waters.

…

c. Resident Adult Lifetime Unified Sportsman/Coastal Recreational Fishing License. – $675.00. This license shall be issued only to an individual who is 12 years of age or older but younger than ~~65~~70 years of age and who is a resident of the State.

d. Nonresident Adult Lifetime Unified Sportsman/Coastal Recreational Fishing License. – ~~$1,350.~~$1,550. This license shall be issued only to an individual who is 12 years of age or older and who is not a resident of the State.

e. Resident Age ~~65~~70 Lifetime Unified Sportsman/Coastal Recreational Fishing License. – $30.00. This license shall be issued only to an individual who is ~~65~~70 years of age or older and who is a resident of the State.

f. Resident Disabled Veteran Lifetime Unified Sportsman/Coastal Recreational Fishing License. – $110.00. This license shall be issued only to an individual who is a resident of the State and who is a fifty percent (50%) or more disabled veteran as determined by the United States Department of Veterans ~~Affairs.~~ Affairs or as established by rules of the Wildlife Resources Commission. This license remains valid for the lifetime of the licensee so long as the licensee remains fifty percent (50%) or more disabled.

g. Resident Totally Disabled Lifetime Unified Sportsman/Coastal Recreational Fishing License. – $110.00. This license shall be issued only to an individual who is a resident of the State and who is totally and permanently disabled as determined by the Social Security ~~Administration.~~Administration or as established by rules of the Wildlife Resources Commission.

(4) Lifetime Unified Inland/Coastal Recreational Fishing Licenses. – Except as provided in sub-subdivisions b. and c. of this subdivision, a license issued under this subdivision is valid for the lifetime of the licensee. A license issued under this subdivision authorizes the licensee to fish with hook and line for all fish in all inland fishing waters and joint fishing waters, including public mountain trout waters, and to engage in recreational fishing in coastal fishing waters.

a. Resident Lifetime Unified Inland/Coastal Recreational Fishing License. – $450.00.

b. Resident Legally Blind Lifetime Unified Inland/Coastal Recreational Fishing License. – No charge. This license shall be issued only to an individual who is a resident of the State and who has been certified by the Department of Health and Human Services as an individual whose vision with glasses is insufficient for use in ordinary occupations for which sight is essential. This license remains valid for the lifetime of the licensee so long as the licensee remains legally blind.

c. Resident Adult Care Home Lifetime Unified Inland/Coastal Recreational Fishing License. – No charge. This license shall be issued only to an individual who is a resident of the State and who resides in an adult care home as defined in G.S. 131D-2.1 or G.S. 131E-101(1). This license remains valid for the lifetime of the licensee so long as the licensee remains a resident of an adult care home."

SECTION 11. G.S. 113-174.2(c) reads as rewritten:

"(c) Types of CRFLs; Fees; Duration. – The Wildlife Resources Commission shall issue the following CRFLs:

…

(6) Lifetime CRFLs. – Except as provided in sub-subdivision j. of this subdivision, CRFLs issued under this subdivision are valid for the lifetime of the licensee.

…

g. Resident Adult Lifetime CRFL. – $250.00. This license shall be issued only to an individual who is 12 years of age or older but younger than ~~65~~70 years of age and who is a resident of the State.

…

i. Resident Age ~~65~~70 Lifetime CRFL. – $15.00. This license shall be issued only to an individual who is ~~65~~70 years of age or older and who is a resident of the State.

…."

SECTION 12. G.S. 113-291.1(b) reads as rewritten:

"(b) No wild animals or wild birds may be taken:

(1) From or with the use of any vehicle; vessel, other than one manually propelled; airplane; or other conveyance except that the use of vehicles and vessels is authorized:

a. As hunting stands, subject to the following limitations. No wild animal or wild bird may be taken from any vessel under sail, under

power, or with the engine running or while still in motion from such propulsion. No wild animal or wild bird may be taken from any vehicle if it is in motion, the engine is running, or the passenger area of the vehicle is occupied. The prohibition of occupying the passenger area of a vehicle does not apply to a disabled individual whose mobility is restricted.

b. For transportation incidental to the taking.

(2) With the use or aid of any artificial light, net, trap, snare, electronic or recorded animal or bird call, or fire, except as may be otherwise provided by statute[;] provided, however, that the Wildlife Resources Commission may adopt rules prescribing seasons and the manner of taking of wild animals and wild birds with the use of artificial light and electronic calls. No wild birds may be taken with the use or aid of salt, grain, fruit, or other bait. No black bear may be taken with the use or aid of any salt, salt lick, grain, fruit, honey, sugar-based material, animal parts or products, or other bait, ~~and no~~ except as provided by the rules of the Wildlife Resources Commission. However, no rule established by the Wildlife Resources Commission shall allow for the taking of a black bear with the use and aid of bear bait attractants, including scented sprays, aerosols, scent balls, and scent powders, and no rule established by the Wildlife Resources Commission shall allow for the taking of a black bear while it is consuming bait. No wild turkey may be taken from an area in which bait has been placed until the expiration of 10 days after the bait has been consumed or otherwise removed. The taking of wild animals and wild birds with poisons, drugs, explosives, and electricity is governed by G.S. 113-261, G.S. 113-262, and Article 22A of this Subchapter.

Upon finding that the placement of processed food products in areas frequented by black bears is detrimental to the health of individual black bears or is attracting and holding black bears in an area to the extent that the natural pattern of movement and distribution of black bears is disrupted and bears' vulnerability to mortality factors, including hunting, is increased to a level that causes concern for the population, the Wildlife Resources Commission may adopt rules to regulate, restrict, or prohibit the placement of those products and prescribe time limits during which hunting is prohibited in areas where those products have been placed.

Any person who is convicted of unlawfully taking bear with the use or aid of any type of bait as provided by this subsection or by rules adopted pursuant to this subsection is punishable as provided by G.S. 113-294(c1)."

SECTION 13. Chapter 828 of the 1981 Session Laws is repealed.

SECTION 14. G.S. 113-276 reads as rewritten:

"§ **113-276. Exemptions and exceptions to license and permit requirements.**

(a), (b) Repealed by Session Laws 1979, c. 830, s. 1.

(c) Except as otherwise provided in this Subchapter, every landholder, his spouse, and dependents under 18 years of age residing with him may take wildlife upon the land held by the landholder without any license required by G.S. 113-270.1B or G.S. 113-270.3(a), except that such persons are not exempt from the bear management stamp established in G.S. 113-270.3(b)(1b) and the falconry license described in G.S. 113-270.3(b)(4).

…

(n) The Wildlife Resources Commission may adopt rules to exempt individuals from the hunting and fishing license requirements of G.S. 113-270.1B, 113-270.3(b)(1), 113-270.3(b)(1a), 113-270.3(b)(1b), 113-270.3(b)(2), 113-270.3(b)(3), 113-270.3(b)(5), 113-271, 113-272, and 113-272.2(c)(1) who participate in organized hunting and fishing events for the specified time and place of the event when the purpose of the event is consistent with

the conservation objectives of the Commission. A person exempted from licensing requirements under this subsection is responsible for complying with any reporting requirements prescribed by rule of the Wildlife Resources Commission, purchasing any federal migratory waterfowl stamps as a result of waterfowl hunting activity, and complying with any other requirements that the holder of a North Carolina license is subject to. Those exempted persons shall comply with the hunter safety requirements of G.S. 113-270.1A or shall be accompanied by a properly licensed adult who maintains a proximity to the license exempt individual which enables the adult to monitor the activities of, and communicate with, the individual at all times."

SECTION 15. G.S. 113-270.1(b) reads as rewritten:

"(b) License agents may ~~deduct from the amount collected for each license or permit a fee of six percent (6%).~~charge a fee of two dollars ($2.00) per transaction for licenses or permits issued."

SECTION 16. G.S. 113-270.1B is amended by adding a new subsection to read:

"(c) For those licenses sold directly through the Commission by telephone, mail, online, or at a service counter, the Commission may charge a fee of two dollars ($2.00) per transaction. A fee may not be charged by the Commission for federal Harvest Information Program (HIP) certification, big game harvest report cards for lifetime license holders, exempt landowners, persons of less than 16 years of age, or for any other license or vessel transactions for which there is no charge."

SECTION 17. G.S. 75A-5.2(c) reads as rewritten:

"(c) As compensation for services rendered to the Commission and to the general public, vessel agents shall receive the ~~following specified commission from the statutory fee for each listed transaction:~~surcharge listed below. The surcharge shall be added to the fee for each certificate issued.

(1) Renewal of certificate of number – ~~$1.25.~~$3.00.

(2) Transfer of ownership and certificate of number – ~~$3.00.~~$5.00.

(3) Issuance of new certificate of number – ~~$3.00.~~$5.00.

(4) Issuance of duplicate certificate of number – ~~$0.50.~~$3.00.

(5) Issuance or transfer of certificate of title – ~~$3.00.~~$5.00."

SECTION 18. Article 24 of Chapter 143 of the General Statutes is amended by adding a new section to read:

"**§ 143-249.1. Operating budget.**

No more than twenty-five percent (25%) of the certified operating budget of the Wildlife Resources Commission shall be allowed to accumulate in a cash balance. It is the intent of the General Assembly to implement in any subsequent fiscal year a nonrecurring reduction in an amount equal to the cash balance that exceeds twenty-five percent (25%) of the authorized operating budget in the prior fiscal year."

SECTION 19. G.S. 143-250.1 is amended by adding a new subsection to read:

"(f1) At all times during which the cash balance in the Wildlife Endowment Fund is equal to or greater than the sum of one hundred million dollars ($100,000,000), the Wildlife Resources Commission shall budget at least fifty percent (50%) of the annual expendable interest from the Fund, as determined by the Board of Trustees of the Fund, to implement the conservation goals set forth in the Wildlife Resource Commission's strategic plan."

SECTION 20.(a) Effective January 1, 2015, the statutory fees for the hunting, fishing, trapping, and activity licenses issued and administered by the Wildlife Resources Commission shall remain at the levels existing on that date until the rules required to be adopted pursuant to subsection (b) of this section become effective.

SECTION 20.(b) The Wildlife Resources Commission shall adopt rules to establish fees for the hunting, fishing, trapping, and activity licenses issued and administered by the Wildlife Resources Commission. No rule to increase fees above January 1, 2015, levels may increase a fee in excess of the average increase in the Consumer Price Index for All Urban Consumers over the preceding five years.

SECTION 20.(c) The statutory fees for the hunting, fishing, trapping, and activity licenses issued and administered by the Wildlife Resources Commission shall expire when the rules adopted pursuant to subsection (b) of this section become effective.

SECTION 21. All discounted licenses for persons at least 65 years of age provided for in G.S. 113-270.1D(b), 113-271(d), 113-351(c), and 113-174.2(c) for which the age requirement is increased from 65 to 70 by Sections 2, 7, 10, and 11 of this act shall remain available at age 65 for all persons who were born on or before August 1, 1953.

SECTION 22. Sections 1 through 11 and Sections 14 and 21 of this act become effective August 1, 2014. Sections 12 and 13 are effective when they become law. Sections 15, 16, 17, and 18 of this act become effective January 1, 2014. Section 20 becomes effective January 1, 2015. The remainder of this act becomes effective July 1, 2013.

In the General Assembly read three times and ratified this the 11th day of July, 2013.

Became law upon approval of the Governor at 6:14 p.m. on the 18th day of July, 2013.

Session Law 2013-284 **H.B. 327**

AN ACT TO MODERNIZE, UPDATE, AND CLARIFY THE STATUTES GOVERNING THE FIREMEN'S AND RESCUE SQUAD WORKERS' PENSION FUND BY ADDING A DEFINITION SECTION TO THE STATUTES, TO REPEAL ARCHAIC AND UNNECESSARY PROVISIONS, TO MAKE THE PROVISIONS GENDER NEUTRAL, TO ELIMINATE THE BOARD OF TRUSTEES WHILE TRANSFERRING ITS AUTHORITY TO THE BOARD OF TRUSTEES OF THE LOCAL GOVERNMENTAL EMPLOYEES' RETIREMENT SYSTEM, TO ESTABLISH A FIREFIGHTERS' AND RESCUE SQUAD WORKERS' ADVISORY PANEL, TO PROHIBIT CERTAIN FELONS FROM PARTICIPATING IN THE FUND, AND TO ESTABLISH AN AGGRAVATING FACTOR FOR DEFENDANTS WHO COMMIT OFFENSES DIRECTLY RELATED TO THEIR SERVICE AS FIREFIGHTERS OR RESCUE SQUAD WORKERS.

The General Assembly of North Carolina enacts:

SECTION 1.(a) Article 86 of Chapter 58 of the General Statutes reads as rewritten:

"Article 86.

"North Carolina ~~Firemen's~~ Firefighters' and Rescue Squad Workers' Pension Fund.

"§ **58-86-1. Fund established; administration by board of trustees; rules and regulations.**

For the purpose of furthering the general welfare and police powers and obligations of the State with respect to the protection of all its citizens from the consequences of loss or damage by fire and of injury by serious accident or illness, of increasing the protection of life and property against loss or damage by fire, of improving ~~fire fighting~~ firefighting and life saving techniques, of increasing the potential of fire departments, rescue squads, organizations and groups, of fostering increased and more widely spread training of personnel of these organizations and groups, and of providing incentive and inducement to participate in fire prevention, ~~fire fighting~~ firefighting and rescue squad activities and for the establishment of new, improved or extended fire departments, rescue squads, organizations and groups to the end that ultimately all areas of the State and all of its citizens will receive the benefits of fire protection and rescue squads' activity and a resulting reduction of loss or damage to life and property by fire hazard or injury by serious accident or illness, and in recognition of the public service rendered to the State of North Carolina and its citizens by "eligible ~~firemen~~ firefighters and rescue squad workers," as defined by this Article, there is created in this State a fund to be known, and designated as "The North Carolina ~~Firemen's~~ Firefighters' and Rescue Squad Workers' Pension Fund" to be administered as provided in this Article.

The North Carolina ~~Firemen's~~ Firefighters' and Rescue Squad Workers' Pension Fund is established to provide pension allowances and other benefits for eligible ~~firemen~~ firefighters and rescue squad workers in the State who elect to become members of the fund. The board of trustees created by this Article shall have authority to administer the fund and shall make necessary rules and regulations to carry out the provisions of this Article.

"**§ 58-86-2. Definitions.**

The following words and phrases as used in this Article, unless a different meaning is plainly required by the context, shall have the following meanings:

(1) "Board" means the Board of Trustees of the Local Governmental Employees' Retirement System.

(2) "Chair" means the chair of the Board of Trustees of the Local Governmental Employees' Retirement System.

(3) "Director" means the Director of the Retirement Systems Division of the North Carolina Department of State Treasurer. The Director shall promptly transmit to the State Treasurer all moneys collected on behalf of members, which moneys shall be deposited by the State Treasurer into the fund.

(4) "Eligible fire department" means a bona fide fire department which is certified to the Commissioner of Insurance by the governing body thereof, and determined as classified as not less than class "9S," and said fire department holds training sessions not less than four hours monthly.

(5) "Eligible firefighter" means all persons 18 years of age or older who are firefighters of the State of North Carolina or any political subdivision thereof, including those performing such functions in the protection of life and property through firefighting within a county or city governmental unit. "Eligible firefighter" shall also mean an employee of a county whose sole duty is to act as fire marshal, deputy fire marshal, assistant fire marshal, or firefighter of the county. "Eligible firefighter" shall also mean those persons meeting the other qualifications of this Article, not exceeding 25 volunteer firefighters plus one additional volunteer firefighter per 100 population in the area served by their respective departments.

(6) "Eligible rescue or emergency medical services squad" means organized rescue squad units eligible for membership in the North Carolina Association of Rescue and Emergency Medical Services, Inc.

(7) "Eligible rescue squad worker" means all persons 18 years of age or older who are members of a rescue or emergency medical services squad that is eligible for membership in the North Carolina Association of Rescue and Emergency Medical Services, Inc. "Eligible rescue squad worker" shall also mean those persons meeting the other qualifications of this Article.

(8) "Fully credited service" means a period of time for which the Board has received certification that a member has met all eligibility requirements for participation in the Pension Fund and for which the Board has received timely monthly payments under G.S. 58-86-35 or G.S. 58-86-40. In lieu of monthly payments under G.S. 58-86-35 or G.S. 58-86-40, a member may purchase fully credited service for any period of service as set forth in G.S. 58-86-45.

(9) "Inactive member" means a member of the fund who is not on a leave of absence under G.S. 58-86-95 and who is not making timely monthly payments under G.S. 58-86-35 or G.S. 58-86-40.

(10) "Member" means an eligible firefighter or eligible rescue squad worker who has elected to participate in the North Carolina Firefighters' and Rescue Squad Workers' Pension Fund.

(11) "Pension Fund" means the North Carolina Firefighters' and Rescue Squad Workers' Pension Fund.

(12) "Training sessions" for eligible rescue squad workers means sessions in which attendance will result in the preparation of, or knowledge gained by, the member in the area of rescue, emergency medical services, injury prevention, or protection of life and property. Such drill or training sessions held by the eligible rescue squad unit to meet the requirements of this Article shall be held for the purpose of providing a learning or preparation experience for the members.

(13) "Training sessions" for eligible firefighters means sessions in which attendance will result in the preparation of, or knowledge gained by, the member in the area of fire prevention, fire suppression, or protection of life and property. Such drill or training sessions held by the eligible fire department to meet the requirements of this Article shall be held for the purpose of providing a learning or preparation experience for the members.

"§ ~~**58-86-5. Creation and membership of board of trustees; compensation.**~~

~~There is created a board to be known as the "Board of Trustees of the North Carolina Firemen's and Rescue Squad Workers' Pension Fund", hereinafter known as "the board".~~

~~The board shall consist of six members:~~

~~(1) The State Treasurer, who shall act as chairman.~~

~~(2) The State Insurance Commissioner.~~

~~(3) Repealed by Session Laws 1993, c. 9.~~

~~(4) Four members to be appointed by the Governor; one a paid fireman, one a volunteer fireman, one volunteer rescue squad worker, and one representing the public at large, for terms of four years each. These members may succeed themselves.~~

~~The members presently serving on the "Board of Trustees of the Firemen's Pension Fund" shall continue to serve until the expiration of their terms. No member of the board shall receive any salary, compensation or expenses other than that provided in G.S. 138-6 for each day's attendance at duly and regularly called and held meetings of the board of trustees.~~

"§ **58-86-6. Firefighters' and Rescue Squad Workers' Pension Fund Advisory Panel.**

There is created an advisory panel to be known as the Firefighters' and Rescue Squad Workers' Pension Fund Advisory Panel, hereinafter referred to as "the advisory panel."

The advisory panel shall consist of seven persons:

(1) The Director of the Retirement Systems Division of the North Carolina Department of State Treasurer or his or her designee, who shall act as chair.

(2) A designee of the State Insurance Commissioner.

(3) Five members to be appointed by the Board of Trustees of the Local Governmental Employees' Retirement System: one paid firefighter, one volunteer firefighter, one paid rescue squad worker, one volunteer rescue squad worker, and one representing the public at large, for terms of four years each. One member of the advisory panel appointed by the Board of Trustees of the Local Governmental Employees' Retirement System must be a member of that Board. Members of the advisory panel may succeed themselves if reappointed by the Board of Trustees of the Local Governmental Employees' Retirement System.

The persons serving on the Board of Trustees of the Firefighters' and Rescue Squad Workers' Pension Fund on June 30, 2013, may serve as members of the advisory panel until the expiration of their current terms. No member of the advisory panel shall receive any salary, compensation, or expenses other than that provided in G.S. 138-6 for each day's attendance at duly and regularly called and held meetings of the advisory panel.

"§ **58-86-10. Powers and duties of the board.**

The Board of Trustees of the North Carolina Local Governmental Employees' Retirement System shall administer the Pension Fund. The board shall request appropriations out of the general fund for administrative expenses and to provide for the financing of this pension fund,

employ necessary clerical assistance, determine all applications for pensions, provide for the payment of pensions, make all necessary rules and regulations not inconsistent with law for the ~~government~~ governance of this fund, prescribe rules and regulations of eligibility of persons to receive pensions, expend funds in accordance with the provisions of this Article, and generally exercise all other powers necessary for the administration of the fund created by this Article.

"**§ 58-86-11. Powers and duties of the advisory panel.**

The advisory panel shall meet at least once annually upon call of the chair. The advisory panel shall have no administrative authority but shall prepare an annual report to the Board of Trustees of the North Carolina Local Governmental Employees' Retirement System regarding the status and needs of the North Carolina Firefighters' and Rescue Squad Workers' Pension Fund.

"~~§ 58-86-15. Director.~~

~~There is created an office to be known as Director of the North Carolina Firemen's and Rescue Squad Workers' Pension Fund. He shall be named by the board and shall serve at its pleasure. The director shall be subject to the provisions of the State Personnel Act. The director shall promptly transmit to the State Treasurer all moneys collected by him, which moneys shall be deposited by the State Treasurer into the fund.~~

"§ **58-86-20. State Treasurer to be custodian of fund; appropriations; contributions to fund; expenditures.**

The State Treasurer shall be the custodian of the North Carolina ~~Firemen's~~ Firefighters' and Rescue Squad Workers' Pension Fund and shall invest its assets in accordance with the provisions of G.S. 147-69.2 and G.S. 147-69.3. The appropriations made by the General Assembly out of the general fund to provide money for administrative expenses shall be handled in the same manner as any other general fund appropriation. One-fourth of the appropriation made out of the general fund to provide for the financing of the pension fund shall be transferred quarterly to a special fund to be known as the North Carolina ~~Firemen's~~ Firefighters' and Rescue Squad Workers' Pension Fund. There shall be set up in the State Treasurer's office a special fund to be known as the North Carolina ~~Firemen's~~ Firefighters' and Rescue Squad Workers' Pension Fund, and all contributions made by the members of this pension fund shall be deposited in the special fund. All expenditures for refunds, investments or benefits shall be in the same manner as expenditures of other special funds.

"§ **58-86-25. ~~"Eligible firemen" defined; determination~~ Determination and certification of ~~volunteers meeting qualifications.~~ eligible firefighters.**

~~"Eligible firemen" shall mean all firemen of the State of North Carolina or any political subdivision thereof, including those performing such functions in the protection of life and property through fire fighting within a county or city governmental unit and so certified to the Commissioner of Insurance by the governing body thereof, and who belong to a bona fide fire department which, as determined by the Commissioner, is classified as not less than class "9" or class "A" and "AA" departments in accordance with rating methods, schedules, classifications, underwriting rules, bylaws or regulations effective or applied with respect to the establishment of rates or premiums used or charged pursuant to Article 36 or 40 of this Chapter or by such other reasonable methods as the Commissioner may determine, and which operates fire apparatus and equipment of the value of five thousand dollars ($5,000) or more, and said fire department holds drills and meetings not less than four hours monthly and said firemen attend at least 36 hours of all drills and meetings in each calendar year. "Eligible firemen" shall also mean an employee of a county whose sole duty is to act as fire marshal, deputy fire marshal, assistant fire marshal, or firefighter of the county, provided the board of county commissioners of that county certifies the employee's attendance at no less than 36 hours of all drills and meetings in each calendar year. "Eligible firemen" shall also mean those persons meeting the other qualifications of this section, not exceeding 25 volunteer firemen plus one additional volunteer fireman per 100 population in the area served by their respective departments.~~ Eligible firefighters must attend 36 hours of training sessions in each calendar year. Each eligible fire department shall annually determine and report the names of those

~~firemen~~ firefighters meeting the eligibility qualifications of this ~~section~~ Article to its respective governing body, which upon determination of the validity and accuracy of the qualification shall promptly certify the list to the North Carolina State Firemen's Association. The Firemen's Association shall provide a list of those persons meeting the eligibility requirements of this ~~section~~ Article to the State Treasurer by January 31 of each year. For the purposes of the preceding sentence, the governing body of a fire department operated: by a county is the county board of commissioners; by a city is the city council; by a sanitary district is the sanitary district board; by a corporation, whether profit or nonprofit, is the corporation's board of directors; and by any other entity is that group designated by the board. An "eligible firefighter" may not also qualify as an "eligible rescue squad worker" in order to receive double benefits available under this Article.

"§ **58-86-30. ~~"Eligible rescue squad worker" defined; determination~~ Determination and certification of ~~eligibility.~~ "eligible rescue squad worker."**

~~"Eligible rescue squad worker" means a person who is a member of a rescue or emergency medical services squad that is eligible for membership in the North Carolina Association of Rescue and Emergency Medical Services, Inc., and who has attended a minimum of~~ Eligible rescue squad workers must attend at least 36 hours of training ~~and meetings in the last~~ sessions in each calendar year. Each rescue or emergency medical services squad eligible for membership in the North Carolina Association of Rescue and Emergency Medical Services, Inc., must file a roster certified by the secretary of the association of those rescue or emergency medical services squad workers meeting the requirements of this section with the State Treasurer by January 31 of each calendar year.

~~"Eligible rescue squad worker" does not mean "eligible fireman" as defined by G.S. 58-86-25, nor may an~~ An "eligible rescue squad worker" may not qualify also as an "eligible ~~fireman"~~ firefighter" in order to receive double benefits available under this Article.

"§ **58-86-35. ~~Firemen's~~ Firefighters' application for membership in fund; monthly payments by members; payments credited to separate accounts of members; termination of membership.**

Those ~~firemen~~ firefighters who are eligible pursuant to G.S. 58-86-25 may ~~make application for membership to the board.~~ apply to the board for membership. Each ~~fireman~~ firefighter upon becoming a member of the fund shall pay the director of the fund the sum of ten dollars ($10.00) per month; each payment shall be made no later than ~~90 days after~~ March 31 subsequent to the end of the calendar year in which the month occurred. The Pension Fund shall not award fully credited service based on payments received later than March 31 subsequent to the end of the calendar year in which the month occurred unless the payment is applied as provided in G.S. 58-86-45(a1). The monthly payments shall be credited to the separate account of the member and shall be kept by the custodian so it is available for payment on withdrawal from membership or retirement.

A member may elect to terminate membership in the fund at ~~anytime~~ any time and request the refund of payments previously made to the fund. However, a member's delinquency in making the monthly payments required by this section does not result in the termination of membership without such an election by the member.

"§ **58-86-40. Rescue squad worker's application for membership in funds; monthly payments by members; payments credited to separate accounts of members; termination of membership.**

Those rescue squad workers eligible pursuant to G.S. 58-86-30 may apply to the board for membership. Each eligible rescue squad worker upon becoming a member shall pay the director of the fund the sum of ten dollars ($10.00) per month; each payment shall be made no later than ~~90 days after~~ March 31 subsequent to the end of the calendar year in which the month occurred. The Pension Fund shall not award fully credited service based on payments received later than March 31 subsequent to the end of the calendar year in which the month occurred unless the payment is applied as provided in G.S. 58-86-45(a1). The monthly payments shall be

credited to the separate account of the member and shall be kept by the custodian so it is available for payment on withdrawal from membership or retirement.

A member may elect to terminate membership in the fund at ~~anytime~~ any time and request the refund of payments previously made to the fund. However, a member's delinquency in making the monthly payments required by this section does not result in the termination of membership without such an election by the member.

"§ **58-86-45. Additional retroactive membership.**

~~(a) Any fireman or rescue squad worker who is now eligible and is a member of a fire department or rescue squad chartered by the State of North Carolina and who has not previously elected to become a member may make application through the board of trustees for membership in the fund on or before March 31, 2001. The person shall make a lump sum payment of ten dollars ($10.00) per month retroactively to the time he first became eligible to become a member, plus interest at an annual rate of eight percent (8%), for each year of his retroactive payments. Upon making the lump sum payment, the person shall be given credit for all prior service in the same manner as if he had made application for membership at the time he first became eligible. Any member who made application for membership subsequent to the time he was first eligible and did not receive credit for prior service may receive credit for this prior service upon lump sum payment of ten dollars ($10.00) per month retroactively to the time he first became eligible, plus interest at an annual rate of eight percent (8%), for each year of his retroactive payments. Upon making this lump sum payment, the date of membership shall be the same as if he had made application for membership at the time he was first eligible. Any fireman or rescue squad worker who has applied for prior service under this subsection shall have until June 30, 2001, to pay for this prior service and, if this payment is not made by June 30, 2001, he shall not receive credit for this service, except as provided in subsection (a1) of this section.~~

(a1) ~~Effective July 1, 1993, any fireman~~ Any firefighter or rescue squad worker who is a current or former member of a fire department or rescue squad chartered by the State of North Carolina may purchase credit for any periods of service to any chartered fire department or rescue squad not otherwise creditable by making a lump sum payment to the Annuity Savings Fund equal to the full liability of the service credits calculated on the basis of the assumptions used for purposes of the actuarial valuation of the system's liabilities, which payment shall take into account the retirement allowance arising on account of the additional service credit commencing at the earliest age at which the member could retire on a retirement allowance, as determined by the board of trustees upon the advice of the consulting actuary, plus an administrative fee to be set by the board of trustees. This provision for the payment of a lump sum for service "not otherwise creditable" shall apply, inter alia, to all purchases of service credits for months as to which timely payments were not previously made pursuant to G.S. 58-86-35 or G.S. 58-86-40, whichever is applicable.

(b) An eligible ~~fireman~~ firefighter or rescue squad worker who is not yet 35 years old may apply to the board of trustees for membership in the fund at any time. Upon becoming a member, the worker may make a lump sum payment of ten dollars ($10.00) per month retroactively to the time the worker first became eligible to become a member, plus interest at an annual rate to be set by the board upon advice from actuary for each year of retroactive payments. Upon making this lump sum payment, the worker shall be given credit for all prior service in the same manner as if the worker had applied for membership upon first becoming eligible.

A member who is not yet 35 years old may receive credit for the prior service upon making a lump sum payment of ten dollars ($10.00) for each month since the worker first became eligible, plus interest at an annual rate to be set by the board for each year of retroactive payments. Upon making this lump sum payment, the date of membership shall be the same as if the worker had applied for membership upon first becoming eligible.

"§ **58-86-55. Monthly pensions upon retirement.**

Any member who has served 20 years as an "eligible ~~fireman"~~ firefighter" or "eligible rescue squad worker" in the State of North Carolina, as provided in G.S. 58-86-25 and G.S. 58-86-30, and who has attained the age of 55 years is entitled to be paid a monthly pension from this fund. The monthly pension shall be in the amount of one hundred seventy dollars ($170.00) per month. Any retired ~~fireman~~ firefighter receiving a pension shall, effective July 1, 2008, receive a pension of one hundred seventy dollars ($170.00) per month.

Members shall pay ten dollars ($10.00) per month as required by G.S. 58-86-35 and G.S. 58-86-40 for a period of no longer than 20 years. No "eligible rescue squad member" shall receive a pension prior to July 1, 1983. No member shall be entitled to a pension hereunder until the member's official duties as a fireman or rescue squad worker for which the member is paid compensation shall have been terminated and the member shall have retired as such according to standards or rules fixed by the board of trustees.

A member who is totally and permanently disabled while in the discharge of the member's official duties as a result of bodily injuries sustained or as a result of extreme exercise or extreme activity experienced in the course and scope of those official duties and who leaves the fire or rescue squad service because of this disability shall be entitled to be paid from the fund a monthly benefit in an amount of one hundred seventy dollars ($170.00) per month beginning the first month after the member's fifty-fifth birthday. All applications for disability are subject to the approval of the board who may appoint physicians to examine and evaluate the disabled member prior to approval of the application, and annually thereafter. Any disabled member shall not be required to make the monthly payment of ten dollars ($10.00) as required by G.S. 58-86-35 and G.S. 58-86-40.

A member who is totally and permanently disabled for any cause, other than line of duty, who leaves the fire or rescue squad service because of this disability and who has at least 10 years of service with the pension fund, may be permitted to continue making a monthly contribution of ten dollars ($10.00) to the fund until the member has made contributions for a total of 240 months. The member shall upon attaining the age of 55 years be entitled to receive a pension as provided by this section. All applications for disability are subject to the approval of the board who may appoint physicians to examine and evaluate the disabled member prior to approval of the application and annually thereafter.

A member who, because ~~his~~ the member's residence is annexed by a city under Part 2 or Part 3 of Article 4A of Chapter 160A of the General Statutes, or whose department is closed because of an annexation by a city under Part 2 or Part 3 of Article 4A of Chapter 160A of the General Statutes, or whose volunteer department is taken over by a city or county, and because of such annexation or takeover is unable to perform as a ~~fireman~~ firefighter or rescue squad worker of any status, and if the member has at least 10 years of service with the pension fund, may be permitted to continue making a monthly contribution of ten dollars ($10.00) to the fund until the member has made contributions for a total of 240 months. The member upon attaining the age of 55 years and completion of such contributions shall be entitled to receive a pension as provided by this section. Any application to make monthly contributions under this section shall be subject to a finding of eligibility by the Board of Trustees upon application of the member.

The pensions provided shall be in addition to all other pensions or benefits under any other statutes of the State of North Carolina or the United States, notwithstanding any exclusionary provisions of other pensions or retirement systems provided by law.

"§ **58-86-60. Payments in lump sums.**

The board shall direct payment in lump sums from the fund in the following cases:

(1) To any ~~fireman~~ firefighter or rescue squad worker upon the attaining of the age of 55 years, who, for any reason, is not qualified to receive the monthly retirement pension and who was enrolled as a member of the fund, an amount equal to the amount paid into the fund by him. This provision shall not be construed to preclude any active ~~fireman~~ firefighter or rescue squad

worker from completing the requisite number of years of active service after attaining the age of 55 years necessary to entitle ~~him~~ the firefighter or rescue squad worker to the pension.

(2) If any ~~fireman~~ firefighter or rescue squad worker dies before attaining the age at which a pension is payable to ~~him~~ the firefighter or rescue squad worker under the provisions of this Article, there shall be paid to his ~~widow,~~ or her surviving spouse, or if there be no ~~widow,~~ surviving spouse, to the person responsible for his or her child or children, or if there be no ~~widow~~ surviving spouse or children, then to his or her heirs at law as may be determined by the board or to his or her estate, if it is administered and there are no heirs, an amount equal to the amount paid into the member's separate account by or on behalf of the said ~~fireman~~ firefighter or rescue squad worker.

(3) If any ~~fireman~~ firefighter or rescue squad worker dies after beginning to receive the pension payable to ~~him~~ the firefighter or rescue squad worker by this Article, and before receiving an amount equal to the amount paid into the fund by ~~him,~~ him or her, there shall be paid to his ~~widow,~~ or her surviving spouse, or if there be no ~~widow,~~ surviving spouse, then to the person responsible for his or her child or children, or if there be no ~~widow~~ surviving spouse or children, then to his or her heirs at law as may be determined by the board or to his or her estate, if it is administered and there are no heirs, an amount equal to the difference between the amount paid into the member's separate account by or on behalf of the said ~~fireman~~ firefighter or rescue squad worker and the amount received by him or her as a pensioner.

(4) Any member ~~with five or more years of contributing service and~~ who withdraws from the fund shall, upon proper application, be paid all moneys without accumulated earnings on the payments after the time they were made. ~~If any member who has less than five years of contributing service made contributions, or any person, firm, corporation, or other entity has made contributions on behalf of that member and that member withdraws from the fund, the member, person, firm, corporation, or other entity shall be entitled to a refund equal to the amount of contributions made by them after the Board has been notified of the contributor's desire to be refunded its contributions upon the member's withdrawal.~~ A member may not purchase time under G.S. 58-86-45 for which he or she has received a refund.

"§ **58-86-65. Pro rata reduction of benefits when fund insufficient to pay in full.**

If, for any reason, the fund created and made available for any purpose covered by this Article shall be insufficient to pay in full any pension benefits, or other charges, then all benefits or payments shall be reduced pro rata, for as long as the deficiency in amount exists. No claim shall accrue with respect to any amount by which a pension or benefit payment shall have been reduced.

"§ **58-86-70. Provisions subject to future legislative change.**

These pensions shall be subject to future legislative change or revision, and no member of the fund, or any person, is deemed to have acquired any vested right to a pension or other payment provided by this Article.

"§ **58-86-75. Determination of creditable service; information furnished by applicants for membership.**

The board shall determine by appropriate rules and regulations the number of years' credit for service of ~~firemen~~ firefighters and rescue squad workers. ~~Firemen~~ Firefighters and rescue squad workers who are now serving as such shall furnish the board with information upon applying for membership as to previous service. Notwithstanding any other provisions of this Article, the Board may grant qualified prior service credits to eligible firemen and rescue squad

workers under such terms and conditions that the Board may adopt when the Board determines that an eligible ~~fireman~~ firefighter or rescue squad worker has been denied such service credits through no fault of his or her own.

"§ **58-86-80. Length of service not affected by serving in more than one department or squad; transfer from one department or squad to another.**

A ~~fireman's~~ firefighter's or rescue squad worker's length of service shall not be affected by the fact that he or she may have served with more than one department or squad, and upon transfer from one department or squad to another, notice of the fact shall be given to the board.

"§ **58-86-90. Exemptions of pensions from attachment; rights nonassignable.**

Except for the applications of the provisions of G.S. 110-136, and in connection with a court-ordered equitable distribution under G.S. 50-20, the pensions provided are not subject to attachment, garnishments or judgments against the ~~fireman~~ firefighter or rescue squad worker entitled to them, nor are any rights in the fund or the pensions or benefits assignable.

~~"§ 58-86-91. Deduction for payments to certain employees' or retirees' associations allowed.~~

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

"§ **58-86-95. Leaves of absence; inactive membership.**

(a) Any member who resigns as an eligible firefighter or an eligible rescue squad worker, whichever is applicable, may withdraw from the fund and seek a refund under G.S. 58-86-60 or take a leave of absence as provided by G.S. 58-86-95, or he or she will be considered an inactive member.

(b) In order to take a leave of absence, any member not on active military service must provide the office of the director with written notice that the member is taking a leave of absence. Any member not on active military service on leave of absence for more than five years in any six-year period shall be considered an inactive member.

(c) A member is not eligible for service credit for the time he or she is on leave of absence and is not required to make monthly payments for that time. During the time a member is on leave of absence he or she is not eligible for benefits from the pension fund. A member who has taken a leave of absence may subsequently withdraw from the pension fund and seek a refund under G.S. 58-86-60. If a member dies while he or she is on leave of absence, the appropriate person or persons may seek a refund under G.S. 58-86-60.

(d) Any member not on active military service who does not make contributions for two consecutive years and has not taken a leave of absence shall be considered an inactive member.

(e) The director of the pension fund shall communicate annually with each eligible fire department and eligible rescue or emergency medical services squad and transmit a list of those persons on a leave of absence. The director may consult with eligible fire departments and eligible rescue or emergency medical services squads with regard to the presumed status of members.

(f) The director of the pension fund shall maintain records of all inactive members of the fund, including dates of termination of service at an eligible fire department and eligible rescue or emergency medical services squad, and may consult with eligible fire departments and eligible rescue or emergency medical services squads with regard to the presumed status of members.

(g) Members on active military service must notify the director prior to commencement of active military service and subsequent to return from active duty and shall be granted a leave of absence for the entire time of the military service."

SECTION 1.(b) G.S. 25-9-406(i) reads as rewritten:

"(i) Inapplicability. – This section does not apply to an assignment of a health-care-insurance receivable. Subsection (f) of this section does not apply to an assignment or transfer of, or the creation, attachment, perfection, or enforcement of a security interest in, a right the transfer of which is prohibited or restricted by any of the following statutes to the extent that the statute is inconsistent with subsection (f) of this section:

…

(4) North Carolina ~~Firemen's~~ Firefighters' and Rescue Squad Workers' Pension Fund (Article 86 of Chapter 58 of the General Statutes).

…."

SECTION 1.(c) G.S. 25-9-408(f) reads as rewritten:

"(f) Inapplicability. – Subsection (c) of this section does not apply to an assignment or transfer of, or the creation, attachment, perfection, or enforcement of a security interest in, a right the transfer of which is prohibited or restricted by any of the following statutes to the extent that the statute is inconsistent with subsection (c) of this section: North Carolina Structured Settlement Act (Article 44B of Chapter 1 of the General Statutes); North Carolina Crime Victims Compensation Act (Chapter 15B of the General Statutes); North Carolina Consumer Finance Act (Article 15 of Chapter 53 of the General Statutes); North Carolina ~~Firemen's~~ Firefighters' and Rescue Squad Workers' Pension Fund (Article 86 of Chapter 58 of the General Statutes); Employment Security Law (Chapter 96 of the General Statutes); North Carolina Workers' Compensation Fund Act (Article 1 of Chapter 97 of the General Statutes); and Programs of Public Assistance (Article 2 of Chapter 108A of the General Statutes)."

SECTION 1.(d) G.S. 147-69.2 reads as rewritten:

"§ **147-69.2. Investments authorized for special funds held by State Treasurer.**

(a) This section applies to funds held by the State Treasurer to the credit of each of the following:

…

(6) The ~~Firemen's~~ Firefighters' and Rescue Workers' Pension Fund.

…

(b) It shall be the duty of the State Treasurer to invest the cash of the funds enumerated in subsection (a) of this section in excess of the amount required to meet the current needs and demands on such funds. The State Treasurer may invest the funds as provided in this subsection. If an investment was authorized by this subsection at the time the investment was made or contractually committed to be made, then none of the percentage or other limitation on investments set forth in this subsection shall be construed to require the State Treasurer to subsequently dispose of the investment or fail to honor any contractual commitments as a result of changes in market values, ratings, or other investment qualifications.

…

(8) With respect to assets of the Teachers' and State Employees' Retirement System, the Consolidated Judicial Retirement System, the ~~Firemen's~~ Firefighters' and Rescue Workers' Pension Fund, the Local Governmental Employees' Retirement System, the Legislative Retirement System, the North Carolina National Guard Pension Fund, and the Retiree Health Benefit Fund (hereinafter referred to collectively as the Retirement Systems), and assets invested pursuant to subdivision (b2) of this section, they may be invested in equity securities traded on a public securities exchange or market organized and regulated pursuant to the laws of the jurisdiction of such exchange or market and issued by any company incorporated or otherwise created or located within or outside the United States; provided the investments meet the conditions of this subdivision. The investments authorized for the Retirement Systems under this subdivision cannot exceed sixty-five percent (65%) of the market value of all invested assets of the Retirement Systems.

The assets authorized under this subdivision may be invested directly by the State Treasurer in any equity securities authorized by this subdivision for the primary purpose of approximating the movements of a nationally recognized and published market benchmark index. No more than one and one-half percent (1.5%) of the market value of the Retirement Systems' assets that may be invested directly under this subdivision can be invested in the stock of a single corporation, and the total number of shares in that single corporation cannot exceed eight percent (8%) of the issued and outstanding stock of that corporation.

So long as each investment manager has assets under management of at least one hundred million dollars ($100,000,000), the assets authorized under this subdivision may also be invested through any of the following:

a. Investment companies registered under the Investment Company Act of 1940; individual, common, or collective trust funds of banks and trust companies; and group trusts that invest primarily in investments authorized by this subdivision.
b. Limited partnerships, limited liability companies, or other limited liability investment vehicles that are not publicly traded and invest primarily in investments authorized by this subdivision. Investments under this sub-subdivision shall not exceed six and one-half percent (6.5%) of the market value of all invested assets of the Retirement Systems.
c. Contractual arrangements in which investment managers have full and complete discretion and authority to invest assets specified in such contractual arrangements in investments authorized by this subdivision."

SECTION 1.(e) G.S. 147-69.7(a) reads as rewritten:

"(a) The Treasurer shall discharge his or her duties with respect to the Teachers' and State Employees' Retirement System, the Consolidated Judicial Retirement System, the ~~Firemen's~~ Firefighters' and Rescue Squad Workers' Pension Fund, the Local Governmental Employees' Retirement System, the Legislative Retirement System, and the North Carolina National Guard Pension Fund (hereinafter referred to collectively as the Retirement Systems) as follows:

(1) Solely in the interest of the participants and beneficiaries.
(2) For the exclusive purpose of providing benefits to participants and beneficiaries and paying reasonable expenses of administering the Retirement Systems.
(3) With the care, skill, and caution under the circumstances then prevailing which a prudent person acting in a like capacity and familiar with those matters would use in the conduct of an activity of like character and purpose.
(4) Impartially, taking into account any differing interests of participants and beneficiaries.
(5) Incurring only costs that are appropriate and reasonable.
(6) In accordance with a good-faith interpretation of the law governing the Retirement Systems."

SECTION 1.(f) G.S. 147-69.8 reads as rewritten:

"§ **147-69.8. Annual report on new investment authority.**

Whenever the General Assembly broadens the investment authority of the State Treasurer as to the General Fund, the Teachers' and State Employees' Retirement System, the Consolidated Judicial Retirement System, the ~~Firemen's~~ Firefighters' and Rescue Squad Workers' Pension Fund, the Local Governmental Employees' Retirement System, the Legislative Retirement System, the North Carolina National Guard Pension Fund, or any idle funds, the State Treasurer shall annually report in detail to the General Assembly the

investments made under such new authority, including the returns on those investments, earnings, changes to value, and gains and losses in disposition of such investments. The report shall be made during the first six months of each calendar year, covering performance in the prior calendar year. As to each type of new investment authority, the report shall be made for at least four years."

SECTION 2.(a) Article 86 of Chapter 58 of the General Statutes is amended by adding a new section to read:

"**§ 58-86-100. Forfeiture of retirement benefits for certain felonies that would bring disrepute on a fire department or rescue squad.**

(a) Except as provided in G.S. 58-86-95(h), the Board of Trustees shall not pay any retirement benefits or allowances, except for a return of member contributions, to any member who is convicted of any felony under federal law or the laws of this State if all of the following apply:

(1) The offense is committed while the member is not yet 55 years of age or has not yet received 20 years of fully credited service or while the member is 55 years of age or older and has 20 years of fully credited service but is still serving as a participant in an eligible fire department or eligible rescue squad.

(2) The conduct resulting in the member's conviction is directly related to service as a firefighter or rescue squad worker and brings disrepute on a fire department or rescue squad.

(b) Subdivision (2) of subsection (a) of this section shall apply to felony convictions where the court finds under G.S. 15A-1340.16(d)(9a) or other applicable State or federal procedure that the offense is directly related to service as a firefighter or rescue squad worker.

(c) If a member or former member whose benefits under the System were forfeited under this section, except for the return of member contributions, subsequently receives an unconditional pardon of innocence or the conviction is vacated or set aside for any reason, then the member or former member may seek a reversal of the benefit forfeiture by presenting sufficient evidence to the State Treasurer. If the State Treasurer determines a reversal of the benefit forfeiture is appropriate, then all benefits will be restored upon repayment of all accumulated contributions. Repayment of all accumulated contributions that have been received by the individual under the forfeiture provisions of this section must be made in a total lump-sum payment. An individual receiving a reversal of benefit forfeiture must receive reinstatement of the service credit forfeited."

SECTION 2.(b) G.S. 15A-1340.16(d) is amended by adding a new subdivision to read:

"(9a) The defendant is a firefighter or rescue squad worker, and the offense is directly related to service as a firefighter or rescue squad worker."

SECTION 2.(c) G.S. 58-86-95, as enacted by Section 1 of this act, reads as rewritten:

"§ **58-86-95. Leaves of absence; inactive ~~membership.~~ membership; felony forfeiture.**

...

(h) If a member who is in service and has not received 20 years of fully credited service in this System on December 1, 2013, is convicted of an offense listed in G.S. 58-86-100 for acts committed after December 1, 2013, then that member shall forfeit all benefits under this System, except for a return of member contributions. If a member who is in service and has not received 20 years of fully credited service in this System on December 1, 2013, is convicted of an offense listed in G.S. 58-86-100 for acts committed after December 1, 2013, then that member is not entitled to any fully credited service that accrued after December 1, 2013."

SECTION 3. Section 17 of S.L. 2012-193 reads as rewritten:

"**SECTION 17.** The State Treasurer shall negotiate a memorandum of agreement with the United States Attorneys for the Eastern, Middle, and Western Districts of North Carolina whereby the prosecutors will notify the State Treasurer of convictions under

G.S. 135-18.10A(b), 128-38.4A(b), 135-75.1A(b), 120-4.33A(b), ~~135-5(h), and~~ 135-5.1(h), 135-5.4(h), and 58-86-100(b).~~135-5.4(h).~~"

SECTION 4. Section 2 of this act becomes effective December 1, 2013, and applies to offenses committed on or after that date. The remainder of this act becomes effective July 1, 2013.

In the General Assembly read three times and ratified this the 10th day of July, 2013.

Became law upon approval of the Governor at 6:14 p.m. on the 18th day of July, 2013.

Session Law 2013-285 **H.B. 340**

AN ACT TO ALLOW THE DEPARTMENT OF INSURANCE TO LICENSE NATIONAL TRAVEL INSURANCE PRODUCERS TO SELL TRAVEL INSURANCE THROUGH THIRD-PARTY TRAVEL RETAILERS.

The General Assembly of North Carolina enacts:

SECTION 1. Article 33 of Chapter 58 of the General Statutes is amended by adding a new section to read:

"§ **58-33-19. Limited lines travel insurance.**

(a) As used in this Article, the following definitions apply:

(1) Limited lines travel insurance producer. – Any of the following:

a. A licensed managing general underwriter.

b. A licensed managing general agent or third-party administrator.

c. A licensed insurance producer as defined by G.S. 58-33-10(7), including:

1. A limited lines producer designated by an insurer as the travel insurance supervising entity, as set forth in subsection (h) of this section.

2. A limited lines producer appointed by an insurer, as set forth in G.S. 58-33-40, who acts as a landlord or real estate broker engaged in the rental or management of residential property for vacation rental as defined in Chapter 42A of the General Statutes.

(2) Offer and disseminate. – Providing general information, including a description of the coverage and price, as well as processing the application, collecting premiums, and performing other activities that do not require a license and are permitted by the Department.

(3) Travel insurance. – Insurance coverage for the personal risks incident to planned travel that includes, but is not limited to, the coverages listed in sub–subdivisions a. through d. of this subdivision. Travel insurance does not include major medical plans that provide comprehensive medical protection for travelers with trips lasting six months or longer, including deployed military personnel or those U.S. citizens working overseas as expatriates.

a. Interruption or cancellation of trip or event.

b. Loss of baggage or personal effects.

c. Damages to accommodations or rental vehicles.

d. Sickness, accident, disability, or death occurring during travel.

(4) Travel retailer. – A business entity that makes, arranges, or offers travel services and may offer and disseminate travel insurance as a service to its customers on behalf of and under the direction of a limited lines travel insurance producer.

(b) An individual or business entity may apply for a limited lines travel insurance producer license by filing with the Department an application in a form and manner prescribed by the Commissioner. If issued, the license authorizes the limited lines travel insurance producer to sell, solicit, or negotiate travel insurance through a licensed insurer.

(c) A travel retailer may offer and disseminate travel insurance under a limited lines travel insurance producer business entity license only if the following conditions are met:

(1) The limited lines producer or travel retailer provides all of the following to purchasers of travel insurance:

a. A description of the material terms or the actual material terms of the insurance coverage.

b. A description of the process for filing a claim.

c. A description of the review or cancellation process for the travel insurance policy.

d. The identity and contact information of the insurer and limited lines travel insurance producer.

(2) At the time of licensure, the limited lines travel insurance producer shall establish and maintain a register on a form prescribed by the Commissioner of each travel retailer that offers travel insurance on the limited lines travel insurance producer's behalf. The register shall be maintained and updated annually by the limited lines travel insurance producer and shall include the name, address, and contact information of the travel retailer and an officer or person who directs or controls the travel retailer's operations, and the travel retailer's federal Tax Identification Number. The limited lines travel insurance producer shall submit the register to the Department upon request. The limited lines producer shall also certify that the travel retailer register complies with 18 U.S.C. § 1033.

(3) The limited lines travel insurance producer has designated one of its employees who is a licensed individual producer as the person responsible for the limited lines travel insurance producer's compliance with this Chapter and administrative rules adopted by the Commissioner.

(4) The person designated in subdivision (3) of this subsection and the president, secretary, treasurer, and any other officer or person who directs or controls the limited lines travel insurance producer's insurance operations comply with the fingerprinting requirements applicable to insurance producers in the resident state of the limited lines travel insurance producer.

(5) The limited lines travel insurance producer has paid all applicable insurance producer licensing fees as set forth in applicable State law.

(6) The limited lines travel insurance producer requires each employee and authorized representative of the travel retailer whose duties include offering and disseminating travel insurance to receive a program of instruction or training, which may be subject to review by the Commissioner. The training material shall, at a minimum, contain instructions on the types of insurance offered, ethical sales practices, and required disclosures to prospective customers.

(7) Limited lines travel insurance producers, and those registered under its license, are exempt from the examination and continuing education requirements under G.S. 58-33-30, 58-33-32, and 58-33-130.

(d) Any travel retailer offering or disseminating travel insurance shall make available to prospective purchasers brochures or other written materials that include all of the following:

(1) The identity and contact information of the insurer and the limited lines travel insurance producer.

(2) An explanation that the purchase of travel insurance is not required in order to purchase any other product or service from the travel retailer.

(3) A disclaimer that an unlicensed travel retailer is permitted to provide general information about the insurance offered by the travel retailer, including a description of the coverage and price, but is not qualified or authorized to answer technical questions about the terms and conditions of the insurance offered by the travel retailer or to evaluate the adequacy of the customer's existing insurance coverage.

(e) A travel retailer's employee or authorized representative who is not licensed as a limited lines travel insurance producer shall not do any of the following:

(1) Evaluate or interpret the technical terms, benefits, and conditions of the offered travel insurance coverage.

(2) Evaluate or provide advice concerning a prospective purchaser's existing insurance coverage.

(3) Hold himself or herself out as a licensed insurer, licensed producer, or insurance expert.

(f) A travel retailer, whose insurance-related activities and the activities of its employees and authorized representatives are limited to offering or disseminating travel insurance on behalf of and under the direction of a limited lines travel insurance producer meeting the conditions stated in this section, is authorized to do so and receive related compensation upon compliance with subdivision (c)(2) of this section by the limited lines travel insurance producer.

(g) Travel insurance may be provided under an individual policy or under a group or master policy.

(h) As the travel insurance supervising entity, the limited lines travel insurance producer is responsible for the acts of the travel retailer and shall use reasonable means to ensure compliance by the travel retailer with this section.

(i) The limited lines travel insurance producer and any travel retailer offering or disseminating travel insurance under the limited lines travel insurance producer license shall be subject to the provisions of Article 63 of this Chapter and to the full enforcement powers of the Commissioner granted by Article 2 of this Chapter."

SECTION 2. This act becomes effective January 1, 2014.

In the General Assembly read three times and ratified this the 10th day of July, 2013.

Became law upon approval of the Governor at 6:15 p.m. on the 18th day of July, 2013.

Session Law 2013-286 **H.B. 345**

AN ACT TO INCREASE THE CRIMINAL PENALTY FOR MISUSE OF THE 911 SYSTEM, AND TO PROVIDE FOR RECOMMENDATIONS FOR CERTAIN APPOINTMENTS TO THE STATE 911 BOARD.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 14-111.4 reads as rewritten:

"§ **14-111.4. Misuse of 911 system.**

It is unlawful for an individual who is not seeking public safety assistance, is not providing 911 service, or is not responding to a 911 call to access or attempt to access the 911 system for a purpose other than an emergency communication. A person who knowingly violates this section commits a ~~Class 3 misdemeanor. If a person knowingly accesses or attempts to access the 911 system for the purpose of avoiding a charge for voice communications service, as defined in G.S. 62A-40, and the value of the charge exceeds one hundred dollars ($100.00), the person commits a~~ Class 1 misdemeanor."

SECTION 2. G.S. 62A-41 reads as rewritten:

"§ **62A-41. 911 Board.**

(a) Membership. – The 911 Board is established in the Office of Information Technology Services. Neither a local government unit that receives a distribution from the fund under G.S. 62A-46 nor a telecommunication service provider may have more than one representative on the 911 Board. The 911 Board consists of 17 members as follows:

…

(2) Six members appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives as follows:

a. An individual who is a ~~sheriff.~~sheriff, appointed upon the recommendation of the North Carolina Sheriffs' Association, Inc.

b. An individual who represents CMRS providers operating in North Carolina.

c. An individual who represents the North Carolina chapter of the Association of Public Safety Communications Officials (APCO).

d. Two individuals who represent local exchange carriers operating in North Carolina, one of whom represents a local exchange carrier with less than 50,000 access lines.

e. A fire chief with experience operating or supervising a PSAP, appointed upon the recommendation of the North Carolina Firemen's Association.

(3) Six members appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate as follows:

a. An individual who is a chief of ~~police.~~police, appointed upon the recommendation of the North Carolina Association of Chiefs of Police.

b. Two individuals who represent CMRS providers operating in North Carolina.

c. A Rescue or Emergency Medical Services Chief with experience operating or supervising a PSAP, appointed upon the recommendation of the North Carolina Association of Rescue and Emergency Medical Services.

d. Two individuals who represent local exchange carriers operating in North Carolina, one of whom represents a local exchange carrier with less than 200,000 access lines.

…."

SECTION 3. Section 1 of this act becomes effective December 1, 2013, and applies to offenses committed on or after that date. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 10th day of July, 2013.

Became law upon approval of the Governor at 6:15 p.m. on the 18th day of July, 2013.

Session Law 2013-287 **H.B. 357**

AN ACT TO INCREASE CITIZEN OVERSIGHT AND TO MAKE OTHER CONSOLIDATIONS AND IMPROVEMENTS IN THE GOVERNANCE OF THE STATE RETIREMENT SYSTEMS, AND TO IMPROVE TRANSPARENCY BY ENSURING THAT ALL RETIREMENT PLANS ADMINISTERED BY THE DEPARTMENT OF STATE TREASURER ARE OVERSEEN BY A BOARD OF TRUSTEES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 135-96 reads as rewritten:

"§ **135-96. Supplemental Retirement Board of Trustees.**

(a) The Supplemental Retirement Board of Trustees is established to administer the Supplemental Retirement Income Plan established under the provisions of this Article and the North Carolina Public Employee Deferred Compensation Plan established under ~~G.S. 143B-426.24.~~G.S. 143B-426.24, and the North Carolina Public School Teachers' and Professional Educators' Investment Plan established under G.S. 115C-341.2.

…

(e) The Board may retain the services of independent appraisers, auditors, actuaries, attorneys, investment counseling firms, statisticians, custodians, or other persons or firms possessing specialized skills or knowledge necessary for the proper administration of investment programs that the Board administers pursuant to this section."

SECTION 2. G.S. 161-50.1(b) reads as rewritten:

"(b) The ~~North Carolina Department of State Treasurer~~Board of Trustees of the Local Governmental Employees' Retirement System shall administer the provisions of this Article."

SECTION 3. G.S. 127A-40 reads as rewritten:

"(f) The Board of Trustees of the Teachers' and State Employees' Retirement System shall administer the provisions of this section. The Secretary of Public Safety shall determine the eligibility of North Carolina National Guard members for the benefits provided in this section and shall certify those eligible to the ~~State Treasurer.~~Board of Trustees. In addition, the Department of Public Safety shall, on and after July 1, 1983, provide the ~~Department of State Treasurer~~Board of Trustees with an annual census population, by age and the number of years of creditable service, for all former members of the North Carolina National Guard in receipt of a pension as well as for all active members of the North Carolina National Guard who are not in receipt of a pension and who have seven and more years of creditable service. The Department of Public Safety shall also provide the ~~State Treasurer a~~Board of Trustees an annual census population of all former members of the North Carolina National Guard who are not in receipt of a pension and who have 15 and more years of creditable service. The Department of State Treasurer shall make pension payments to those persons certified from the North Carolina National Guard Pension Fund, which shall include general fund appropriations made to the Department of State Treasurer. The ~~Department of State Treasurer~~Board of Trustees shall have performed an annual actuarial valuation of the fund and shall have the financial responsibility for maintaining the fund on a generally accepted actuarial basis. The Department of Public Safety shall provide the Department of State Treasurer with whatever assistance is required by the State Treasurer in carrying out the State Treasurer's and the Board of Trustees' financial responsibilities."

SECTION 4.(a) G.S. 135-6(b) reads as rewritten:

"(b) Membership of Board; Terms. – The Board shall consist of ~~14~~ 13 members, as follows:

(1) The State Treasurer, ex officio;

(2) The Superintendent of Public Instruction, ex officio;

(3) ~~Ten~~ Nine members to be appointed by the Governor and confirmed by the Senate of North Carolina. One of the appointive members shall be a member of the teaching profession of the State; ~~one of the appointive members shall be an employee of the Board of Transportation, who shall be appointed by the Governor for a term of four years commencing April 1, 1947, and quadrennially thereafter;~~ one of the appointive members shall be a representative of higher education appointed by the Governor for a term of four years commencing July 1, 1969, and quadrennially thereafter; one of the appointive members shall be a retired teacher who is drawing a retirement allowance, appointed by the Governor for a term of four years commencing July 1, 1969, and quadrennially thereafter; one shall be a

retired State employee who is drawing a retirement allowance, appointed by the Governor for a term of four years commencing July 1, 1977, and quadrennially thereafter; one to be a general State employee, and ~~three~~ two who are not members of the teaching profession or State employees; two to be appointed for a term of two years, two for a term of three years and one for a term of four years; one appointive member shall be a law-enforcement officer employed by the State, appointed by the Governor, for a term of four years commencing April 1, 1985. One member shall be an active or retired member of the North Carolina National Guard appointed by the Governor for a term of four years commencing July 1, 2013. At the expiration of these terms of office the appointment shall be for a term of four years;

(4) Two members appointed by the General Assembly, one appointed upon the recommendation of the Speaker of the House of Representatives, and one appointed upon the recommendation of the President Pro Tempore of the Senate in accordance with G.S. 120-121. Neither of these members may be an active or retired teacher or State employee or an employee of a unit of local government. The initial members appointed by the General Assembly shall serve for terms expiring June 30, 1983. Thereafter, their successors shall serve for two-year terms beginning July 1 of odd-numbered years. Vacancies in appointments made by the General Assembly shall be filled in accordance with G.S. 120-122."

SECTION 4.(b) G.S. 128-28(c) reads as rewritten:

"(c) Members of Board. – The Board shall consist of (i) ~~seven~~five members of the Board of Trustees of the Teachers' and State Employees' Retirement System appointed under G.S. 135-6(b): the State Treasurer; the Superintendent of Public Instruction; the two members appointed by the General Assembly; and one of the ~~three~~two members appointed by the Governor who are not members of the teaching profession or State employees; and (ii) ~~seven~~eight members designated by the Governor:

(1) One member shall be a mayor or a member of the governing body of a city or town participating in the Retirement System;

(2) One member shall be a county commissioner of a county participating in the Retirement System;

(3) One member shall be a law-enforcement officer employed by an employer participating in the Retirement System;

(4) One member shall be a county manager of a county participating in the Retirement System;

(5) One member shall be a city or town manager of a city or town participating in the Retirement System;

(6) One member shall be an active, Fair Labor Standards Act nonexempt, local governmental employee of an employer; ~~and~~

(7) One member shall be a retired, Fair Labor Standards Act nonexempt, local governmental employee of an ~~employer.~~employer; and

(8) One member shall be an active or retired member of the Firemen's and Rescue Squad Workers' Pension Fund.

The Governor shall designate ~~seven~~eight members on April 1 of years in which an election is held for the office of Governor, or as soon thereafter as possible, and the ~~seven~~ eight members designated by the Governor shall serve on the Board in addition to the regular duties of their city, town, or county office: Provided, that if for any reason any member appointed pursuant to subdivisions (1) through (6) of this subsection vacates the city, town, or county office or employment which the member held at the time of this designation, the Governor shall designate another member to serve until the next regular date for the designation of members to serve on the Board."

SECTION 5. Article 5 of Chapter 135 of the General Statutes is amended by adding a new section to read:

"**§ 135-97. Immunity.**

A person serving on the Supplemental Retirement Board of Trustees shall be immune individually from civil liability for monetary damages, except to the extent covered by insurance, for any act or failure to act arising out of that service, except where any of the following apply:

(1) The person was not acting within the scope of that person's official duties.

(2) The person was not acting in good faith.

(3) The person committed gross negligence or willful or wanton misconduct that resulted in the damages or injury.

(4) The person derived an improper personal financial benefit, either directly or indirectly, from the transaction.

(5) The person incurred the liability from the operation of a motor vehicle."

SECTION 6. G.S. 120-4.9 reads as rewritten:

"**§ 120-4.9. Retirement system established.**

A Retirement System is established and placed under the Board of Trustees of the Teachers' and State Employees' Retirement System for administrative purposes. This Retirement System is a governmental plan, within the meaning of Section 414(d) of the Internal Revenue Code. Therefore, the nondiscrimination rules of Sections 401(a)(5) and 401(a)(26) of the Code do not apply.

The Retirement System shall have all the power and privileges of a corporation and shall be known as the "Legislative Retirement System of North Carolina." By this name all of its business shall be transacted, all of its funds invested and all of its cash and securities and other property held. All direction and policies concerning the Legislative Retirement System shall be vested in the ~~Legislative Services Commission.~~Board of Trustees.

Consistent with Section 401(a)(1) of the Internal Revenue Code, all member employee and employer contributions to this Retirement System shall be made to funds held in trust through trust instruments that have the purposes of distributing trust principal and income to retired members and their beneficiaries and of paying other definitely determinable benefits under this Chapter, after meeting the necessary expenses of administering this Retirement System. Neither the trust corpus nor income from this trust can be used for purposes other than the exclusive benefit of members or their beneficiaries, except that employer contributions made to the trust under a good faith mistake of fact may be returned to an employer, where the refund can occur within less than one year after the mistaken contribution was made, consistent with the rule adopted by the Board of Trustees. The Retirement System shall have a consolidated Plan document, consisting of relevant statutory provisions in this Chapter, associated regulations in the North Carolina Administrative Code, substantive and procedural information on the official forms used by the Retirement System, and policies and minutes of the Board of Trustees."

SECTION 7. G.S. 120-4.10 reads as rewritten:

"**§ 120-4.10. Administration of retirement system.**

The Board of Trustees of the Teachers' and State Employees' Retirement System shall be the trustee of the Retirement ~~System, under the direction of the Legislative Services Commission.~~System. The provisions of this Article shall be administered by the Board of ~~Trustees, under the direction of the Legislative Services Commission.~~Trustees."

SECTION 8. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 10th day of July, 2013.

Became law upon approval of the Governor at 6:15 p.m. on the 18th day of July, 2013.

Session Law 2013-288 **H.B. 358**

AN ACT TO MAKE TECHNICAL AND CONFORMING CHANGES TO THE STATUTES AFFECTING THE STATE RETIREMENT SYSTEMS.

The General Assembly of North Carolina enacts:

SECTION 1.(a) G.S. 143-166.30(d) reads as rewritten:

"(d) Supplemental Retirement Income Plan for State Law-Enforcement Officers. – As of January 1, 1985, there shall be created a Supplemental Retirement Income Plan, hereinafter called the "Plan," established for the benefit of all law-enforcement officers employed by the State, who shall be participants. The Board of Trustees of the State Retirement System shall administer the Plan and shall, under the terms and conditions otherwise appearing herein, provide Plan benefits either (i) by establishing a separate trust fund in conformance with Section 401(a), Section 401(k) or other sections of the Internal Revenue Code of 1954 as amended or, (ii) by causing the Plan to affiliate with some master trust fund providing the same benefits for participants. The Plan shall be separate and apart from any retirement systems.

In addition to the contributions transferred from the Law-Enforcement Officers' Retirement System and the contributions otherwise provided for in this Article, participants may make voluntary contributions to the Plan to be credited to the designated individual accounts of ~~participants; provided, in no instance shall the total contributions by a participant exceed ten percent (10%) of a participant's compensation within any calendar year.~~participants.

All contributions to the Plan shall be credited to the individual accounts of participants, and except as provided in subsection (g1) of this section, shall be fully and immediately vested in the name of the participant, and shall be invested according to each participant's election, as provided by the Board of Trustees, including but not limited to time deposits, and both fixed and variable investments. The Plan may provide for loans to participants, at reasonable rates of interest to be charged, from participants' individual accounts, and may provide for withdrawal of contributions on account of hardship.

The benefit to a participant in the Plan shall be either a lump-sum distribution or a distribution in periodic installments of the participant's account payable under retirement, disability, or termination of employment. Upon the death of a participant there shall be paid the same lump-sum distribution or periodic installments to the surviving spouse of the participant or otherwise to the participant's estate; provided, should a participant instruct the Board of Trustees in writing that he does not wish these benefits to be paid to his spouse or estate, then the benefits shall be paid to the person or persons as the participant may name for this purpose.

Upon retirement, a participant in the Plan may elect to transfer any portion of his eligible accumulated contributions, not including any Roth after-tax contributions and the earnings thereon, to the Teachers' and State Employees' Retirement System and receive, in addition to his basic service, early or disability retirement allowance a special retirement allowance which shall be based on his eligible accumulated account balance at the date of the transfer of the assets."

SECTION 1.(b) G.S. 143-166.50(e) reads as rewritten:

"(e) Supplemental Retirement Income Plan for Local Governmental Law-Enforcement Officers. – As of January 1, 1986, all law-enforcement officers employed by a local government employer, are participating members of the Supplemental Retirement Income Plan as provided by Article 5 of Chapter 135 of the General Statutes. In addition to the contributions transferred from the Law-Enforcement Officers' Retirement System, participants may make voluntary contributions to the Supplemental Retirement Income Plan to be credited to the designated individual accounts of ~~participants; provided, in no instance shall the total contributions by a participant exceed ten percent (10%) of a participant's compensation within any calendar year.~~participants. From July 1, 1987, until July 1, 1988, local government employers of law enforcement officers shall contribute an amount equal to at least two percent (2%) of participating local officers' monthly compensation to the Supplemental Retirement

Income Plan to be credited to the designated individual accounts of participating local officers; and on and after July 1, 1988, local government employers of law enforcement officers shall contribute an amount equal to five percent (5%) of participating local officers' monthly compensation to the Supplemental Retirement Income Plan to be credited to the designated individual accounts of participating local officers.

Additional contributions shall also be made to the individual accounts of all participants in the Plan, except for Sheriffs, on a per capita equal-share basis from the sum of one dollar and twenty-five cents ($1.25) for each cost of court collected under G.S. 7A-304.

Upon retirement, a participant in the Plan may elect to transfer any portion of his eligible accumulated contributions, not including any Roth after-tax contributions and the earnings thereon, to the Local Governmental Employees' Retirement System and receive, in addition to his basic service, early or disability retirement allowance a special retirement allowance which shall be based on his eligible accumulated account balance at the date of the transfer of the assets."

SECTION 2.(a) G.S. 128-26(a) reads as rewritten:

"(a) Each person who becomes a member during the first year of his or her employer's participation, and who was an employee of the same employer at any time during the year immediately preceding the date of participation, shall file a detailed statement of all service rendered by him or her to that employer prior to the date of participation for which he or she claims credit.

A participating employer may allow prior service credit to any of its employees on account of: their earlier service to the aforesaid employer; or, their earlier service to any other employer as the term employer is defined in G.S. 128-21(11); or, their earlier service to any state, territory, or other governmental subdivision of the United States other than this State.

A participating employer may allow prior service credit to any of its employees on account of service, as defined in G.S. 135-1(23), to the State of North Carolina to the extent of such service prior to the establishment of the Teachers' and State Employees' Retirement System on July 1, 1941; provided that employees allowed such prior service credit pay in a total lump sum an amount calculated on the basis of compensation the employee earned when the employee first entered membership and the employee contribution rate at that time together with interest thereon from year of first membership to year of payment shall be one half of the calculated cost.

(a1) With respect to a member retiring on or after July 1, 1967, the governing board of a participating unit may allow credit for any period of military service in the Armed Forces of the United States if the person returned to the service of the person's employer within two years after having been honorably discharged, or becoming entitled to be discharged, released, or separated from such the Armed Forces of the United States; provided that, notwithstanding the above provisions, any member having credit for not less than 10 years of otherwise creditable service may be allowed credit for such military services which are not creditable in any other governmental retirement system; provided further, that a member will receive credit for military service under the provisions of this paragraph only if the member submits satisfactory evidence of the military service claimed and the participating unit of which the member is an employee agrees to grant credit for such military service prior to January 1, 1972.

A member retiring on or after July 1, 1971, who is not granted credit for military service under the provisions of the preceding paragraph will be allowed credit for any period of qualifying service in the Armed Forces of the United ~~States up to the date the member was first eligible to be separated or released therefrom;~~ States, as defined for purposes of reemployment rights under federal law, provided that the member was an employee as defined in G.S. 128-21(10) at the time the member entered military service, and either ~~of~~ (i) the returning member is in service, with the employer by whom the member was employed when the member entered military service, for a period of not less than 10 years after the member is separated or released from that military service under other than dishonorable conditions or (ii) the following conditions ~~is met:~~are met, in the conjunctive:

~~(1) The member returns to service, with the employer by whom the member was employed when the member entered military service, within a period of two years after the member is first eligible to be separated or released from such military service under other than dishonorable conditions.~~

~~(2) The member is in service, with the employer by whom the member was employed when the member entered military service, for a period of not less than 10 years after the member is separated or released from the Armed Forces of the United States under other than dishonorable conditions.~~

(1) The member did not, prior to leaving for military service, provide clear written notice of an intent not to return to work after military service.

(2) The member was discharged from uniformed service and returned from the leave of absence for uniformed service to membership service in this system within the time limit mandated by federal law for reporting back to work.

(3) The period of uniformed service, for which additional service credit is sought, has been verified by suitable documentation and is not eligible for receipt of benefits under any other retirement system or pension plan.

(4) All service credit forfeited by a refund pursuant to the provisions of G.S. 128-27(f) has been purchased.

The uniformed service credit allowed under this subsection shall be limited to a maximum of five years unless otherwise specifically exempted from that durational limitation by federal law. The salary or compensation of such an employee during the period of qualifying military service shall be deemed to be that salary or compensation the employee would have received but for the period of service had the employee remained continuously employed, if the determination of that salary or compensation is reasonably certain. If the determination of the salary or compensation is not reasonably certain, then it shall be deemed to be that employee's average rate of compensation during the 12-month period immediately preceding the period of service.

Pursuant to 38 U.S.C. § 4318(b)(1), when a member who has been on military leave returns to work consistent with the provisions of this subsection concerning return to service within two years after the member's earliest eligibility for separation or release from military service, then the member's employer must remit to the System all the employer contributions for the full period of that member's military service."

SECTION 3.(a) G.S. 135-1(14) reads as rewritten:

"(14) "Membership service" shall mean service as a teacher or State employee rendered while a member of the Retirement ~~System.~~System or membership service in a North Carolina Retirement System that has been transferred into this system."

SECTION 3.(b) G.S. 128-21(14) reads as rewritten:

"(14) "Membership service" shall mean service as an employee rendered while a member of the Retirement ~~System.~~System or membership service in a North Carolina Retirement System that has been transferred into this system."

SECTION 4.(a) G.S. 135-1(20) reads as rewritten:

"(20) "Retirement" under this Chapter means the commencement of monthly retirement benefits along with termination of employment and the complete separation from active service with no intent or agreement, express or implied, to return to service. A retirement allowance under the provisions of this Chapter may only be granted upon retirement of a member. In order for a member's retirement to become effective in any month, the member must ~~render no service,~~ perform no work for an employer, including part-time, temporary, substitute, or contractor ~~service,~~ work, at any time during the six months immediately following the effective date of retirement. For purposes of this subdivision, ~~service~~ working as a member of a school board or as an unpaid bona fide volunteer in a local school administrative unit shall not be

considered service. A member who is a full-time faculty member of The University of North Carolina may effect a retirement allowance under this Chapter, notwithstanding the six-month requirement above, provided the member immediately enters the University's Phased Retirement Program for Tenured Faculty as that program existed on May 25, 2011."

SECTION 4.(b) G.S. 128-21(19) reads as rewritten:

"(19) "Retirement" under this Article shall mean ~~withdrawal~~ the commencement of monthly retirement benefits, along with the termination of employment and the complete separation from active service with ~~a retirement allowance granted under the provisions of this Article.~~ no intent or agreement, expressed or implied, to return to service. A retirement allowance under the provisions of this ~~Chapter~~ Article may only be granted upon retirement of a member. In order for a member's retirement to become effective in any month, the member must ~~render no service,~~ perform no work for a participating employer, including ~~part-time,~~ part-time, temporary, substitute, or contractor ~~service,~~ work, at any time during the same month immediately following the effective ~~date~~ first day of retirement."

SECTION 4.(c) G.S. 135-53(16) reads as rewritten:

"(16) "Retirement" under this Chapter shall mean the ~~withdrawal~~ commencement of monthly retirement benefits, along with the termination of employment and the complete separation from active service with ~~a retirement allowance granted under the provisions of this Chapter.~~ no intent or agreement, expressed or implied, to return to service. A retirement allowance under the provisions of this Chapter may only be granted upon retirement of a member. In order for a member's retirement to become effective in any month, the member must ~~render no service~~ perform no work, including part-time, temporary, substitute, or contractor work, at any time during ~~that month.~~the same month immediately following the effective first day of retirement."

SECTION 5. G.S. 135-5.1(b) reads as rewritten:

"(b) Participation in the Optional Retirement Program shall be governed as follows:

…

(2) Eligible employees initially appointed on or after July 1, 1985, shall at the same time of entering upon eligible employment elect (i) to join the Retirement System in accordance with the provisions of law applicable thereto or (ii) to participate in the Optional Retirement Program. This election shall be in writing and filed with the Retirement System and with the employing institution and shall be effective as of the date of entry into eligible service. For purposes of this provision, the Optional Retirement Program shall be permitted to file individual election forms with the Retirement System using electronic transmission.

…."

SECTION 6. G.S. 135-105(d) reads as rewritten:

"(d) The provisions of this section shall be administered by the employer and further, the benefits during the first six months of the short-term disability period shall be the full responsibility of and paid by the employer; Provided, further, that upon the completion of the initial six months of the short-term disability period, the employer will continue to be responsible for the short-term benefits to the participant, however, such employer shall notify the Plan, at the conclusion of the short-term disability period or upon termination of short-term disability benefits, if earlier, of the amount of short-term benefits and State Health Insurance premiums paid by the employer and the Plan shall reimburse the employer the amounts so paid."

SECTION 7. G.S. 135-106(d) reads as rewritten:

"(d) Notwithstanding the foregoing, a participant or beneficiary who has applied for and been approved by the Medical Board for long-term disability benefits may make an irrevocable election, within 90 days from the date of notification of such approval, and prior to receipt of any long-term disability benefit payments, to forfeit all pending and accrued rights to the long-term disability benefit including any ancillary benefits and retire on an early service retirement ~~allowance~~ allowance, effective with the first day of the month following the end of the short-term period, or receive a return of accumulated contributions from the Retirement System."

SECTION 8. G.S. 135-111 reads as rewritten:

"§ **135-111. Applicability of other pension laws.**

Subject to the provisions of this Article, the provisions of G.S. 135-9, entitled "Exemption from taxes, garnishment, attachment, etc."; G.S. 135-10, entitled "Protection against fraud"; G.S. 135-10.1, entitled "Failure to Respond"; ~~G.S. 135-18.11, entitled "Improper receipt of decedent's retirement allowance or disability benefit";~~ and G.S. 135-17, entitled "Facility of payment" shall be applicable to this Article and to benefits paid pursuant to the provisions of this Article."

SECTION 9.(a) Article 6 of Chapter 135 of the General Statutes is amended by adding a new section to read:

"**§ 135-111.1. Improper receipt of decedent's Disability Income Plan allowance.**

A person is guilty of a Class 1 misdemeanor if the person, with the intent to defraud, receives money as a result of cashing, depositing, or receiving a direct deposit of a decedent's Disability Income Plan allowance and the person (i) knows that he or she is not entitled to the decedent's Disability Income Plan allowance, (ii) receives the benefit at least two months after the date of the beneficiary's death, and (iii) does not attempt to inform this Retirement System of the beneficiary's death."

SECTION 9.(b) G.S. 135-18.11 reads as rewritten:

"§ **135-18.11. Improper receipt of decedent's retirement allowance.~~allowance or disability benefit.~~**

A person is guilty of a Class 1 misdemeanor if the person, with the intent to defraud, receives money as a result of cashing, depositing, or receiving a direct deposit of a decedent's retirement allowance ~~or a decedent's monthly benefit under the Disability Income Plan of North Carolina~~ and the person (i) knows that he or she is not entitled to the decedent's retirement allowance, ~~allowance or the monthly disability benefit,~~ (ii) receives the benefit at least two months after the date of the retiree's or beneficiary's death, and (iii) does not attempt to inform this Retirement System of the retiree's or beneficiary's death."

SECTION 9.(c) G.S. 128-38.5 reads as rewritten:

"§ **128-38.5. Improper receipt of decedent's retirement allowance.**

A person is guilty of a Class 1 misdemeanor if the person, with the intent to defraud, receives money as a result of cashing, depositing, or receiving a direct deposit of a decedent's retirement allowance and the person (i) knows that he or she is not entitled to the decedent's retirement allowance, (ii) receives the benefit at least two months after the date of the retiree's or beneficiary's death, and (iii) does not attempt to inform this Retirement System of the retiree's or beneficiary's death."

SECTION 9.(d) G.S. 135-75.2 reads as rewritten:

"§ **135-75.2. Improper receipt of decedent's retirement allowance.**

A person is guilty of a Class 1 misdemeanor if the person, with the intent to defraud, receives money as a result of cashing, depositing, or receiving a direct deposit of a decedent's retirement allowance and the person (i) knows that he or she is not entitled to the decedent's retirement allowance, (ii) receives the benefit at least two months after the date of the retiree's or beneficiary's death, and (iii) does not attempt to inform this Retirement System of the retiree's or beneficiary's death."

SECTION 9.(e) G.S. 120-4.34 reads as rewritten:

"§ **120-4.34. Improper receipt of decedent's retirement allowance.**

A person is guilty of a Class 1 misdemeanor if the person, with the intent to defraud, receives money as a result of cashing, depositing, or receiving a direct deposit of a decedent's retirement allowance and the person (i) knows that he or she is not entitled to the decedent's retirement allowance, (ii) receives the benefit at least two months after the date of the retiree's or beneficiary's death, and (iii) does not attempt to inform this Retirement System of the retiree's or beneficiary's death."

SECTION 10. G.S. 143-166.2(d) reads as rewritten:

"(d) The term "law-enforcement officer", "officer", or "fireman" shall mean a sheriff and all law-enforcement officers employed full-time, permanent part-time, or temporarily by a sheriff, the State of North Carolina or any county or municipality thereof, whether paid or unpaid; and all full-time custodial employees and probation and parole officers of the Division of Adult Correction of the Department of Public Safety; and all full time institutional and full-time, permanent part-time, and temporary detention employees of the Division of Juvenile Justice of the Department of Public Safety and full-time, permanent part-time, and temporary detention officers employed by any sheriff, county or municipality, whether paid or unpaid. The term "firemen" shall mean both "eligible firemen" as defined in ~~G.S. 58-86-25~~ Article 86 of Chapter 58 of the General Statutes, notwithstanding any age requirements set out in that Article, and all full-time, permanent part-time and temporary employees of the Division of Forest Resources, Department of Agriculture and Consumer Services, during the time they are actively engaged in fire-fighting activities; and shall mean all full-time employees of the North Carolina Department of Insurance during the time they are actively engaged in fire-fighting activities, during the time they are training fire fighters or rescue squad workers, and during the time they are engaged in activities as members of the State Emergency Response Team, when the Team has been activated; and shall mean all otherwise eligible persons who, while actively engaged as firefighters or rescue squad workers, are acting in the capacity of a fire or rescue instructor outside their own department or squad. The term "rescue squad worker" shall mean a person who is dedicated to the purpose of alleviating human suffering and assisting anyone who is in difficulty or who is injured or becomes suddenly ill by providing the proper and efficient care or emergency medical services. In addition, this person must belong to an organized rescue squad which is eligible for membership in the North Carolina Association of Rescue ~~Squads,~~ and Emergency Medical Services, Inc., and the person must have attended a minimum of 36 hours of training ~~and meetings~~ in the last calendar year. Each rescue squad belonging to the North Carolina Association of Rescue ~~Squads,~~ and Emergency Medical Services, Inc., must file a roster of those members meeting the above requirements with the State Treasurer on or about ~~January 1~~ January 31 of each year, and this roster must be certified to by the secretary of said association. In addition, the term "rescue squad worker" shall mean a member of an ambulance service certified by the Department of Health and Human Services pursuant to Article 7 of Chapter 131E of the General Statutes. The Department of Health and Human Services shall furnish a list of ambulance service members to the State Treasurer on or about ~~January 1~~ January 31 of each year. The term "Civil Air Patrol members" shall mean those senior members of the North Carolina Wing-Civil Air Patrol 18 years of age or older and currently certified pursuant to G.S. 143B-1031. The term "fireman" shall also mean county fire marshals when engaged in the performance of their county duties. The term "rescue squad worker" shall also mean county emergency services coordinators when engaged in the performance of their county duties."

SECTION 11. G.S. 128-26(x) reads as rewritten:

"(x) If a member who is in service and has not vested in this System on December 1, 2012, is convicted of an offense listed in G.S. ~~126-38.5~~ 128-38.4A for acts committed after December 1, 2012, then that member shall forfeit all benefits under this System, except for a return of member contributions plus interest. If a member who is in service and has vested in this System on December 1, 2012, is convicted of an offense listed in G.S. ~~126-38.5~~ 128-38.4A for acts committed after December 1, 2012, then that member is not entitled to any creditable service that accrued after December 1, 2012."

SECTION 12. Section 9 of this act becomes effective December 1, 2013, and applies to acts committed on or after that date. The remainder of this act becomes effective July 1, 2013.

In the General Assembly read three times and ratified this the 9th day of July, 2013.

Became law upon approval of the Governor at 6:15 p.m. on the 18th day of July, 2013.

Session Law 2013-289 **H.B. 362**

AN ACT TO MAKE TECHNICAL, CLARIFYING, AND SUBSTANTIVE CHANGES RELATING TO THE DEPARTMENT OF PUBLIC SAFETY AND TO ELIMINATE THE BENCHMARK CEILING RELATING TO PURCHASES AND CONTRACTS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143-134 reads as rewritten:

"§ **143-134. Applicable to Department of Transportation and ~~Division of Adult Correction of the~~ Department of Public Safety; exceptions; all contracts subject to review by Attorney General and State Auditor.**

(a) This Article ~~shall apply~~ applies to the Department of Transportation and ~~the Division of Adult Correction of~~ the Department of Public Safety except in the construction of roads, bridges and their approaches; provided however, that whenever the Director of the Budget determines that the repair or construction of a building by the Department of Transportation or by ~~the Division of Adult Correction of~~ the Department of Public Safety can be done more economically through use of employees of the Department of Transportation and/or prison inmates than by letting ~~such~~ the repair or building construction to contract, the provisions of this Article shall not apply to ~~such~~ the repair or construction.

(b) Notwithstanding ~~the provisions of~~ subsection (a) of this section, the Department of Transportation and ~~the Division of Adult Correction of~~ the Department of Public Safety shall: (i) submit all proposed contracts for supplies, materials, printing, equipment, and contractual services that exceed one million dollars ($1,000,000) to the Attorney General or the Attorney General's designee for review as provided in G.S. 114-8.3; and (ii) include in all contracts to be awarded by the Department of Transportation or ~~the Division of Adult Correction of~~ the Department of Public Safety a standard clause ~~which provides~~ providing that the State Auditor and internal auditors of the Department of Transportation or the Department of Public Safety may audit the records of the contractor during and after the term of the contract to verify accounts and data affecting fees and performance. Neither the Department of Transportation nor ~~the Division of Adult Correction of~~ the Department of Public Safety shall award a cost plus percentage of cost agreement or contract for any purpose."

SECTION 2. G.S. 143B-600(a) reads as rewritten:

"(a) There is established the Department of Public Safety. The head of the Department of Public Safety is the Secretary of Public Safety, who shall be known as the Secretary. ~~The Department shall consist of six divisions and an Office of External Affairs as follows:~~

~~(1) The Division of Adult Correction, which shall consist of the former Department of Correction. The head of the Division of Adult Correction shall be a chief deputy secretary, who shall be responsible for prisons, community corrections, correction enterprises, alcoholism and chemical dependency treatment, offender records management, and extradition.~~

~~(2) The Division of Juvenile Justice, which shall consist of the former Department of Juvenile Justice and Delinquency Prevention. The head of the Division of Juvenile Justice shall be a chief deputy secretary, who shall be responsible for youth detention centers, court services, community programs, and youth development centers.~~

~~(3) The Division of Law Enforcement, which shall consist of the following former divisions of the Department of Crime Control and Public Safety: the State Highway Patrol, the Alcohol Law Enforcement Division, and the State Capitol Police Division. The head of the Division of Law Enforcement shall be a chief deputy secretary.~~

~~(4) The Division of Emergency Management, which shall consist of the former Division of Emergency Management of the Department of Crime Control and Public Safety and the Civil Air Patrol.~~

~~(5) The North Carolina National Guard.~~

~~(6) The Division of Administration, the head of which shall be a chief deputy secretary responsible for all administrative functions, including fiscal, auditing, information technology, purchasing, human resources, training, engineering, and facility management functions for the Department. Within the Division, there is established a Grants Management Section, which shall consist of the Governor's Crime Commission and the Juvenile Crime Prevention Council Fund. There is also established within the Division a Research and Planning Section responsible for statistics, research, and planning to facilitate regular improvement in the structure, administration, and programs of the Department of Public Safety. The Research and Planning Section may cooperate with and seek the cooperation of public and private agencies, institutions, officials, and individuals in the development and conduct of programs to compile and analyze statistics and to conduct research in criminology and correction. The Research and Planning Section shall be the single State agency responsible for the coordination and implementation of ex-offender reentry initiatives.~~

~~(7) The Office of External Affairs, which shall be responsible for federal and State liaison activities, victim services, the Victim Services Warehouse and the storage and management of evidence and other contents housed in the warehouse, and public affairs.~~"

SECTION 3. G.S. 143B-602(8) reads as rewritten:

"(8) Other powers and duties. – The Secretary ~~shall have~~ has the following additional powers and duties:

…

h. Being responsible for federal and State liaison activities, victim services, the Victim Services Warehouse, and the storage and management of evidence and other contents housed in the warehouse, and public affairs."

SECTION 4. G.S. 143B-710 is repealed.

SECTION 5. G.S. 143B-806 reads as rewritten:

"§ **143B-806. Duties and powers of the Division of Juvenile Justice of the Department of Public Safety.**

~~(a) The head of the Division is a Chief Deputy Secretary appointed by the Secretary of Public Safety. The Chief Deputy Secretary shall have the powers and duties conferred by this Chapter, delegated by the Secretary of Public Safety or the Governor, and conferred by the Constitution and laws of this State. The Secretary of Public Safety shall be responsible for effectively and efficiently organizing the Division to promote the policy of the State as set forth in this Part and to promote public safety and to prevent the commission of delinquent acts by juveniles.~~

(b) The ~~Chief Deputy Secretary shall have~~ head of the Division is the Commissioner of Juvenile Justice with the following powers and duties:

...."

SECTION 6. G.S. 148-132 reads as rewritten:

"§ **148-132. Distribution of products and services.**

The Section of Correction Enterprises of the Division of Adult Correction is empowered and authorized to market and sell products and services produced by Correction Enterprises to any of the following entities:

(1) Any public agency or institution owned, managed, or controlled by the State.

(2) Any county, city, or town in this State.

(3) Any federal, state, or local public agency or institution in any other state of the union.

(4) An entity or organization that has tax-exempt status pursuant to section 501(c)(3) of the Internal Revenue ~~Code and also receives local, state, or federal grant funding.~~Code. Products purchased by an entity pursuant to this subdivision may not be resold.

(5) Any current employee or retiree of the State of North Carolina or of a unit of local government of this State, verified through State-issued identification, or through proof of retirement status, but purchases by a State or local governmental employee or retiree may not exceed two thousand five hundred dollars ($2,500) during any calendar year. Products purchased by State and local governmental employees and retirees under this section may not be resold.

(6) Private contractors when the goods purchased will be used to perform work under a contract with a public agency."

SECTION 7. G.S. 143-53(a)(2) reads as rewritten:

"(2) Prescribing the routine, including consistent contract language, for securing bids on items that do not exceed the bid value benchmark established under the provisions of ~~G.S. 143-53.1~~ G.S. 143-53.1, 115D-58.14, or ~~G.S. 116-31.10.~~ 116-31.10. The ~~purchasing delegation~~ bid value benchmark for securing offers ~~(excluding the special responsibility constituent institutions of The University of North Carolina),~~for each State department, institution, ~~agency, and community college~~ and agency established under the provisions of G.S. 143-53.1 shall be determined by the Director of the Division of Purchase and ~~Contract. For the State agencies this shall be done~~Contract following the Director's consultation with the State Budget Officer and the State Auditor. The Director for the Division of Purchase and Contract may set or lower the ~~delegation,~~benchmark, or raise the ~~delegation~~benchmark upon written request by the agency, after consideration of their overall capabilities, including staff resources, purchasing compliance reviews, and audit reports of the individual agency. The routine prescribed by the Secretary shall include contract award protest procedures and consistent requirements for advertising of solicitations for securing offers issued by State departments, institutions, universities (including the special responsibility constituent institutions of The University of North Carolina), agencies, community colleges, and the public school administrative units."

SECTION 8. G.S. 143-53.1(a) reads as rewritten:

"(a) On and after ~~July 1, 1997,~~ July 1, 2014, the procedures prescribed by G.S. 143-52 with respect to competitive bids and the bid value benchmark authorized by G.S. 143-53(a)(2) with respect to rule making by the Secretary of Administration for competitive bidding shall promote compliance with the principles of procurement efficiency, transparency, and fair competition to obtain the State's business.~~be no more than twenty-five thousand dollars ($25,000); provided, the Secretary of Administration may, in his or her discretion, increase the benchmarks effective as of the beginning of any fiscal biennium of the State commencing after June 30, 1999, in an amount whose increase, expressed as a percentage, does not exceed the rise in the Consumer Price Index during the fiscal biennium next preceding the effective date of the benchmark increase.~~ For a special responsibility constituent institution of The University of North Carolina, the benchmark prescribed in this section ~~shall be~~ is as provided in

G.S. 116-31.10. For community colleges, the benchmark prescribed in this section ~~shall be~~ is as provided in G.S. 115D-58.14."

SECTION 9. G.S. 20-185 is amended by adding a new subsection to read:

"(a1) Applicants for employment as a State Trooper shall be at least 21 years of age and not more than 39 years of age as of the first day of patrol school. Highway Patrol enforcement personnel hired on or after July 1, 2013, shall retire not later than the end of the month in which their 62nd birthday falls."

SECTION 10. G.S. 20-196.3 reads as rewritten:

"§ **20-196.3. Who may hold supervisory positions over sworn members of the Patrol.**

Notwithstanding any other provision of the General ~~Statutes of North Carolina, it shall be unlawful for any person other than the Governor and the~~ Statutes, only the following individuals may hold a supervisory position over sworn members of the Patrol:

(1) The Governor.

(2) The Secretary of Public Safety or the Commissioner of the Law Enforcement Division.

(3) ~~and other than a~~ A uniformed member of the North Carolina State Highway Patrol who has met all requirements for employment within the Patrol, including ~~but not limited to~~ completion of the basic Patrol ~~school,to hold any supervisory position over sworn members of the Patrol.~~school."

SECTION 11. G.S. 66-25 reads as rewritten:

"§ **66-25. Acceptable listings as to safety of goods.**

(a) All electrical materials, devices, appliances, and equipment shall be evaluated for safety and suitability for intended use. Except as provided in subsection (b) of this section, this~~This~~ evaluation shall be conducted in accordance with nationally recognized standards and shall be conducted by a qualified testing laboratory. The Commissioner of Insurance, through the Engineering Division of the Department of Insurance, shall implement the procedures necessary to approve suitable national standards and to approve suitable qualified testing laboratories. The Commissioner may assign his authority to implement the procedures for specific materials, devices, appliances, or equipment to other agencies or bodies when they would be uniquely qualified to implement those procedures.

In the event that the Commissioner determines that electrical materials, devices, appliances, or equipment in question cannot be adequately evaluated through the use of approved national standards or by approved qualified testing laboratories, the Engineering Division of the Department of Insurance shall specify any alternative evaluations which safety requires.

The Engineering Division of the Department of Insurance shall keep in file, where practical, copies of all approved national standards and resumes of approved qualified testing laboratories.

(b) Electrical devices, appliances, or equipment used by the Division of Adult Correction of the Department of Public Safety shall be evaluated for safety and suitability by the Central Engineering Section of the Department of Public Safety. The evaluation shall be conducted in accordance with nationally recognized standards."

SECTION 12. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 10th day of July, 2013.

Became law upon approval of the Governor at 6:16 p.m. on the 18th day of July, 2013.

Session Law 2013-290 **H.B. 371**

AN ACT AUTHORIZING THE STATE BOARD OF CHIROPRACTIC EXAMINERS TO ESTABLISH AND ENFORCE EDUCATIONAL STANDARDS FOR CHIROPRACTIC CLINICAL ASSISTANTS.

The General Assembly of North Carolina enacts:

SECTION 1. Article 8 of Chapter 90 of the General Statutes is amended by adding the following new section to read:

"§ **90-143.4. Chiropractic clinical assistants; certification of competency.**

(a) "Chiropractic clinical assistant" means a nonlicensed employee of a chiropractic physician whose duties include (i) collecting general health data, such as the taking of an oral history or vital sign measurements, (ii) applying therapeutic procedures, such as thermal, sound, light and electrical modalities, and hydrotherapy, and (iii) monitoring prescribed rehabilitative activities. Nothing in this section shall be construed to allow a chiropractic clinical assistant to provide a chiropractic adjustment, manual therapy, nutritional instruction, counseling, or any other therapeutic service that requires individual licensure.

(b) Any person employed as a chiropractic clinical assistant shall obtain a certificate of competency from the State Board of Chiropractic Examiners (Board) within 120 days after the person begins employment. Certification shall not be required for employees whose duties are limited to administrative activities of a nonclinical nature. Except as otherwise provided in this section, it shall be unlawful for any person to practice as a chiropractic clinical assistant unless duly certified by the Board.

(c) An applicant for certification under this section shall be (i) at least 18 years of age, (ii) a high school graduate or the equivalent, (iii) of good moral character, and (iv) able to demonstrate proficiency in the following subjects:

(1) Basic anatomy.

(2) Chiropractic philosophy and terminology.

(3) Utilization of standard therapeutic modalities.

(4) Contraindications and response to emergencies.

(5) Jurisprudence and patient privacy protection.

(d) If an applicant for certification is already certified or registered as a chiropractic clinical assistant in another state, the Board shall issue a certificate of competency upon evidence that the applicant is in good standing in the other state, provided the requirements for certification or registration in the other state are substantially similar to or more stringent than the requirements for certification in this State.

(e) Any certificate issued under this section shall expire at the end of the calendar year unless renewed in a time and manner established by the Board. Applicants for initial certification or renewal of certification shall pay to the secretary of the Board a fee as prescribed and set by the Board, which fee shall not exceed fifty dollars ($50.00).

(f) The Board may adopt rules pertaining to initial educational requirements, course approval, instructor credentials, examination of applicants, grandfathering, reciprocity, continuing education requirements, and the submission and processing of applications as are reasonably necessary to enforce this section."

SECTION 2. This act becomes effective July 1, 2014.

In the General Assembly read three times and ratified this the 9th day of July, 2013.

Became law upon approval of the Governor at 6:16 p.m. on the 18th day of July, 2013.

Session Law 2013-291 **H.B. 391**

AN ACT TO AMEND THE DEFINITION OF RETIREMENT TO CLARIFY THAT SERVICE AS A MEMBER OF THE BOARD OF TRUSTEES OF A COMMUNITY COLLEGE, AS A MEMBER OF A BOARD OF TRUSTEES OF A CONSTITUENT INSTITUTION OF THE UNIVERSITY OF NORTH CAROLINA, OR AS A VOLUNTEER GUARDIAN AD LITEM IN THE GUARDIAN AD LITEM PROGRAM IS NOT CONSIDERED SERVICE FOR THE PURPOSES OF THAT DEFINITION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 135-1(20) reads as rewritten:

"(20) "Retirement" means the termination of employment and the complete separation from active service with no intent or agreement, express or implied, to return to service. A retirement allowance under the provisions of this Chapter may only be granted upon retirement of a member. In order for a member's retirement to become effective in any month, the member must render no service, including part-time, temporary, substitute, or contractor service, at any time during the six months immediately following the effective date of retirement. For purposes of this subdivision, service as a member of a school ~~board~~board, board of trustees of a community college, board of trustees of any constituent institution of The University of North Carolina, ~~or~~as an unpaid bona fide volunteer in a local school administrative ~~unit~~ unit, or as an unpaid bona fide volunteer guardian ad litem in the guardian ad litem program shall not be considered service. A member who is a full-time faculty member of The University of North Carolina may effect a retirement allowance under this Chapter, notwithstanding the six-month requirement above, provided the member immediately enters the University's Phased Retirement Program for Tenured Faculty as that program existed on May 25, 2011."

SECTION 2. This act becomes effective July 1, 2013.

In the General Assembly read three times and ratified this the 10th day of July, 2013.

Became law upon approval of the Governor at 6:16 p.m. on the 18th day of July, 2013.

Session Law 2013-292 **H.B. 402**

AN ACT TO REQUIRE A TRICARE SUPPLEMENT TO BE OFFERED IF A PLAN OF FLEXIBLE COMPENSATION IS OFFERED BY THE STATE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 115C-341.1 reads as rewritten:

"§ **115C-341.1. Flexible Compensation Plan.**

Notwithstanding any other provisions of law relating to the salaries of employees of local boards of education, the State Board of Education is authorized to provide a plan of flexible compensation to eligible employees of local school administrative units for benefits available under Section 125 and related sections of the Internal Revenue Code of 1986 as amended. This plan shall not include those benefits provided to employees under Articles 1, ~~3,~~3B, and 6 of Chapter 135 of the General Statutes nor any vacation leave, sick leave, or any other leave that may be carried forward from year to year by employees as a form of deferred compensation. If a plan of flexible compensation is offered, then a TRICARE supplement shall be offered. In providing a plan of flexible compensation, the State Board may authorize local school administrative units to enter into agreements with their employees for reductions in the salaries of employees electing to participate in the plan of flexible compensation provided by this section. Should the State Board decide to contract with a third party to administer the terms and conditions of a plan of flexible compensation as provided by this section, it may select such a contractor only upon a thorough and completely advertised competitive procurement process."

SECTION 2. G.S. 115D-25.2 reads as rewritten:

"§ **115D-25.2. Flexible Compensation Plan.**

Notwithstanding any other provisions of law relating to the salaries of employees of community college boards of trustees, the State Board of Community Colleges is authorized to provide a plan of flexible compensation to eligible employees of constituent institutions for benefits available under Section 125 and related sections of the Internal Revenue Code of 1986

as amended. This plan shall not include those benefits provided to employees under Articles 1, ~~3,~~3B, and 6 of Chapter 135 of the General Statutes nor any vacation leave, sick leave, or any other leave that may be carried forward from year to year by employees as a form of deferred compensation. If a plan of flexible compensation is offered, then a TRICARE supplement shall be offered. In providing a plan of flexible compensation, the State Board may authorize constituent institutions to enter into agreements with their employees for reductions in the salaries of employees electing to participate in the plan of flexible compensation provided by this section. With the approval of the Director of the Budget, savings in the employer's share of contributions under the Federal Insurance Contributions Act on account of the reduction in salary may be used to pay some or all of the administrative expenses of the program. Should the State Board decide to contract with a third party to administer the terms and conditions of a plan of flexible compensation as provided by this section, it may select such a contractor only upon a thorough and completely advertised competitive procurement process."

SECTION 3. G.S. 116-17.2 reads as rewritten:

"§ **116-17.2. Flexible Compensation Plan.**

Notwithstanding any other provisions of law relating to the salaries of employees of The University of North Carolina, the Board of Governors of The University of North Carolina is authorized to provide a plan of flexible compensation to eligible employees of constituent institutions for benefits available under Section 125 and related sections of the Internal Revenue Code of 1986 as amended. This plan shall not include those benefits provided to employees under Articles 1, ~~3,~~3B, and 6 of Chapter 135 of the General Statutes nor any vacation leave, sick leave, or any other leave that may be carried forward from year to year by employees as a form of deferred compensation. If a plan of flexible compensation is offered, then a TRICARE supplement shall be offered. In providing a plan of flexible compensation, the Board of Governors may authorize constituent institutions to enter into agreements with their employees for reductions in the salaries of employees electing to participate in the plan of flexible compensation provided by this section. With the approval of the Director of the Budget, savings in the employer's share of contributions under the Federal Insurance Contributions Act on account of the reduction in salary may be used to pay some or all of the administrative expenses of the program. Should the Board of Governors decide to contract with a third party to administer the terms and conditions of a plan of flexible compensation as provided by this section, it may select such a contractor only upon a thorough and completely advertised competitive procurement process."

SECTION 4. G.S. 126-95(b) reads as rewritten:

"(b) Notwithstanding any other provisions of law relating to the salaries of officers and employees of departments, institutions, and agencies of State government, the Director of the Budget may provide a plan of flexible compensation to eligible officers and employees of State departments, institutions, and agencies not covered by the provisions of G.S. 116-17.2 for benefits available under section 125 and related sections of the Internal Revenue Code of 1986, as amended. This plan shall not replace, substitute for, or duplicate any benefits provided to employees and officers under Article 1A of Chapter 120 of the General Statutes and Articles 1, ~~3,~~3B, 4, and 6 of Chapter 135 of the General Statutes. The plan may, however, include offerings for products and benefits that are supplemental or additional to these statutory benefits. If a plan of flexible compensation is offered, then a TRICARE supplement shall be offered. In providing a plan of flexible compensation, the Director of the Budget may authorize State departments, institutions, and agencies to enter into agreements with their employees for reductions in the salaries of employees electing to participate in the plan of flexible compensation provided by this section. With the approval of the Director of the Budget, savings in the employer's share of contributions under the Federal Insurance Contributions Act on account of the reduction in salary may be used to pay some or all of the administrative expenses of the program. Should the Director of the Budget decide to contract with a third party to administer the terms and conditions of a plan of flexible compensation as provided by

this section, it may select such a contractor only upon a thorough and completely advertised competitive procurement process."

SECTION 5. State entities shall use a competitive bid process to award contracts to third-party providers for TRICARE supplement options. The NC Flex plan administered by the Office of State Personnel shall offer a TRICARE supplement no later than January 1, 2015.

SECTION 6. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 10th day of July, 2013.

Became law upon approval of the Governor at 6:16 p.m. on the 18th day of July, 2013.

Session Law 2013-293 **H.B. 428**

AN ACT TO PROVIDE THAT THE PUNISHMENT FOR PASSING A STOPPED SCHOOL BUS IN VIOLATION OF G.S. 20-217 SHALL INCLUDE A FINE IN ALL CIRCUMSTANCES, A REVOCATION OF THE PERSON'S DRIVERS LICENSE IN CERTAIN CIRCUMSTANCES, AND DISQUALIFICATION OF THE PERSON'S COMMERCIAL DRIVING PRIVILEGES IN CERTAIN CIRCUMSTANCES; TO PROVIDE THAT THE DIVISION OF MOTOR VEHICLES SHALL WITHHOLD THE REGISTRATION RENEWAL OF A PERSON WHO FAILS TO PAY ANY FINE IMPOSED PURSUANT TO G.S. 20-217; AND TO ENCOURAGE LOCAL BOARDS OF EDUCATION TO USE THE PROCEEDS OF ANY FINES COLLECTED FOR VIOLATIONS OF G.S. 20-217 TO PURCHASE AUTOMATED CAMERA AND VIDEO RECORDING SYSTEMS TO INSTALL ON SCHOOL BUSES.

The General Assembly of North Carolina enacts:

SECTION 1. This act shall be known as "The Hasani N. Wesley Students' School Bus Safety Act."

SECTION 2. G.S. 20-217 reads as rewritten:

"§ **20-217. Motor vehicles to stop for properly marked and designated school buses in certain instances; evidence of identity of driver.**

(a) When a school bus is displaying its mechanical stop signal or flashing red lights and the bus is stopped for the purpose of receiving or discharging passengers, the driver of any other vehicle that approaches the school bus from any direction on the same street, highway, or public vehicular area shall bring that other vehicle to a full stop and shall remain stopped. The driver of the other vehicle shall not proceed to move, pass, or attempt to pass the school bus until after the mechanical stop signal has been withdrawn, the flashing red stoplights have been turned off, and the bus has started to move.

(b) For the purpose of this section, a school bus includes a public school bus transporting children or school personnel, a public school bus transporting senior citizens under G.S. 115C-243, or a privately owned bus transporting children. This section applies only in the event the school bus bears upon the front and rear a plainly visible sign containing the words "school bus."

(c) Notwithstanding subsection (a) of this section, the driver of a vehicle traveling in the opposite direction from the school bus, upon any road, highway or city street that has been divided into two roadways, so constructed as to separate vehicular traffic between the two roadways by an intervening space (including a center lane for left turns if the roadway consists of at least four more lanes) or by a physical barrier, need not stop upon meeting and passing any school bus that has stopped in the roadway across the dividing space or physical barrier.

(d) It shall be unlawful for any school bus driver to stop and receive or discharge passengers or for any principal or superintendent of any school, routing a school bus, to authorize the driver of any school bus to stop and receive or discharge passengers upon any roadway described by subsection (c) of this section where passengers would be required to cross the roadway to reach their destination or to board the bus; provided, that passengers may

be discharged or received at points where pedestrians and vehicular traffic are controlled by adequate stop-and-go traffic signals.

(e) Except as provided in subsection (g) of this section, any person violating this section shall be guilty of a Class 1 ~~misdemeanor.~~misdemeanor and shall pay a minimum fine of five hundred dollars ($500.00). A person who violates subsection (a) of this section shall not receive a prayer for judgment continued under any circumstances.

(f) Expired.

(g) Any person who willfully violates subsection (a) of this section and strikes any person shall be guilty of a Class I ~~felony.~~felony and shall pay a minimum fine of one thousand two hundred fifty dollars ($1,250). Any person who willfully violates subsection (a) of this section and strikes any person, resulting in the death of that person, shall be guilty of a Class H ~~felony.~~felony and shall pay a minimum fine of two thousand five hundred dollars ($2,500).

(g1) The Division shall revoke, for a period of one year, the drivers license of a person convicted of a second misdemeanor violation under this section within a three-year period. The Division shall revoke, for a period of two years, the drivers license of a person convicted of a Class I felony violation under this section. The Division shall revoke, for a period of three years, the drivers license of a person convicted of a Class H felony violation under this section. The Division shall permanently revoke the drivers license of (i) a person convicted of a second felony violation under this section within any period of time and (ii) a person convicted of a third misdemeanor violation under this section within any period of time.

In the case of a first felony conviction under this section, the licensee may apply to the sentencing court for a limited driving privilege after a period of six months of revocation, provided the person's drivers license has not also been revoked or suspended under any other provision of law. A limited driving privilege issued under this subsection shall be valid for the period of revocation remaining in the same manner and under the terms and conditions prescribed in G.S. 20-16.1(b). If the person's drivers license is revoked or suspended under any other statute, the limited driving privilege issued pursuant to this subsection is invalid.

In the case of a permanent revocation of a person's drivers license for committing a third misdemeanor violation under this section within any period of time, the person may apply for a drivers license after two years. The Division may, with or without a hearing, issue a new drivers license upon satisfactory proof that the former licensee has not been convicted of a moving violation under this Chapter or the laws of another state. The Division may impose any restrictions or conditions on the new drivers license that the Division considers appropriate. Any conditions or restrictions imposed by the Division shall not exceed two years.

In the case of a permanent revocation of a person's drivers license for committing a second Class I felony violation under this section within any period of time, the person may apply for a drivers license after three years. The Division may, with or without a hearing, issue a new drivers license upon satisfactory proof that the former licensee has not been convicted of a moving violation under this Chapter or the laws of another state. The Division may impose any restrictions or conditions on the new drivers license that the Division considers appropriate. Any conditions or restrictions imposed by the Division shall not exceed three years.

Any person whose drivers license is revoked under this section is disqualified pursuant to G.S. 20-17.4 from driving a commercial motor vehicle for the period of time in which the person's drivers license remains revoked under this section.

(g2) Pursuant to G.S. 20-54, failure of a person to pay any fine or costs imposed pursuant to this section shall result in the Division withholding the registration renewal of a motor vehicle registered in that person's name. The clerk of superior court in the county in which the case was disposed shall notify the Division of any person who fails to pay a fine or costs imposed pursuant to this section within 20 days of the date specified in the court's judgment, as required by G.S. 20-24.2(a)(2). The Division shall continue to withhold the registration renewal of a motor vehicle until the clerk of superior court notifies the Division that the person has satisfied the conditions of G.S. 20-24.1(b) applicable to the person's case. The provisions of this

subsection shall be in addition to any other actions the Division may take to enforce the payment of any fine imposed pursuant to this section.

(h) Automated camera and video recording systems may be used to detect and prosecute violations of this section. Any photograph or video recorded by a camera or video recording system shall, if consistent with the North Carolina Rules of Evidence, be admissible as evidence in any proceeding alleging a violation of subsection (a) of this section."

SECTION 3. G.S. 20-17.4 is amended by adding a new subsection to read:

"§ **20-17.4. Disqualification to drive a commercial motor vehicle.**

…

(o) Disqualification for Passing Stopped School Bus. – Any person whose drivers license is revoked under G.S. 20-217 is disqualified from driving a commercial motor vehicle for the period of time in which the person's drivers license remains revoked under G.S. 20-217."

SECTION 4. G.S. 20-54 is amended by adding a new subdivision to read:

"§ **20-54. Authority for refusing registration or certificate of title.**

The Division shall refuse registration or issuance of a certificate of title or any transfer of registration upon any of the following grounds:

…

(11) The Division has been notified pursuant to G.S. 20-217(g2) that the owner of the vehicle has failed to pay any fine imposed pursuant to G.S. 20-217."

SECTION 5. The General Assembly encourages local boards of education to use the proceeds of any fines collected for violations of G.S. 20-217 to purchase automated camera and video recording systems to install on school buses to help detect and prosecute violators of that section.

SECTION 6. This act becomes effective December 1, 2013, and applies to offenses committed on or after that date.

In the General Assembly read three times and ratified this the 10th day of July, 2013.

Became law upon approval of the Governor at 6:16 p.m. on the 18th day of July, 2013.

Session Law 2013-294 **S.B. 174**

AN ACT TO DISAPPROVE CERTAIN RULES ADOPTED BY THE NORTH CAROLINA INDUSTRIAL COMMISSION, TO PROVIDE SPECIFIC DIRECTIONS TO THE INDUSTRIAL COMMISSION TO REPLACE THE RULES, AND TO AMEND CERTAIN PROVISIONS OF THE WORKERS' COMPENSATION LAW.

The General Assembly of North Carolina enacts:

SECTION 1. Pursuant to G.S. 150B-21.3(b1), 04 NCAC 10A .0102 (Official Forms), 04 NCAC 10A .0105 (Electronic Payment of Costs), 04 NCAC 10A .0405 (Reinstatement of Compensation), 04 NCAC 10A .0601 (Employer's Obligations Upon Notice; Denial of Liability...), 04 NCAC 10A .0603 (Responding to a Party's Request for Hearing), 04 NCAC 10A .0605 (Discovery), 04 NCAC 10A .0608 (Statement of Incident Leading to Claim), 04 NCAC 10A .0609A (Medical Motions and Emergency Medical Motions), 04 NCAC 10A .0612 (Depositions and Additional Hearings), 04 NCAC 10A .0613 (Expert Witnesses and Fees), 04 NCAC 10A .0701 (Review by Full Commission), 04 NCAC 10A .0704 (Remand from the Appellate Courts), 04 NCAC 10C .0103 (Definitions), 04 NCAC 10C .0109 (Vocational Rehabilitation Services Return to Work), 04 NCAC 10E .0201 (Document and Record Fees), 04 NCAC 10E .0202 (Hearing Costs or Fees), 04 NCAC 10E .0203 (Fees Set by the Commission), 04 NCAC 10G .0104A (Foreign Language Interpreters), as adopted by the Industrial Commission on September 20, 2012, and approved by the Rules Review Commission on October 18, 2012, are disapproved.

SECTION 2. Pursuant to G.S. 150B-21.3(b1), 04 NCAC 10A .0801 (Suspension of Rules), 04 NCAC 10B .0501 (Suspension of Rules), 04 NCAC 10C .0108 (Interaction with Physicians), 04 NCAC 10C .0201 (Suspension of Rules), 04 NCAC 10D .0110 (Suspension of Rules), 04 NCAC 10E .0301 (Suspension of Rules), 04 NCAC 10G .0107 (Compensation of the Mediator), 04 NCAC 10G .0110 (Waiver of Rules), 04 NCAC 10H .0206 (Waiver of Rules), 04 NCAC 10I .0204 (Suspension of Rules), as adopted by the Industrial Commission on September 20, 2012, and approved by the Rules Review Commission on November 15, 2012, are disapproved.

SECTION 3. G.S. 97-18(k) reads as rewritten:

"(k) In addition to any other methods for reinstatement of compensation available under the Act, whenever the employer or insurer has admitted the employee's right to compensation, or liability has been established, the employee may move for reinstatement of compensation on a form prescribed by the Commission. ~~If the employer or insurer contests the employee's request for reinstatement, the matter shall be scheduled on a preemptive basis.~~The form prescribed by the Commission shall contain the reasons for the proposed reinstatement of compensation, be supported by available documentation, and inform the employer of the employer's right to contest the reinstatement of compensation by filing an objection in writing with the Commission within 14 days of the date the employee's notice is filed with the Commission or within such additional reasonable time as the Commission may allow. If the employer or insurer contests the employee's request for reinstatement, the Commission shall conduct an informal hearing by telephone with the parties or their counsel. If either party objects to conducting the hearing by telephone, the Commission may conduct the hearing in person in Raleigh or at another location selected by the Commission. The parties shall be afforded an opportunity to state their position and to submit documentary evidence at the informal hearing. The employee may waive the right to an informal hearing and proceed to the formal hearing. The Commission's decision in the informal hearing is not binding in the subsequent hearings. If the application for Reinstatement of Payment of Disability Compensation is approved or not contested, then compensation shall be reinstated immediately and continue until further order of the Commission. The employer or employee may request a formal hearing pursuant to G.S. 97-83 on the Commission's decision approving or denying the employee's application for reinstatement. A formal hearing under G.S. 97-83 ordered or requested pursuant to this subsection shall be a hearing de novo on the employee's application for reinstatement of compensation and may be scheduled by the Commission on a preemptive basis. This subsection shall not apply to a request for a review of an award on the grounds of a change in condition pursuant to G.S. 97-47."

SECTION 4. G.S. 97-25 reads as rewritten:

"§ **97-25. Medical treatment and supplies.**

(a) Medical compensation shall be provided by the employer.

(b) Upon the written request of the employee to the employer, the employer may agree to authorize and pay for a second opinion examination with a duly qualified physician licensed to practice in North Carolina, or licensed in another state if agreed to by the parties or ordered by the Commission. If, within 14 calendar days of the receipt of the written request, the request is denied or the parties, in good faith, are unable to agree upon a health care provider to perform a second opinion examination, the employee may request that the Industrial Commission order a second opinion examination. The expense thereof shall be borne by the employer upon the same terms and conditions as provided in this section for medical compensation.

(c) Provided, however, if the employee so desires, an injured employee may select a health care provider of the employee's own choosing to attend, prescribe, and assume the care and charge of the employee's case subject to the approval of the Industrial Commission. In addition, in case of a controversy arising between the employer and the employee, the Industrial Commission may order necessary treatment. In order for the Commission to grant an employee's request to change treatment or health care provider, the employee must show by a

preponderance of the evidence that the change is reasonably necessary to effect a cure, provide relief, or lessen the period of disability. When deciding whether to grant an employee's request to change treatment or health care provider, the Commission may disregard or give less weight to the opinion of a health care provider from whom the employee sought evaluation, diagnosis, or treatment before the employee first requested authorization in writing from the employer, insurer, or Commission.

(d) The refusal of the employee to accept any medical compensation when ordered by the Industrial Commission shall bar the employee from further compensation until such refusal ceases, and no compensation shall at any time be paid for the period of suspension unless in the opinion of the Industrial Commission the circumstances justified the refusal. Any order issued by the Commission suspending compensation pursuant to G.S. 97-18.1 shall specify what action the employee should take to end the suspension and reinstate the compensation.

(e) If in an emergency on account of the employer's failure to provide medical compensation, a physician other than provided by the employer is called to treat the injured employee, the reasonable cost of such service shall be paid by the employer if so ordered by the Industrial Commission.

(f) In claims subject to G.S. 97-18(b) and (d), a party may file an expedited, emergency, or other medical motion with the Office of the Chief Deputy Commissioner. The nonmoving party shall have the right to contest the motion. Motions and responses shall be submitted via electronic mail to the Commission, the opposing party and the opposing party's attorney, simultaneously. The Commission shall conduct an informal telephonic pretrial conference to determine if the motion warrants an expedited or emergency hearing. If the Commission determines that the motion does not warrant an expedited or emergency hearing, the motion shall be decided administratively within 60 days of the date the motion was filed pursuant to rules governing motions practices in contested cases. If the Commission determines that any party has acted unreasonably by initiating or objecting to a medical motion, the Commission may assess costs associated with any proceeding, including reasonable attorneys' fees and deposition costs, against the offending party.

(g) If the Commission determines that a medical motion should be expedited, each party shall be afforded an opportunity to state its position and to submit documentary evidence at an informal telephonic hearing. The medical motion shall contain documentation and support of the request, including the most relevant medical records and a representation that informal means of resolving the issue have been attempted in good faith, and the opposing parties' position, if known. The Commission shall determine whether deposition testimony of medical and other experts is necessary and if so shall order that the testimony be taken within 35 days of the date the motion is filed. For good cause shown, the Commission may reduce or enlarge the time to complete depositions of medical and other experts. Transcripts of depositions shall be expedited and paid for by the administrator, carrier, or employer. Transcripts shall be submitted electronically to the Commission within 40 days of the date the motion is filed unless the Commission has reduced or enlarged the time to complete the depositions. The Commission shall render a decision on the motion within five days of the date transcripts are due to the Commission.

(h) If the Commission determines that a medical motion is an emergency, the Commission shall make a determination on the motion within five days of receipt by the Commission of the medical motion. Motions requesting emergency medical relief shall contain the following:

(1) An explanation of the medical diagnosis and treatment recommendation of the health care provider that requires emergency attention.

(2) A specific statement detailing the time-sensitive nature of the request to include relevant dates and the potential for adverse consequences to the employee if the recommended treatment is not provided emergently.

(3) An explanation of opinions known and in the possession of the employee of additional medical or other relevant experts, independent medical examiners, and second opinion examiners.

(4) Documentation known and in the possession of the employee in support of the request, including relevant medical records.

(5) A representation that informal means of resolving the issue have been attempted."

SECTION 5. G.S. 97-79 is amended by adding a new subsection to read:

"(g) The Commission shall adopt rules, in accordance with Article 2A of Chapter 150B of the General Statutes, for administrative motions, including practices and procedures for carrying out the provisions of this Article."

SECTION 6. G.S. 97-80 reads as rewritten:

"§ **97-80. Rules and regulations; subpoena of witnesses; examination of books and records; depositions; costs.**

(a) The Commission shall adopt rules, in accordance with Article 2A of Chapter 150B of the General Statutes and not inconsistent with this Article, for carrying out the provisions of this Article.

The Commission shall adopt rules establishing processes and procedure to be used under this Article.

Processes, procedure, and discovery under this Article shall be as summary and simple as reasonably may be.

(b) The Commission or any member thereof, or any person deputized by it, shall have the power, for the purpose of this Article, to tax costs against the parties, to administer or cause to have administered oaths, to preserve order at hearings, to compel the attendance and testimony of witnesses, and to compel the production of books, papers, records, and other tangible things.

(c) The Commission may order parties to participate in mediation, under rules substantially similar to those approved by the Supreme Court for use in the Superior Court division, except the Commission shall determine the manner in which payment of the costs of the mediated settlement conference is assessed.

(d) The Commission may order testimony to be taken by deposition and any party to a proceeding under this Article may, upon application to the Commission, which application shall set forth the materiality of the evidence to be given, cause the depositions of witnesses residing within or without the State to be taken, the costs to be taxed as other costs by Commission. Depositions ordered by the Commission upon application of a party shall be taken after giving the notice and in the manner prescribed by law for depositions in action at law, except that they shall be directed to the Commission, the commissioner, or the deputy commissioner before whom the proceedings may be pending.

(e) A subpoena may be issued by the Commission and served in accordance with G.S. 1A-1, Rule 45. A party shall not issue a subpoena duces tecum less than 30 days prior to the hearing date except upon prior approval of the Commission. Upon a motion, the Commission may quash a subpoena if it finds that the evidence the production of which is required does not relate to a matter in issue, the subpoena does not describe with sufficient particularity the evidence the production of which is required, or for any other reason sufficient in law the subpoena may be quashed. Each witness who appears in obedience to such subpoena of the Commission shall receive for attendance the fees and mileage for witnesses in civil cases in courts of the county where the hearing is held.

(f) The Commission may by rule provide for and limit the use of interrogatories and other forms of discovery, including production of books, papers, records, and other tangible things, and it may provide reasonable sanctions for failure to comply with a Commission order compelling discovery.

(g) The Commission or any member or deputy thereof shall have the same power as a judicial officer pursuant to Chapter 5A of the General Statutes to hold a person in civil contempt, as provided thereunder, for failure to comply with an order of the Commission, Commission member, or deputy. A person held in civil contempt may appeal in the manner provided for appeals pursuant to G.S. 97-85 and G.S. 97-86. The provisions of G.S. 5A-24 shall not apply to appeals pursuant to this subsection.

(h) The Commission or any member or deputy thereof shall also have the same power as a judicial officer pursuant to Chapter 5A of the General Statutes to punish for criminal contempt, subject to the limitations thereunder, (i) for ~~wilful~~ willful behavior committed during the sitting of the commissioner or deputy commissioner and directly tending to interrupt the proceedings; (ii) for ~~wilful~~ willful disobedience of a lawful order of the Commission or a member or deputy thereof; or (iii) for ~~wilful~~ willful refusal to be sworn or affirmed as a witness, or, when so sworn or affirmed, ~~wilful~~ willful refusal to answer any legal and proper question when refusal is not legally justified. The Commission or any member or deputy thereof may issue an order of arrest as provided by G.S. 15A-305 when authorized by G.S. 5A-16 in connection with contempt proceedings. When the commissioner or deputy commissioner chooses not to proceed summarily pursuant to G.S. 5A-14, the proceedings shall be before a district court judge, and venue lies throughout the district where the order was issued directing the person charged to appear. A person found in criminal contempt may appeal in the manner provided for appeals in criminal actions to the superior court of the district in which the order of contempt was issued, and the appeal is by hearing de novo before a superior court judge."

SECTION 7. G.S. 97-81(a) reads as rewritten:

"(a) The Commission shall prepare and cause to be printed, and upon request furnish, free of charge to any employee or employer, such blank forms and literature as it shall deem requisite to facilitate or prompt the efficient administration of this Article. Notwithstanding G.S. 150B-2(8a)d., any new forms or substantive amendments to old forms adopted after July 1, 2013, shall be adopted in accordance with Article 2A of Chapter 150B of the General Statutes. The Commission may authorize the use of electronic submission of forms and other means of transmittal of forms and notices when it deems appropriate."

SECTION 8. The Industrial Commission shall adopt rules to replace the rules disapproved by Sections 1 and 2 of this act, in accordance with the following directions:

(1) With regard to 04 NCAC 10A .0601 (Employer's Obligations Upon Notice; Additional Medical Comp.), the Commission shall amend subsection (b) of the rule to provide that the letter of denial shall be sent to all known health care providers who have submitted bills and provided medical records to the employer or carrier.

(2) With regard to 04 NCAC 10A .0603 (Responding to a Party's Request for Hearing), the Commission shall amend subsection (a) of the rule to delete the sentence "If a defendant files a request for hearing, the employee is not required to respond." The Commission shall amend subsection (b) of the rule to delete all references to "plaintiff" and substitute "moving party," and all references to "defendant" and substitute "nonmoving party."

(3) With regard to 04 NCAC 10A .0605 (Discovery), the Commission shall amend the rule by deleting the following phrase from subdivision (4): "including the sanctions specified in G.S. 1A-1, Rule 37."; and by deleting the following from subdivision (9): "The parties shall not submit motions to compel production of information otherwise obtainable under G.S. 97-25.6."

(4) With regard to 04 NCAC 10A .0608 (Statement of Incident Leading to Claim), the Commission shall amend subsection (b) of the rule by adding the word "unreasonably" between the words "corporation" and "fails."

(5) With regard to 04 NCAC 10A .0701 (Review by Full Commission), the Commission shall establish a procedure to track an appellant's electronic receipt of a Form 44 and notice of appeal from the Commission.

(6) With regard to 04 NCAC 10A .0704 (Remand from the Appellate Courts), the Commission shall rewrite the rule to specifically allow for a stay of the deadline to submit a statement to the Commission on remand when a party files a petition for discretionary review or rehearing.

(7) With regard to 04 NCAC 10C .0103 (Definitions), the Commission shall amend subdivision (3) to read as follows: ""Vocational rehabilitation" means the delivery and coordination of services under an individualized written plan, with the goal of assisting the injured worker to return to suitable employment or participate in education or retraining, as defined by subsection (5) of this rule or applicable statute."

(8) With regard to 04 NCAC 10C .0108 (Interaction with Physicians), the Commission shall amend subsection (e)(1) by inserting the phrase "that is authorized or ordered" after the word "examination."

(9) With regard to 04 NCAC 10C .0109 (Vocational Rehabilitation Services Return to Work), the Commission shall delete subsection (i) of the rule.

(10) With regard to 04 NCAC 10A .0405 (Reinstatement of Compensation), the Commission shall delete subsections (a) through (g) and substitute the following:

"(a) In a claim in which the employer, carrier, or administrator has admitted liability, when an employee seeks reinstatement of compensation pursuant to G.S. 97-18(k), the employee may notify the employer, carrier, or administrator, and the employer's, carrier's, or administrator's attorney of record, on a Form 23 Application to Reinstate Payment of Disability Compensation, or by the filing of a Form 33 Request that Claim be Assigned for Hearing.

(b) When reinstatement is sought by the filing of a Form 23 Application to Reinstate Payment of Disability Compensation, the original Form 23 Application to Reinstate Payment of Disability Compensation and the attached documents shall be sent to the Commission at the same time and by the same method by which a copy of the Form 23 and attached documents are sent to the employer, carrier, or administrator and the employer's, carrier's, or administrator's attorney of record. The employee shall specify the grounds and the alleged facts supporting the application and shall complete the blank space in the "Important Notice to Employer" portion of Form 23 Application to Reinstate Payment of Disability Compensation by inserting a date 17 days from the date the employee serves the completed Form 23 Application to reinstate Payment of Disability Compensation on the employer, carrier, or administrator and the attorney of record, if any. The Form 23 Application to Reinstate Payment of Disability Compensation shall specify the number of pages of documents attached that are to be considered by the Commission. Within 17 days from the date the employee serves the completed Form 23 Application to Reinstate Payment of Disability Compensation on the employer, carrier, or administrator and the attorney of record, if any, the employer, carrier, or administrator shall complete Section B of the Form 23 Application to Reinstate Payment of Disability

Compensation and send it to the Commission and to the employee, or the employee's attorney of record, at the same time and by the same method by which the form is sent to the Commission.

(c) If the employer, carrier, or administrator does not object within the time allowed, the Commission shall review the Form 23 Application to Reinstate Payment of Disability Compensation and attached documentation and, without an informal hearing, render an Administrative Decision or Order as to whether there is sufficient basis under the Workers' Compensation Act to reinstate compensation. This Administrative Decision and Order shall be rendered within five days of the expiration of the time within which the employer, carrier, or administrator could have filed a response to the Form 23 Application to Reinstate Payment of Disability Compensation. Either party may seek review of the Administrative Decision and Order as provided by Rule .0703 of this subchapter.

(d) If the employer, carrier, or administrator timely objects to the Form 23 Application to Reinstate Payment of Disability Compensation, the Commission shall conduct an informal hearing within 25 days of the receipt by the Commission of the Form 23 Application to Reinstate Payment of Disability Compensation unless the time is extended for good cause shown. The informal hearing may be conducted with the parties or their attorneys of record personally present with the Commission. The Commission shall make arrangements for the informal hearing with a view toward conducting the hearing in the most expeditious manner. The informal hearing shall be no more than 30 minutes, with each side being given 10 minutes to present its case and five minutes for rebuttal. Notwithstanding the foregoing, the employee may waive the right to an informal hearing and proceed to a formal hearing by filing a request for hearing on a Form 33 Request that Claim be Assigned for Hearing. Either party may appeal the Administrative Decision and Order of the Commission as provided by Rule .0703 of this subchapter. A Deputy Commissioner shall conduct a hearing which shall be a hearing de novo. The hearing shall be peremptorily set and shall not require a Form 33 Request that Claim be Assigned for Hearing. The employee has the burden of producing evidence on the issue of the employee's application to reinstate compensation. If the Deputy Commissioner reverses an order previously granting a Form 23 Application to Reinstate Payment of Disability Compensation motion, the employer shall promptly terminate compensation or otherwise comply with the Deputy Commissioner's decision, notwithstanding any appeal or application for review to the Full Commission under G.S. 97-85.

(e) If the Commission is unable to render a decision after the informal hearing, the Commission shall issue an order to that effect, that shall be in lieu of a Form 33 Request that Claim be Assigned for Hearing, and the case shall be placed on the formal hearing docket. If additional issues are to be addressed, the employee, employer, carrier, or administrator shall file a Form 33 Request that Claim be Assigned for Hearing or notify the Commission that a formal hearing is not currently necessary, within 30 days of the date of the Administrative Decision or Order. The effect of placing the case on the docket shall be the same as if the Form 23 Application to Reinstate Payment of Disability Compensation was denied, and

compensation shall not be reinstated until such time as the case is decided by a Commissioner or a Deputy Commissioner following a formal hearing."

(11) With regard to 04 NCAC 10A .0609A (Medical Motions and Emergency Medical Motions), the Commission shall rewrite the rule in accordance with G.S. 97-25, as amended by Section 4 of this act.

(12) With regard to 04 NCAC 10A .0102 (Official Forms), the Commission shall adopt a form for use as a subpoena that is in compliance with current North Carolina law. The Commission shall also review all prior minutes and administrative rulings of the Commission and where necessary adopt rules related to the processes and procedures outlined in the prior minutes and administrative rulings. The rules shall be adopted in accordance with Article 2A of Chapter 150B of the General Statutes.

SECTION 9. The Industrial Commission shall adopt rules to replace the following disapproved rules which relate to when the Commission may waive rules. In each case, the Commission shall amend references to granting a waiver "upon its own initiative" to read "upon its own initiative only if the employee is not represented by counsel."

04 NCAC 10A .0801 (Waiver of Rules)
04 NCAC 10B .0501 (Waiver of Rules)
04 NCAC 10C .0201 (Waiver of Rules)
04 NCAC 10D .0110 (Waiver of Rules)
04 NCAC 10E .0301 (Waiver of Rules)
04 NCAC 10G .0110 (Waiver of Rules)
04 NCAC 10H .0206 (Waiver of Rules)
04 NCAC 10I .0204 (Waiver of Rules)

SECTION 10. The Industrial Commission shall study the financial and economic impact and operational burdens on all parties of mandating that costs and fees be submitted electronically as provided by 04 NCAC 10A .0105. The Commission shall submit a report of its findings and recommendations to the 2014 Regular Session of the 2013 General Assembly.

SECTION 11. Notwithstanding G.S. 150B-21.2, the Industrial Commission shall adopt permanent rules in accordance with the provisions of this act using the procedure and time lines for temporary rules set forth in G.S. 150B-21.1(a3). Rules adopted by the Industrial Commission in accordance with this section shall be subject to review by the Rules Review Commission as provided by G.S. 150B-21.1(b); provided however, that if the rules are approved by the Rules Review Commission, they shall become effective as provided by G.S. 150B-21.3(b). Rules adopted pursuant to this section shall not be subject to G.S. 150B-19.1(h) or G.S. 150B-21.4. The Industrial Commission shall consult with the Office of Administrative Hearings to ensure that rules adopted in accordance with this section are submitted to the Rules Review Commission in time to be eligible for legislative disapproval in the 2014 Regular Session of the 2013 General Assembly. The rules of the Industrial Commission that were in effect on the effective date of S.L. 2011-287 shall remain in effect with regard to rules disapproved by Sections 1 and 2 of this act until rules adopted to replace the disapproved rules become effective pursuant to this section.

SECTION 12. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 9th day of July, 2013.

Became law upon approval of the Governor at 6:17 p.m. on the 18th day of July, 2013.

Session Law 2013-295 **S.B. 231**

AN ACT TO MODIFY THE DUTIES OF THE STATE ADVISORY COUNCIL ON INDIAN EDUCATION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 115C-210.4 reads as rewritten:

"§ **115C-210.4. Duties of the Council.**

It shall be the duty of the Advisory Council:

(1) ~~To advise the State Board of Education on ways to meet more effectively the educational needs of Indian students;~~To review annually relevant data on American Indian students using reports made available to the Council by the Department of Public Instruction. The review shall include, but not be limited to, data on academic performance, growth, suspension and expulsion events, dropouts, and graduation rates.

(2) To advocate for meaningful programs to reduce and eventually eliminate low achievement and concurrent high attrition rates among American Indian ~~students;~~students.

(2a) To prepare an annual report that includes an action plan and make an annual presentation to the State Board of Education to advise the State Board on ways to meet the educational needs of American Indian students more effectively based on the State Board's strategies, policies, and information.

(3) To ~~prepare an annual~~ present and share the annual report ~~on a fiscal year basis on the status of Indian education, said report to be presented to the State Board of Education and to the various Indian tribal organizations~~ with the Indian Tribes and Indian organizations referenced in Article 71A of the General Statutes and organizations holding membership on the North Carolina State Commission of Indian Affairs pursuant to G.S. 143B-407 at the statewide Indian Unity ~~Conference;~~Conference and with the North Carolina State Commission of Indian Affairs, along with an action plan based on recommendations.

(4) To work closely with ~~the Division of Indian Education in~~ the Department of Public ~~Instruction~~ Instruction, Tribal Leaders, and Title VII Coordinators to improve coordination and communication between and among ~~programs;~~programs.

(4a) To improve consultations among the State Board of Education, the Department of Public Instruction, and American Indian tribal communities, students, parents, and educators.

(5) To advise the State Board of Education on any other aspect of American Indian education when requested by the State Board to do so."

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

In the General Assembly read three times and ratified this the 10th day of July, 2013.

Became law upon approval of the Governor at 6:17 p.m. on the 18th day of July, 2013.

Session Law 2013-296 **S.B. 248**

AN ACT TO ENSURE THAT PATIENTS HAVE THE RIGHT TO CHOOSE THEIR HEARING AID SPECIALIST UNDER THEIR HEALTH BENEFIT PLANS, TO AUTHORIZE THE NORTH CAROLINA STATE HEARING AID DEALERS AND FITTERS BOARD TO INCREASE CERTAIN FEES, AND TO MAKE TECHNICAL CHANGES TO THE STATUTE ON CHOOSING SERVICES OF PROVIDERS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 58-50-30 reads as rewritten:

"§ **58-50-30. Right to choose services of ~~optometrist, podiatrist, licensed clinical social worker, certified substance abuse professional, licensed professional counselor, dentist, chiropractor, physical therapist, psychologist, pharmacist, certified fee-based practicing pastoral counselor, advanced practice nurse, licensed marriage and family therapist, or physician assistant.~~certain providers.**

(a) Repealed by Session Laws 2001-297, s. 1, effective January 1, 2001.

(a1) Whenever any health benefit plan, subscriber contract, or policy of insurance issued by a health maintenance organization, hospital or medical service corporation, or insurer governed by Articles 1 through 67 of this Chapter provides for coverage for, payment of, or reimbursement for any service rendered in connection with a condition or complaint that is within the scope of practice of ~~a duly licensed optometrist, a duly licensed podiatrist, a duly licensed dentist, a duly licensed chiropractor, a duly licensed physical therapist, a duly licensed clinical social worker, a duly certified substance abuse professional, a duly licensed professional counselor, a duly licensed psychologist, a duly licensed pharmacist, a duly certified fee-based practicing pastoral counselor, a duly licensed physician assistant, a duly licensed marriage and family therapist, or an advanced practice registered nurse,~~ a provider listed in subsection (b) of this section, the insured or other persons entitled to benefits under the policy shall be entitled to coverage of, payment of, or reimbursement for the services, whether the services be performed by a duly licensed physician, or a provider listed in ~~this subsection,~~subsection (b) of this section, notwithstanding any provision contained in the plan or policy limiting access to the providers. The policyholder, insured, or beneficiary shall have the right to choose the provider of services notwithstanding any provision to the contrary in any other statute, subject to the utilization review, referral, and prior approval requirements of the plan that apply to all providers for that service; provided that:

(1) In the case of plans that require the use of network providers as a condition of obtaining benefits under the plan or policy, the policyholder, insured, or beneficiary must choose a provider of the services within the network; and

(2) In the case of plans that require the use of network providers as a condition of obtaining a higher level of benefits under the plan or policy, the policyholder, insured, or beneficiary must choose a provider of the services within the network in order to obtain the higher level of benefits.

(a2) Whenever any policy of insurance governed by Articles 1 through 64 of this Chapter provides for certification of disability that is within the scope of practice of ~~a duly licensed physician, a duly licensed physician assistant, a duly licensed optometrist, a duly licensed podiatrist, a duly licensed dentist, a duly licensed chiropractor, a duly licensed physical therapist, a duly licensed clinical social worker, a duly certified substance abuse professional, a duly licensed professional counselor, a duly licensed psychologist, a duly certified fee-based practicing pastoral counselor, a duly licensed marriage and family therapist, or an advanced practice registered nurse,~~a provider listed in subsection (b) of this section, the insured or other persons entitled to benefits under the policy shall be entitled to payment of or reimbursement for the disability whether the disability be certified by a duly licensed physician, or a provider listed in ~~this subsection,~~subsection (b) of this section, notwithstanding any provisions contained in the policy. The policyholder, insured, or beneficiary shall have the right to choose the provider of the services notwithstanding any provision to the contrary in any other statute; provided that for plans that require the use of network providers either as a condition of obtaining benefits under the plan or policy or to access a higher level of benefits under the plan or policy, the policyholder, insured, or beneficiary must choose a provider of the services within the network, subject to the requirements of the plan or policy.

(a3) Whenever any health benefit plan, subscriber contract, or policy of insurance issued by a health maintenance organization, hospital or medical service corporation, or insurer governed by Articles 1 through 67 of this Chapter provides coverage for medically necessary

treatment, the insurer shall not impose any limitation on treatment or levels of coverage if performed by a duly licensed chiropractor acting within the scope of the chiropractor's practice as defined in G.S. 90-151 unless a comparable limitation is imposed on the medically necessary treatment if performed or authorized by any other duly licensed physician.

(b) ~~For the purposes of this section,~~ This section applies to the following provider types:

(1) A duly licensed optometrist.

(2) A duly licensed dentist.

(3) A duly licensed podiatrist.

(4) A duly licensed chiropractor.

(5) An advanced practice registered nurse, subject to subsection (d) of this section. For purposes of this section, an "advanced practice registered nurse" means only a registered nurse who is duly licensed or certified as a nurse practitioner, clinical specialist in psychiatric and mental health nursing, or nurse midwife.

(6) ~~a "duly licensed psychologist" is a:~~A psychologist who is one of the following:

~~(1)~~a. ~~Licensed~~A licensed psychologist who holds permanent licensure and certification as a health services provider psychologist issued by the North Carolina Psychology ~~Board; or~~Board.

~~(2)~~b. ~~Licensed~~A licensed psychological associate who holds permanent licensure.

~~(c)~~(7) ~~For the purposes of this section, a "duly licensed clinical social worker" is a "licensed clinical social worker"~~ A licensed clinical social worker, as defined in ~~G.S. 90B-3(2) and~~G.S. 90B-3(2) who is licensed by the North Carolina Social Work Certification and Licensure Board pursuant to Chapter 90B of the General Statutes.

(8) A duly licensed pharmacist, subject to the provisions of subsection (e) of this section.

~~(c1)~~(9) ~~For purposes of this section, a "duly certified fee-based practicing pastoral counselor" shall be defined only to include~~A fee-based practicing pastoral ~~counselors~~counselor certified by the North Carolina State Board of Examiners of Fee-Based Practicing Pastoral Counselors pursuant to Article 26 of Chapter 90 of the General Statutes.

~~(c2)~~(10) ~~For purposes of this section, a "duly certified substance abuse professional" is a person~~A substance abuse professional certified by the North Carolina Substance Abuse Professional Certification Board pursuant to Article 5C of Chapter 90 of the General Statutes.

(11) A physician assistant, as defined by G.S. 90-18.1 and subject to subsection (f) of this section.

~~(c3)~~(12) ~~For purposes of this section, a "duly licensed professional counselor" is a person~~A professional counselor licensed by the North Carolina Board of Licensed Professional Counselors pursuant to Article 24 of Chapter 90 of the General Statutes.

~~(c4)~~(13) ~~For purposes of this section, a "duly licensed marriage and family therapist" is a person~~A marriage and family therapist licensed by the North Carolina Marriage and Family Therapy Licensure Board pursuant to Article 18C of Chapter 90 of the General Statutes.

~~(c5)~~(14) ~~For purposes of this section, a "duly licensed physical therapist" is a person~~A physical therapist licensed by the North Carolina Board of Physical Therapy Examiners pursuant to Article 18B of Chapter 90 of the General Statutes.

(15) A hearing aid specialist licensed by the North Carolina State Hearing Aid Dealers and Fitters Board under Chapter 93D of the General Statutes to engage in fitting or selling hearing aids. For purposes of this subdivision, the term "fitting and selling hearing aids" has the same meaning as defined in G.S. 93D-1.

(d) Payment or reimbursement is required by this section for a service performed by an advanced practice registered nurse only when:

(1) The service performed is within the nurse's lawful scope of practice;
(2) The policy currently provides benefits for identical services performed by other licensed health care providers;
(3) The service is not performed while the nurse is a regular employee in an office of a licensed physician;
(4) The service is not performed while the registered nurse is employed by a nursing facility (including a hospital, skilled nursing facility, intermediate care facility, or home care agency); and
(5) Nothing in this section is intended to authorize payment to more than one provider for the same service.

No lack of signature, referral, or employment by any other health care provider may be asserted to deny benefits under this provision, unless these plan requirements apply to all providers for that service.

~~For purposes of this section, an "advanced practice registered nurse" means only a registered nurse who is duly licensed or certified as a nurse practitioner, clinical specialist in psychiatric and mental health nursing, or nurse midwife.~~

(e) Payment or reimbursement is required by this section for a service performed by a duly licensed pharmacist only when:

(1) The service performed is within the lawful scope of practice of the pharmacist;
(2) The service performed is not initial counseling services required under State or federal law or regulation of the North Carolina Board of Pharmacy;
(3) The policy currently provides reimbursement for identical services performed by other licensed health care providers; and
(4) The service is identified as a separate service that is performed by other licensed health care providers and is reimbursed by identical payment methods.

Nothing in this subsection authorizes payment to more than one provider for the same service.

(f) Payment or reimbursement is required by this section for a service performed by a duly licensed physician assistant only when:

(1) The service performed is within the lawful scope of practice of the physician assistant in accordance with rules adopted by the North Carolina Medical Board pursuant to G.S. 90-18.1;
(2) The policy currently provides reimbursement for identical services performed by other licensed health care providers; and
(3) The reimbursement is made to the physician, clinic, agency, or institution employing the physician assistant.

Nothing in this subsection is intended to authorize payment to more than one provider for the same service. ~~For the purposes of this section, a "duly licensed physician assistant" is a physician assistant as defined by G.S. 90-18.1.~~

(g) A health maintenance organization, hospital or medical service corporation, or insurer governed by Articles 1 through 67 of this Chapter shall not exclude from participation in its provider network or from eligibility to provide particular covered services under the plan or policy any duly licensed physician or provider listed in subsection ~~(a1)~~(b) of this section, acting within the scope of the provider's license or certification under North Carolina law,

solely on the basis of the provider's license or certification. Any health maintenance organization, hospital or medical service corporation, or insurer governed by Articles 1 through 67 of this Chapter that offers coverage through a network plan may condition participation in the network on satisfying written participation criteria, including credentialing, quality, and accessibility criteria. The participation criteria shall be developed and applied in a like manner consistent with the licensure and scope of practice for each type of provider. Any health maintenance organization, hospital or medical service corporation, or insurer governed by Articles 1 through 67 of this Chapter that excludes a provider listed in subsection ~~(a1)~~(b) of this section from participation in its network or from eligibility to provide particular covered services under the plan or policy shall provide the affected listed provider with a written explanation of the basis for its decision. A health maintenance organization, hospital or medical service corporation, or insurer governed by Articles 1 through 67 of this Chapter shall not exclude from participation in its provider network a provider listed in subsection ~~(a1)~~(b) of this section acting within the scope of the provider's license or certification under North Carolina law solely on the basis that the provider lacks hospital privileges, unless use of hospital services by the provider on behalf of a policy holder, insured, or beneficiary reasonably could be expected.

(h) Nothing in this section shall be construed as expanding the scope of practice of any duly licensed physician or provider listed in subsection ~~(a1)~~(b) of this section."

SECTION 2. G.S. 93D-5 reads as rewritten:

"§ **93D-5. Requirements for registration; examinations; licenses.**

(a) No person shall begin the fitting and selling of hearing aids in this State unless the person has been issued a license by the Board or is an apprentice working under the supervision of a Registered Sponsor. Except as hereinafter provided, each applicant for a license shall pay a fee set by the Board, not to exceed ~~two hundred fifty dollars ($250.00),~~five hundred dollars ($500.00), which fee may be prorated by the Board, and shall show to the satisfaction of the Board that the applicant:

(1) Is a person of good moral character.

(2) Is 18 years of age or older.

(3) Has an education equivalent to a four-year course in an accredited high school.

…."

SECTION 3. G.S. 135-48.51(12) reads as rewritten:

"(12) G.S. 58-50-30, Right to choose services of ~~optometrist, podiatrist, licensed clinical social worker, certified substance abuse professional, licensed professional counselor, dentist, physical therapist, chiropractor, psychologist, pharmacist, certified fee-based practicing pastoral counselor, advanced practice nurse, licensed marriage and family therapist, or physician assistant.~~certain providers."

SECTION 4. This act becomes effective October 1, 2013.

In the General Assembly read three times and ratified this the 11th day of July, 2013.

Became law upon approval of the Governor at 6:17 p.m. on the 18th day of July, 2013.

Session Law 2013-297 **S.B. 280**

AN ACT ALLOWING NON-STATE EMPLOYEES AFFILIATED WITH THE TRANSPORTATION MUSEUM TO DRIVE STATE-OWNED VEHICLES; EXPANDING THE AUTHORITY OF THE DEPARTMENT OF CULTURAL RESOURCES AND THE TRYON PALACE TO CHARGE ADMISSION AND RELATED ACTIVITY FEES; AND ESTABLISHING THE A+ SCHOOLS SPECIAL FUND IN THE DEPARTMENT OF CULTURAL RESOURCES, THE NORTH CAROLINA ARTS COUNCIL.

The General Assembly of North Carolina enacts:

SECTION 1. Notwithstanding any law or rule to the contrary, a non-State employee affiliated with the Transportation Museum may drive a State-owned vehicle on the Museum's property.

SECTION 2.(a) G.S. 121-7.3 reads as rewritten:

"§ **121-7.3. Admission and related activity fees.**

The Department of Cultural Resources may charge a reasonable admission and related activity fee to any historic site or museum administered by the Department. Admission and related activity fees collected under this section are receipts of the Department and shall be deposited in ~~a nonreverting account.~~the appropriate special fund. ~~The Department shall retain unbudgeted receipts at the end of each fiscal year, beginning June 30, 2004, and shall deposit these receipts into the account. Funds in the account shall be used to support a portion of each museum's operation.~~ The revenue collected pursuant to this section shall be used only for the individual historic site or museum where the receipts were generated. The Secretary may adopt rules necessary to carry out the provisions of this section. The Department shall provide a quarterly report to the Joint Legislative Commission on Governmental Operations as to the Department's or museums' anticipated use of funds or expenditures of funds pursuant to this section."

SECTION 2.(b) G.S. 143B-71 reads as rewritten:

"§ **143B-71. Tryon Palace Commission – creation, powers and duties.**

There is hereby created the Tryon Palace Commission of the Department of Cultural Resources with the power and duty to adopt, amend and rescind rules and regulations concerning the restoration and maintenance of the Tryon Palace complex, and ~~such~~ other powers and duties as provided in Article 2 of Chapter 121 of the General Statutes of North ~~Carolina.~~Carolina, including the authority to charge reasonable admission and related activity fees."

SECTION 3. Article 2 of Chapter 143B of the General Statutes is amended by adding a new section to read:

"**§ 143B-87.2. A+ Schools Special Fund.**

(a) Fund. – The A+ Schools Special Fund is created as a special interest-bearing revenue fund in the Department of Cultural Resources, North Carolina Arts Council. The Fund shall consist of all receipts derived from private donations, grant funds, and earned revenue. The revenue in the Fund may be used only for contracted services, conference and meeting expenses, travel, staff salaries, and other administrative costs related to the A+ Schools program. The staff of the North Carolina Arts Council and the Department shall determine how the funds will be used for the purposes of the A+ Schools program.

(b) Application. – This section applies to the A+ Schools program, which was transferred to the North Carolina Arts Council by Section 9.8 of S.L. 2010-31.

(c) Reports. – The Department shall submit a report to the Joint Legislative Commission on Governmental Operations, the House of Representatives Appropriations Subcommittee on General Government, the Senate Appropriations Committee on General Government and Information Technology, and the Fiscal Research Division by September 30 of each year that includes the source and amount of all funds credited to the Fund and the purpose and amount of all expenditures from the Fund during the prior fiscal year."

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

In the General Assembly read three times and ratified this the 9th day of July, 2013.

Became law upon approval of the Governor at 6:17 p.m. on the 18th day of July, 2013.

Session Law 2013-298 **S.B. 316**

AN ACT TO PROVIDE THAT A REBUTTABLE PRESUMPTION EXISTS IN CERTAIN CIRCUMSTANCES THAT A PERSON CHARGED WITH A FELONY OR CLASS A1

MISDEMEANOR OFFENSE INVOLVING THE ILLEGAL USE, POSSESSION, OR DISCHARGE OF A FIREARM SHOULD NOT BE RELEASED PRIOR TO TRIAL, AND TO AMEND CERTAIN BOND PROVISIONS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 15A-533 reads as rewritten:

"§ **15A-533. Right to pretrial release in capital and noncapital cases.**

(a) A defendant charged with any crime, whether capital or noncapital, who is alleged to have committed this crime while still residing in or subsequent to his escape or during an unauthorized absence from involuntary commitment in a mental health facility designated or licensed by the Department of Health and Human Services, and whose commitment is determined to be still valid by the judge or judicial officer authorized to determine pretrial release to be valid, has no right to pretrial release. In lieu of pretrial release, however, the individual shall be returned to the treatment facility in which he was residing at the time of the alleged crime or from which he escaped or absented himself for continuation of his treatment pending the additional proceedings on the criminal offense.

(b) A defendant charged with a noncapital offense must have conditions of pretrial release determined, in accordance with G.S. 15A-534.

(c) A judge may determine in his discretion whether a defendant charged with a capital offense may be released before trial. If he determines release is warranted, the judge must authorize release of the defendant in accordance with G.S. 15A-534.

(d) There shall be a rebuttable presumption that no condition of release will reasonably assure the appearance of the person as required and the safety of the community if a judicial official finds the following:

(1) There is reasonable cause to believe that the person committed an offense involving trafficking in a controlled substance;

(2) The drug trafficking offense was committed while the person was on pretrial release for another offense; and

(3) The person has been previously convicted of a Class A through E felony or an offense involving trafficking in a controlled substance and not more than five years has elapsed since the date of conviction or the person's release from prison for the offense, whichever is later.

(e) There shall be a rebuttable presumption that no condition of release will reasonably assure the appearance of the person as required and the safety of the community, if a judicial official finds the following:

(1) There is reasonable cause to believe that the person committed an offense for the benefit of, at the direction of, or in association with, any criminal street gang, as defined in G.S. 14-50.16;

(2) The offense described in subdivision (1) of this subsection was committed while the person was on pretrial release for another offense; and

(3) The person has been previously convicted of an offense described in G.S. 14-50.16 through G.S. 14-50.20, and not more than five years has elapsed since the date of conviction or the person's release for the offense, whichever is later.

(f) There shall be a rebuttable presumption that no condition of release will reasonably assure the appearance of the person as required and the safety of the community, if a judicial official finds there is reasonable cause to believe that the person committed a felony or Class A1 misdemeanor offense involving the illegal use, possession, or discharge of a firearm; and the judicial official also finds any of the following:

(1) The offense was committed while the person was on pretrial release for another felony or Class A1 misdemeanor offense involving the illegal use, possession, or discharge of a firearm.

(2) The person has previously been convicted of a felony or Class A1 misdemeanor offense involving the illegal use, possession, or discharge of a firearm and not more than five years have elapsed since the date of conviction or the person's release for the offense, whichever is later.

(g) Persons who are considered for bond under the provisions of subsections ~~(d) and (e)~~(d), (e), and (f) of this section may only be released by a district or superior court judge upon a finding that there is a reasonable assurance that the person will appear and release does not pose an unreasonable risk of harm to the community."

SECTION 2. G.S. 15A-534 reads as rewritten:

"§ **15A-534. Procedure for determining conditions of pretrial release.**

…

(d1) When conditions of pretrial release are being imposed on a defendant who has failed on one or more prior occasions to appear to answer one or more of the charges to which the conditions apply, the judicial official shall at a minimum impose the conditions of pretrial release that are recommended in any order for the arrest of the defendant that was issued for the defendant's most recent failure to appear. If no conditions are recommended in that order for arrest, the judicial official shall require the execution of a secured appearance bond in an amount at least double the amount of the most recent previous secured or unsecured bond for the charges or, if no bond has yet been required for the charges, in the amount of at least ~~five hundred dollars ($500.00).~~ one thousand dollars ($1,000). The judicial official shall also impose such restrictions on the travel, associations, conduct, or place of abode of the defendant as will assure that the defendant will not again fail to appear. The judicial official shall indicate on the release order that the defendant was arrested or surrendered after failing to appear as required under a prior release order. If the information available to the judicial official indicates that the defendant has failed on two or more prior occasions to appear to answer the charges, the judicial official shall indicate that fact on the release order.

…

(d3) When conditions of pretrial release are being determined for a defendant who is charged with an offense and the defendant is currently on pretrial release for a prior offense, the judicial official shall require the execution of a secured appearance bond in an amount at least double the amount of the most recent previous secured or unsecured bond for the charges or, if no bond has yet been required for the charges, in the amount of at least one thousand dollars ($1,000).

…."

SECTION 3. This act becomes effective December 1, 2013, and applies to proceedings to determine pretrial release conditions on or after that date.

In the General Assembly read three times and ratified this the 11th day of July, 2013.

Became law upon approval of the Governor at 6:17 p.m. on the 18th day of July, 2013.

Session Law 2013-299 **S.B. 378**

AN ACT TO AUTHORIZE A REFERENDUM OF PROPANE DEALERS AND DISTRIBUTORS REGARDING A VOLUNTARY ASSESSMENT ON PROPANE TO PROVIDE FUNDING FOR PROMOTIONAL, EDUCATIONAL, AND OTHER PROGRAMS OF THE INDUSTRY.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 119 of the General Statutes is amended by adding a new Article 5A to read as follows:

"Article 5A.

"Propane Assessment Act.

"**§ 119-63.1. Title.**

This Article shall be known as the "Propane Assessment Act."

"**§ 119-63.2. Purpose.**

It is in the public interest for the State to enable dealers and distributors of propane to assess the product in order to raise funds for the purposes of promoting the common good, welfare, and advancement of the propane industry.

"**§ 119-63.3. Definitions.**

The following definitions apply in this Article:

(1) Association. – The North Carolina Propane Gas Association, Inc., a North Carolina nonprofit corporation.

(2) Commissioner. – The Commissioner of Agriculture or his or her designee.

(3) Dealer. – Any person who is registered with the Commissioner pursuant to G.S. 119-56 to engage in:

a. The business of selling or otherwise dealing in liquefied petroleum gases requiring handling, storing, measuring, transporting, or distributing liquefied petroleum gas; or

b. The business of installing, servicing, repairing, adjusting, connecting or disconnecting containers, equipment, or appliances using liquefied gas. A person who engages in any of the aforementioned activities only in connection with his or her employer's use of liquefied petroleum gas and not as a business shall not be deemed to be a "dealer" for the purposes of this Article.

Any person who retails liquefied petroleum gas in containers of less than 50 pounds water capacity and whose retail business does not involve the filling or transportation of such containers is not a "dealer" for purposes of this Article.

(4) Department. – The North Carolina Department of Agriculture and Consumer Services.

(5) Distributor. – A person whose primary business involves the sale of liquefied petroleum gas to a dealer.

(6) Liquefied petroleum gas. – Any material which is composed predominantly of any of the following hydrocarbons or mixtures of the same: propane, propylene, butanes (normal butanes or isobutane), and butylenes.

(7) Foundation. – North Carolina Propane Education & Research Foundation, a North Carolina nonprofit corporation that is tax exempt under section 501(c)(3) of the Internal Revenue Code.

(8) Person. – An individual, a partnership, a firm, or a corporation.

(9) Propane. – A liquefied petroleum gas.

"**§ 119-63.4. Referendum.**

(a) The Foundation may from time to time conduct referenda among dealers and distributors in this State upon the question of whether an assessment shall be levied on propane sold in this State.

(b) The Foundation, upon prior consultation with the Association, shall determine:

(1) The amount of the proposed assessment.

(2) The time and place of the referendum.

(3) Procedures for conducting the referendum and counting of votes.

(4) The proposed effective date for the imposition of the assessment, which shall not be less than 180 days from the date the referendum ballot is required to be returned to the Foundation in order to be considered on the question presented.

(5) Any other matters pertaining to the referendum.

(c) The amount of the proposed assessment shall be stated on the referendum ballot. The amount may not exceed the maximum allowable rate of two-tenths of one cent ($.002) for each gallon of propane sold in this State by distributors to dealers.

(d) All dealers and distributors may vote in the referendum. Each distributor and each dealer shall have one vote regardless of the number of bulk plants or retail sales outlets owned. Any dispute over eligibility to vote or any other matter relating to the referendum shall be resolved by the Foundation. The Foundation shall make reasonable efforts to provide all dealers and distributors with notice of the referendum and an opportunity to vote.

(e) Prior to conducting any referenda, the Foundation shall request a list of dealers and their addresses from the Department, and the Department shall provide such information to the Foundation. In order to be eligible to vote, a distributor shall provide the Foundation with a written statement signed by an authorized individual containing its corporate name, address, and the individual authorized to cast a ballot on its behalf, which statement shall be effective until revoked or modified in like manner.

(f) A proposed assessment shall become effective if more than fifty percent (50%) of the eligible votes cast by dealers in the referendum are cast in favor of the assessment and if more than fifty percent (50%) of the eligible votes cast by distributors in the referendum are cast in favor of the assessment. If the assessment is approved by the referendum, then the Foundation shall notify the Department and the Association of the amount of the assessment and the effective date of the assessment. The Department shall notify all distributors and dealers of the assessment.

"**§ 119-63.5. Payment and collection of assessment; refunds.**

(a) Each distributor, as the owner of propane at the time of odorization, or at the time of import of odorized propane, shall make the assessment based on the volume of odorized propane sold and placed into commerce in this State. Each dealer must pay the assessment on each gallon of propane purchased from a distributor. The assessment charge shall be identified and listed as a separate line item on each distributor's invoice to a dealer for the sale of odorized propane.

(b) Each distributor shall collect the assessment from the dealer to whom the sale is made. Each distributor shall remit to the Foundation the sum of the amount of the assessment multiplied by the number of gallons of propane sold to any dealer during the preceding quarter not later than the 25th day of the month following the end of the prior quarter. The Foundation shall provide forms to the distributors for reporting the assessment. Each distributor shall file the report not later than the 25th day of the month following the end of the prior quarter regardless of the amount due.

(c) A distributor shall keep records of the number of gallons of propane sold to dealers, including number of gallons, name of dealer, and rate of assessment. All documents or records regarding purchases and sales that are made or kept as required by this subsection or subsection (d) of this section shall be made available to the Foundation upon its written request from time to time for the purpose of determining the distributor's compliance with the provisions of this Article. The Foundation shall keep the records confidential and shall not disclose the records except to its accountants, attorneys, or financial advisors without a court order directing it to do so.

(d) The Foundation may bring an action to recover any unpaid assessments plus the reasonable costs, including attorneys' fees, incurred in the action and may use assessment funds to cover all reasonable costs and expenses incurred in connection with recovery of any unpaid assessment.

(e) A dealer may request a refund of the assessment collected from the dealer in the prior month by submitting a written request for a refund to the Foundation no later than 30 days after the end of the month for which the refund is requested. The refund request shall state specifically the period of time for which a refund is requested, the amount of the refund, the distributors to whom the dealer paid assessments, and the amount of each assessment paid and

shall be accompanied by proof of payment of the assessment satisfactory to the Foundation. The Foundation shall mail a refund to the dealer within 30 days of receipt of a properly documented refund request, provided that the Foundation shall have no obligation to make a refund to a dealer of assessments that are not yet paid to the Foundation by the distributor. Any dealer who requests and is paid a refund in accordance with this subsection shall not be eligible to receive the benefit of any consumer rebate programs for a period of one year following the date of a refund request under this subsection and shall not be entitled to the payment of any interest by the Foundation on the amount refunded.

"**§ 119-63.6. Use of assessments; reporting.**

(a) The Foundation shall use the funds to promote the common good, welfare, and advancement of the propane industry, including, but not limited to, the following activities and programs: education, training, safety compliance, equipment replacement for low-income customers, marketing, advertising, promotion, and customer rebates to encourage energy-efficient appliance and equipment purchases by residential, commercial, or agricultural consumers. The Foundation shall consult with the Association regarding its proposed use of the funds. In addition, the Foundation shall consult with agricultural industry trade associations and other organizations representing agricultural consumers of propane to ensure that some programs and activities benefit the agriculture industry.

(b) No funds collected pursuant to this Article shall be used in any manner for influencing State or federal legislation or for lobbying.

(c) No more than ten percent (10%) of the funds collected pursuant to this Article shall be used by the Foundation for administrative expenses relating to the expenditure of the funds. The Foundation may advance costs of conducting referenda pursuant to this Article and reimburse those costs from the assessment funds. Costs of conducting referenda, litigation expenses incurred in connection with actions authorized by G.S. 119-63.5, and the cost of the audit required by subsection (e) of this section are not administrative expenses.

(d) All funds received by the Foundation pursuant to this Article shall be kept in separate accounts from other Foundation funds. The Foundation shall keep minutes, books, and records that clearly reflect all of the acts and transactions of the Foundation with respect to use and expenditure of the funds. The Foundation shall submit a written report annually, not later than March 31 of each year, to the Commissioner on the use and expenditure of the funds received pursuant to this Article.

(e) The books and records of the Foundation shall be audited by a certified public accountant each fiscal year with respect to the receipt and use of the funds. Copies of such audit shall be provided to the Commissioner, to the Association, and to any other interested party upon written request. The Foundation may pay for the audit from the assessment funds.

"**§ 119-63.7. Termination of assessment.**

(a) Upon the Commissioner's receipt of a petition signed by at least ten percent (10%) of the dealers requesting a referendum pursuant to this section, or a receipt of a petition signed by at least fifty percent (50%) of the distributors requesting a referendum pursuant to this section, the Department shall notify the Foundation, and the Foundation shall, within six months, conduct a referendum upon the question of continuing the assessment. If a majority of the votes eligible to be cast by dealers in the referendum are cast against continuing the assessment then in effect and a majority of the votes eligible to be cast by distributors in the referendum are cast against continuing the assessment then in effect, or if the Foundation fails to conduct a referendum within the six-month period, the assessment expires at the end of the year that follows the year in which the Commissioner received a petition pursuant to this section. If more than two-thirds of the eligible votes cast by dealers and more than two-thirds of the eligible votes cast by distributors in the referendum conducted pursuant to this section are in favor of continuing the assessment, then no subsequent referendum shall be required to be conducted pursuant to this section for a period of at least three years from the date the petition was received by the Commissioner.

(b) The Foundation may, on its own initiative, conduct a referendum at any time upon the question of continuing the assessment. If a majority of the votes eligible to be cast by dealers in the referendum are cast against continuing the assessment and if a majority of the votes eligible to be cast by distributors in the referendum are cast against continuing the assessment, the assessment then in effect expires at the end of the year that follows the year in which the referendum was conducted.

(c) The Foundation shall certify to the Department the election results of any referendum conducted pursuant to this Article and shall provide the Department, upon written request, with any documents, papers, tallies, or other information related to the conduct of any referendum conducted by the Foundation.

"**§ 119-63.8. Association activities deemed not in restraint of trade; pricing.**

(a) No meeting or activity undertaken by the Association or the Foundation in pursuance of the provisions of this Article shall be considered illegal under antitrust law or a restraint of trade.

(b) In all cases, the price of propane shall be determined by market forces. Neither the Foundation nor the Association may take any action nor shall any provision of this Article be interpreted as establishing an agreement to pass along to consumers the cost of any assessment provided for by this Article."

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

In the General Assembly read three times and ratified this the 11th day of July, 2013.

Became law upon approval of the Governor at 6:17 p.m. on the 18th day of July, 2013.

Session Law 2013-300 **S.B. 399**

AN ACT TO AMEND THE CONSTITUTION TO PROVIDE THAT A PERSON ACCUSED OF ANY CRIMINAL OFFENSE IN SUPERIOR COURT FOR WHICH THE STATE IS NOT SEEKING A SENTENCE OF DEATH MAY WAIVE THE RIGHT TO TRIAL BY JURY AND INSTEAD BE TRIED BY A JUDGE.

The General Assembly of North Carolina enacts:

SECTION 1. Section 24 of Article I of the North Carolina Constitution reads as rewritten:

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

No person shall be convicted of any crime but by the unanimous verdict of a jury in open ~~court.~~ court, except that a person accused of any criminal offense for which the State is not seeking a sentence of death in superior court may, in writing or on the record in the court and with the consent of the trial judge, waive jury trial, subject to procedures prescribed by the General Assembly. The General Assembly may, however, provide for other means of trial for misdemeanors, with the right of appeal for trial de novo."

SECTION 2. The amendment set out in Section 1 of this act shall be submitted to the qualified voters of the State at a statewide general election to be held on November 4, 2014, which election shall be conducted under the laws then governing elections in the State. Ballots, voting systems, or both may be used in accordance with Chapter 163 of the General Statutes. The question to be used in the voting systems and ballots shall be:

"[ ] FOR [ ] AGAINST

Constitutional amendment providing that a person accused of any criminal offense for which the State is not seeking a sentence of death in superior court may, in writing or on the record in court and with the consent of the trial judge, waive the person's right to a trial by jury."

SECTION 3. If a majority of the votes cast on the question are in favor of the amendment set out in Section 1 of this act, the State Board of Elections shall certify the amendment to the Secretary of State, who shall enroll the amendment so certified among the

permanent records of that office. The amendment becomes effective December 1, 2014, and applies to criminal offenses arraigned in superior court on or after that date.

SECTION 4. G.S. 15A-1201 reads as rewritten:

"§ **15A-1201. Right to trial by ~~jury.~~jury; waiver of jury trial.**

(a) In all criminal cases the defendant has the right to be tried by a jury of 12 whose verdict must be unanimous. In the district court the judge is the finder of fact in criminal cases, but the defendant has the right to appeal for trial de novo in superior court as provided in G.S. 15A-1431. In superior court all criminal trials in which the defendant enters a plea of not guilty must be tried before a ~~jury.~~jury, unless the defendant waives the right to a jury trial, as provided in subsection (b) of this section.

(b) A defendant accused of any criminal offense for which the State is not seeking a sentence of death in superior court may, knowingly and voluntarily, in writing or on the record in the court and with the consent of the trial judge, waive the right to trial by jury. When a defendant waives the right to trial by jury under this section, the jury is dispensed with as provided by law, and the whole matter of law and fact shall be heard and judgment given by the court."

SECTION 5. Section 4 of this act is effective only upon approval by the voters of the constitutional amendment proposed in Section 1 of this act. If the constitutional amendment proposed in Section 1 is approved by the voters, Section 4 of this act becomes effective December 1, 2014, and applies to criminal cases arraigned in superior court on or after that date. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 9th day of July, 2013.

Became law upon approval of the Governor at 6:17 p.m. on the 18th day of July, 2013.

Session Law 2013-301 **S.B. 465**

AN ACT TO MAKE IT A CRIMINAL OFFENSE TO SELL, PURCHASE, INSTALL, POSSESS, TRANSFER, USE, OR ACCESS AN AUTOMATED SALES SUPPRESSION DEVICE.

The General Assembly of North Carolina enacts:

SECTION 1. Article 20 of Chapter 14 of the General Statutes is amended by adding a new section to read:

"**§ 14-118.7. Possession, transfer, or use of automated sales suppression device.**

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

(1) Automated sales suppression device or zapper. – A software program that falsifies the electronic records of electronic cash registers and other point-of-sale systems, including transaction data and transaction reports. The term includes the software program, any device that carries the software program, or an Internet link to the software program.

(2) Electronic cash register. – A device that keeps a register or supporting documents through the use of an electronic device or computer system designed to record transaction data for the purpose of computing, compiling, or processing retail sales transaction data in whatever manner.

(3) Phantom-ware. – A hidden programming option embedded in the operating system of an electronic cash register or hardwired into the electronic cash register that can be used to create a second set of records or may eliminate or manipulate transaction records, which may or may not be preserved in digital formats, to represent the true or manipulated record of transactions in the electronic cash register.

(4) Transaction data. – The term includes items purchased by a customer, the price for each item, a taxability determination for each item, a segregated tax amount for each of the taxed items, the amount of cash or credit tendered, the net amount returned to the customer in change, the date and time of the purchase, the name, address, and identification number of the vendor, and the receipt or invoice number of the transaction.

(5) Transaction report. – A report that documents, but is not limited to documenting, the sales, taxes, or fees collected, media totals, and discount voids at an electronic cash register and that is printed on cash register tape at the end of a day or shift, or a report that documents every action at an electronic cash register and that is stored electronically.

(b) Offense. – No person shall knowingly sell, purchase, install, transfer, possess, use, or access any automated sales suppression device, zapper, or phantom-ware.

(c) Penalty. – Any person convicted of a violation of this section is guilty of a Class H felony with a fine of up to ten thousand dollars ($10,000).

(d) Liability. – Any person who violates this section is liable for all taxes, fees, penalties, and interest due the State as the result of the use of an automated sales suppression device, zapper, or phantom-ware and shall forfeit to the State as an additional penalty all profits associated with the sale or use of an automated sales suppression device, zapper, or phantom-ware.

(e) Contraband. – An automated sales suppression device, zapper, or phantom-ware, or any device containing such device or software, is contraband."

SECTION 2. This act becomes effective December 1, 2013, and applies to offenses committed on or after that date.

In the General Assembly read three times and ratified this the 11th day of July, 2013.

Became law upon approval of the Governor at 6:17 p.m. on the 18th day of July, 2013.

Session Law 2013-302 **S.B. 717**

AN ACT TO AUTHORIZE THE DIVISION OF MOTOR VEHICLES DISCRETION IN ASSESSING PENALTIES AND SUSPENSIONS ON SAFETY INSPECTION LICENSE HOLDERS FOR SAFETY INSPECTION LAW VIOLATIONS, AND TO CLARIFY THE MOTOR VEHICLE DEALERS' AND MANUFACTURERS' LICENSING LAW.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-183.7(a) reads as rewritten:

"§ **20-183.7. Fees for performing an inspection and issuing an electronic inspection authorization to a vehicle; use of civil penalties.**

(a) Fee Amount. – When a fee applies to an inspection of a vehicle or the issuance of an electronic inspection authorization, the fee must be collected. The following fees apply to an inspection of a vehicle and the issuance of an electronic inspection authorization:

Type	Inspection	Authorization
Safety Only	$12.75	$ .85
Emissions and Safety	23.75	6.25.

The fee for performing an inspection of a vehicle applies when an inspection is performed, regardless of whether the vehicle passes the inspection. The fee for an electronic inspection authorization applies when an electronic inspection authorization is issued to a vehicle. ~~The fee for an inspection sticker does not apply to a replacement inspection sticker for use on a windshield replaced by a business registered with the Division pursuant to G.S. 20-183.6.~~ The fee for inspecting after-factory tinted windows shall be ten dollars ($10.00), and the fee applies only to an inspection performed with a light meter after a safety inspection mechanic determined that the window had after-factory tint. A safety inspection mechanic shall not

inspect an after-factory tinted window of a vehicle for which the Division has issued a medical exception permit pursuant to G.S. 20-127(f).

A vehicle that is inspected at an inspection station and fails the inspection is entitled to be reinspected at the same station at any time within 60 days of the failed inspection without paying another inspection fee.

The inspection fee for an emissions and safety inspection set out in this subsection is the maximum amount that an inspection station or an inspection mechanic may charge for an emissions and safety inspection of a vehicle. An inspection station or an inspection mechanic may charge the maximum amount or any lesser amount for an emissions and safety inspection of a vehicle. The inspection fee for a safety only inspection set out in this subsection may not be increased or decreased. The authorization fees set out in this subsection may not be increased or decreased."

SECTION 2. G.S. 20-183.7A reads as rewritten:

"§ **20-183.7A. Penalties applicable to license holders and suspension or revocation of license for safety violations.**

(a) Kinds of Violations. – The civil penalty schedule established in this section applies to safety self-inspectors, safety inspection stations, and safety inspection mechanics. The schedule categorizes safety violations into serious (Type I), minor (Type II), and technical (Type III) violations. A serious violation is a violation of this Part or a rule adopted to implement this Part that directly affects the safety or emissions reduction benefits of the safety inspection program. A minor violation is a violation of this Part or a rule adopted to implement this Part that reflects negligence or carelessness in conducting a safety inspection or complying with the safety inspection requirements but does not directly affect the safety benefits or emission reduction benefits of the safety inspection program. A technical violation is a violation that is not a serious violation, a minor violation, or another type of offense under this Part.

(b) Penalty Schedule. – The Division must take the following action for a violation:

(1) Type I. – For a first or second Type I violation within three years by a safety self-inspector or a safety inspection station, assess a civil penalty of two hundred fifty dollars ($250.00) and suspend the license of the business for ~~six months.~~180 days. For a third or subsequent Type I violation within three years by a safety self-inspector or a safety inspection station, assess a civil penalty of one thousand dollars ($1,000) and revoke the license of the business for two years. For a first or second Type I violation within seven years by a safety inspection mechanic, assess a civil penalty of one hundred dollars ($100.00) and suspend the mechanic's license for six months. For a third or subsequent Type I violation within seven years by a safety inspection mechanic, assess a civil penalty of two hundred fifty dollars ($250.00) and revoke the mechanic's license for two years.

(2) Type II. – For a first or second Type II violation within three years by a safety self-inspector or a safety inspection station, assess a civil penalty of one hundred dollars ($100.00). For a third or subsequent Type II violation within three years by a safety self-inspector or a safety inspection station, assess a civil penalty of two hundred fifty dollars ($250.00) and suspend the license of the business for 90 days. For a first or second Type II violation within seven years by a safety inspection mechanic, assess a civil penalty of fifty dollars ($50.00). For a third or subsequent Type II violation within seven years by a safety inspection mechanic, assess a civil penalty of one hundred dollars ($100.00) and suspend the mechanic's license for 90 days.

(3) Type III. – For a first or second Type III violation within seven years by a safety self-inspector, a safety inspection station, or a safety inspection mechanic, send a warning letter. For a third or subsequent Type III violation

within seven years by the same safety license holder, assess a civil penalty of twenty-five dollars ($25.00).

(c) Station or Self-Inspector Responsibility. – It is the responsibility of a safety inspection station and a safety self-inspector to supervise the safety inspection mechanics it employs. A violation by a safety inspection mechanic is considered a violation by the station or self-inspector for whom the mechanic is employed. The Division may stay a term of suspension for a first occurrence of a Type I violation for a station if the station agrees to follow the reasonable terms and conditions of the stay as determined by the Division. In determining whether to suspend a first occurrence violation for a station, the Division may consider the supervision provided by the station over the individual or individuals who committed the violation, action that has been taken to remedy future violations, or prior knowledge of the station as to the acts committed by the individual or individuals who committed the violation, or a combination of these factors. The monetary penalty shall not be stayed or reduced.

(d) Multiple ~~Violations.~~Violations in a Single Safety Inspection. – If a safety self-inspector, a safety inspection station, or a safety inspection mechanic commits two or more violations in the course of a single safety inspection, the Division shall take only the action specified for the most significant violation.

(d1) Multiple Violations in Separate Safety Inspections. – In the case of two or more violations committed in separate safety inspections, considered at one time, the Division shall consider each violation as a separate occurrence and shall impose a separate penalty for each violation as a first, second, or third or subsequent violation as found in the applicable penalty schedule. The Division may in its discretion direct that any suspensions for the first, second, or third or subsequent violations run concurrently. If the Division does not direct that the suspensions run concurrently, they shall run consecutively. Nothing in this section shall prohibit or limit a reviewing court's ability to affirm, reverse, remand, or modify the Division's decisions, whether discretionary or otherwise, pursuant to Article 4 of Chapter 150B of the General Statutes.

(e) Mechanic Training. – A safety inspection mechanic whose license has been suspended or revoked must retake the course required under G.S. 20-183.4 and successfully complete the course before the mechanic's license can be reinstated. Failure to successfully complete this course continues the period of suspension or revocation until the course is completed successfully."

SECTION 3. G.S. 20-183.7B reads as rewritten:

"§ **20-183.7B. Acts that are Type I, II, or III safety violations.**

(a) Type I. – It is a Type I violation for a safety self-inspector, a safety inspection station, or a safety inspection mechanic to do any of the following:

(1) Issue a safety electronic inspection authorization to a vehicle without performing a safety inspection of vehicle.

(2) Issue a safety electronic inspection authorization to a vehicle after performing a safety inspection of the vehicle and determining that the vehicle did not pass the inspection.

(3) Allow a person who is not licensed as a safety inspection mechanic to perform a safety inspection for a self-inspector or at a safety station.

(4) Sell, issue, or otherwise give an electronic inspection authorization to another, other than as the result of a vehicle inspection in which the vehicle passed the inspection.

~~(5) Be unable to account for five or more electronic inspection authorizations at any one time upon the request of an officer of the Division.~~

(6) Perform a safety-only inspection on a vehicle that is subject to both a safety and an emissions inspection.

~~(7) Transfer an electronic inspection authorization from one vehicle to another.~~

(8) Conduct a safety inspection of a vehicle without driving the vehicle and without raising the vehicle and without opening the hood of the vehicle to check equipment located therein.

(9) Solicit or accept anything of value to pass a vehicle other than as provided in this Part.

(b) Type II. – It is a Type II violation for a safety self-inspector, a safety inspection station, or a safety inspection mechanic to do any of the following:

(1) Issue a safety electronic inspection authorization to a vehicle without driving the vehicle and checking the vehicle's braking reaction, foot brake pedal reserve, and steering free play.

(2) Issue a safety electronic inspection authorization to a vehicle without raising the vehicle to free each wheel and checking the vehicle's tires, brake lines, parking brake cables, wheel drums, exhaust system, and the emissions equipment.

(3) Issue a safety electronic inspection authorization to a vehicle without raising the hood and checking the master cylinder, horn mounting, power steering, and emissions equipment.

(4) Conduct a safety inspection of a vehicle outside the designated inspection area.

(5) Issue a safety electronic inspection authorization to a vehicle with inoperative equipment, or with equipment that does not conform to the vehicle's original equipment or design specifications, or with equipment that is prohibited by any provision of law.

(6) Issue a safety electronic inspection authorization to a vehicle without performing a visual inspection of the vehicle's exhaust system.

(7) Issue a safety electronic inspection authorization to a vehicle without checking the exhaust system for leaks.

(8) Issue a safety electronic inspection authorization to a vehicle that is required to have any of the following emissions control devices but does not have the device:

a. Catalytic converter.
b. PCV valve.
c. Thermostatic air control.
d. Oxygen sensor.
e. Unleaded gas restrictor.
f. Gasoline tank ~~cap.~~cap or capless fuel system.
g. Air injection system.
h. Evaporative emissions system.
i. Exhaust gas recirculation (EGR) valve.

(9) Issue a safety electronic inspection authorization to a vehicle after failing to inspect four or more of following:

a. Emergency brake.
b. Horn.
c. Headlight high beam indicator.
d. Inside rearview mirror.
e. Outside rearview mirror.
f. Turn signals.
g. Parking lights.
h. Headlights – operation and lens.
i. Headlights – aim.
j. Stoplights.
k. Taillights.
l. License plate lights.

m. Windshield wiper.
n. Windshield wiper blades.
o. Window tint.

(10) Impose no fee for a safety inspection of a vehicle or the issuance of a safety electronic inspection authorization or impose a fee for one of these actions in an amount that differs from the amount set in G.S. 20-183.7.

(c) Type III. – It is a Type III violation for a safety self-inspector, a safety inspection station, or a safety inspection mechanic to do any of the following:

(1) Fail to post a safety inspection station license issued by the Division.
(2) Fail to send information on safety inspections to the Division at the time or in the form required by the Division.
(3) Fail to post all safety information required by federal law and by the Division.
(4) Fail to put the required information on an inspection receipt in a legible manner using ink.
(5) Issue a receipt that is signed by a person other than the safety inspection mechanic.
~~(6) Place an incorrect expiration date on an electronic inspection authorization.~~
(7) Issue a safety electronic inspection authorization to a vehicle after having failed to inspect three or fewer of the following:
a. Emergency brake.
b. Horn.
c. Headlight high beam indicator.
d. Inside rearview mirror.
e. Outside rearview mirror.
f. Turn signals.
g. Parking lights.
h. Headlights – operation and lens.
i. Headlights – aim.
j. Stoplights.
k. Taillights.
l. License plate lights.
m. Windshield wiper.
n. Windshield wiper blades.
o. Window tint.

(d) Other Acts. – The lists in this section of the acts that are Type I, Type II, or Type III violations are not the only acts that are one of these types of violations. The Division may designate other acts that are a Type I, Type II, or Type III violation."

SECTION 4. G.S. 20-183.8B reads as rewritten:

"§ **20-183.8B. Civil penalties against license holders and suspension or revocation of license for emissions violations.**

(a) Kinds of Violations. – The civil penalty schedule established in this section applies to emissions self-inspectors, emissions inspection stations, and emissions inspection mechanics. The schedule categorizes emissions violations into serious (Type I), minor (Type II), and technical (Type III) violations.

A serious violation is a violation of this Part or a rule adopted to implement this Part that directly affects the emission reduction benefits of the emissions inspection program. A minor violation is a violation of this Part or a rule adopted to implement this Part that reflects negligence or carelessness in conducting an emissions inspection or complying with the emissions inspection requirements but does not directly affect the emission reduction benefits of the emissions inspection program. A technical violation is a violation that is not a serious violation, a minor violation, or another type of offense under this Part.

(b) Penalty Schedule. – The Division must take the following action for a violation:

(1) Type I. – For a first or second Type I violation by an emissions self-inspector or an emissions inspection station, assess a civil penalty of two hundred fifty dollars ($250.00) and suspend the license of the business for ~~six months.~~180 days. For a third or subsequent Type I violation within three years by an emissions self-inspector or an emissions inspection station, assess a civil penalty of one thousand dollars ($1,000) and revoke the license of the business for two years.

For a first or second Type I violation by an emissions inspection mechanic, assess a civil penalty of one hundred dollars ($100.00) and suspend the mechanic's license for ~~six months.~~180 days. For a third or subsequent Type I violation within seven years by an emissions inspection mechanic, assess a civil penalty of two hundred fifty dollars ($250.00) and revoke the mechanic's license for two years.

(2) Type II. – For a first or second Type II violation by an emissions self-inspector or an emissions inspection station, assess a civil penalty of one hundred dollars ($100.00). For a third or subsequent Type II violation within three years by an emissions self-inspector or an emissions inspection station, assess a civil penalty of two hundred fifty dollars ($250.00) and suspend the license of the business for 90 days.

For a first or second Type II violation by an emissions inspection mechanic, assess a civil penalty of fifty dollars ($50.00). For a third or subsequent Type II violation within seven years by an emissions inspection mechanic, assess a civil penalty of one hundred dollars ($100.00) and suspend the mechanic's license for 90 days.

(3) Type III. – For a first or second Type III violation by an emissions self-inspector, an emissions inspection station, or an emissions inspection mechanic, send a warning letter. For a third or subsequent Type III violation within three years by the same emissions license holder, assess a civil penalty of twenty-five dollars ($25.00).

(c) Station or Self-Inspector Responsibility. – It is the responsibility of an emissions inspection station and an emissions self-inspector to supervise the emissions mechanics it employs. A violation by an emissions inspector mechanic is considered a violation by the station or self-inspector for whom the mechanic is employed. The Division may stay a term of suspension for a first occurrence of a Type I violation for a station if the station agrees to follow the reasonable terms and conditions of the stay as determined by the Division. In determining whether to suspend a first occurrence violation for a station, the Division may consider the supervision provided by the station over the individual or individuals who committed the violation, action that has been taken to remedy future violations, or prior knowledge of the station as to the acts committed by the individual or individuals who committed the violation, or a combination of these factors. The monetary penalty shall not be stayed or reduced.

(c1) Multiple Violations in a Single Emissions Inspection. – If an emissions self-inspector, an emissions inspection station, or an emissions inspection mechanic commits two or more violations in the course of a single emissions inspection, the Division shall take only the action specified for the most significant violation.

(c2) Multiple Violations in Separate Emissions Inspections. – In the case of two or more violations committed in separate emissions inspections, considered at one time, the Division shall consider each violation as a separate occurrence and shall impose a separate penalty for each violation as a first, second, or third or subsequent violation as found in the applicable penalty schedule. The Division may in its discretion direct that any suspensions for the first, second, or third or subsequent violations run concurrently. If the Division does not direct that the suspensions run concurrently, they shall run consecutively. Nothing in this section shall

prohibit or limit a reviewing court's ability to affirm, reverse, remand, or modify the Division's decisions, whether discretionary or otherwise, pursuant to Article 4 of Chapter 150B of the General Statutes.

~~(d) Missing Stickers. – The Division must assess a civil penalty against an emissions inspection station, a windshield replacement station, or an emissions self-inspector that cannot account for an emissions inspection sticker issued to it. A station or a self-inspector cannot account for a sticker when the sticker is missing and the station or self-inspector cannot establish reasonable grounds for believing the sticker was stolen or destroyed by fire or another accident.~~

~~(d1) Penalty for Missing Stickers. – The amount of the penalty is twenty-five dollars ($25.00) for each missing sticker. If a penalty is imposed under subsection (b) of this section as the result of missing stickers, the monetary penalty that applies is the higher of the penalties required under this subsection and subsection (b); the Division may not assess a monetary penalty as a result of missing stickers under both this subsection and subsection (b) of this section. Imposition of a monetary penalty under this subsection does not affect suspension or revocation of a license required under subsection (b) of this section.~~

(e) Mechanic Training. – An emissions inspection mechanic whose license has been suspended or revoked must retake the course required under G.S. 20-183.4A and successfully complete the course before the mechanic's license can be reinstated. Failure to successfully complete this course continues the period of suspension or revocation until the course is completed successfully."

SECTION 5. G.S. 20-183.8C reads as rewritten:

"§ **20-183.8C. Acts that are Type I, II, or III emissions violations.**

(a) Type I. – It is a Type I violation for an emissions self-inspector, an emissions inspection station, or an emissions inspection mechanic to do any of the following:

(1) Issue an emissions electronic inspection authorization on a vehicle without performing an emissions inspection of the vehicle.

(1a) Issue an emissions electronic inspection authorization to a vehicle after performing an emissions inspection of the vehicle and determining that the vehicle did not pass the inspection.

(2) Use a test-defeating strategy when conducting an emissions inspection by changing the emission standards for a vehicle by incorrectly entering the vehicle type or model year, or using data provided by the on-board diagnostic (OBD) equipment of another vehicle to achieve a passing result.

(3) Allow a person who is not licensed as an emissions inspection mechanic to perform an emissions inspection for a self-inspector or at an emissions station.

(4) Sell, issue, or otherwise give an electronic inspection authorization to another other than as the result of a vehicle inspection in which the vehicle passed the inspection or for which the vehicle received a waiver.

~~(5) Be unable to account for five or more electronic inspection authorizations at any one time upon the request of an auditor of the Division.~~

(6) Perform a safety-only inspection on a vehicle that is subject to both a safety and an emissions inspection.

~~(7) Transfer an electronic inspection authorization from one vehicle to another.~~

(b) Type II. – It is a Type II violation for an emissions self-inspector, an emissions inspection station, or an emissions inspection mechanic to do any of the following:

(1) Use the identification code of another to gain access to an emissions analyzer or to equipment to analyze data provided by on-board diagnostic (OBD) equipment.

(2) Keep compliance documents in a manner that makes them easily accessible to individuals who are not inspection mechanics.

(3) Issue a safety electronic inspection authorization or an emissions electronic inspection authorization on a vehicle that is required to have one of the following emissions control devices but does not have it:
a. Catalytic converter.
b. PCV valve.
c. Thermostatic air control.
d. Oxygen sensor.
e. Unleaded gas restrictor.
f. Gasoline tank ~~cap.~~cap or capless fuel system.
g. Air injection system.
h. Evaporative emissions system.
i. Exhaust gas recirculation (EGR) valve.

(4) Issue a safety electronic inspection authorization or an emissions electronic inspection authorization on a vehicle without performing a visual inspection of the vehicle's exhaust system and checking the exhaust system for leaks.

(5) Impose no fee for an emissions inspection of a vehicle or the issuance of an emissions electronic inspection authorization or impose a fee for one of these actions in an amount that differs from the amount set in G.S. 20-183.7.

(6) Issue an emissions electronic inspection authorization to a vehicle with a faulty Malfunction Indicator Lamp (MIL) or to a vehicle that has been made inoperable.

(c) Type III. – It is a Type III violation for an emissions self-inspector, an emissions inspection station, or an emissions inspection mechanic to do any of the following:

(1) Fail to post an emissions license issued by the Division.

(2) Fail to send information on emissions inspections to the Division at the time or in the form required by the Division.

(3) Fail to post emissions information required by federal law to be posted.

(4) Repealed by Session Law 2007-503, s. 16, effective October 1, 2008.

(5) Fail to put the required information on an inspection receipt in a legible manner.

(6) Repealed by Session Laws 2007-503, s. 16, effective October 1, 2008.

(d) Other Acts. – The lists in this section of the acts that are Type I, Type II, or Type III violations are not the only acts that are one of these types of violations. The Division may designate other acts that are a Type I, Type II, or Type III violation."

SECTION 6. G.S. 20-183.8G(f) reads as rewritten:

"(f) Decision. – Upon the Commissioner's review of a decision ~~A decision~~ made after a hearing on the imposition of a monetary penalty against a motorist for an emissions violation or on a Type I, II, or III ~~emissions~~ violation by ~~an emissions~~ a license ~~holder~~holder, the Commissioner must uphold any monetary penalty, license suspension, license revocation, or warning required by G.S. 20-183.7A, G.S. 20-183.8A or G.S. 20-183.8B, respectively, if the decision is based on evidence presented at the hearing that supports the hearing officer's determination ~~contains a finding~~ that the motorist or license holder committed the act for which the monetary penalty, license suspension, license revocation, or warning was imposed. Pursuant to the authority under G.S. 20-183.7A(c) and G.S. 20-183.8B(c), the Commissioner may order a suspension for a first occurrence Type I violation of a station to be stayed upon reasonable compliance terms to be determined by the Commissioner. Pursuant to the authority under G.S. 20-183.7A(d1) and G.S. 183.8B(c2), the Commissioner may order the suspensions against a license holder to run consecutively or concurrently. The Commissioner may uphold, dismiss, or modify a decision ~~A decision~~ made after a hearing on any other ~~action may uphold or modify the~~ action."

SECTION 7. G.S. 20-305 reads as rewritten:

"§ **20-305. Coercing dealer to accept commodities not ordered; threatening to cancel franchise; preventing transfer of ownership; granting additional franchises; terminating franchises without good cause; preventing family succession.**

It shall be unlawful for any manufacturer, factory branch, distributor, or distributor branch, or any field representative, officer, agent, or any representative whatsoever of any of them:

…

(30) To vary the price charged to any of its franchised new motor vehicle dealers located in this State for new motor vehicles based on the dealer's purchase of new facilities, supplies, tools, equipment, or other merchandise from the manufacturer, the dealer's relocation, remodeling, repair, or renovation of existing dealerships or construction of a new facility, the dealer's participation in training programs sponsored, endorsed, or recommended by the manufacturer, whether or not the dealer is dualed with one or more other line makes of new motor vehicles, or the dealer's sales penetration. Except as provided in this subdivision, it shall be unlawful for any manufacturer, factory branch, distributor, or distributor branch, or any field representative, officer, agent, or any representative whatsoever of any of them to vary the price charged to any of its franchised new motor vehicle dealers located in this State for new motor vehicles based on the dealer's sales volume, the dealer's level of sales or customer service satisfaction, the dealer's purchase of advertising materials, signage, nondiagnostic computer hardware or software, communications devices, or furnishings, or the dealer's participation in used motor vehicle inspection or certification programs sponsored or endorsed by the manufacturer.

The price of the vehicle, for purposes of this subdivision shall include the manufacturer's use of rebates, credits, or other consideration that has the effect of causing a variance in the price of new motor vehicles offered to its franchised dealers located in the State.

Notwithstanding the foregoing, nothing in this subdivision shall be deemed to preclude a manufacturer from establishing sales contests or promotions that provide or award dealers or consumers rebates or incentives; provided, however, that the manufacturer complies with all of the following conditions:

a. With respect to manufacturer to consumer rebates and incentives, the manufacturer's criteria for determining eligibility shall:
   1. Permit all of the manufacturer's franchised new motor vehicle dealers in this State to offer the rebate or incentive; and
   2. Be uniformly applied and administered to all eligible consumers.

b. With respect to manufacturer to dealer rebates and incentives, the rebate or incentive program shall:
   1. Be based solely on the dealer's actual or reasonably anticipated sales volume or on a uniform per vehicle sold or leased basis;
   2. Be uniformly available, applied, and administered to all of the manufacturer's franchised new motor vehicle dealers in this State; and
   3. Provide that any of the manufacturer's franchised new motor vehicle dealers in this State may, upon written request, obtain the method or formula used by the manufacturer in establishing the sales volumes for receiving the rebates or incentives and the specific calculations for determining the required sales volumes of the inquiring dealer and any of the

manufacturer's other franchised new motor vehicle dealers located within 75 miles of the inquiring dealer.

Nothing contained in this subdivision shall prohibit a manufacturer from providing assistance or encouragement to a franchised dealer to remodel, renovate, recondition, or relocate the dealer's existing facilities, provided that this assistance, encouragement, or rewards are not determined on a per vehicle basis.

It is unlawful for any manufacturer to charge or include the cost of any program or policy prohibited under this subdivision in the price of new motor vehicles that the manufacturer sells to its franchised dealers or purchasers located in this State.

In the event that as of October 1, 1999, a manufacturer was operating a program that varied the price charged to its franchised dealers in this State in a manner that would violate this subdivision, or had in effect a documented policy that had been conveyed to its franchised dealers in this State and that varied the price charged to its franchised dealers in this State in a manner that would violate this subdivision, it shall be lawful for that program or policy, including amendments to that program or policy that are consistent with the purpose and provisions of the existing program or policy, or a program or policy similar thereto implemented after October 1, 1999, to continue in effect as to the manufacturer's franchised dealers located in this State until June 30, ~~2014.~~2018.

In the event that as of June 30, 2001, a manufacturer was operating a program that varied the price charged to its franchised dealers in this State in a manner that would violate this subdivision, or had in effect a documented policy that had been conveyed to its franchised dealers in this State and that varied the price charged to its franchised dealers in this State in a manner that would violate this subdivision, and the program or policy was implemented in this State subsequent to October 1, 1999, and prior to June 30, 2001, and provided that the program or policy is in compliance with this subdivision as it existed as of June 30, 2001, it shall be lawful for that program or policy, including amendments to that program or policy that comply with this subdivision as it existed as of June 30, 2001, to continue in effect as to the manufacturer's franchised dealers located in this State until June 30, ~~2014.~~2018.

Any manufacturer shall be required to pay or otherwise compensate any franchise dealer who has earned the right to receive payment or other compensation under a program in accordance with the manufacturer's program or policy.

The provisions of this subdivision shall not be applicable to multiple or repeated sales of new motor vehicles made by a new motor vehicle dealer to a single purchaser under a bona fide fleet sales policy of a manufacturer, factory branch, distributor, or distributor branch.

…

(44) Notwithstanding the terms, provisions, or conditions of any agreement or franchise, to require, coerce, or attempt to coerce any new motor vehicle dealer located in this State to refrain from displaying in the dealer's showroom or elsewhere within the dealership facility any sports-related honors, awards, photographs, displays, or other artifacts or memorabilia; provided, however, that such sports-related honors, awards, photographs, displays, or other artifacts or memorabilia (i) pertain to an owner, investor, or executive manager of the dealership; (ii) relate to professional sports; (iii) do not reference or advertise a competing brand of motor vehicles; and (iv)

do not conceal or disparage any of the required branding elements that are part of the dealership facility.

(45) Nothwithstanding the terms, provisions, or conditions of any agreement or franchise, to discriminate against a new motor vehicle dealer located in this State for selling or offering for sale a service contract, debt cancellation agreement, maintenance agreement, or similar product not approved, endorsed, sponsored, or offered by the manufacturer, distributor, affiliate, or captive finance source. For purposes of this subdivision, discrimination includes any of the following:

a. Requiring or coercing a dealer to exclusively sell or offer for sale service contracts, debt cancellation agreements, or similar products approved, endorsed, sponsored, or offered by the manufacturer, distributor, affiliate, or captive finance source.

b. Taking or threatening to take any adverse action against a dealer (i) because the dealer sells or offers for sale any service contracts, debt cancellation agreements, maintenance agreements, or similar products that have not been approved, endorsed, sponsored, or offered by the manufacturer, distributor, affiliate, or captive finance source or (ii) because the dealer fails to sell or offer for sale service contracts, debt cancellation agreements, maintenance agreements, or similar products approved, endorsed, sponsored, or offered by the manufacturer, distributor, their affiliate, or captive finance source.

c. Measuring a dealer's performance under a franchise in any part based upon the dealer's sale of service contracts, debt cancellation agreements, or similar products approved, endorsed, sponsored, or offered by the manufacturer, distributor, affiliate, or captive finance source.

d. Requiring a dealer to exclusively promote the sale of service contracts, debt cancellation agreements, or similar products approved, endorsed, sponsored, or offered by the manufacturer, distributor, affiliate, or captive finance source.

e. Considering the dealer's sale of service contracts, debt cancellation agreements, or similar products approved, endorsed, sponsored, or offered by the manufacturer, distributor, affiliate, or captive finance source in determining any of the following:

1. The dealer's eligibility to purchase any vehicles, parts, or other products or services from the manufacturer or distributor.
2. The volume of vehicles or other parts or services the dealer shall be eligible to purchase from the manufacturer or distributor.
3. The price or prices of any vehicles, parts, or other products or services that the dealer shall be eligible to purchase from the manufacturer or distributor.
4. The availability or amount of any vehicle discount, credit, special pricing, rebate, or sales or service incentive the dealer shall be eligible to receive from the manufacturer, distributor, affiliate, or captive finance source in which the incentives are calculated or paid on a per-vehicle basis or any vehicle discount, credit, special pricing, or rebate that are calculated or paid on a per-vehicle basis.

For purposes of this subdivision, discrimination does not include, and nothing shall prohibit a manufacturer, distributor, affiliate, or captive finance

source from, offering discounts, rebates, or other incentives to dealers who voluntarily sell or offer for sale service contracts, debt cancellation agreements, or similar products approved, endorsed, sponsored, or offered by the manufacturer, distributor, affiliate, or captive finance source; provided, however, that such discounts, rebates, or other incentives are based solely on the sales volume of the service contracts, debt cancellation agreements, or similar products sold by the dealer and do not provide vehicle sales or service incentives.

For purposes of this subdivision, a service contract provider or its representative shall not complete any sale or transaction of an extended service contract, extended maintenance plan, or similar product using contract forms that do not disclose the identity of the service contract provider.

(46) To require, coerce, or attempt to coerce a dealer located in this State to purchase goods or services of any nature from a vendor selected, identified, or designated by a manufacturer, distributor, affiliate, or captive finance source when the dealer may obtain goods or services of substantially similar quality and design from a vendor selected by the dealer, provided the dealer obtains prior approval from the manufacturer, distributor, affiliate, or captive finance source, for the use of the dealer's selected vendor. Such approval by the manufacturer, distributor, affiliate, or captive finance source may not be unreasonably withheld. For purposes of this subdivision, the term "goods" does not include moveable displays, brochures, and promotional materials containing material subject to the intellectual property rights of a manufacturer or distributor, or special tools as reasonably required by the manufacturer, or parts to be used in repairs under warranty obligations of a manufacturer or distributor. If the manufacturer, distributor, affiliate, or captive finance source claims that a vendor chosen by the dealer cannot supply goods and services of substantially similar quality and design, the dealer may file a protest with the Commissioner. When a protest is filed, the Commissioner shall promptly inform the manufacturer, distributor, affiliate, or captive finance source that a protest has been filed. The Commissioner shall conduct a hearing on the merits of the protest within 90 days following the filing of a response to the protest. The manufacturer, distributor, affiliate, or captive finance source shall bear the burden of proving that the goods or services chosen by the dealer are not of substantially similar quality and design to those required by the manufacturer, distributor, affiliate, or captive finance source.

(47) To fail to provide to a dealer, if the goods or services to be supplied to the dealer by a vendor selected, identified, or designated by the manufacturer or distributor are signs or other franchisor image elements to be purchased or leased to the dealer, the right to purchase or lease the signs or other franchisor image elements of similar quality and design from a vendor selected by the dealer. This subdivision and subdivision (46) of this section shall not be construed to allow a dealer or vendor to violate directly or indirectly the intellectual property rights of the manufacturer or distributor, including, but not limited to, the manufacturer's or distributor's intellectual property rights in any trademarks or trade dress, or other intellectual property interests owned or controlled by the manufacturer or distributor, or to permit a dealer to erect or maintain signs that do not conform to the reasonable intellectual property right or trademark and trade dress usage guidelines of the manufacturer or distributor.

(48) To unreasonably interfere with a dealer's independence in staffing the dealership by engaging in any of the following conduct: (i) requiring, coercing, or attempting to coerce a dealer located in this State to employ, appoint, or designate an individual to serve full-time or exclusively in any specific capacity, role, or job function at the dealership, other than the employment or appointment of a full-time general manager; (ii) requiring a dealer to employ, appoint, or designate an individual to serve full-time or exclusively in any specific capacity, role, or job function at the dealership, other than the employment or appointment of a full-time general manager, in order to participate in or qualify for any incentive program offered or sponsored by the manufacturer or distributor or to otherwise receive any discounts, credits, rebates, or incentives of any kind that are calculated or paid on a per-vehicle basis; or (iii) requiring that the dealer obtain the approval of the manufacturer or distributor prior to employing or appointing any individual in any capacity, role, or job function at the dealership, other than the employment or appointment of a full-time general manager. Except as expressly provided above, nothing contained in this subdivision shall be deemed to prevent or prohibit a manufacturer or distributor from requiring that a dealer employ a reasonable number of trained employees to sell and service the factory's vehicles."

SECTION 8. G.S. 20-305.2 is amended by adding new subsections to read:

"(e) For purposes of this section, an unfair method of competition includes any physical or mechanical warranty repair made or provided directly by a manufacturer or distributor to any motor vehicle located within this State requiring the direct participation of a dealer franchised by the manufacturer or distributor and without such dealer receiving reasonable compensation, equal to an amount no less than the amount provided in G.S. 20-305.1.

(f) No claim or cause of action may be brought against a dealer in this State arising out of any warranty repair, fix, repair, or update that was provided by the manufacturer or distributor without the direct involvement and participation of the dealer. Any manufacturer or distributor that provides or attempts to provide a warranty repair, fix, repair, update, or adjustment directly to any motor vehicle located within this State without the direct participation of a dealer franchised by the manufacturer or distributor shall fully indemnify and hold harmless any dealer located in this State for all claims, demands, judgments, damages, attorneys' fees, litigation expenses, and all other costs and expenses incurred by the dealer arising out of the actual or attempted warranty repair, fix, repair, update, or adjustment."

SECTION 9. G.S. 20-305.7 reads as rewritten:

"§ **20-305.7. Protecting dealership data and consent to access dealership information.**

…

(f) The following definitions apply to this section:

(1) "Dealer management computer system" – A computer hardware and software system that is owned or leased by the dealer, including a dealer's use of Web applications, software, or hardware, whether located at the dealership or provided at a remote location and that provides access to customer records and transactions by a motor vehicle dealer located in this State and that allows such motor vehicle dealer timely information in order to sell vehicles, parts or services through such motor vehicle dealership.

(2) "Dealer management computer system vendor" – A seller or reseller of dealer management computer ~~systems (but~~systems, a person that sells computer software for use on dealer management computer systems, or a person who services or maintains dealer management computer systems, but only to the extent that ~~such person is~~each of the sellers, resellers, or other persons listed in this subdivision are engaged in such ~~activities).~~activities.

(3) "Security breach" – An incident of unauthorized access to and acquisition of records or data containing dealership or dealership customer information where unauthorized use of the dealership or dealership customer information has occurred or is reasonably likely to occur or that creates a material risk of harm to a dealership or a dealership's customer. Any incident of unauthorized access to and acquisition of records or data containing dealership or dealership customer information, or any incident of disclosure of dealership customer information to one or more third parties which shall not have been specifically authorized by the dealer or customer, shall constitute a security breach.

(g1) Notwithstanding any of the terms or provisions contained in this section or in any consent, authorization, release, novation, franchise, or other contract or agreement, whenever any manufacturer, factory branch, distributor, distributor branch, dealer management computer system vendor, or any third party acting on behalf of or ~~through~~through, or approved, referred, endorsed, authorized, certified, granted preferred status, or recommended by, any manufacturer, factory branch, distributor, distributor branch, or dealer management computer system vendor requires that a new motor vehicle dealer provide any dealer, consumer, or customer data or information through direct access to a dealer's computer system, the dealer is not required to provide, and may not be required to consent to provide in any written agreement, such direct access to its computer system. The dealer may instead provide the same dealer, consumer, or customer data or information specified by the requesting party by timely obtaining and pushing or otherwise furnishing the requested data to the requesting party in a widely accepted file format such as comma delimited; provided that, when a dealer would otherwise be required to provide direct access to its computer system under the terms of a consent, authorization, release, novation, franchise, or other contract or agreement, a dealer that elects to provide data or information through other means may be charged a reasonable initial set-up fee and a reasonable processing fee based on the actual incremental costs incurred by the party requesting the data for establishing and implementing the process for the dealer. Any term or provision contained in any consent, authorization, release, novation, franchise, or other contract or agreement which is inconsistent with any term or provision contained in this subsection shall be voidable at the option of the dealer.

(g2) Notwithstanding the terms or conditions of any consent, authorization, release, novation, franchise, or other contract or agreement, every manufacturer, factory branch, distributor, distributor branch, dealer management computer system vendor, or any third party acting on behalf of or through any manufacturer, factory branch, distributor, distributor branch, or dealer management computer system vendor, having electronic access to consumer or customer data or other information in a computer system utilized by a new motor vehicle dealer, or who has otherwise been provided consumer or customer data or information by the dealer, shall fully indemnify and hold harmless any dealer from whom it has acquired such consumer or customer data or other information from all damages, costs, and expenses incurred by such ~~dealer, including,~~ dealer. Such indemnification by the manufacturer, factory branch, distributor, distributor branch, dealer management computer system vendor, or third party acting on behalf of these entities includes, but is not limited to, judgments, settlements, fines, penalties, litigation costs, defense costs, court costs, costs related to the disclosure of security breaches, and attorneys' fees arising out of complaints, claims, civil or administrative actions, and, to the fullest extent allowable under the law, governmental investigations and prosecutions to the extent caused by a security breach or the access, storage, maintenance, use, sharing, disclosure, or retention of such dealer's consumer or customer data or other ~~information~~information, or maintenance or services provided to any computer system utilized by a new motor vehicle dealer. ~~by the manufacturer, factory branch, distributor, distributor branch, dealer management computer system vendor, or third party acting on behalf of or through such manufacturer, factory branch, distributor, distributor branch, or dealer management computer system vendor.~~

…."

SECTION 10. G.S. 20-305.1 reads as rewritten:

"§ **20-305.1. Automobile dealer warranty obligations.**

(a) Each motor vehicle manufacturer, factory branch, distributor or distributor branch, shall specify in writing to each of its motor vehicle dealers licensed in this State the dealer's obligations for preparation, delivery and warranty service on its products, the schedule of compensation to be paid such dealers for parts, work, and service in connection with warranty service, and the time allowances for the performance of such work and service. In no event shall such schedule of compensation fail to include reasonable compensation for diagnostic work and associated administrative requirements as well as repair service and labor. Time allowances for the performance of warranty work and service shall be reasonable and adequate for the work to be performed. The compensation which must be paid under this section must be reasonable, provided, however, that under no circumstances may the reasonable compensation under this section be in an amount less than the dealer's current retail labor rate and the amount charged to retail customers for the manufacturer's or distributor's original parts for nonwarranty work of like kind, provided such amount is competitive with the retail rates charged for parts and labor by other franchised dealers within the dealer's market.

(a1) The retail rate customarily charged by the dealer for parts and labor may be established at the election of the dealer by the dealer submitting to the manufacturer or distributor 100 sequential nonwarranty customer-paid service repair orders which contain warranty-like parts, or 60 consecutive days of nonwarranty customer-paid service repair orders which contain warranty-like parts, whichever is less, covering repairs made no more than 180 days before the submission and declaring the average percentage markup. The average of the parts markup rate and the average labor rate shall both be presumed to be ~~fair and~~ reasonable, however, a manufacturer or distributor may, not later than 30 days after submission, rebut that presumption by reasonably substantiating that the rate is unfair and unreasonable in light of the ~~practices of~~retail rates charged for parts and labor by all other franchised motor vehicle dealers in the dealer's market offering the same line-make vehicles. In the event there are no other franchised dealers offering the same line-make of vehicle in the dealer's market, the manufacturer or distributor may compare the dealer's retail rate for parts and labor with the ~~practices of~~retail rates charged for parts and labor by other franchised dealers who are selling competing line-makes of vehicles within the dealer's market. The retail rate and the average labor rate shall go into effect 30 days following the manufacturer's approval, but in no event later than 60 days following the declaration, subject to audit of the submitted repair orders by the manufacturer or distributor and a rebuttal of the declared rate as described above. If the declared rate is rebutted, the manufacturer or distributor shall propose an adjustment of the average percentage markup based on that rebuttal not later than 30 days after such audit, but in no event later than 60 days after submission. If the dealer does not agree with the proposed average percentage markup, the dealer may file a protest with the Commissioner not later than 30 days after receipt of that proposal by the manufacturer or distributor. If such a protest is filed, the Commissioner shall inform the manufacturer or distributor that a timely protest has been filed and that a hearing will be held on such protest. In any hearing held pursuant to this subsection, the manufacturer or distributor shall have the burden of proving by a preponderance of the evidence that the rate declared by the dealer was ~~unfair and~~ unreasonable as described in this subsection and that the proposed adjustment of the average percentage markup is ~~fair and~~ reasonable pursuant to the provisions of this subsection. If the dealer prevails at a protest hearing, the dealer's proposed rate, affirmed at the hearing, shall be effective as of 60 days after the date of the dealer's initial submission of the customer-paid service orders to the manufacturer or distributor. If the manufacturer or distributor prevails at a protest hearing, the rate proposed by the manufacturer or distributor, that was affirmed at the hearing, shall be effective beginning 30 days following issuance of the final order.

(a2) In calculating the retail rate customarily charged by the dealer for parts and labor, the following work shall not be included in the calculation:

(1) Repairs for manufacturer or distributor special events, specials, or promotional discounts for retail customer ~~repairs;~~repairs.
(2) Parts sold at wholesale or at reduced or specially negotiated rates for insurance ~~repairs;~~repairs.
(3) Engine ~~assemblies and transmission assemblies;~~assemblies.
(4) Routine maintenance not covered under warranty, such as fluids, filters, and belts not provided in the course of ~~repairs;~~repairs.
(5) Nuts, bolts, fasteners, and similar items that do not have an individual part ~~number;~~number.
(6) ~~Tires; and~~Tires.
(7) Vehicle reconditioning.
(8) Batteries and light bulbs.

…."

SECTION 11. The terms and provisions of Sections 7 through 12 of this act shall be applicable to all current and future franchises and other agreements in existence between any new motor vehicle dealer located in this State and a manufacturer or distributor as of the effective date of this act.

SECTION 12. If any provision of this act or its application is held invalid, the invalidity does not affect other provisions or applications of this act that can be given effect without the invalid provisions or application, and to this end the provisions of this act are severable.

SECTION 13. Sections 1 through 6 of this act become effective October 1, 2013, and apply to violations occurring on or after that date. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 9th day of July, 2013.

Became law upon approval of the Governor at 6:17 p.m. on the 18th day of July, 2013.

Session Law 2013-303 **H.B. 450**

AN ACT TO PROVIDE FOR BAIL PROCEDURE WHEN CONFINEMENT IS IMPOSED AS PUNISHMENT FOR CRIMINAL CONTEMPT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 5A-17 reads as rewritten:

"§ **5A-17. ~~Appeals.~~Appeals; bail proceedings.**

(a) A person found in criminal contempt may appeal in the manner provided for appeals in criminal actions, except appeal from a finding of contempt by a judicial official inferior to a superior court judge is by hearing de novo before a superior court judge.

(b) Upon appeal in a case where the judicial official imposes confinement, a bail hearing shall be held within a reasonable time period after imposition of the confinement. The judicial official holding the bail hearing shall be:

(1) A district court judge if the confinement is imposed by a clerk or magistrate.
(2) A superior court judge if the confinement is imposed by a district court judge.
(3) A superior court judge other than the superior court judge that imposed the confinement.

(c) A person found in contempt and who has given notice of appeal may be retained in custody not more than 24 hours from the time of imposition of confinement without a bail determination being made by a judicial official as designated under subdivisions (1) through (3) of subsection (b) of this section. If a designated judicial official has not acted within 24 hours of the imposition of confinement, any judicial official shall act under the provisions of subsection (b) of this section and hold the bail hearing."

SECTION 2. This act becomes effective December 1, 2013, and applies to confinement imposed on or after that date.

In the General Assembly read three times and ratified this the 9th day of July, 2013.

Became law upon approval of the Governor at 6:17 p.m. on the 18th day of July, 2013.

Session Law 2013-304 **H.B. 462**

AN ACT TO INCREASE THE UNIFORM HOURLY FEE CHARGED TO PERSONS RECEIVING THE SERVICES OF A SUPERVISED VISITATION AND EXCHANGE CENTER THROUGH A FAMILY COURT PROGRAM.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 7A-314.1(a) reads as rewritten:

"(a) The Administrative Office of the Courts may charge a uniform fee of not more than ~~thirty dollars ($30.00)~~fifty dollars ($50.00) per hour to persons receiving the services of a supervised visitation and exchange center through a family court program. The fees collected under this section may be used by the Director of the Administrative Office of the Courts to support the continued operation of supervised visitation and exchange centers which provide services to family court clients regarding domestic violence, substance abuse, mental illness, parental alienation, and other issues."

SECTION 2. This act becomes effective July 1, 2013, and applies to services provided on or after that date.

In the General Assembly read three times and ratified this the 9th day of July, 2013.

Became law upon approval of the Governor at 6:17 p.m. on the 18th day of July, 2013.

Session Law 2013-305 **H.B. 474**

AN ACT TO AUTHORIZE THE REDEPOSIT OF STATE AND LOCAL GOVERNMENT FUNDS INTO INSURED DEMAND, MONEY MARKET, AND NEGOTIABLE ORDER OF WITHDRAWAL DEPOSIT ACCOUNTS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 159-30(b1) reads as rewritten:

"(b1) In addition to deposits authorized by subsection (b) of this section, the finance officer may deposit any portion of idle funds in accordance with all of the following conditions:

(1) The funds are initially deposited through a bank or savings and loan association that is an official depository and that is selected by the finance officer.

(2) The selected bank or savings and loan association arranges for the ~~deposit~~redeposit of funds in ~~certificates of~~ deposit ~~for the account~~accounts of the local government or public authority in one or more federally insured banks or savings and loan associations wherever located, provided that no funds shall be deposited in a bank or savings and loan association that at the time holds other deposits from the local government or public authority.

(3) The full amount of principal and any accrued interest of each ~~certificate of~~ deposit account are covered by federal deposit insurance.

(4) The selected bank or savings and loan association acts as custodian for the local government or public authority with respect to the ~~certificates of~~ deposit ~~issued for~~in the local government's or public authority's account.

(5) ~~At the same time~~On the same date that the local government or public authority funds are ~~deposited and the certificates of deposit are~~

~~issued,~~redeposited, the selected bank or savings and loan association receives an amount of federally insured deposits from customers of other ~~federally insured~~ financial institutions wherever located equal to or greater than the amount of the funds invested by the local government or public authority through the selected bank or savings and loan association."

SECTION 2. G.S. 115D-58.6(a1) reads as rewritten:

"(a1) Deposits. – The institution may deposit at interest all or part of the cash balance of any fund in an official depository of the institution. Moneys may be deposited at interest in any official depository of the institution in the form of ~~certificates of~~such deposit ~~or such other forms of time deposits~~accounts as may be approved for county governments. In addition, moneys may be deposited in the form of ~~certificates of~~such deposit accounts as provided for a local government or public authority in G.S. 159-30(b1). Investment deposits shall be secured as provided in G.S. 159-31(b)."

SECTION 3. G.S. 147-69.1(c)(5) reads as rewritten:

"(5) Certificates of deposit and other ~~time deposits~~deposit accounts of financial institutions under any of the following conditions:

a. With financial institutions with a physical presence in the State for the purpose of receiving commercial or retail deposits; provided that any principal amount of such deposit in excess of the amount insured by the federal government or any agency thereof, be fully secured by surety bonds, or be fully collateralized; provided further that the rate of return or investment yield may not be less than that available in the market on United States government or agency obligations of comparable maturity.

b. With financial institutions with a physical presence inside or outside the State, in accordance with all of the following conditions:

1. The funds are initially deposited through a bank or savings and loan association in the State that is an official depository and that is selected by the State Treasurer, provided that the rate of return or investment yield shall not be less than that available in the market on United States government or agency obligations of comparable maturity.

2. The selected bank or savings and loan association arranges for the ~~deposit~~redeposit of the funds in ~~certificates of~~ deposit ~~for the account~~accounts of the State in one or more federally insured banks or savings and loan associations wherever located, provided that no State funds shall be deposited in a bank or savings and loan association that at the time holds other ~~time~~ deposits from the State.

3. The full amount of principal and any accrued interest of each ~~certificate of~~ deposit account are covered by federal deposit insurance.

4. The selected bank or savings and loan association acts as custodian for the State with respect to the ~~certificates of~~ deposit ~~issued for~~in the State's account.

5. ~~At the same time~~On the same date that the State funds are ~~deposited and the certificates of deposit are issued,~~redeposited, the selected bank or savings and loan association receives an amount of federally insured deposits from customers of other ~~federally insured~~ financial institutions wherever located equal to or greater than the amount of the funds invested by the State through the selected

bank or savings and loan association pursuant to this sub-subdivision."

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

In the General Assembly read three times and ratified this the 10th day of July, 2013.

Became law upon approval of the Governor at 6:17 p.m. on the 18th day of July, 2013.

Session Law 2013-306 **H.B. 492**

AN ACT TO DIRECT THE DEPARTMENT OF HEALTH AND HUMAN SERVICES TO ADJUST MEDICAID PERSONAL CARE SERVICES TO PROVIDE ADDITIONAL SAFEGUARDS FOR QUALIFIED INDIVIDUALS AND TO REPORT TO THE HOUSE APPROPRIATIONS SUBCOMMITTEE ON HEALTH AND HUMAN SERVICES, THE SENATE APPROPRIATIONS COMMITTEE ON HEALTH AND HUMAN SERVICES, AND TO THE JOINT LEGISLATIVE OVERSIGHT COMMITTEE ON HEALTH AND HUMAN SERVICES.

The General Assembly of North Carolina enacts:

SECTION 1. Sections 10.9F(c) and (d) of S.L. 2012-142, as amended by Section 70 of S.L. 2012-194, read as rewritten:

"**SECTION 10.9F.(c)** A Medicaid recipient who meets each of the following criteria is eligible for up to 80 hours of personal care services:

(1) The recipient has a medical condition, disability, or cognitive impairment and demonstrates unmet needs for, at a minimum, (i) three of the five qualifying activities of daily living (ADLs) with limited hands-on assistance; (ii) two ADLs, one of which requires extensive assistance; or (iii) two ADLs, one of which requires assistance at the full dependence level.

(2) The recipient (i) resides in a private living arrangement, a residential facility licensed by the State of North Carolina as an adult care home, or a combination home as defined in G.S. 131E-101(1a); or (ii) resides in a group home licensed under Chapter 122C or the General ~~Statues~~ Statutes and under 10A NCAC 27G .5601 as a supervised living facility for two or more adults whose primary diagnosis is mental illness, a developmental disability, or substance abuse dependency, and is eligible to receive personal care services under the Medicaid State Plan.

The five qualifying ADLs are eating, dressing, bathing, toileting, and mobility. For Medicaid recipients meeting the criteria above, ~~Personal~~ personal care services shall be available ~~for up to 80 hours per month~~ in accordance with an assessment conducted under subsection (d) of this section and a plan of care developed by the service provider and approved by the Department of Health and Human Services, Division of Medical Assistance, or its designee.

(3) A Medicaid recipient who meets the eligibility criteria provided in subdivisions (1) and (2) of this subsection and all of the criteria provided below is eligible for up to 50 additional hours of Medicaid Personal Care Services per month for a total of up to 130 hours per month in accordance with an assessment and a plan of care.

a. The recipient requires an increased level of supervision.

b. The recipient requires caregivers with training or experience in caring for individuals who have a degenerative disease, characterized by irreversible memory dysfunction, that attacks the brain and results in impaired memory, thinking, and behavior, including gradual memory loss, impaired judgment, disorientation, personality change, difficulty in learning, and the loss of language skills.

c. Regardless of setting, the recipient requires a physical environment that includes modifications and safety measures to safeguard the recipient because of the recipient's gradual memory loss, impaired judgment, disorientation, personality change, difficulty in learning, and the loss of language skills.

d. The recipient has a history of safety concerns related to inappropriate wandering, ingestion, aggressive behavior, and an increased incidence of falls.

Physician attestation. – A recipient must have a physician's attestation that the recipient meets each of the criteria in sub-subdivisions a. through d. of subdivision 3 of this subsection. A recipient is not required to have a new attestation if he or she is identified by the Department of Health and Human Services, Division of Medical Assistance, as having on record a physician's attestation that meets the requirements of this subdivision. A recipient is required to have a new attestation if one cannot be identified by the Division of Medical Assistance or if the one identified does not meet the requirements of this subdivision.

Independent assessment. – Based on the physician's attestation, the Medicaid recipient must receive an independent assessment conducted by a trained professional who is qualified to assess and has experience assessing individuals with the needs for additional safeguards identified by this subdivision. The independent assessment shall be conducted in accordance with subsection (d) of this section and shall determine the number of hours of personal care services needed by the individual. In response to the assessment, a plan of care shall be developed by the service provider and approved by the Department of Health and Human Services, Division of Medical Assistance, or its designee.

Personal care services shall not include nonmedical transportation; financial management; non-hands-on assistance such as cueing, prompting, guiding, coaching, or babysitting; and household chores not directly related to the qualifying ADLs.

"**SECTION 10.9F.(d)** All assessments for personal care services, continuation of service, and change of status reviews shall be performed by an independent assessment entity (IAE). The IAE shall not be an owner of a provider business or provider of personal care services of any type.

A recipient shall be assessed by the IAE after the recipient's primary or attending physician provides written authorization for referral for the service and written attestation to the medical necessity for the service. The IAE shall determine and authorize the amount of service to be provided as determined by its review and findings of each recipient's degree of functional disability and level of unmet needs for personal care services in the five qualifying ADLs."

SECTION 2. The Department of Health and Human Services shall reduce the rate for personal care services in order to fund the additional service hours authorized in Section 1 of this act and in order to remain within the budgeted amount of funds for personal care services.

SECTION 3. On or before August 15, 2013, the Department of Health and Human Services shall submit to the Centers for Medicare and Medicaid Services a Medicaid State Plan Amendment necessary to implement this act. The State Plan Amendment shall include an effective date of July 1, 2013, or as soon after July 1, 2013, as allowed by the Centers for Medicare and Medicaid Services.

SECTION 4.(a) On or before August 1, 2013, the Department of Health and Human Services shall make an interim report on the implementation of this act to the Joint Legislative Oversight Committee on Health and Human Services and to the Fiscal Research Division. The report shall include the following: (i) an estimate of the number of Medicaid recipients that would be eligible for Medicaid Personal Care Services under this act, (ii) an

estimate of the number of PCS hours potential recipients would need broken out in increments of 10 hours between 80 and 130 hours, (iii) a copy of the draft Medicaid State Plan Amendment (SPA), (iv) an estimated time line for approval of the SPA and a projected implementation date, and (v) the rate reductions necessary to implement this act.

SECTION 4.(b) On or before November 1, 2013, the Department of Health and Human Services shall report on the implementation of this act to the Joint Legislative Oversight Committee on Health and Human Services.

SECTION 5. Section 1 of this act becomes effective upon approval by the Centers for Medicare and Medicaid Services of the Medicaid State Plan Amendment required in Section 3 of this act. The Department of Health and Human Services shall provide notice of State Plan Amendment approval by posting the effective date of the change on its Web site. The remainder of the act is effective when it becomes law.

In the General Assembly read three times and ratified this the 10th day of July, 2013.

Became law upon approval of the Governor at 6:17 p.m. on the 18th day of July, 2013.

Session Law 2013-307 **S.B. 132**

AN ACT TO INCLUDE INSTRUCTION IN THE SCHOOL HEALTH EDUCATION PROGRAM ON THE PREVENTABLE CAUSES OF PRETERM BIRTH, INCLUDING INDUCED ABORTION AS A CAUSE OF PRETERM BIRTH IN SUBSEQUENT PREGNANCIES, AND TO PROVIDE SUCH INFORMATION TO CHARTER, NONPUBLIC, AND HOME SCHOOL STUDENTS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 115C-81(e1)(4) reads as rewritten:

"(4) Each local school administrative unit shall provide a reproductive health and safety education program commencing in the seventh grade that includes the following instruction:

a. Teaches that abstinence from sexual activity outside of marriage is the expected standard for all school-age children.

b. Presents techniques and strategies to deal with peer pressure and offering positive reinforcement.

c. Presents reasons, skills, and strategies for remaining or becoming abstinent from sexual activity.

d. Teaches that abstinence from sexual activity is the only certain means of avoiding out-of-wedlock pregnancy, sexually transmitted diseases when transmitted through sexual contact, including HIV/AIDS, and other associated health and emotional problems.

e. Teaches that a mutually faithful monogamous heterosexual relationship in the context of marriage is the best lifelong means of avoiding sexually transmitted diseases, including HIV/AIDS.

f. Teaches the positive benefits of abstinence until marriage and the risks of premarital sexual activity.

g. Provides opportunities that allow for interaction between the parent or legal guardian and the student.

h. Provides factually accurate biological or pathological information that is related to the human reproductive system.

i. Teaches about the preventable risks for preterm birth in subsequent pregnancies, including induced abortion, smoking, alcohol consumption, the use of illicit drugs, and inadequate prenatal care.

Materials used in this instruction shall be age appropriate for use with students. Information conveyed during the instruction shall be objective and

based upon scientific research that is peer reviewed and accepted by professionals and credentialed experts in the field of sexual health education."

SECTION 1.1. G.S. 115C-238.29F(a) reads as rewritten:

"(a) Health and Safety Standards. – A charter school shall meet the same health and safety requirements required of a local school administrative unit. The Department of Public Instruction shall ensure that charter schools provide parents and guardians with information about meningococcal meningitis and influenza and their vaccines at the beginning of every school year. This information shall include the causes, symptoms, and how meningococcal meningitis and influenza are spread and the places where parents and guardians may obtain additional information and vaccinations for their children.

The Department of Public Instruction shall also ensure that charter schools provide parents and guardians with information about cervical cancer, cervical dysplasia, human papillomavirus, and the vaccines available to prevent these diseases. This information shall be provided at the beginning of the school year to parents of children entering grades five ~~though~~through 12. This information shall include the causes and symptoms of these diseases, how they are transmitted, how they may be prevented by vaccination, including the benefits and possible side effects of vaccination, and the places where parents and guardians may obtain additional information and vaccinations for their children.

The Department of Public Instruction shall also ensure that charter schools provide students in grades seven through 12 with information annually on the preventable risks for preterm birth in subsequent pregnancies, including induced abortion, smoking, alcohol consumption, the use of illicit drugs, and inadequate prenatal care.

The Department of Public Instruction shall also ensure that charter schools provide students in grades nine through 12 with information annually on the manner in which a parent may lawfully abandon a newborn baby with a responsible person, in accordance with G.S. 7B-500.

The Department of Public Instruction shall also ensure that the guidelines for individual diabetes care plans adopted by the State Board of Education under G.S. 115C-12(31) are implemented in charter schools in which students with diabetes are enrolled and that charter schools otherwise comply with the provisions of G.S. 115C-375.3."

SECTION 1.2. G.S. 115C-548 reads as rewritten:

"§ **115C-548. Attendance; health and safety regulations.**

Each private church school or school of religious charter shall make, and maintain annual attendance and disease immunization records for each pupil enrolled and regularly attending classes. Attendance by a child at any school to which this Part relates and which complies with this Part shall satisfy the requirements of compulsory school attendance so long as the school operates on a regular schedule, excluding reasonable holidays and vacations, during at least nine calendar months of the year. Each school shall be subject to reasonable fire, health and safety inspections by State, county and municipal authorities as required by law.

The Division of Nonpublic Education, Department of Administration, shall ensure that materials are provided to these schools so that they can provide parents and guardians with information about meningococcal meningitis and influenza and their vaccines at the beginning of every school year. This information may be provided electronically or on the Division's Web page. This information shall include the causes, symptoms, and how meningococcal meningitis and influenza are spread and the places where parents and guardians may obtain additional information and vaccinations for their children.

The Division of Nonpublic Education, Department of Administration, shall also ensure that materials are provided to these schools so that they can provide parents and guardians with information about cervical cancer, cervical dysplasia, human papillomavirus, and the vaccines available to prevent these diseases. This information may be provided electronically or on the Division's Web page. This information shall include the causes and symptoms of these diseases, how they are transmitted, how they may be prevented by vaccination, including the

benefits and possible side effects of vaccination, and the places where parents and guardians may obtain additional information and vaccinations for their children.

The Division of Nonpublic Education, Department of Administration, shall also ensure that information is available to these schools so that they can provide information annually on the preventable risks for preterm birth in subsequent pregnancies, including induced abortion, smoking, alcohol consumption, the use of illicit drugs, and inadequate prenatal care.

The Division of Nonpublic Education, Department of Administration, shall also ensure that information is available to these schools so that they can provide information on the manner in which a parent may lawfully abandon a newborn baby with a responsible person, in accordance with G.S. 7B-500."

SECTION 1.3. G.S. 115C-556 reads as rewritten:

"§ **115C-556. Attendance; health and safety regulations.**

Each qualified nonpublic school shall make, and maintain annual attendance and disease immunization records for each pupil enrolled and regularly attending classes. Attendance by a child at any school to which this Part relates and which complies with this Part shall satisfy the requirements of compulsory school attendance so long as the school operates on a regular schedule, excluding reasonable holidays and vacations, during at least nine calendar months of the year. Each school shall be subject to reasonable fire, health and safety inspections by State, county and municipal authorities as required by law.

The Division of Nonpublic Education, Department of Administration, shall ensure that materials are provided to each qualified nonpublic school so that the school can provide parents and guardians with information about meningococcal meningitis and influenza and their vaccines at the beginning of every school year. This information may be provided electronically or on the Division's Web page. This information shall include the causes, symptoms, and how meningococcal meningitis and influenza are spread and the places where parents and guardians may obtain additional information and vaccinations for their children.

The Division of Nonpublic Education, Department of Administration, shall also ensure that materials are provided to each qualified nonpublic school so that the school can provide parents and guardians with information about cervical cancer, cervical dysplasia, human papillomavirus, and the vaccines available to prevent these diseases. This information may be provided electronically or on the Division's Web page. This information shall include the causes and symptoms of these diseases, how they are transmitted, how they may be prevented by vaccination, including the benefits and possible side effects of vaccination, and the places where parents and guardians may obtain additional information and vaccinations for their children.

The Division of Nonpublic Education, Department of Administration, shall also ensure that information is available to each qualified nonpublic school so that the school can provide information annually on the preventable risks for preterm birth in subsequent pregnancies, including induced abortion, smoking, alcohol consumption, the use of illicit drugs, and inadequate prenatal care.

The Division of Nonpublic Education, Department of Administration, shall also ensure that information is available to each qualified nonpublic school so that the school can provide information on the manner in which a parent may lawfully abandon a newborn baby with a responsible person, in accordance with G.S. 7B-500."

SECTION 1.4. G.S. 115C-565 reads as rewritten:

"§ **115C-565. Requirements exclusive.**

No school which complies with this Part shall be subject to any other provision of law relating to education except requirements of law respecting immunization. The Division of Nonpublic Education, Department of Administration, shall provide to home schools information about meningococcal meningitis and influenza and their vaccines. This information may be provided electronically or on the Division's Web page. The information shall include the causes, symptoms, and how meningococcal meningitis and influenza are spread and the

places where parents and guardians may obtain additional information and vaccinations for their children.

The Division of Nonpublic Education, Department of Administration, shall also provide to home schools information about cervical cancer, cervical dysplasia, human papillomavirus, and the vaccines available to prevent these diseases. This information may be provided electronically or on the Division's Web page. This information shall include the causes and symptoms of these diseases, how they are transmitted, how they may be prevented by vaccination, including the benefits and possible side effects of vaccination, and the places where parents and guardians may obtain additional information and vaccinations for their children.

The Division of Nonpublic Education, Department of Administration, shall also provide to home schools information on the preventable risks for preterm birth in subsequent pregnancies, including induced abortion, smoking, alcohol consumption, the use of illicit drugs, and inadequate prenatal care. This information may be provided electronically or on the Division's Web page.

The Division of Nonpublic Education, Department of Administration, shall also provide to home schools information on the manner in which a parent may lawfully abandon a newborn baby with a responsible person, in accordance with G.S. 7B-500. This information may be provided electronically or on the Division's Web page."

SECTION 2. To facilitate the implementation of this act, within 60 days of this act becoming effective and annually thereafter, the Department of Health and Human Services, Division of Public Health, shall provide to the Department of Public Instruction and the Division of Nonpublic Education, Department of Administration, sample educational materials with the most current information available about the preventable risks for preterm birth in subsequent pregnancies, including induced abortion, smoking, alcohol consumption, the use of illicit drugs, and inadequate prenatal care.

SECTION 3. This act is effective when it becomes law and applies beginning with the 2013-2014 school year.

In the General Assembly read three times and ratified this the 9th day of July, 2013.

Became law upon approval of the Governor at 6:18 p.m. on the 18th day of July, 2013.

Session Law 2013-308 **H.B. 635**

AN ACT TO (1) ALLOW A CLERK OR ASSISTANT OR DEPUTY CLERK OF SUPERIOR COURT OR A MAGISTRATE TO ISSUE BY FACSIMILE OR ELECTRONIC MAIL TRANSMISSION AN INVOLUNTARY INPATIENT COMMITMENT CUSTODY ORDER TO A PETITIONING PHYSICIAN, ELIGIBLE PSYCHOLOGIST, OR DESIGNEE AT A TWENTY-FOUR-HOUR FACILITY WHEN THE RESPONDENT IS ALREADY PHYSICALLY PRESENT AT THE TWENTY-FOUR-HOUR FACILITY, (2) ESTABLISH PROTOCOLS FOR THE TRAINING OF PHYSICIANS, ELIGIBLE PSYCHOLOGISTS, OR DESIGNEES, AND (3) DIRECT THE SECRETARY OF THE DEPARTMENT OF HEALTH AND HUMAN SERVICES TO REVIEW AND REVISE THE RULES DESIGNATING FACILITIES FOR THE CUSTODY AND TREATMENT OF INVOLUNTARY CLIENTS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 122C-261(d) reads as rewritten:

"(d) If the affiant is a physician or eligible psychologist, ~~the~~ all of the following apply:

(1) The affiant may execute the affidavit before any official authorized to administer oaths. This affiant is not required to appear before the clerk or magistrate for this purpose. This affiant shall file the affidavit with the clerk or magistrate by delivering to the clerk or magistrate the original affidavit or

a copy in paper form that is printed through the facsimile transmission of the affidavit. If the affidavit is filed through facsimile transmission, the affiant shall mail the original affidavit no later than five days after the facsimile transmission of the affidavit to the clerk or magistrate to be filed by the clerk or magistrate with the facsimile copy of the affidavit.

(2) This affiant's examination shall comply with the requirements of the initial examination as provided in G.S. 122C-263(c).

(3) If the physician or eligible psychologist recommends outpatient commitment and the clerk or magistrate finds probable cause to believe that the respondent meets the criteria for outpatient commitment, the clerk or magistrate shall issue an order that a hearing before a district court judge be held to determine whether the respondent will be involuntarily committed. The physician or eligible psychologist shall provide the respondent with written notice of any scheduled appointment and the name, address, and telephone number of the proposed outpatient treatment physician or center. The physician or eligible psychologist shall contact the local management entity that serves the county where the respondent resides or the local management entity that coordinated services for the respondent to inform the local management entity that the respondent has been scheduled for an appointment with an outpatient treatment physician or center.

(4) If the physician or eligible psychologist recommends inpatient commitment and the clerk or magistrate finds probable cause to believe that the respondent meets the criteria for inpatient commitment, the clerk or magistrate shall issue an order for transportation to or custody at a 24-hour facility described in G.S. 122C-252, provided that if a 24-hour facility is not immediately available or appropriate to the respondent's medical condition, the respondent may be temporarily detained under appropriate supervision and, upon further examination, released in accordance with G.S. 122C-263(d)(2).

(5) If the affiant is a physician or eligible psychologist at a 24-hour facility described in G.S. 122C-252 who recommends inpatient commitment; the respondent is physically present on the premises of the same 24-hour facility; and the clerk or magistrate finds probable cause to believe that the respondent meets the criteria for inpatient commitment, then the clerk or magistrate may issue an order by facsimile transmission or may issue an electronically scanned order by electronic transmission to the physician or eligible psychologist at the 24-hour facility, or a designee, to take the respondent into custody at the 24-hour facility and proceed according to G.S. 122C-266. Upon receipt of the custody order, the physician or eligible psychologist at the 24-hour facility, or a designee, shall immediately (i) notify the respondent that the respondent is not under arrest and has not committed a crime but is being taken into custody to receive treatment and for the respondent's own safety and the safety of others, (ii) take the respondent into custody, and (iii) complete and sign the appropriate portion of the custody order and return the order to the clerk or magistrate either by facsimile transmission or by scanning it and sending it by electronic transmission. The physician or eligible psychologist, or a designee, shall mail the original custody order no later than five days after returning it by means of facsimile or electronic transmission to the clerk or magistrate. The clerk or magistrate shall file the original custody order with the copy of the custody order that was electronically returned.

a. Notwithstanding the provisions of this subdivision, a clerk or magistrate shall not issue a custody order to a physician or eligible

psychologist at a 24-hour facility, or a designee, if the physician or eligible psychologist, or a designee, has not completed training in proper service and return of service. As used in this subdivision, the term "designee" includes the 24-hour facility's on-site police security personnel.

b. The Department of Health and Human Services shall cooperate and collaborate with the Administrative Office of the Courts and the UNC School of Government to develop protocols to implement this section, including a procedure for notifying clerks and magistrates of the names of the physicians, psychologists, and designees who have completed the training. The Secretary of the Department shall oversee implementation of these protocols.

(6) If the clerk or magistrate finds probable cause to believe that the respondent, in addition to being mentally ill, is also mentally retarded, the clerk or magistrate shall contact the area authority before issuing the order and the area authority shall designate the facility to which the respondent is to be transported.

(7) If a physician or eligible psychologist executes an affidavit for inpatient commitment of a respondent, a second physician shall be required to perform the examination required by G.S. 122C-266."

SECTION 2. G.S. 122C-261(e) reads as rewritten:

"(e) ~~Upon~~ Except as provided in subdivision (5) of subsection (d) of this section, upon receipt of the custody order of the clerk or magistrate or a custody order issued by the court pursuant to G.S. 15A-1003, a law enforcement officer or other person designated in the order shall take the respondent into custody within 24 hours after the order is signed, and proceed according to G.S. 122C-263. The custody order is valid throughout the State."

SECTION 3. The Secretary of the Department of Health and Human Services shall review and update its list of facilities designated under G.S. 122C-252 as facilities for the custody and treatment of involuntary clients. The Secretary shall ensure that each designation identifies the specific units or areas of the 24-hour facility to which the designation applies and includes all units or areas necessary to facilitate the orderly and safe movement of a respondent from one unit or area to another.

SECTION 4. This act becomes effective October 1, 2013.

In the General Assembly read three times and ratified this the 9th day of July, 2013.

Became law upon approval of the Governor at 6:18 p.m. on the 18th day of July, 2013.

Session Law 2013-309 **H.B. 683**

AN ACT TO BAR CIVIL ACTIONS AGAINST PACKERS, DISTRIBUTORS, MANUFACTURERS, CARRIERS, HOLDERS, SELLERS, MARKETERS, OR ADVERTISERS OF FOOD PRODUCTS THAT COMPLY WITH APPLICABLE STATUTORY AND REGULATORY REQUIREMENTS BASED ON CLAIMS ARISING OUT OF WEIGHT GAIN, OBESITY, A HEALTH CONDITION ASSOCIATED WITH WEIGHT GAIN OR OBESITY, OR OTHER GENERALLY KNOWN CONDITION ALLEGEDLY CAUSED BY OR ALLEGEDLY LIKELY TO RESULT FROM LONG-TERM CONSUMPTION OF FOOD; AND TO CLARIFY THAT LOCAL GOVERNMENTS MAY NOT REGULATE THE SIZE OF SOFT DRINKS OFFERED FOR SALE.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 99E of the General Statutes is amended by adding a new Article to read:

"Article 5.
"Commonsense Consumption Act.

"**§ 99E-40. Title.**

This act shall be known and may be cited as the "Commonsense Consumption Act."

"**§ 99E-41. Definitions.**

The following definitions apply in this Article:

(1) Claim. – Any claim by or on behalf of a natural person, as well as any derivative or other claim arising from a common set of facts or circumstances and asserted by or on behalf of any other person.

(2) Knowing and willful conduct. – Conduct which meets all of the following criteria:

a. The conduct was committed with any of the following:

1. The intent to deceive or injure consumers.
2. Actual knowledge that such conduct was injurious to consumers.
3. Reason to know there is a reasonable probability of injury to consumers.

b. The conduct constituting the violation was not required by regulations, orders, rules, or other pronouncement of, or any statute administered by, a federal, State, or local government agency.

(3) Other person. – Any individual, corporation, company, association, firm, partnership, society, joint-stock company, or any other entity, including any governmental entity or private attorney general.

"**§ 99E-42. Claims arising from weight gain, obesity, associated health conditions, or long-term consumption of food – Limitation on liability.**

Except as set forth in G.S. 99E-43, a packer, distributor, manufacturer, carrier, holder, seller, marketer, or advertiser of a food, as defined in section 201(f) of the federal Food, Drug, and Cosmetic Act, 21 U.S.C. § 321(f), or an association of one or more such entities, shall not be liable in any civil action for any claim arising out of weight gain, obesity, a health condition associated with weight gain or obesity, or other generally known condition allegedly caused by or allegedly likely to result from long-term consumption of food. For purposes of this section, a health condition arising from a single instance of consumption shall not be considered to result from long-term consumption of food.

"**§ 99E-43. Claims arising from weight gain, obesity, associated health conditions, or long-term consumption of food – Exceptions to limit on liability.**

G.S. 99E-42 shall not preclude liability in a civil action in which the claim of weight gain, obesity, health condition associated with weight gain or obesity, or other generally known condition allegedly caused by or allegedly likely to result from long-term consumption of food meets either of the following:

(1) The claim includes as an element of the cause of action a material violation of an adulteration or misbranding requirement prescribed by statute or rule of this State or the United States of America and the claimed injury was proximately caused by such violation.

(2) The claim is based on knowing and willful conduct applicable to the manufacturing, marketing, distribution, advertising, labeling, or sale of food, in violation of any other State or federal law and the claimed injury was proximately caused by such violation.

"**§ 99E-44. Construction of Article.**

(a) Nothing in this Article shall be construed to create any new claim, right of action, or civil liability not previously existing under State law.

(b) Nothing in this Article shall be construed to interfere with any agency's exclusive or primary jurisdiction to find or declare violations of a food adulteration or misbranding statute or rule."

SECTION 2. Article 8 of Chapter 160A of the General Statutes is amended by adding a new section to read:

"**§ 160A-203. Limitations on regulating soft drink sizes.**

No city ordinance may prohibit the sale of soft drinks above a particular size. This section does not prohibit any ordinance regulating the sanitation or other operational aspect of a device for the dispensing of soft drinks. For purposes of this section, "soft drink" shall have the meaning set forth in G.S. 105-164.3."

SECTION 3. Article 6 of Chapter 153A of the General Statutes is amended by adding a new section to read:

"**§ 153A-146. Limitations on regulating soft drink sizes.**

No county ordinance may prohibit the sale of soft drinks above a particular size. This section does not prohibit any ordinance regulating the sanitation or other operational aspect of a device for the dispensing of soft drinks. For purposes of this section, "soft drink" shall have the meaning set forth in G.S. 105-164.3."

SECTION 4. Section 1 of this act becomes effective October 1, 2013, and applies to causes of action arising on or after that date. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 10th day of July, 2013.

Became law upon approval of the Governor at 6:18 p.m. on the 18th day of July, 2013.

Session Law 2013-310 **H.B. 754**

AN ACT AUTHORIZING COMMUNITY COLLEGES TO ACQUIRE REAL PROPERTY BY LEASE PURCHASE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 115D-58.15 reads as rewritten:

"§ **115D-58.15. Lease purchase and installment purchase contracts for ~~equipment.~~equipment and real property.**

(a) Authority. – ~~The~~ Notwithstanding any other provision of law to the contrary, the board of trustees of a community college may use lease purchase or installment purchase contracts to purchase or finance the purchase of equipment or real property as provided in this section. A college shall not have more than five State-funded contracts in effect at any one time.

(b) Contract Approval. – Contracts for more than one hundred thousand dollars ($100,000) or for a term of more than three years shall be subject to review and approval as provided in this subsection. If the source of funds for payment of the obligation by the community college is intended to be local funds, the contract must be approved by resolution of the tax-levying authority, and the authority must acknowledge in writing its understanding that the community college may require appropriations from the tax-levying authority in order to meet the college's obligations under the contract. The tax-levying authority may in each fiscal year appropriate sufficient funds to meet the amounts to be paid during the fiscal year under the contract. The source of funds for lease purchase or installment purchase contracts for real property shall be local funds. If the source of funds for payment of the obligation by the community college is intended to be State funds, the contract must be approved by resolution of the State Board of Community Colleges. The State Board may in each fiscal year allocate sufficient funds to meet the amounts to be paid during the fiscal year under the contract.

(c) Local Government Commission. – A contract that is subject to approval by the tax-levying authority also shall be subject to approval by the Local Government Commission as provided in Article 8 of Chapter 159 of the General Statutes if the contract:

(1) Extends for five or more years from the date of the contract;

(2) Obligates the board of trustees to pay sums of money to another, regardless of whether the payee is a party to the contract; and

(3) Obligates the board of trustees to pay five hundred thousand dollars ($500,000) or more over the full term of the contract.

(d) Application of Section. – When determining whether a contract is subject to approval under this section the total cost of exercising an option to upgrade property shall be taken into consideration. The term of a contract shall include periods that may be added to the original term through the exercise of an option to renew or extend.

(e) Nonsubstitution Clause. – No contract entered into under this section may contain a nonsubstitution clause that restricts the right of a board of trustees to:

(1) Continue to provide a service or activity; or

(2) Replace or provide a substitute for any property financed or purchased by the contract.

(f) Nonappropriations Clause. – No deficiency judgment may be rendered against any board of trustees, any tax-levying authority, the State Board of Community Colleges, or the State of North Carolina in any action for breach of a contractual obligation authorized by this section. The taxing power of a tax-levying authority and the State is not and may not be pledged directly or indirectly to secure any moneys due under a contract authorized by this section."

SECTION 2. G.S. 115D-20(11) reads as rewritten:

"(11) To enter into lease purchase and installment purchase contracts for equipment and real property under G.S. 115D-58.15."

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

In the General Assembly read three times and ratified this the 10th day of July, 2013.

Became law upon approval of the Governor at 6:18 p.m. on the 18th day of July, 2013.

Session Law 2013-311 **H.B. 816**

AN ACT TO AUTHORIZE TOBACCO GROWERS TO ASSESS THEMSELVES TO PROMOTE THE INTERESTS OF TOBACCO GROWERS.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 106 of the General Statutes is amended by adding a new Article to read:

"Article 50D.

"Tobacco Growers Assessment Act.

"§ **106-568.40. Title.**

This Article shall be known as the "Tobacco Growers Assessment Act."

"§ **106-568.41. Purpose.**

It is in the public interest for the State to enable growers of tobacco to assess themselves in order to raise funds to promote the interests of tobacco growers. This assessment shall be in addition to the assessment authorized by Article 50C of Chapter 106 of the General Statutes to promote export sales of tobacco and the assessment authorized by Article 50A of Chapter 106 of the General Statutes for tobacco research.

"§ **106-568.42. Definitions.**

The following definitions apply in this Article:

(1) Association. – The Tobacco Growers Association of North Carolina, Inc., a North Carolina nonprofit corporation.

(2) Buyer. – Any person engaged in the business of buying tobacco from a producer of tobacco grown in North Carolina, including a broker, dealer, or agent of the buyer.

(3) Department. – The North Carolina Department of Agriculture and Consumer Services.
(4) Person. – An individual, a partnership, a firm, or a corporation.
(5) Tobacco. – Flue-cured tobacco.
(6) Tobacco grower. – A person who (i) is a North Carolina resident, (ii) owns, manages, or has a financial interest in tobacco production, and (iii) is actively involved in tobacco production.

"**§ 106-568.43. Referendum.**

(a) The Association may conduct among tobacco growers a referendum upon the question of whether an assessment shall be levied on tobacco sold in this State.

(b) The Association shall determine the amount of the proposed assessment and the date by which the referendum ballot must be returned by mail as provided in this section.

(c) The amount of the proposed assessment shall be stated on the referendum ballot. The amount may not exceed fifteen cents (15¢) for each hundred pounds of tobacco marketed in this State. If the assessment is approved in the referendum, the Association may set the assessment at an amount equal to or less than the amount stated on the ballot. If the Association sets a lower amount than the amount approved by referendum, it may increase the amount annually without a referendum by no more than one cent (1¢) for each hundred pounds of tobacco marketed. The increased rate may not exceed the amount approved by referendum and may not exceed the maximum allowable rate of fifteen cents (15¢) for each hundred pounds.

(d) The Association shall mail a referendum ballot to all known tobacco growers in the State for whom the Association has a current and valid mailing address at least three months prior to the date the ballot must be returned. Additionally, the Association must, for the greater of three months or 90 days before the date the ballot must be returned, (i) provide a printable referendum ballot on the Association's official Web site and (ii) make hard copies of the referendum ballot available at all county North Carolina Cooperative Extension Service offices. The ballots shall be returned to the Commissioner of Agriculture by the date set by the Association. The Department shall be responsible for counting the votes and reporting the results of the referendum to the Association.

(e) All tobacco growers may vote in the referendum. Any dispute over eligibility to vote or any other matter relating to the referendum shall be determined by the Association. The Association shall make reasonable efforts to provide tobacco growers with notice of the referendum and an opportunity to vote.

"**§ 106-568.44. Payment and collection of assessment.**

(a) The assessment shall not be collected unless more than two-thirds of the votes cast in the referendum are in favor of the assessment. If more than two-thirds of the votes cast in the referendum are in favor of the assessment, then the Association shall notify the Department of the amount of the assessment and the effective date of the assessment. The Department shall notify all tobacco buyers of the assessment.

(b) Each tobacco producer shall pay the assessment on all tobacco sold to a buyer.

(c) A buyer shall collect the assessment when buying tobacco by deducting the assessment from the price paid to the producer. The buyer shall remit collected assessments to the Department no later than the 10th day of the following month. The Department shall provide forms to buyers for reporting the assessment. If the total assessments collected by a buyer in a month are less than twenty-five dollars ($25.00), the buyer may keep the assessments until the total amount due is at least twenty-five dollars ($25.00) or the end of the calendar quarter, whichever comes first. All buyers shall file at least one report in each calendar quarter in which they purchase tobacco from a producer, regardless of the amount due.

(d) A buyer shall keep records of the amount of tobacco purchased and the date purchased. All information or records regarding purchases of tobacco by individual buyers shall be kept confidential by employees or agents of the Department and the Association and shall not be disclosed except by court order.

(e) The Association may bring an action to recover any unpaid assessments, plus the reasonable costs, including attorneys' fees, incurred in the action.

"**§ 106-568.45. Use of assessments; refunds; annual audit.**

(a) At least once per month, the Department shall remit all funds collected under this Article to the Association. The Association shall use the funds to promote the interests of tobacco growers. The Association shall prepare an annual report on the assessment funds collected and the use of assessment funds. The Association shall publicly post the annual report on its official Web site at least 30 days before the Association's annual meeting. Copies of the annual report shall be made available to growers at the Association's annual meeting, and a copy shall also be sent to the Commissioner of Agriculture.

(b) A tobacco grower may request a refund of the assessment collected under this Article by submitting a written request for a refund to the Association postmarked on or before December 31 of the same year. A refund request shall be accompanied by proof of payment of the assessment satisfactory to the Association. The Association shall mail a refund to the grower within 30 days of receipt of a properly documented refund request.

(c) The Association shall designate a third party to conduct an annual audit of the implementation of this Article. The Association shall also designate the time at which the audit may be conducted each year, provided that the results of the audit be available before or in conjunction with the annual report.

"**§ 106-568.46. Termination of assessment.**

Upon receipt of a petition signed by at least ten percent (10%) of the tobacco growers in North Carolina known to the Association, the Department shall notify the Association, and the Association shall, within six months, conduct a referendum upon the question of continuing the assessment. If a majority of the votes cast in the referendum are against continuing the assessment, or if the Association fails to conduct a referendum within the six-month period, the assessment expires at the end of the six-month period. If a majority of the votes cast in the referendum are in favor of continuing the assessment, then no subsequent referendum shall be held for at least three years."

SECTION 2. This act is effective when it becomes law. The Tobacco Growers Association of North Carolina, Inc., may conduct a referendum at any time after the effective date of this act.

In the General Assembly read three times and ratified this the 11th day of July, 2013.

Became law upon approval of the Governor at 6:18 p.m. on the 18th day of July, 2013.

Session Law 2013-312 **H.B. 828**

AN ACT UPDATING THE PHYSICAL THERAPY PRACTICE ACT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 90-270.25 reads as rewritten:

"**§ 90-270.25. Board of Examiners.**

The North Carolina Board of Physical Therapy Examiners is hereby created. The Board shall consist of eight members, including one medical doctor licensed and residing in North Carolina, four physical therapists, two physical therapist assistants, and one public member. The public member shall be appointed by the Governor and shall be a person who is not licensed under Chapter 90 who shall represent the interest of the public at large. The medical doctor, physical therapists, and physical therapists assistants shall be appointed by the Governor from a list compiled by the North Carolina Physical Therapy Association, Inc., following the use of a nomination procedure made available to all physical therapists and physical therapist assistants licensed and residing in North Carolina. In soliciting nominations and compiling its list, the Association will give consideration to geographic distribution, practice setting (institution, independent, academic, etc.), and other factors that will promote

representation of all aspects of physical therapy practice on the Board. The records of the operation of the nomination procedure shall be filed with the Board, to be available for a period of six months following nomination, for reasonable inspection by any licensed practitioner. Each physical therapist member of the Board shall be licensed and reside in this State; provided that the physical therapist shall have not less than three years' experience as a physical therapist immediately preceding appointment and shall be actively engaged in the practice of physical therapy in North Carolina during incumbency. Each physical therapist assistant member shall be licensed and reside in this State; provided that the physical therapist assistant shall have not less than three years' experience as a physical therapist assistant immediately preceding appointment and shall be actively engaged in practice as a physical therapist assistant in North Carolina during incumbency.

Members shall be appointed to serve three-year terms, or until their successors are appointed, to commence on January 1 in respective years. In the event that a member of the Board for any reason shall become ineligible to or cannot complete a term of office, another appointment shall be made by the Governor, in accordance with the procedure stated above, to fill the remainder of the term. No member may serve for more than two successive three-year terms.

The Board may immediately remove a member from the Board if the member is found by the remainder of the Board to have (i) ceased to meet the qualifications specified in this section, (ii) failed to attend three successive Board meetings without just cause, (iii) violated any of the provisions of this Article or rules adopted by the Board, or (iv) otherwise engaged in immoral, dishonorable, unprofessional, or unethical conduct. Before removing a Board member for immoral, dishonorable, unprofessional, or unethical conduct, the Board shall further find that the relevant conduct has compromised the integrity of the Board.

The Board each year shall designate one of its physical therapist members as chairman and one member as secretary-treasurer. Each member of the Board shall receive such per diem compensation and reimbursement for travel and subsistence as shall be set for licensing boards generally."

SECTION 2. G.S. 90-270.26 reads as rewritten:

"§ **90-270.26. Powers of the Board.**

The Board shall have the following general powers and duties:

(1) Examine and determine the qualifications and fitness of applicants for a license to practice physical therapy in this ~~State;~~State.

(2) Issue, renew, deny, suspend, or revoke licenses to practice physical therapy in this State, or reprimand or otherwise discipline licensed physical therapists and physical therapist ~~assistants;~~assistants.

(3) Conduct confidential investigations for the purpose of determining whether violations of this Article or grounds for disciplining licensed physical therapists or physical therapist assistants ~~exist;~~exist. Investigation records shall not be considered public records under Chapter 132 of the General Statutes. These records are privileged and are not subject to discovery, subpoena, or other means of legal compulsion for release to any person other than the Board or its employees or consultants, except as provided in this section. However, any Board decisions rendered, hearing notices and statements of charges, and any material received and admitted into evidence at Board hearings shall be public records, regardless of whether the notices, statements, or materials are developed or compiled as a result of an investigation; provided that identifying information concerning the treatment or delivery of professional services to a patient who has not consented to its public disclosure may be deleted or redacted.

(3a) Establish mechanisms for assessing the continuing competence of licensed physical therapists or physical therapist assistants to engage in the practice of physical therapy, including approving rules requiring licensees to

periodically, or in response to complaints or incident reports, submit to the Board: (i) evidence of continuing education experiences; (ii) evidence of minimum standard accomplishments; or (iii) evidence of compliance with other Board-approved measures, audits, or evaluations; and specify remedial actions if necessary or desirable to obtain license renewal or ~~reinstatement;~~reinstatement.

(4) Employ such professional, clerical or special personnel necessary to carry out the provisions of this Article, and may purchase or rent necessary office space, equipment and ~~supplies;~~supplies.

(5) Conduct administrative hearings in accordance with Chapter 150B of the General Statutes when a "contested case" as defined in G.S. 150B-2(2) arises under this ~~Article;~~Article.

(6) Appoint from its own membership one or more members to act as representatives of the Board at any meeting where such representation is deemed ~~desirable;~~desirable.

(7) Establish reasonable fees for applications for examination, certificates of licensure and renewal, and other services provided by the ~~Board;~~Board.

(8) Adopt, amend, or repeal any rules or regulations necessary to carry out the purposes of this Article and the duties and responsibilities of the ~~Board.~~Board.

(9) Request the Department of Justice to provide criminal history record checks pursuant to G.S. 90-270.29A in connection with licensure.

(10) Issue subpoenas, on signature of the Board Chair or Executive Director, to compel the attendance of any witness or the production of any documents relative to investigations or Board proceedings. Upon written request, the Board shall revoke a subpoena if, upon a hearing, it finds that the evidence sought does not relate to a matter in issue, the subpoena does not describe with sufficient particularity the evidence sought, or for any other reason in law the subpoena is invalid.

(11) Establish or participate in programs for aiding in the recovery and rehabilitation of physical therapists and physical therapist assistants who experience chemical or alcohol addiction or abuse or mental health problems.

(12) Acquire, hold, rent, encumber, alienate, and otherwise deal with real property in the same manner as a private person or corporation, subject only to approval of the Governor and the Council of State. Collateral pledged by the Board for an encumbrance is limited to the assets, income, and revenues of the Board.

The powers and duties enumerated above are granted for the purpose of enabling the Board to safeguard the public health, safety and welfare against unqualified or incompetent practitioners of physical therapy, and are to be liberally construed to accomplish this objective. In instances where the Board makes a decision to discipline physical therapists or physical therapist assistants under powers set out by any of subsections (2) through (5) of this section, it may as part of its decision charge the reasonable costs of investigation and hearing to the person disciplined."

SECTION 3. Article 18B of Chapter 90 of the General Statutes is amended by adding the following new section to read:

"§ **90-270.29A. Criminal history record checks of applicants for licensure.**

(a) All applicants for licensure shall consent to a criminal history record check. Refusal to consent to a criminal history record check may constitute grounds for the Board to deny licensure to an applicant. The Board shall be responsible for providing to the North Carolina Department of Justice the fingerprints of the applicant to be checked, a form signed by the applicant consenting to the criminal history record check and the use of fingerprints and other

identifying information required by the State or National Repositories, and any additional information required by the Department of Justice. The Board shall keep all information obtained pursuant to this section confidential.

(b) The cost of the criminal history record check and the fingerprinting shall be borne by the applicant. The Board shall collect any fees required by the Department of Justice and shall remit the fees to the Department of Justice for expenses associated with conducting the criminal history record check.

(c) If an applicant's criminal history record reveals one or more criminal convictions, the conviction shall not automatically bar licensure. The Board shall consider all of the following factors regarding the conviction:

(1) The level of seriousness of the crime.
(2) The date of the crime.
(3) The age of the person at the time of the conviction.
(4) The circumstances surrounding the commission of the crime, if known.
(5) The nexus between the criminal conduct of the person and the job duties of the position to be filled.
(6) The person's prison, jail, probation, parole, rehabilitation, and employment records since the date the crime was committed.

If, after reviewing the factors, the Board determines that any of the grounds set forth in the subdivisions of G.S. 90-270.36 exist, the Board may deny licensure of the applicant. The Board may disclose to the applicant information contained in the criminal history record that is relevant to the denial if disclosure of the information is permitted by applicable State and federal law. The Board shall not provide a copy of the criminal history record to the applicant. The applicant shall have the right to appear before the Board to appeal the Board's decision. However, an appearance before the full Board shall constitute an exhaustion of administrative remedies in accordance with Chapter 150B of the General Statutes.

(d) The Board, its officers, and employees, acting in good faith and in compliance with this section, shall be immune from civil liability for denying licensure to an applicant based on information provided in the applicant's criminal history record."

SECTION 4. G.S. 90-270.30 reads as rewritten:

"§ **90-270.30. Licensure of foreign-trained physical therapists.**

Any person who has been trained as a physical therapist or physical therapist assistant in a foreign ~~county [country]~~country and desires to be licensed under this Article and who:

(1) Is of good moral character;
(2) Holds a diploma from an educational program for physical therapists or physical therapist assistants approved by the ~~Board:~~Board;
(3) Submits documentary evidence to the Board of completion of a course of instruction substantially equivalent to that obtained by an applicant for licensure under G.S. 90-270.29; and
(4) Demonstrates satisfactory proof of proficiency in the English language;

may make application on a form furnished by the Board for examination as a foreign-trained physical ~~therapist.~~therapist or physical therapist assistant. At the time of making such application, the applicant shall pay to the secretary-treasurer of the Board the fee prescribed by the Board, no portion of which shall be returned."

SECTION 5. G.S. 90-270.34(a) is amended by adding the following new subdivisions to read:

"(a) The following persons shall be permitted to practice physical therapy or assist in the practice in this State without obtaining a license under this Article upon the terms and conditions specified herein:

…

(7) Physical therapists or physical therapist assistants who are licensed in another jurisdiction of the United States or credentialed in another country, if that person by contract or employment is providing physical therapy to

individuals affiliated with or employed by established athletic teams, athletic organizations, or performing arts companies temporarily practicing, competing, or performing in this State for no more than 60 days in a calendar year;

(8) Physical therapists or physical therapist assistants licensed in another jurisdiction of the United States who enter this State to provide physical therapy during a declared local, State, or national disaster or emergency. The exemption applies no longer than the standard annual renewal time in the State. To be eligible for the exemption, the licensee shall notify the Board of the licensee's intent to practice physical therapy pursuant to this subdivision;

(9) Physical therapists or physical therapist assistants licensed in another jurisdiction of the United States who are forced to leave their residence or place of employment due to a declared local, State, or national disaster or emergency and, due to such displacement, need to practice physical therapy. The exemption applies no longer than the standard annual renewal time but may be renewed by the Board for additional periods. To be eligible for the exemption, the licensee shall notify the Board of the licensee's intent to practice physical therapy pursuant to this subdivision."

SECTION 6. Article 4 of Chapter 114 of the General Statutes is amended by adding the following new section to read:

"**§ 114-19.33. Criminal history record checks of applicants for licensure as physical therapists or physical therapist assistants.**

The Department of Justice may provide to the North Carolina Board of Physical Therapy Examiners a criminal history record from the State and National Repositories of Criminal Histories for applicants for licensure by the Board. Along with a request for criminal history records, the Board shall provide to the Department of Justice the fingerprints of the applicant or subject, a form signed by the applicant consenting to the criminal history record check and use of the fingerprints and other identifying information required by the Repositories, and any additional information required by the Department. The fingerprints shall be forwarded to the State Bureau of Investigation for a search of the State's criminal history record file, and the State Bureau of Investigation shall forward a set of fingerprints to the Federal Bureau of Investigation for a national criminal history record check. The Board shall keep all information obtained pursuant to this section confidential. The Department of Justice may charge a fee to offset the cost incurred by the Department of Justice to conduct a criminal history record check under this section, but the fee shall not exceed the actual cost of locating, editing, researching, and retrieving the information."

SECTION 7. This act becomes effective October 1, 2013.

In the General Assembly read three times and ratified this the 10th day of July, 2013.

Became law upon approval of the Governor at 6:18 p.m. on the 18th day of July, 2013.

Session Law 2013-313 **H.B. 917**

AN ACT ADOPTING THE DUBLIN PEANUT FESTIVAL AS THE STATE OFFICIAL PEANUT FESTIVAL.

Whereas, Dublin, North Carolina, is the official home of the Dublin Peanut Festival; and

Whereas, the community of Dublin has celebrated the Dublin Peanut Festival on the third Saturday in September for over 20 years; and

Whereas, the community festival began on September 18, 1993, as a way to help build a gymnasium/multipurpose building for the community and the Dublin Elementary School; and

Whereas, the goal of the festival is to make the community and local schools stronger; and

Whereas, the Dublin Peanut Festival provides family-oriented activities, such as a pageant, parade, games, entertainment, food vendors, craft shows, and firemen's competition; and

Whereas, it is estimated that the Dublin Peanut Festival brings in over 2,000 visitors annually; and

Whereas, staging of the festival could not be accomplished without the support of the Dublin Peanut Festival Committee, Committee Chair, volunteers, local businesses, Dublin's governmental officials, and the community; Now, therefore,

The General Assembly of North Carolina enacts:

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

"**§ 145-47. State peanut festival.**

The Dublin Peanut Festival, held the third Saturday of September of every year, is adopted as the official peanut festival of the State of North Carolina."

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

In the General Assembly read three times and ratified this the 10th day of July, 2013.

Became law upon approval of the Governor at 6:18 p.m. on the 18th day of July, 2013.

Session Law 2013-314 **H.B. 614**

AN ACT TO PROVIDE THAT AGRICULTURAL AND FORESTRY OPERATIONS ARE NOT NUISANCES UNDER CERTAIN CIRCUMSTANCES AND TO PROVIDE FOR THE AWARD OF COSTS AND ATTORNEYS' FEES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 106-701 reads as rewritten:

"§ **106-701. When agricultural and forestry operation, etc., not constituted nuisance by changed conditions in or about the ~~locality.~~locality outside of the operation.**

(a) No agricultural or forestry operation or any of its appurtenances shall be or become a nuisance, private or public, by any changed conditions in or about the locality ~~thereof~~outside of the operation after the ~~same~~operation has been in operation for more than one year, when such operation was not a nuisance at the time the operation ~~began; provided, that the provisions of this subsection shall not apply whenever a nuisance results from the negligent or improper operation of any such agricultural or forestry operation or its appurtenances.~~began.

(a1) The provisions of subsection (a) of this section shall not apply when the plaintiff demonstrates that the agricultural or forestry operation has undergone a fundamental change. A fundamental change to the operation does not include any of the following:

(1) A change in ownership or size.

(2) An interruption of farming for a period of no more than three years.

(3) Participation in a government-sponsored agricultural program.

(4) Employment of new technology.

(5) A change in the type of agricultural or forestry product produced.

(a2) The provisions of subsection (a) of this section shall not apply whenever a nuisance results from the negligent or improper operation of any agricultural or forestry operation or its appurtenances.

(b) For the purposes of this Article, "agricultural operation" includes, without limitation, any facility for the production for commercial purposes of crops, livestock, poultry, livestock products, or poultry products.

(b1) For the purposes of this Article, "forestry operation" shall mean those activities involved in the growing, managing, and harvesting of ~~trees, but not sawmill operations.~~trees.

(c) The provisions of subsection (a) shall not affect or defeat the right of any person, firm, or corporation to recover damages for any injuries or damages sustained by him on account of any pollution of, or change in condition of, the waters of any stream or on the account of any overflow of lands of any such person, firm, or corporation.

(d) Any and all ordinances of any unit of local government now in effect or hereafter adopted that would make the operation of any such agricultural or forestry operation or its appurtenances a nuisance or providing for abatement thereof as a nuisance in the circumstance set forth in this section are and shall be null and void; provided, however, that the provisions of this subsection shall not apply whenever a nuisance results from the negligent or improper operation of any such agricultural or forestry operation or any of its appurtenances. Provided further, that the provisions shall not apply whenever a nuisance results from an agricultural or forestry operation located within the corporate limits of any city at the time of enactment hereof.

(e) This section shall not be construed to invalidate any contracts heretofore made but insofar as contracts are concerned, it is only applicable to contracts and agreements to be made in the future.

(f) In a nuisance action against an agricultural or forestry operation, the court shall award costs and expenses, including reasonable attorneys' fees, to:

(1) The agricultural or forestry operation when the court finds the operation was not a nuisance and the nuisance action was frivolous or malicious; or

(2) The plaintiff when the court finds the agricultural or forestry operation was a nuisance and the operation asserted an affirmative defense in the nuisance action that was frivolous and malicious."

SECTION 2. G.S. 7A-38.3(h) reads as rewritten:

"§ **7A-38.3. Prelitigation mediation of farm nuisance disputes.**

…

(h) Time Periods Tolled. – ~~Time periods relating to the filing of a claim or the taking of other action with respect to a farm nuisance dispute, including any~~ Any applicable statutes of ~~limitations,~~ limitations relating to a farm nuisance dispute shall be tolled upon the filing of a request for mediation under this section, until 30 days after the date on which the mediation is concluded as set forth in the mediator's certification, or if the mediator fails to set forth such date, until 30 days after the filing of the certification under subsection (g) of this section. The filing of a request for prelitigation mediation under subsection (d) of this section does not constitute the commencement or the bringing of an action involving a farm nuisance dispute."

SECTION 3. This act is effective when it becomes law and applies to actions commenced or brought on or after that date.

In the General Assembly read three times and ratified this the 17th day of July, 2013.

Became law upon approval of the Governor at 6:20 p.m. on the 18th day of July, 2013.

Session Law 2013-315 **H.B. 191**

AN ACT REMOVING CERTAIN DESCRIBED PROPERTY FROM THE CORPORATE LIMITS OF THE TOWN OF GRIFTON.

The General Assembly of North Carolina enacts:

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

Lying and being in Grifton Township, Pitt County, North Carolina and BEING all of Lot 3, containing 1.7743 acres as said lot is depicted and shown upon that map entitled, "Mills Commercial Center," drawn by Billy Lee Merrill, R.L.S., dated January 27, 1989,

recorded in Map Book 37, Page 104, Pitt County Registry, reference to which is hereby made for a more complete and accurate description of the aforesaid lot.

SECTION 2. This act has no effect upon the validity of any liens of the Town of Grifton for ad valorem taxes or special assessments outstanding before the effective date of this act. Such liens may be collected or foreclosed upon after the effective date of this act as though the property were still within the corporate limits of the Town of Grifton.

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

In the General Assembly read three times and ratified this the 22nd day of July, 2013.

Became law on the date it was ratified.

Session Law 2013-316 **H.B. 998**

AN ACT TO SIMPLIFY THE NORTH CAROLINA TAX STRUCTURE AND TO REDUCE INDIVIDUAL AND BUSINESS TAX RATES.

The General Assembly of North Carolina enacts:

PART I. INDIVIDUAL INCOME TAX CHANGES

SECTION 1.1.(a) The following statutes are recodified as indicated:

Current Statute	Recodified Statute
G.S. 105-133	G.S. 105-153.1
G.S. 105-134	G.S. 105-153.2
G.S. 105-134.1	G.S. 105-153.3
G.S. 105-134.5	G.S. 105-153.4
G.S. 105-151	G.S. 105-153.9
G.S. 105-151.24	G.S. 105-153.10
G.S. 105-152	G.S. 105-153.8

SECTION 1.1.(b) The following statutes are repealed:

G.S. 105-134.2
G.S. 105-134.3
G.S. 105-134.6
G.S. 105-134.7
G.S. 105-134.8
G.S. 105-151.1
G.S. 105-151.11
G.S. 105-151.12
G.S. 105-151.13
G.S. 105-151.14
G.S. 105-151.18
G.S. 105-151.20
G.S. 105-151.21
G.S. 105-151.25
G.S. 105-151.26
G.S. 105-151.33

SECTION 1.1.(c) G.S. 105-134.1, recodified by this Part as G.S. 105-153.3, reads as rewritten:

"§ **105-153.3. Definitions.**

The following definitions apply in this Part:

(1) Adjusted gross income. – Defined in section 62 of the Code.

~~(1a)~~(2) Code. – Defined in G.S. 105-228.90.

~~(2)~~(3) Department. – The Department of Revenue.

~~(3)~~(4) Educational institution. – An educational institution that normally maintains a regular faculty and curriculum and normally has a regularly organized body of students in attendance at the place where its educational activities are carried on.

~~(4)~~(5) Fiscal year. – Defined in section 441(e) of the Code.

~~(5)~~(6) Gross income. – Defined in section 61 of the Code.

~~(6)~~(7) Head of household. – Defined in section 2(b) of the Code.

~~(7)~~(8) Individual. – A human being.

~~(7a)~~(9) Limited liability company. – Either a domestic limited liability company organized under Chapter 57C of the General Statutes or a foreign limited liability company authorized by that Chapter to transact business in this State that is classified for federal income tax purposes as a partnership. As applied to a limited liability company that is a partnership under this Part, the term "partner" means a member of the limited liability company.

~~(7b) Repealed by Session Laws 1998-98, s. 9, effective August 14, 1998.~~

~~(8)~~(10) Married individual. – An individual who is married and is considered married as provided in section 7703 of the Code.

~~(9)~~(11) Nonresident individual. – An individual who is not a resident of this State.

~~(10)~~(12) North Carolina taxable income. – Defined in ~~G.S. 105-134.5.~~G.S. 105-153.5.

~~(10a)~~(13) Partnership. – A domestic partnership, a foreign partnership, or a limited liability company.

~~(11)~~(14) Person. – Defined in G.S. 105-228.90.

~~(12)~~(15) Resident. – An individual who is domiciled in this State at any time during the taxable year or who resides in this State during the taxable year for other than a temporary or transitory purpose. In the absence of convincing proof to the contrary, an individual who is present within the State for more than 183 days during the taxable year is presumed to be a resident, but the absence of an individual from the state for more than 183 days raises no presumption that the individual is not a resident. A resident who removes from the State during a taxable year is considered a resident until he has both established a definite domicile elsewhere and abandoned any domicile in this State. The fact of marriage does not raise any presumption as to domicile or residence.

~~(13) Retirement benefits. – Amounts paid to a former employee or the beneficiary of a former employee under a written retirement plan established by the employer to provide payments to an employee or the beneficiary of an employee after the end of the employee's employment with the employer where the right to receive the payments is based upon the employment relationship. With respect to a self-employed individual or the beneficiary of a self-employed individual, the term means amounts paid to the individual or beneficiary of the individual under a written retirement plan established by the individual to provide payments to the individual or the beneficiary of the individual after the end of the self-employment. In addition, the term includes amounts received from an individual retirement account described in section 408 of the Code or from an individual retirement annuity described in section 408 of the Code. For the purpose of this subdivision, the term "employee" includes a volunteer worker.~~

~~(14)~~(16) S Corporation. – Defined in G.S. 105-131(b).

~~(15)~~(17) Secretary. – The Secretary of Revenue.

~~(16) Repealed by Session Laws 2011-145, s. 31A.1(a), effective for taxable years beginning on or after January 1, 2012.~~

~~(17)~~(18) Taxable year. – Defined in section 441(b) of the Code.

~~(18)~~(19) Taxpayer. – An individual subject to the tax imposed by this Part.

~~(19)~~(20) This State. – The State of North Carolina."

SECTION 1.1.(d) Part 2 of Article 4 of Chapter 105 of the General Statutes is amended by adding the following new sections to read:

"**§ 105-153.5. Modifications to adjusted gross income.**

(a) Deduction Amount. – In calculating North Carolina taxable income, a taxpayer may deduct from adjusted gross income either the standard deduction amount provided in subdivision (1) of this subsection or the itemized deduction amount provided in subdivision (2) of this subsection that the taxpayer claimed under the Code. In the case of a married couple filing separate returns, a taxpayer may not deduct the standard deduction amount if the taxpayer or the taxpayer's spouse claims the itemized deductions amount.

(1) Standard deduction amount. – An amount equal to the amount listed in the table below based on the taxpayer's filing status:

Filing Status	**Standard Deduction**
Married, filing jointly	$15,000
Head of Household	12,000
Single	7,500
Married, filing separately	7,500.

(2) Itemized deduction amount. – An amount equal to the sum of the items listed in this subdivision. The amounts allowed under this subdivision are not subject to the overall limitation on itemized deductions under section 68 of the Code.

a. The amount allowed as a deduction for charitable contributions under section 170 of the Code for that taxable year.

b. The amount allowed as a deduction for interest paid or accrued during the taxable year under section 163(h) of the Code with respect to any qualified residence plus the amount claimed by the taxpayer as a deduction for property taxes paid or accrued on real estate under section 164 of the Code for that taxable year. The amount allowed under this sub-subdivision may not exceed twenty thousand dollars ($20,000).

(b) Other Deductions. – In calculating North Carolina taxable income, a taxpayer may deduct from the taxpayer's adjusted gross income any of the following items that are included in the taxpayer's adjusted gross income:

(1) Interest upon the obligations of any of the following:

a. The United States or its possessions.

b. This State, a political subdivision of this State, or a commission, an authority, or another agency of this State or of a political subdivision of this State.

c. A nonprofit educational institution organized or chartered under the laws of this State.

(2) Gain from the disposition of obligations issued before July 1, 1995, to the extent the gain is exempt from tax under the laws of this State.

(3) Benefits received under Title II of the Social Security Act and amounts received from retirement annuities or pensions paid under the provisions of the Railroad Retirement Act of 1937.

(4) Refunds of State, local, and foreign income taxes included in the taxpayer's gross income.

(5) The amount received during the taxable year from one or more State, local, or federal government retirement plans to the extent the amount is exempt from tax under this Part pursuant to a court order in settlement of any of the following cases:

a. Bailey v. State, 92 CVS 10221, 94 CVS 6904, 95 CVS 6625, 95 CVS 8230.
b. Emory v. State, 98 CVS 0738.
c. Patton v. State, 95 CVS 04346.

(6) Income that meets both of the following requirements:
a. Is earned or received by an enrolled member of a federally recognized Indian tribe.
b. Is derived from activities on a federally recognized Indian reservation while the member resides on the reservation. Income from intangibles having a situs on the reservation and retirement income associated with activities on the reservation are considered income derived from activities on the reservation.

(7) The amount by which the basis of property under this Article exceeds the basis of the property under the Code, in the year the taxpayer disposes of the property.

(8) The amount allowed as a deduction under G.S. 105-153.6 as a result of an add-back for federal accelerated depreciation and expensing.

(c) Additions. – In calculating North Carolina taxable income, a taxpayer must add to the taxpayer's adjusted gross income any of the following items that are not included in the taxpayer's adjusted gross income:

(1) Interest upon the obligations of states other than this State, political subdivisions of those states, and agencies of those states and their political subdivisions.

(2) The amount by which a shareholder's share of S Corporation income is reduced under section 1366(f)(2) of the Code for the taxable year by the amount of built-in gains tax imposed on the S Corporation under section 1374 of the Code.

(3) The amount by which the basis of property under the Code exceeds the basis of the property under this Article, in the year the taxpayer disposes of the property.

(4) The amount excluded from gross income under section 199 of the Code.

(5) The amount required to be added under G.S. 105-153.6 when the State decouples from federal accelerated depreciation and expensing.

(d) S Corporations. – Each shareholder's pro rata share of an S Corporation's income is subject to the adjustments provided in this section and in G.S. 105-153.6.

"**§ 105-153.6. Adjustments when State decouples from federal accelerated depreciation and expensing.**

(a) Special Accelerated Depreciation. – A taxpayer who takes a special accelerated depreciation deduction for that property under section 168(k) or 168(n) of the Code must add to the taxpayer's federal taxable income or adjusted gross income, as appropriate, eighty-five percent (85%) of the amount taken for that year under those Code provisions. For taxable years before 2012, the taxpayer must add the amount to the taxpayer's federal taxable income. For taxable year 2012 and after, the taxpayer must add the amount to the taxpayer's adjusted gross income. A taxpayer is allowed to deduct twenty percent (20%) of the add-back in each of the first five taxable years following the year the taxpayer is required to include the add-back in income.

(b) 2009 Depreciation Exception. – A taxpayer who placed property in service during the 2009 taxable year and whose North Carolina taxable income for the 2009 taxable year reflected a special accelerated depreciation deduction allowed for the property under section 168(k) of the Code must add eighty-five percent (85%) of the amount of the special accelerated depreciation deduction to its federal taxable income for the 2010 taxable year. A taxpayer is allowed to deduct this add-back under subsection (a) of this section as if it were for property placed in service in 2010.

(c) Section 179 Expense. – For purposes of this subdivision, the definition of section 179 property has the same meaning as under section 179 of the Code as of January 2, 2013. A taxpayer who places section 179 property in service during a taxable year listed in the table below must add to the taxpayer's federal taxable income or adjusted gross income, as appropriate, eighty-five percent (85%) of the amount by which the taxpayer's expense deduction under section 179 of the Code exceeds the dollar and investment limitation listed in the table below for that taxable year. For taxable years before 2012, the taxpayer must add the amount to the taxpayer's federal taxable income. For taxable year 2012 and after, the taxpayer must add the amount to the taxpayer's adjusted gross income.

A taxpayer is allowed to deduct twenty percent (20%) of the add-back in each of the first five taxable years following the year the taxpayer is required to include the add-back in income.

Taxable Year of 85% Add-Back	**Dollar Limitation**	**Investment Limitation**
2010	$250,000	$800,000
2011	$250,000	$800,000
2012	$250,000	$800,000
2013	$25,000	$125,000

(d) Asset Basis. – The adjustments made in this section do not result in a difference in basis of the affected assets for State and federal income tax purposes.

"**§ 105-153.7. Individual income tax imposed.**

(a) Tax. – A tax is imposed for each taxable year on the North Carolina taxable income of every individual. The tax shall be levied, collected, and paid annually. The tax is five and eight-tenths percent (5.8%) of the taxpayer's North Carolina taxable income.

(b) Withholding Tables. – The Secretary may provide tables that compute the amount of tax due for a taxable year under this Part. The tables do not apply to an individual who files a return under section 443(a)(1) of the Code for a period of less than 12 months due to a change in the individual's annual accounting period or to an estate or trust."

SECTION 1.1.(e) G.S. 105-151.24(a), recodified by this section as G.S. 105-153.10(a), reads as rewritten:

"(a) Credit. – ~~An individual~~ A taxpayer who is allowed a federal child tax credit under section 24 of the Code for the taxable year ~~and whose adjusted gross income (AGI), as calculated under the Code, is less than the amount listed below~~ is allowed a credit against the tax imposed by this Part ~~in an amount equal to one hundred dollars ($100.00)~~ for each dependent child for whom the ~~individual~~ taxpayer is allowed the federal ~~credit for the taxable year:~~credit. The amount of credit allowed under this section for the taxable year is equal to the amount listed in the table below based on the taxpayer's adjusted gross income, as calculated under the Code:

~~**Filing Status**~~	~~**AGI**~~
~~Married, filing jointly~~	~~$100,000~~
~~Head of Household~~	~~80,000~~
~~Single~~	~~60,000~~
~~Married, filing separately~~	~~50,000.~~

Filing Status	**AGI**	**Credit Amount**
Married, filing jointly	Up to $40,000	$125.00
	Over $40,000	
	Up to $100,000	$100.00
	Over $100,000	0
Head of Household	Up to $32,000	$125.00
	Over $32,000	
	Up to $80,000	$100.00
	Over $80,000	0

Single	Up to $20,000	$125.00
	Over $20,000	
	Up to $50,000	$100.00
	Over $50,000	0
Married, filing separately	Up to $20,000	$125.00
	Over $20,000	
	Up to $50,000	$100.00
	Over $50,000	0."

SECTION 1.1.(f) This section is effective for taxable years beginning on or after January 1, 2014.

SECTION 1.2.(a) G.S. 105-153.7(a), as enacted by Section 1.1 of this Part, reads as rewritten:

"(a) Tax. – A tax is imposed for each taxable year on the North Carolina taxable income of every individual. The tax shall be levied, collected, and paid annually. The tax is five and ~~eight tenths percent (5.8%)~~ seventy-five hundredths percent (5.75%) of the taxpayer's North Carolina taxable income."

SECTION 1.2.(b) This section is effective for taxable years beginning on or after January 1, 2015.

SECTION 1.3.(a) G.S. 105-131.2(a) reads as rewritten:

"(a) Adjustment. – Each shareholder's pro rata share of an S Corporation's income is subject to the adjustments provided in ~~G.S. 105-134.6.~~G.S. 105-153.5 and G.S. 105-153.6."

SECTION 1.3.(b) G.S. 105-131.7(c) reads as rewritten:

"(c) An S Corporation shall file with the Department, on a form prescribed by the Secretary, the agreement of each nonresident shareholder of the corporation (i) to file a return and make timely payment of all taxes imposed by this State on the shareholder with respect to the income of the S Corporation, and (ii) to be subject to personal jurisdiction in this State for purposes of the collection of any unpaid income tax, together with related interest and penalties, owed by the nonresident shareholder. If the corporation fails to timely file an agreement required by this subsection on behalf of any of its nonresident shareholders, then the corporation shall at the time specified in subsection (d) of this section pay to the Department on behalf of each nonresident shareholder with respect to whom an agreement has not been timely filed an estimated amount of the tax due the State. The estimated amount of tax due the State shall be computed at the ~~rates levied in G.S. 105-134.2(a)(3)~~ rate levied in G.S. 105-153.7 on the shareholder's pro rata share of the S Corporation's income attributable to the State reflected on the corporation's return for the taxable period. An S Corporation may recover a payment made pursuant to the preceding sentence from the shareholder on whose behalf the payment was made."

SECTION 1.3.(c) G.S. 105-134.5, recodified by this Part as G.S. 105-153.4, reads as rewritten:

"§ **105-153.4. North Carolina taxable income defined.**

(a) Residents. – For an individual who is a resident of this State, the term "North Carolina taxable income" means the taxpayer's adjusted gross income as modified in ~~G.S. 105-134.6.~~G.S. 105-153.5 and G.S. 105-153.6.

(b) Nonresidents. – For a nonresident individual, the term "North Carolina taxable income" means the taxpayer's adjusted gross income as modified in ~~G.S. 105-134.6,~~G.S. 105-153.5 and G.S. 105-153.6, multiplied by a fraction the denominator of which is the taxpayer's gross income as modified in ~~G.S. 105-134.6,~~ G.S. 105-153.5 and G.S. 105-153.6, and the numerator of which is the amount of that gross income, as modified, that is derived from North Carolina sources and is attributable to the ownership of any interest in real or tangible personal property in this State, is derived from a business, trade, profession, or occupation carried on in this State, or is derived from gambling activities in this State.

(c) Part-year Residents. – If an individual was a resident of this State for only part of the taxable year, having moved into or removed from the State during the year, the term "North Carolina taxable income" has the same meaning as in subsection (b) of this section except that the numerator includes gross income, as modified under ~~G.S. 105-134.6,~~ G.S. 105-153.5 and G.S. 105-153.6, derived from all sources during the period the individual was a resident.

…."

SECTION 1.3.(d) G.S. 105-152 and G.S. 105-151, recodified by this Part as G.S. 105-153.8 and G.S. 105-153.9, read as rewritten:

"§ **105-153.8. Income tax returns.**

(a) Who Must File. – The following individuals ~~shall~~ must file with the Secretary an income tax return under affirmation:

(1) Every resident required to file an income tax return for the taxable year under the ~~Code and every~~ Code.

(2) Every nonresident individual who ~~(i) derived~~meets all of the following requirements:

a. Receives during the taxable year gross income that is derived from North Carolina sources ~~during the taxable year~~and is attributable to the ownership of any interest in real or tangible personal property in this ~~State or~~State, is derived from a business, trade, profession, or occupation carried on in this ~~State and (ii) is~~State, or is derived from gambling activities in this State.

b. Is required to file an income tax return for the taxable year under the Code.

~~(2) Repealed by Session Laws 1991 (Reg. Sess., 1992), c. 930, s. 1.~~

(3) Any individual whom the Secretary believes to be liable for a tax under this Part, when so notified by the Secretary and requested to file a return.

(b) Taxpayer Deceased or Unable to Make Return. – If ~~the~~ a taxpayer is unable to file ~~the~~ an income tax return, ~~the return shall be filed by~~ a duly authorized agent of the taxpayer or ~~by~~ a guardian or other person charged with the care of the person or property of the ~~taxpayer.~~taxpayer must file the return. If an individual who was required to file an income tax return for the taxable year while living has died before making the return, the administrator or executor of the estate ~~shall~~ must file the return in the decedent's name and behalf, and the tax ~~shall be levied upon and collected from~~is payable by the estate.

(c) Information Required With Return. – The income tax return ~~shall~~ must show the ~~taxable income and adjustments~~adjusted gross income and modifications required by this ~~Part~~ Part, and any other information the Secretary requires. The Secretary may require some or all individuals required to file an income tax return to attach to the return a copy of their federal income tax return for the taxable year. The Secretary may require a taxpayer to provide the Department with copies of any other return the taxpayer has filed with the Internal Revenue Service and to verify any information in the return.

(d) Secretary May Require Additional Information. – When the Secretary has reason to believe that any taxpayer conducts a trade or business in a way that directly or indirectly distorts the taxpayer's ~~taxable income~~adjusted gross income or North Carolina taxable income, the Secretary may require any additional information for the proper computation of the taxpayer's ~~taxable income~~adjusted gross income and North Carolina taxable income. In computing the taxpayer's ~~taxable income~~adjusted gross income and North Carolina taxable income, the Secretary ~~shall~~ must consider the fair profit that would normally arise from the conduct of the trade or business.

(e) Joint Returns. – A husband and wife whose ~~federal taxable income~~adjusted gross income is determined on a joint federal return ~~shall~~ must file a single income tax return jointly if each spouse either is a resident of this State or has North Carolina taxable income and may file a single income tax return jointly if one spouse is not a resident and has no North Carolina taxable income. Except as otherwise provided in this Part, a wife and husband filing jointly are

treated as one taxpayer for the purpose of determining the tax imposed by this Part. A husband and wife filing jointly are jointly and severally liable for the tax imposed by this Part reduced by the sum of all credits allowable including tax payments made by or on behalf of the husband and wife. However, if a spouse qualifies for relief of liability for federal tax attributable to a substantial understatement by the other spouse pursuant to section 6015 of the Code, that spouse is not liable for the corresponding tax imposed by this Part attributable to the same substantial understatement by the other spouse. A wife and husband filing jointly have expressly agreed that if the amount of the payments made by them with respect to the taxes for which they are liable, including withheld and estimated taxes, exceeds the total of the taxes due, refund of the excess may be made payable to both spouses jointly or, if either is deceased, to the survivor alone.

~~(f) Repealed by Session Laws 1991.~~

"§ **105-153.9. Tax credits for income taxes paid to other states by individuals.**

(a) An individual who is a resident of this State is allowed a credit against the taxes imposed by this Part for income taxes imposed by and paid to another state or country on income taxed under this Part, subject to the following conditions:

(1) The credit is allowed only for taxes paid to another state or country on income that is derived from sources within that state or country ~~that~~ and is taxed under its laws irrespective of the residence or domicile of the recipient, except that whenever a taxpayer who is ~~deemed to be~~ considered a resident of this State under ~~the provisions of~~ this Part is ~~deemed also to be~~considered a resident of another state or country under the laws of that state or country, the Secretary may allow a credit against the taxes imposed by this Part for taxes imposed by and paid to the other state or country on income taxed under this Part.

(2) The fraction of the gross income, as ~~calculated under the Code and adjusted as provided in G.S. 105-134.6 and G.S. 105-134.7,~~ modified as provided in G.S. 105-153.5 and G.S. 105-153.6, that is subject to income tax in another state or country shall be ascertained, and the North Carolina net income tax before credit under this section shall be multiplied by that fraction. The credit allowed is either the product thus calculated or the income tax actually paid the other state or country, whichever is smaller.

(3) Receipts showing the payment of income taxes to another state or country and a true copy of a return or returns upon the basis of which the taxes are assessed shall be filed with the Secretary when the credit is claimed. If credit is claimed on account of a deficiency assessment, a true copy of the notice assessing or proposing to assess the deficiency, as well as a receipt showing the payment of the deficiency, shall be filed.

(b) If any taxes paid to another state or country for which a taxpayer has been allowed a credit under this section are at any time credited or refunded to the taxpayer, a tax equal to that portion of the credit allowed for the taxes so credited or refunded is due and payable from the taxpayer and is subject to the penalties and interest provided in Subchapter I of this Chapter."

SECTION 1.3.(e) G.S. 105-154(d) reads as rewritten:

"(d) Payment of Tax on Behalf of Nonresident Owner or Partner. – If a business conducted in this State is owned by a nonresident individual or by a partnership having one or more nonresident members, the manager of the business shall report the earnings of the business in this State, the distributive share of the income of each nonresident owner or partner, and any other information required by the Secretary. The manager of the business shall pay with the return the tax on each nonresident owner or partner's share of the income computed at the rate levied on individuals under ~~G.S. 105-134.2(a)(3).~~ G.S. 105-153.7. The business may deduct the payment for each nonresident owner or partner from the owner or partner's distributive share of the profits of the business in this State. If the nonresident partner is not an individual and the partner has executed an affirmation that the partner will pay the tax with its

corporate, partnership, trust, or estate income tax return, the manager of the business is not required to pay the tax on the partner's share. In this case, the manager shall include a copy of the affirmation with the report required by this subsection."

SECTION 1.3.(f) G.S. 105-160.3(b) reads as rewritten:

"(b) ~~The following credits are not allowed to an estate or trust:~~The tax credits allowed under G.S. 105-153.9 and G.S. 105-153.10 may not be claimed by an estate or trust.

~~(1) G.S. 105-151. Tax credits for income taxes paid to other states by individuals.~~

~~(2) G.S. 105-151.11. Credit for child care and certain employment-related expenses.~~

~~(3) G.S. 105-151.18. Credit for the disabled.~~

~~(4) G.S. 105-151.24. Credit for children.~~

~~(5) G.S. 105-151.26. Credit for charitable contributions by nonitemizers.~~

~~(7) G.S. 105-151.28. Credit for long-term care insurance.~~

~~(8) G.S. 105-151.30. Credit for recycling oyster shells.~~

~~(9) G.S. 105-151.31. Earned income tax credit.~~

~~(10) G.S. 105-151.32. Credit for adoption expenses.~~

~~(11) G.S. 105-151.33. Education expenses credit.~~"

SECTION 1.3.(g) G.S. 105-163.2B reads as rewritten:

"§ **105-163.2B. North Carolina State Lottery Commission must withhold taxes.**

The North Carolina State Lottery Commission, established by Chapter 18C of the General Statutes, must deduct and withhold State income taxes from the payment of winnings in an amount of six hundred dollars ($600.00) or more. The amount of taxes to be withheld is ~~seven percent (7%)~~ a percentage of the winnings. The percentage is the individual income tax rate in G.S. 105-153.7. The Commission must file a return, pay the withheld taxes, and report the amount withheld in the time and manner required under G.S. 105-163.6 as if the winnings were wages. The taxes the Commission withholds are held in trust for the Secretary."

SECTION 1.3.(h) This section is effective for taxable years beginning on or after January 1, 2014.

PART II. CORPORATE INCOME TAX CHANGES

SECTION 2.1.(a) G.S. 105-130.3 reads as rewritten:

"§ **105-130.3. Corporations.**

A tax is imposed on the State net income of every C Corporation doing business in this ~~State.~~ State at the rate of six percent (6%). An S Corporation is not subject to the tax levied in this section. ~~The tax is a percentage of the taxpayer's State net income computed as follows:~~

~~Income Years Beginning~~	~~Tax~~
~~In 1997~~	~~7.5%~~
~~In 1998~~	~~7.25%~~
~~In 1999~~	~~7%~~
~~After 1999~~	~~6.9%.~~"

SECTION 2.1.(b) The following statutes are repealed:

G.S. 105-130.22
G.S. 105-130.34
G.S. 105-130.36
G.S. 105-130.37
G.S. 105-130.39
G.S. 105-130.43
G.S. 105-130.44

SECTION 2.1.(c) This section is effective for taxable years beginning on or after January 1, 2014.

SECTION 2.2.(a) G.S. 105-130.3, as amended by this section, reads as rewritten:

"§ **105-130.3. Corporations.**

A tax is imposed on the State net income of every C Corporation doing business in this State at the rate of ~~six percent (6%).~~five percent (5%). An S Corporation is not subject to the tax levied in this section."

SECTION 2.2.(b) Part 1 of Article 4 of Chapter 105 of the General Statutes is amended by adding a new section to read:

"**§ 105-130.3A. Rate reduction trigger.**

If the amount of net General Fund tax collected in fiscal year 2014-2015 or fiscal year 2015-2016 exceeds the anticipated General Fund tax collections for that fiscal year, the rate of tax set in G.S. 105-130.3 may be decreased in accordance with this section effective for the taxable year that begins on the following January 1. The amount of net General Fund tax collected for a fiscal year is the amount reported by the State Controller in the State's Comprehensive Annual Financial Report, required to be prepared under G.S. 143B-426.39. The Secretary must monitor the net General Fund tax collections and notify taxpayers if the rate decreases under this section. The rate is decreased by one percent (1%) if net General Fund tax collections for fiscal year 2014-2015 exceed twenty billion two hundred million dollars ($20,200,000,000). The rate is decreased by one percent (1%) if net General Fund tax collections for fiscal year 2015-2016 exceed twenty billion nine hundred seventy-five million dollars ($20,975,000,000). Effective for taxable years beginning on or after January 1, 2017, the rate of tax set in G.S. 105-130.3 is the rate determined in accordance with this section."

SECTION 2.2.(c) Subsection (a) of this section is effective for taxable years beginning on or after January 1, 2015. The remainder of this section is effective when it becomes law.

SECTION 2.3.(a) The title of Article 3F of Chapter 105 of the General Statutes reads as rewritten:

"Article 3F.

~~Technology~~ Research and Development."

SECTION 2.3.(b) G.S. 105-129.50(4a) and G.S. 105-129.56 are repealed.

SECTION 2.3.(c) G.S. 105-129.51(b) reads as rewritten:

"(b) This Article is repealed for taxable years beginning on or after ~~January 1, 2014.~~January 1, 2016."

SECTION 2.3.(d) G.S. 105-129.54(1) reads as rewritten:

"**§ 105-129.54. Report.**

The Department must include in the economic incentives report required by G.S. 105-256 the following information itemized by credit and by taxpayer:

(1) The number of taxpayers that took a credit allowed in this ~~Article. The credit allowed under G.S. 105-129.55 must be~~ Article, itemized by the categories of small business, low-tier, university research, Eco-Industrial Park, and other. ~~The credit allowed under G.S. 105-129.56 must be itemized by the categories of higher education collaboration and other.~~

…."

SECTION 2.3.(e) This section is effective for taxable years beginning on or after January 1, 2014.

SECTION 2.4.(a) G.S. 115C-546.1 reads as rewritten:

"**§ 115C-546.1. Creation of Fund; administration.**

(a) There is created the Public School Building Capital Fund. The Fund shall be used to assist county governments in meeting their public school building capital needs and their equipment needs under their local school technology plans.

~~(b) Each calendar quarter, the Secretary of Revenue shall remit to the State Treasurer for credit to the Public School Building Capital Fund an amount equal to the applicable fraction provided in the table below of the net collections received during the previous quarter by the Department of Revenue under G.S. 105-130.3. All funds deposited in the Public School Building Capital Fund shall be invested as provided in G.S. 147-69.2 and G.S. 147-69.3.~~

~~Period~~	~~Fraction~~
~~10/1/97 to 9/30/98~~	~~One-fifteenth (1/15)~~
~~10/1/98 to 9/30/99~~	~~Two twenty-ninths (2/29)~~
~~10/1/99 to 9/30/00~~	~~One-fourteenth (1/14)~~
~~After 9/30/00~~	~~Five sixty-ninths (5/69)~~

(c) The Fund shall be administered by the Department of Public Instruction."

SECTION 2.4.(b) G.S. 115C-546.2(a) is repealed.

SECTION 2.4.(c) This section is effective when it becomes law.

PART III. SALES TAX CHANGES

SECTION 3.1.(a) G.S. 105-164.4(a) reads as rewritten:

"(a) A privilege tax is imposed on a retailer at the following percentage rates of the retailer's net taxable sales or gross receipts, as appropriate. The general rate of tax is four and three-quarters percent (4.75%).

…

(1a) The general rate ~~of two percent (2%)~~ applies to the sales price of each manufactured home sold at retail, including all accessories attached to the manufactured home when it is delivered to the purchaser.~~The maximum tax is three hundred dollars ($300.00) per article. Each section of a manufactured home that is transported separately to the site where it is to be erected is a separate article.~~

…

(8) The general rate ~~of two and one-half percent (2.5%)~~ applies to the sales price of each modular home sold at retail, including all accessories attached to the modular home when it is delivered to the purchaser. The sale of a modular home to a modular homebuilder is considered a retail sale. A person who sells a modular home at retail is allowed a credit against the tax imposed by this subdivision for sales or use tax paid to another state on tangible personal property incorporated in the modular home. The retail sale of a modular home occurs when a modular home manufacturer sells a modular home to a modular homebuilder or directly to the end user of the modular home."

SECTION 3.1.(b) G.S. 105-164.44G is repealed.

SECTION 3.1.(c) G.S. 105-467(a) reads as rewritten:

"(a) Sales Tax. – The sales tax that may be imposed under this Article is limited to a tax at the rate of one percent (1%) of the following:

(1) A retailer's net taxable sales and gross receipts that are subject to the general rate of sales tax imposed by the State under ~~G.S. 105-164.4.~~G.S. 105-164.4 except the tax does not apply to the sales price of a manufactured home or a modular home.

(2) through (4) Repealed by Session Laws 2011-330, s. 45, effective June 27, 2011.

(5) The sales price of food that is not otherwise exempt from tax pursuant to G.S. 105-164.13 but is exempt from the State sales and use tax pursuant to G.S. 105-164.13B.

(5a) The sales price of a bundled transaction that includes food subject to tax under subdivision (5) of this subsection, if the price of the food exceeds ten percent (10%) of the price of the bundle. A retailer must determine the price of food in a bundled transaction in accordance with G.S. 105-164.4D.

(5b) The sales price of bread, rolls, and buns that are sold at a bakery thrift store and are exempt from State tax under G.S. 105-164.13(27a).

(6), (7) Repealed by Session Laws 2011-330, s. 45, effective June 27, 2011."

SECTION 3.1.(d) This section becomes effective January 1, 2014, and applies to sales made on or after that date.

SECTION 3.2.(a) G.S. 105-164.13(13c), (27), and (28) are repealed.

SECTION 3.2.(b) G.S. 105-164.13(26) reads as rewritten:

"§ **105-164.13. Retail sales and use tax.**

The sale at retail and the use, storage, or consumption in this State of the following tangible personal property, digital property, and services are specifically exempted from the tax imposed by this Article:

…

(26) Food sold not for profit by ~~public or private school cafeterias~~ a nonpublic or public school, including a charter school and a regional school, within the school ~~buildings~~ building during the regular school day.

…."

SECTION 3.2.(c) G.S. 105-164.15A reads as rewritten:

"§ **105-164.15A. Effective date of tax ~~changes on services and items taxed at combined general rate.~~changes.**

(a) ~~Services.~~ General Rate Items. – The effective date of a tax change for ~~a service~~tangible personal property, digital property, or services taxable under this Article is administered as follows:

(1) For ~~a service~~a taxable item that is provided and billed on a monthly or other periodic basis:

a. A new tax or a tax rate increase applies to the first billing period that is at least 30 days after enactment and that starts on or after the effective date.

b. A tax repeal or a tax rate decrease applies to bills rendered on or after the effective date.

(2) For ~~a service~~a taxable item that is not billed on a monthly or other periodic basis, a tax change applies to amounts received for ~~services~~ items provided on or after the effective date, except amounts received for ~~services~~ items provided under a lump-sum or unit-price contract entered into or awarded before the effective date or entered into or awarded pursuant to a bid made before the effective date.

(b) Combined Rate Items. – The effective date of a rate change for an item that is taxable under this Article at the combined general rate is the effective date of any of the following:

(1) The effective date of a change in the State general rate of tax set in G.S. 105-164.4.

(2) For an increase in the authorization for local sales and use taxes, the date on which local sales and use taxes authorized by Subchapter VIII of this Chapter for every county become effective in the first county or group of counties to levy the authorized taxes.

(3) For a repeal in the authorization for local sales and use taxes, the effective date of the repeal."

SECTION 3.2.(d) This section becomes effective January 1, 2014, and applies to sales made on or after that date.

SECTION 3.3.(a) Part 3 of Article 5 of Chapter 105 of the General Statutes is amended by adding a new section to read:

"**§ 105-164.13E. Exemption for farmers.**

The following tangible personal property, digital property, and services are exempt from sales and use tax if purchased by a qualifying farmer and for use by the farmer in the planting, cultivating, harvesting, or curing of farm crops or in the production of dairy products, eggs, or animals. A qualifying farmer is a farmer who has an annual gross income of ten thousand dollars ($10,000) or more from farming operations for the preceding calendar year and includes a dairy operator, a poultry farmer, an egg producer, a livestock farmer, a farmer of crops, and a farmer of an aquatic species, as defined in G.S. 106-758.

(1) Fuel and electricity that is measured by a separate meter or another separate device and used for a purpose other than preparing food, heating dwellings, and other household purposes.
(2) Commercial fertilizer, lime, land plaster, plastic mulch, plant bed covers, potting soil, baler twine, and seeds.
(3) Farm machinery, attachment and repair parts for farm machinery, and lubricants applied to farm machinery. The term "machinery" includes implements that have moving parts or are operated or drawn by an animal. The term does not include implements operated wholly by hand or motor vehicles required to be registered under Chapter 20 of the General Statutes.
(4) A container used in the planting, cultivating, harvesting, or curing of farm crops or in the production of dairy products, eggs, or animals or used in packaging and transporting the farmer's product for sale.
(5) A grain, feed, or soybean storage facility and parts and accessories attached to the facility.
(6) Any of the following substances when purchased for use on animals or plants, as appropriate, held or produced for commercial purposes. This exemption does not apply to any equipment or devices used to administer, release, apply, or otherwise dispense these substances:
a. Remedies, vaccines, medications, litter materials, and feeds for animals.
b. Rodenticides, insecticides, herbicides, fungicides, and pesticides.
c. Defoliants for use on cotton or other crops.
d. Plant growth inhibitors, regulators, or stimulators, including systemic and contact or other sucker control agents for tobacco and other crops.
e. Semen.
(7) Baby chicks and poults sold for commercial poultry or egg production.
(8) Any of the following items concerning the housing, raising, or feeding of animals:
a. A commercially manufactured facility to be used for commercial purposes for housing, raising, or feeding animals or for housing equipment necessary for these commercial activities. The exemption also applies to commercially manufactured equipment, and parts and accessories for the equipment, used in the facility.
b. Building materials, supplies, fixtures, and equipment that become a part of and are used in the construction, repair, or improvement of an enclosure or a structure specifically designed, constructed, and used for housing, raising, or feeding animals or for housing equipment necessary for one of these commercial activities. The refund also applies to commercially manufactured equipment, and parts and accessories for the equipment, used in the enclosure or a structure.
(9) A bulk tobacco barn or rack, parts and accessories attached to the tobacco barn or rack, and any similar apparatus, part, or accessory used to cure or dry tobacco or another crop."

SECTION 3.3.(b) G.S. 105-164.13(1), (1a), (1b), (2a), (4a), (4c), and (4d) are repealed.

SECTION 3.3.(c) This section becomes effective July 1, 2014, and applies to sales made on or after that date.

SECTION 3.4.(a) G.S. 105-164.13(27a), 105-164.13C, and 105-164.13D are repealed.

SECTION 3.4.(b) G.S. 105-164.14(b) reads as rewritten:

"(b) Nonprofit Entities and Hospital Drugs. – A nonprofit entity is allowed a semiannual refund of sales and use taxes paid by it under this Article on direct purchases of tangible personal property and services, other than electricity, telecommunications service, and ancillary service, for use in carrying on the work of the nonprofit entity. Sales and use tax liability indirectly incurred by a nonprofit entity on building materials, supplies, fixtures, and equipment that become a part of or annexed to any building or structure that is owned or leased by the nonprofit entity and is being erected, altered, or repaired for use by the nonprofit entity for carrying on its nonprofit activities is considered a sales or use tax liability incurred on direct purchases by the nonprofit entity. A request for a refund must be in writing and must include any information and documentation required by the Secretary. A request for a refund for the first six months of a calendar year is due the following October 15; a request for a refund for the second six months of a calendar year is due the following April 15. The aggregate annual refund amount allowed an entity under this subsection for a fiscal year may not exceed thirty-one million seven hundred thousand dollars ($31,700,000).

The refunds allowed under this subsection do not apply to an entity that is owned and controlled by the United States or to an entity that is owned or controlled by the State and is not listed in this subsection. A hospital that is not listed in this subsection is allowed a semiannual refund of sales and use taxes paid by it on medicines and drugs purchased for use in carrying out its work. The following nonprofit entities are allowed a refund under this subsection:

(1) Hospitals not operated for profit, including hospitals and medical accommodations operated by an authority or other public hospital described in Article 2 of Chapter 131E of the General Statutes.

(2) An organization that is exempt from income tax under section 501(c)(3) of the Code, other than an organization that is properly classified in any of the following major group areas of the National Taxonomy of Exempt Entities:
   a. Community Improvement and Capacity Building.
   b. Public and Societal Benefit.
   c. Mutual and Membership Benefit.

(2a) An organization that is exempt from income tax under the Code and is one of the following:
   a. A volunteer fire department.
   b. A volunteer emergency medical services squad.

(3) Repealed by Session Laws 2008-107, s. 28.22(a), effective July 1, 2008, and applicable to purchases made on or after that date.

(4) Qualified retirement facilities whose property is excluded from property tax under G.S. 105-278.6A.

(5) A university affiliated nonprofit organization that procures, designs, constructs, or provides facilities to, or for use by, a constituent institution of The University of North Carolina. For purposes of this subdivision, a nonprofit organization includes an entity exempt from taxation as a disregarded entity of the nonprofit organization."

SECTION 3.4.(c) G.S. 105-467(b) reads as rewritten:

"(b) Exemptions and Refunds. – The State exemptions and exclusions contained in ~~G.S. 105-164.13, the State sales and use tax holidays contained in G.S. 105-164.13C and G.S. 105-164.13D, and the State refund provisions contained in G.S. 105-164.14 through G.S. 105-164.14B~~ G.S. 105-164.13 apply to the local sales and use tax authorized to be levied and imposed under this Article. The State refund provisions contained in G.S. 105-164.14 through G.S. 105-164.14B apply to the local sales and use tax authorized to be levied and imposed under this Article. ~~Except~~ The aggregate annual local refund amount allowed an entity under G.S. 105-164.14(b) for a fiscal year may not exceed thirteen million three hundred thousand dollars ($13,300,000).

Except as provided in this subsection, a taxing county may not allow an exemption, exclusion, or refund that is not allowed under the State sales and use tax. A local school

administrative unit and a joint agency created by interlocal agreement among local school administrative units pursuant to G.S. 160A-462 to jointly purchase food service-related materials, supplies, and equipment on their behalf is allowed an annual refund of sales and use taxes paid by it under this Article on direct purchases of tangible personal property and services, other than electricity, telecommunications service, and ancillary service. Sales and use tax liability indirectly incurred by the entity on building materials, supplies, fixtures, and equipment that become a part of or annexed to any building or structure that is owned or leased by the entity and is being erected, altered, or repaired for use by the entity is considered a sales or use tax liability incurred on direct purchases by the entity for the purpose of this subsection. ~~A request for a refund shall be in writing and shall include any information and documentation required by the Secretary.~~ A request for a refund is due ~~within six months after the end of the entity's fiscal year.~~ in the same time and manner as provided in G.S. 105-164.14. Refunds applied for more than three years after the due date are barred."

SECTION 3.4.(d) G.S. 105-467(a), as amended by this Part, reads as rewritten:

"(a) Sales Tax. – The sales tax that may be imposed under this Article is limited to a tax at the rate of one percent (1%) of the following:

(1) A retailer's net taxable sales and gross receipts that are subject to the general rate of sales tax imposed by the State under G.S. 105-164.4 except the tax does not apply to the sales price of a manufactured home or a modular home.

(2) through (4) Repealed by Session Laws 2011-330, s. 45, effective June 27, 2011.

(5) The sales price of food that is not otherwise exempt from tax pursuant to G.S. 105-164.13 but is exempt from the State sales and use tax pursuant to G.S. 105-164.13B.

(5a) The sales price of a bundled transaction that includes food subject to tax under subdivision (5) of this subsection, if the price of the food exceeds ten percent (10%) of the price of the bundle. A retailer must determine the price of food in a bundled transaction in accordance with G.S. 105-164.4D.

~~(5b) The sales price of bread, rolls, and buns that are sold at a bakery thrift store and are exempt from State tax under G.S. 105-164.13(27a).~~

(6), (7) Repealed by Session Laws 2011-330, s. 45, effective June 27, 2011."

SECTION 3.4.(e) This section becomes effective July 1, 2014, and applies to purchases made on or after that date.

SECTION 3.5.(a) G.S. 105-164.14A(a) reads as rewritten:

"(a) Refund. – The following taxpayers are allowed an annual refund of sales and use taxes paid under this Article:

(1) Passenger air carrier. – An interstate passenger air carrier is allowed a refund of the sales and use tax paid by it on fuel in excess of two million five hundred thousand dollars ($2,500,000). The amount of sales and use tax paid does not include a refund allowed to the interstate passenger air carrier under G.S. 105-164.14(a). This subdivision is repealed for purchases made on or after ~~January 1, 2014.~~January 1, 2016.

…

(4) Motorsports team or sanctioning body. – A professional motorsports racing team, a motorsports sanctioning body, or a related member of such a team or body is allowed a refund of the sales and use tax paid by it in this State on aviation fuel that is used to travel to or from a motorsports event in this State, to travel to a motorsports event in another state from a location in this State, or to travel to this State from a motorsports event in another state. For purposes of this subdivision, a "motorsports event" includes a motorsports race, a motorsports sponsor event, and motorsports testing. This subdivision is repealed for purchases made on or after ~~January 1, 2014.~~January 1, 2016.

(5) Professional motorsports team. – A professional motorsports racing team or a related member of a team is allowed a refund of fifty percent (50%) of the sales and use tax paid by it in this State on tangible personal property, other than tires or accessories, that comprises any part of a professional motorsports vehicle. For purposes of this subdivision, "motorsports accessories" includes instrumentation, telemetry, consumables, and paint. This subdivision is repealed for purchases made on or after ~~January 1, 2014.~~January 1, 2016.

…."

SECTION 3.5.(b) This section is effective when it becomes law.

PART IV. ELECTRICITY AND PIPED NATURAL GAS TAX CHANGES

SECTION 4.1.(a) G.S. 105-116, 105-116.1, 105-164.21A, and 159B-27(b), (c), (d), and (e) are repealed.

SECTION 4.1.(b) G.S. 105-130.6A(a)(4) reads as rewritten:

"(a) Definitions. – The provisions of G.S. 105-130.6 govern the determination of whether a corporation is a subsidiary or an affiliate of another corporation. In addition, the following definitions apply in this section:

…

(4) Electric power holding company. – A holding company with an affiliate or a subsidiary that is engaged in the business of producing electric power.~~subject to the franchise tax on electric power companies levied in G.S. 105-116.~~

…."

SECTION 4.1.(c) G.S. 105-164.4(a)(1f) and (a)(4a) are repealed.

SECTION 4.1.(d) G.S. 105-164.13(44) and Article 5E of Chapter 105 of the General Statutes are repealed.

SECTION 4.1.(e) G.S. 105-164.4(a) is amended by adding a new subdivision to read:

"(9) The combined general rate applies to the gross receipts derived from sales of electricity and piped natural gas."

SECTION 4.1.(f) This section becomes effective July 1, 2014, and applies to gross receipts billed on or after that date.

SECTION 4.2.(a) Pursuant to G.S. 62-31 and G.S. 62-32, the Utilities Commission must adjust the rate set for the following utilities:

(1) Electricity to reflect the repeal of G.S. 105-116 and the resulting liability of electric power companies for the tax imposed under G.S. 105-122 and for the increase in the rate of tax imposed on sales of electricity under G.S. 105-164.4.

(2) Piped natural gas to reflect the repeal of Article 5E of Chapter 105 of the General Statutes, the repeal of the credit formerly allowed under G.S. 105-122(d1), and the resulting liability of companies for the tax imposed on sales of piped natural gas under G.S. 105-164.4.

SECTION 4.2.(b) This section is effective when it becomes law.

SECTION 4.3.(a) Part 8 of Article 5 of Chapter 105 of the General Statutes is amended by adding two new sections to read:

"**§ 105-164.44K. Distribution of part of tax on electricity to cities.**

(a) Distribution. – The Secretary must distribute to cities forty-four percent (44%) of the net proceeds of the tax collected under G.S. 105-164.4 on electricity, less the cost to the Department of administering the distribution. Each city's share of the amount to be distributed is its franchise tax share calculated under subsection (b) of this section plus its ad valorem share calculated under subsection (c) of this section. If the net proceeds of the tax allocated under this section are not sufficient to distribute the franchise tax share of each city under subsection (b)

of this section, the proceeds shall be distributed to each city on a pro rata basis. The Secretary must make the distribution within 75 days after the end of each quarter.

(b) Franchise Tax Share. – The quarterly franchise tax share of a city is the total amount of electricity gross receipts franchise tax distributed to the city under repealed G.S. 105-116.1 for the same related quarter that was the last quarter in which taxes were imposed on electric power companies under repealed G.S. 105-116. The quarterly franchise tax share of a city includes adjustments made for the hold-harmless amounts under repealed G.S. 105-116. If the franchise tax share of a city, including the hold-harmless adjustments, is less than zero, then the amount is zero. The determination made by the Department with respect to a city's franchise tax share is final and is not subject to administrative or judicial review.

The franchise tax share of a city that has dissolved, merged with another city, or divided into two or more cities since it received a distribution under repealed G.S. 105-116.1 is adjusted as follows:

(1) If a city dissolves and is no longer incorporated, the franchise tax share of the city is added to the amount distributed under subsection (c) of this section.

(2) If two or more cities merge or otherwise consolidate, their franchise tax shares are combined.

(3) If a city divides into two or more cities, the franchise tax share of the city that divides is allocated among the new cities in proportion to the total amount of ad valorem taxes levied by each on property having a tax situs in the city.

(c) Ad Valorem Share. – The ad valorem share of a city is its proportionate share of the amount that remains for distribution after determining each city's franchise tax share under subsection (b) of this section. The prohibitions in G.S. 105-472(d) on the receipt of funds by a city apply to the distribution under this subsection.

A city's proportionate share is the amount of ad valorem taxes it levies on property having a tax situs in the city compared to the ad valorem taxes levied by all cities on property having a tax situs in the cities. The ad valorem method set out in G.S. 105-472(b)(2) applies in determining the share of a city under this subsection based on ad valorem taxes, except that the amount of ad valorem taxes levied by a city does not include ad valorem taxes levied on behalf of a taxing district and collected by the city.

(d) Nature. – The General Assembly finds that the revenue distributed under this section is local revenue, not a State expenditure, for the purpose of Section 5(3) of Article III of the North Carolina Constitution. The Governor may not reduce or withhold the distribution.

"**§ 105-164.44L. Distribution of part of tax on piped natural gas to cities.**

(a) Distribution. – The Secretary must distribute to cities twenty percent (20%) of the net proceeds of the tax collected under G.S. 105-164.4 on piped natural gas, less the cost to the Department of administering the distribution. Each city's share of the amount to be distributed is its excise tax share calculated under subsection (b) of this section plus its ad valorem share calculated under subsection (c) of this section. If the net proceeds of the tax allocated under this section are not sufficient to distribute the excise tax share of each city under subsection (b) of this section, the proceeds shall be distributed to each city on a pro rata basis. The Secretary must make the distribution within 75 days after the end of each quarter.

(b) Excise Tax Share. – The quarterly excise tax share of a city that is not a gas city is the amount of piped natural gas excise tax distributed to the city under repealed G.S. 105-187.44 for the same related quarter that was the last quarter in which taxes were imposed on piped natural gas under repealed Article 5E of this Chapter. The Secretary must determine the excise tax share of a gas city and divide that amount by four to calculate the quarterly distribution amount for a gas city. The excise tax share of a gas city is the amount the gas city would have received under repealed G.S. 105-187.44 for the last year in which taxes were imposed under repealed Article 5E of this Chapter if piped natural gas consumed by the city or delivered by the city to a customer had not been exempt from tax under repealed

G.S. 105-187.41(c)(1) and (c)(2). A gas city must report the information required by the Secretary to make the distribution under this section in the form, manner, and time required by the Secretary. For purposes of this subsection, the term "gas city" has the same meaning as defined in repealed G.S. 105-187.40. The determination made by the Department with respect to a city's excise tax share is final and is not subject to administrative or judicial review.

The excise tax share of a city that has dissolved, merged with another city, or divided into two or more cities since it received a distribution under repealed G.S. 105-187.44 is adjusted as follows:

(1) If a city dissolves and is no longer incorporated, the excise tax share of the city is added to the amount distributed under subsection (c) of this section.

(2) If two or more cities merge or otherwise consolidate, their excise tax shares are combined.

(3) If a city divides into two or more cities, the excise tax share of the city that divides is allocated among the new cities in proportion to the total amount of ad valorem taxes levied by each on property having a tax situs in the city.

(c) Ad Valorem Share. – The ad valorem share of a city is its proportionate share of the amount that remains for distribution after determining each city's excise tax share under subsection (b) of this section. The prohibitions in G.S. 105-472(d) on the receipt of funds by a city apply to the distribution under this subsection.

A city's proportionate share is the amount of ad valorem taxes it levies on property having a tax situs in the city compared to the ad valorem taxes levied by all cities on property having a tax situs in the cities. The ad valorem method set out in G.S. 105-472(b)(2) applies in determining the share of a city under this section based on ad valorem taxes, except that the amount of ad valorem taxes levied by a city does not include ad valorem taxes levied on behalf of a taxing district and collected by the city.

(d) Nature. – The General Assembly finds that the revenue distributed under this section is local revenue, not a State expenditure, for the purpose of Section 5(3) of Article III of the North Carolina Constitution. The Governor may not reduce or withhold the distribution."

SECTION 4.3.(b) This section is effective for quarters beginning on or after July 1, 2014.

SECTION 4.4.(a) G.S. 160A-211 reads as rewritten:

"(c) Prohibition. – A city may not impose a license, franchise, or privilege tax on a person engaged in any of the businesses listed in this subsection. These businesses are subject to ~~a State tax~~ sales tax at the combined general rate for which the city receives a share of the tax ~~revenue.~~revenue or they are subject to the local sales tax.

(1) Supplying piped natural ~~gas taxed under Article 5E of Chapter 105 of the General Statutes.~~gas.

(2) Providing telecommunications service taxed under G.S. 105-164.4(a)(4c).

(3) Providing video programming taxed under G.S. 105-164.4(a)(6).

(4) Providing electricity. A city may continue to impose and collect the license, franchise, or privilege taxes on an electric power company that it imposed and collected on or before January 1, 1947, but it may not impose or collect any greater franchise, privilege, or license taxes, in the aggregate, on an electric power company that was imposed and collected on or before January 1, 1947."

SECTION 4.4.(b) This section becomes effective July 1, 2014.

SECTION 4.5.(a) Section 3 of Chapter 347 of the 1965 Session Laws reads as rewritten:

"Sec. 3. All property owned by Cape Hatteras Electric Membership Corporation ~~and used exclusively for the purpose of said corporation shall be held in the same manner and subject to the same taxes and assessments~~ is exempt from property taxes to the same extent as property owned by any county or municipality of the State so long as ~~said~~ the property is owned by ~~said~~ Cape Hatteras Electric Membership Corporation and is held and used by it solely for the

furnishing of electric energy to consumers on Hatteras Island and Ocracoke Island. Cape Hatteras Electric Membership Corporation is subject to any other taxes to the same extent as other electric membership corporations established under Chapter 117 of the General Statutes."

SECTION 4.5.(b) This section becomes effective July 1, 2014.

PART V. ADMISSION CHARGES TO AN ENTERTAINMENT ACTIVITY

SECTION 5.(a) G.S. 105-37.1, 105-38.1, and 105-40 are repealed.

SECTION 5.(b) G.S. 105-164.4(a) is amended by adding the following new subdivision to read:

"§ **105-164.4. Tax imposed on retailers.**

(a) A privilege tax is imposed on a retailer at the following percentage rates of the retailer's net taxable sales or gross receipts, as appropriate. The general rate of tax is four and three-quarters percent (4.75%).

…

(10) The general rate of tax applies to admission charges to an entertainment activity listed in this subdivision. Offering any of these listed activities is a service. An admission charge includes a charge for a single ticket, a multioccasion ticket, a seasonal pass, an annual pass, and a cover charge.

An admission charge does not include a charge for amenities. If charges for amenities are not separately stated on the face of an admission ticket, then the charge for admission is considered to be equal to the admission charge for a ticket to the same event that does not include amenities and is for a seat located directly in front of or closest to a seat that includes amenities.

When an admission ticket is resold and the price of the admission ticket is printed on the face of the ticket, the tax does not apply to the face price. When an admission ticket is resold and the price of the admission ticket is not printed on the face of the ticket, the tax applies to the difference between the amount the reseller paid for the ticket and the amount the reseller charges for the ticket.

Admission charges to the following entertainment activities are subject to tax:

a. A live performance or other live event of any kind.

b. A motion picture or film.

c. A museum, a cultural site, a garden, an exhibit, a show, or a similar attraction or a guided tour at any of these attractions."

SECTION 5.(c) G.S. 105-164.13 is amended by adding the following new subdivision to read:

"§ **105-164.13. Retail sales and use tax.**

The sale at retail and the use, storage, or consumption in this State of the following tangible personal property, digital property, and services are specifically exempted from the tax imposed by this Article:

…

(60) Admission charges to any of the following entertainment activities:

a. An event that is held at an elementary or secondary school and is sponsored by the school.

b. A commercial agricultural fair that meets the requirements of G.S. 106-520.1, as determined by the Commissioner of Agriculture.

c. A festival or other recreational or entertainment activity that lasts no more than seven consecutive days and is sponsored by a nonprofit entity that is exempt from tax under Article 4 of this Chapter and uses the entire proceeds of the activity exclusively for the entity's

nonprofit purposes. This exemption applies to the first two activities sponsored by the entity during a calendar year.

d. A youth athletic contest sponsored by a nonprofit entity that is exempt from tax under Article 4 of this Chapter. For the purpose of this subdivision, a youth athletic contest is a contest in which each participating athlete is less than 20 years of age at the time of enrollment.

e. A State attraction."

SECTION 5.(d) The following statutes are repealed:

G.S. 106-507
G.S. 106-516
G.S. 106-517
G.S. 106-518
G.S. 106-519
G.S. 106-520
G.S. 140-10.1

SECTION 5.(e) G.S. 105-164.10 reads as rewritten:

"§ **105-164.10. Retail ~~bracket system.~~tax calculation.**

For the convenience of the retailer in collecting the tax due under this Article, the Secretary ~~shall~~ must prescribe tables that compute the tax due on sales by rounding off the amount of tax due to the nearest whole cent. The Secretary ~~shall~~ must issue a separate table for each rate of tax that may apply to a ~~sale, including the general rate established in G.S. 105-164.4, preferential rates, and combined State and local rates. Use of the tables prescribed by the Secretary does not relieve a retailer of liability for the applicable rate of tax due on the gross receipts or net taxable sales of the retailer.~~sale."

SECTION 5.(f) This section becomes effective January 1, 2014, and applies to admissions purchased on or after that date. For admissions to a live event, the tax applies to the initial sale or resale of tickets occurring on or after that date; gross receipts received on or after January 1, 2014, for admission to a live event, for which the initial sale of tickets occurred before that date, other than gross receipts received by a ticket reseller, are taxable under G.S. 105-37.1.

PART VI. SERVICE CONTRACTS

SECTION 6.(a) G.S. 105-164.3 is amended by adding a new subdivision to read:

"§ **105-164.3. Definitions.**

The following definitions apply in this Article:

…

(38b) Service contract. – A warranty agreement, a maintenance agreement, a repair contract, or a similar agreement or contract by which the seller agrees to maintain or repair tangible personal property.

…."

SECTION 6.(b) G.S. 105-164.4(a) is amended by adding the following new subdivision to read:

"§ **105-164.4. Tax imposed on retailers.**

(a) A privilege tax is imposed on a retailer at the following percentage rates of the retailer's net taxable sales or gross receipts, as appropriate. The general rate of tax is four and three-quarters percent (4.75%).

…

(11) The general rate of tax applies to the sales price of a service contract."

SECTION 6.(c) G.S. 105-164.13 is amended by adding two new subdivisions to read:

"§ **105-164.13. Retail sales and use tax.**

The sale at retail and the use, storage, or consumption in this State of the following tangible personal property, digital property, and services are specifically exempted from the tax imposed by this Article:

…

(61) A service contract for tangible personal property that is provided for any of the following:

a. An item exempt from tax under this Article, other than an item exempt from tax under G.S. 105-164.13(32).

b. A transmission, distribution, or other network asset contained on utility-owned land, right-of-way, or easement.

(62) An item used to maintain or repair tangible personal property pursuant to a service contract if the purchaser of the contract is not charged for the item."

SECTION 6.(d) This section becomes effective January 1, 2014, and applies to sales made on or after that date.

PART VII. ELIMINATE ESTATE TAX

SECTION 7.(a) Article 1A of Chapter 105 of the General Statutes is repealed.

SECTION 7.(b) G.S. 105-241.10 reads as rewritten:

"§ **105-241.10. Limit on refunds and assessments after a federal determination.**

The limitations in this section apply when a taxpayer files a timely return reflecting a federal determination that affects the amount of State tax payable and the general statute of limitations for requesting a refund or proposing an assessment of the State tax has expired. A federal determination is a correction or final determination by the federal government of the amount of a federal tax due. A return reflecting a federal determination is timely if it is filed within the time required by ~~G.S. 105-32.8, 105-130.20~~G.S. 105-130.20, 105-159, 105-160.8, or 105-163.6A, as appropriate. The limitations are:

(1) Refund. – A taxpayer is allowed a refund only if the refund is the result of adjustments related to the federal determination.

(2) Assessment. – A taxpayer is liable for additional tax only if the additional tax is the result of adjustments related to the federal determination. A proposed assessment may not include an amount that is outside the scope of this liability."

SECTION 7.(c) G.S. 105-236(a)(5) reads as rewritten:

"(a) Penalties. – The following civil penalties and criminal offenses apply:

…

(5) Negligence. –

…

~~e. Estate tax deficiencies. – This subdivision does not apply to estate tax deficiencies that are the result of valuation understatements.~~

…."

SECTION 7.(d) This section becomes effective January 1, 2013, and applies to the estates of decedents dying on or after that date.

PART VIII . CAP EXCISE TAX ON MOTOR FUEL

SECTION 8.(a) Notwithstanding G.S. 105-449.80(a), for the period October 1, 2013, through June 30, 2015, the motor fuel excise tax rate may not exceed thirty-seven and one-half cents (37 1/2¢) a gallon.

SECTION 8.(b) This section is effective when it becomes law.

PART IX. STUDY AND EFFECTIVE DATE

SECTION 9.(a) This act does not affect the rights or liabilities of the State, a taxpayer, or another person arising under a statute amended or repealed by this act before the effective date of its amendment or repeal; nor does it affect the right to any refund or credit of a

tax that accrued under the amended or repealed statute before the effective date of its amendment or repeal.

SECTION 9.(b) G.S. 105-237.1(a) reads as rewritten:

"(a) Authority. – The Secretary may compromise a taxpayer's liability for a tax that is collectible under G.S. 105-241.22 when the Secretary determines that the compromise is in the best interest of the State and makes one or more of the following findings:

…

(6) The taxpayer is a retailer or a person under Article 5 of this Chapter; the assessment is for sales or use tax the retailer failed to collect or the person failed to pay on an item taxable under G.S. 105-164.4(a)(10) and (a)(11), and the retailer or person made a good-faith effort to comply with the sales and use tax laws. This subdivision expires for assessments issued after July 1, 2020."

SECTION 9.(c) The Revenue Laws Study Committee is directed to study the tax issues listed in this subsection. The Committee may report its findings, together with any recommended legislation, to the 2014 Regular Session of the 2013 General Assembly upon its convening.

(1) The scope and application of the privilege tax at the rate of one percent (1%) with a cap of eighty dollars ($80.00) that applies to mill machinery and on other machinery and equipment purchased by certain industries and companies.
(2) The feasibility of a preferential tax rate on diesel fuel sold to railroads, fuel sold to passenger air carriers, and fuel sold to motorsports.
(3) The authority of cities and counties to impose a privilege tax on businesses and the various State privilege license taxes.
(4) The impact of the elimination of the State and local sales and use tax refund on nonprofit entities and their ability to fulfill their stated mission.
(5) The benefits and fiscal impact of allowing corporations to deduct net operating losses as opposed to net economic losses.
(6) The simplification of the franchise tax base calculation and the elimination of the franchise tax.
(7) The feasibility of expanding the sales tax base to include additional services.
(8) The application of the corporate income tax rate reduction trigger formula.
(9) The low-income housing tax credit.
(10) The distribution of the sales tax collected on electricity and piped natural gas to cities.

SECTION 9.(d) Except as otherwise provided, this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 17th day of July, 2013.

Became law upon approval of the Governor at 1:09 p.m. on the 23rd day of July, 2013.

Session Law 2013-317 **H.B. 186**

AN ACT AUTHORIZING THE TOWNS OF CORNELIUS, DAVIDSON, HUNTERSVILLE, MOORESVILLE, AND TROUTMAN TO ENFORCE MUNICIPAL NOISE ORDINANCES AND STATE STATUTES PERTAINING TO THEFT AND VANDALISM ON THE WATERS OF LAKE NORMAN.

The General Assembly of North Carolina enacts:

SECTION 1. If a municipality has adopted a noise ordinance pursuant to Chapter 160A of the General Statutes, it may enforce the noise ordinance, except boat engine noise, on the waters of Lake Norman. A municipality shall not enforce any municipal noise ordinance

pursuant to this act if the noise ordinance conflicts with the provisions of Chapter 75A or Chapter 113 of the General Statutes or with regard to engine noise emanating from the routine underway operation of any motor vessel engaged in recreational activities on the waters of Lake Norman, except where such noise violates State law pertaining to noise from motor vessels.

SECTION 2. A municipality may enforce State law concerning theft or vandalism of or from vessels located in, or docked in or above, the waters of Lake Norman.

SECTION 3. This act applies to the Towns of Cornelius, Davidson, Huntersville, Mooresville, and Troutman.

SECTION 4. This act becomes effective August 19, 2013, and applies to offenses occurring on after that date.

In the General Assembly read three times and ratified this the 23rd day of July, 2013.

Became law on the date it was ratified.

Session Law 2013-318 **H.B. 523**

AN ACT TO REDUCE THE SIZE OF THE PITT COUNTY BOARD OF EDUCATION FROM TWELVE MEMBERS TO NINE, TO PROVIDE FOR FOUR-YEAR TERMS RATHER THAN SIX-YEAR TERMS, AND TO SHORTEN THE TIME BETWEEN THE ELECTION OF MEMBERS OF THE PITT COUNTY BOARD OF EDUCATION AND WHEN THOSE MEMBERS TAKE OFFICE.

The General Assembly of North Carolina enacts:

SECTION 1. S.L. 2011-174 is repealed.

SECTION 2.(a) Section 1 of Chapter 193 of the 1987 Session Laws reads as rewritten:

"**Section 1.** Beginning ~~December 7, 1987,~~in December 2014, the Pitt County Board of Education shall consist of ~~12 members, with two each elected from six districts in nonpartisan plurality elections.~~nine members. Only voters residing in ~~a district~~the county may vote for the ~~members from that district.~~members."

SECTION 2.(b) Section 2 of Chapter 193 of the 1987 Session Laws is repealed.

SECTION 2.(c) Section 3 of Chapter 193 of the 1987 Session Laws is repealed.

SECTION 2.(d) Section 4 of Chapter 193 of the 1987 Session Laws reads as rewritten:

"**Sec. 4.** ~~After the initial election, elections shall be held in 1990 and subsequent~~ Elections shall be held in even-numbered years ~~thereafter~~ as terms expire, at the time of the regular election of county officers. ~~set by general State law for the election of county boards of education.~~ Members ~~elected in 1990 and subsequent years~~ shall take office at the time set by general State law and shall serve for terms of ~~six~~ four years."

SECTION 2.(e) This section becomes effective the first Monday in December 2014. In the 2014 election, the individual elected to fill the vacant seat for District 1, Seat A, for the remainder of the term shall serve a term of two years. In the 2014 election, three individuals shall be elected at large to serve a term of two years. This act does not affect the terms of office of any member elected in 2008 for a six-year term.

SECTION 3.(a) Section 1 of Chapter 193 of the 1987 Session Laws, as amended by Section 2(a) of this act, reads as rewritten:

"**Section 1.** Beginning in December 2014, the Pitt County Board of Education shall consist of nine members. Nine members shall be elected from single-member districts, as described in Section 5. Only voters residing in the ~~county~~ district may vote for the ~~members.~~member from that district."

SECTION 3.(b) Section 5 of Chapter 193 of the 1987 Session Laws reads as rewritten:

"**Sec. 5.** The ~~six~~ nine single-member districts are as follows:

District 1: Pitt County: VTD: 1505A, VTD: 1505B, VTD: 1512A: Block(s) 1470006031000, 1470006031001, 1470006031002, 1470006031003, 1470006031004, 1470006031005, 1470006031006, 1470006031007, 1470006031008, 1470006031009, 1470006031010, 1470006031011, 1470006031012, 1470006031013, 1470006031014, 1470006031015, 1470006031016, 1470006031017, 1470006031018, 1470006031019, 1470006031020, 1470006031021, 1470006031022, 1470006031023, 1470006031024, 1470006031025, 1470006031026, 1470006031027, 1470006031028, 1470006031029, 1470006031030, 1470006031031, 1470006031032, 1470006031033, 1470006031034, 1470006031035, 1470006031036, 1470006031037, 1470006031038, 1470006031039, 1470006031040, 1470006031041, 1470006031042, 1470006031043, 1470006031044, 1470006031045, 1470006031046, 1470006031047, 1470006031048, 1470006031049, 1470006031050, 1470006031051, 1470006031052, 1470006032000, 1470006032001, 1470006032002, 1470006032003, 1470006032004, 1470006032005, 1470006032006, 1470006032007, 1470006032008, 1470006032009, 1470006032010, 1470006032011, 1470006032012, 1470006032013, 1470006032014, 1470006032015, 1470006032016, 1470006032017, 1470006032018, 1470006032019, 1470006032020, 1470006032021, 1470006032022, 1470006032023, 1470006032024, 1470006032025, 1470006032026, 1470006032027, 1470006032028, 1470006032030, 1470006032031, 1470006032032, 1470006032033, 1470006032034, 1470006032035, 1470006032036; VTD: 1512B.

District 2: Pitt County: VTD: 0101: Block(s) 1470016001000, 1470016001001, 1470016001002, 1470016001003, 1470016001004, 1470016001005, 1470016001006, 1470016001007, 1470016001008, 1470016001009, 1470016001010, 1470016001011, 1470016001012, 1470016001013, 1470016001018, 1470016001020, 1470016001024, 1470016001027, 1470016002016, 1470016002017, 1470016002018, 1470016002019, 1470016002020, 1470016002021, 1470016002022, 1470016002023, 1470016002024, 1470016002025, 1470016002026, 1470016002027, 1470016002028, 1470016002029, 1470016002030, 1470016002031, 1470016002033, 1470016002034, 1470016003000, 1470016003001, 1470016003002, 1470016003003, 1470016003004, 1470016003005, 1470016003006, 1470016003007, 1470016003016, 1470016003017, 1470016003018, 1470016003022, 1470016003025, 1470016003026, 1470017001008, 1470017001009, 1470017001010, 1470017001012, 1470017001014, 1470017001016, 1470017001018, 1470017001020, 1470017001057, 1470017001058, 1470017001059, 1470017001060, 1470017001062, 1470017001063, 1470017001064, 1470017001067, 1470017001073, 1470017002000, 1470017002001, 1470017002002, 1470017002003, 1470017002004, 1470017002005, 1470017002006, 1470017002007, 1470017002008, 1470017002009, 1470017002010, 1470017002011, 1470017002012, 1470017002013, 1470017002014, 1470017002015, 1470017002016, 1470017002017, 1470017002018, 1470017002019, 1470017002020, 1470017002021, 1470017002022, 1470018004000, 1470018004001, 1470018004002, 1470018004003, 1470018004004, 1470018004058, 1470018004059, 1470018004060; VTD: 1503, VTD: 1504.

District 3: Pitt County: VTD: 0301, VTD: 0401, VTD: 0501, VTD: 1201: Block(s) 1470008002000, 1470008002001, 1470008002011, 1470008002018, 1470008002019, 1470008002020, 1470008002021, 1470008002022, 1470008002023, 1470008002024, 1470008002025, 1470008002026, 1470008002027, 1470008002028, 1470008002029, 1470008002030, 1470008002031, 1470008002032, 1470008002033, 1470008002034, 1470008002035, 1470008002036, 1470008002037, 1470008002038, 1470008002039, 1470008002040, 1470008002041, 1470008002042, 1470008002050, 1470008002051, 1470008002052, 1470008002053, 1470008002054, 1470008002055, 1470008002056, 1470008002057, 1470008002060, 1470008002061, 1470008002062, 1470008002063, 1470008002065, 1470008002066, 1470008002067, 1470008002068, 1470008002134, 1470008002135, 1470008002136, 1470008002137, 1470008002138, 1470008002139, 1470008002140, 1470008002141, 1470008002142, 1470008002143, 1470008002144, 1470008002145, 1470008002146, 1470008002147, 1470008002148; VTD: 1501, VTD:

1506, VTD: 1508A: Block(s) 1470001003000, 1470001003003, 1470001003008, 1470001003009, 1470001003010, 1470001003011, 1470001003017, 1470001003018, 1470001003019, 1470001003020, 1470001003021, 1470001003022, 1470001003023, 1470001003024, 1470001003025, 1470001003026, 1470001003034, 1470001003035.

District 4: Pitt County: VTD: 0101: Block(s) 1470016001014, 1470016001015, 1470016001016, 1470016001017, 1470016001019, 1470016003013, 1470016003014, 1470016003015, 1470016003038, 1470016003039, 1470016003040, 1470016003041, 1470016004005, 1470017001013; VTD: 0200A: 1470013011067, 1470014011018, 1470014011019, 1470016004009, 1470016004010, 1470016004011, 1470016004012, 1470016004013, 1470016004014, 1470016004015, 1470016004016, 1470016004022, 1470016004033; VTD: 0701, VTD: 0800A, VTD: 0800B, VTD: 0901, VTD: 1403A: Block(s) 1470006032029, 1470006032037, 1470013011000, 1470013011001, 1470013011002, 1470013011003, 1470013011004, 1470013011005, 1470013011006, 1470013011007, 1470013011008, 1470013011009, 1470013011010, 1470013011011, 1470013011012, 1470013011013, 1470013011014, 1470013011015, 1470013011016, 1470013011017, 1470013011018, 1470013011019, 1470013011020, 1470013011021, 1470013011022, 1470013011023, 1470013011024, 1470013011025, 1470013011026, 1470013011027, 1470013011028, 1470013011029, 1470013011030, 1470013011031, 1470013011032, 1470013011033, 1470013011034, 1470013011035, 1470013011036, 1470013011037, 1470013011038, 1470013011039, 1470013011040, 1470013011041, 1470013011042, 1470013011043, 1470013011044, 1470013011045, 1470013011046, 1470013011047, 1470013011048, 1470013011049, 1470013011050, 1470013011053, 1470013011055, 1470013011056, 1470013011057, 1470013011058, 1470013011059, 1470013011060, 1470013011061, 1470013011062, 1470013011063, 1470013011064, 1470013011065, 1470013011066, 1470013011069, 1470013011070, 1470013011071, 1470013011072, 1470013011073, 1470013011074, 1470013011076, 1470013011077, 1470013011078, 1470013011079, 1470013011080, 1470013011081, 1470013011082, 1470013012000, 1470013012001, 1470013012002, 1470013012003, 1470013012004, 1470013012005, 1470013012006, 1470013012007, 1470013012008, 1470013012009, 1470013012010, 1470013012011, 1470013012012, 1470013012013, 1470013012014, 1470013012015, 1470013012016, 1470013012017, 1470013012018, 1470013012019, 1470013012020, 1470013012021, 1470013012022, 1470013012023, 1470013012024, 1470013012025, 1470013012026, 1470013012027, 1470013012028, 1470013012029, 1470013012030, 1470013012031, 1470013012032, 1470013012033, 1470013012034, 1470013012035, 1470013012036, 1470013012037, 1470014011000, 1470014011001, 1470014011002, 1470014011003, 1470016003019, 1470016003020, 1470016003021, 1470016003027, 1470016003028, 1470016003029, 1470016003030, 1470016003031, 1470016003032, 1470016003033, 1470016003034, 1470016003035, 1470016003036, 1470016003037, 1470016003042, 1470016003047, 1470016003048, 1470016003049, 1470016003050, 1470016003051, 1470016003052, 1470016003053, 1470016003054, 1470016004000, 1470016004001, 1470016004002, 1470016004003, 1470016004004, 1470016004006, 1470016004007, 1470016004008; VTD: 1512A: 1470016003008, 1470016003009, 1470016003010, 1470016003011, 1470016003012, 1470016003023, 1470016003024, 1470016003043, 1470016003044, 1470016003045, 1470016003046.

District 5: Pitt County: VTD: 1403A: Block(s) 1470012001047, 1470013011051, 1470013011052, 1470013011054, 1470013011075, 1470013021000, 1470013021001, 1470013021002, 1470013021003, 1470013021004, 1470013021005, 1470013021006, 1470013021007, 1470013021008, 1470013021009, 1470013021010, 1470013021011, 1470013021012, 1470013021013, 1470013021014, 1470013021015, 1470013021016, 1470013021017, 1470013021018, 1470013021019, 1470013021020, 1470013021021, 1470013021022, 1470013021023, 1470013021024, 1470013021025, 1470013021026, 1470013021027, 1470013021028, 1470013021029, 1470013021030, 1470013021031, 1470013021032, 1470013021033, 1470013021034, 1470013021035, 1470013021036,

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District 6: Pitt County: VTD: 0200A: Block(s) 1470013011068, 1470014011005, 1470014011006, 1470014011007, 1470014011008, 1470014011009, 1470014011010, 1470014011011, 1470014011012, 1470014011013, 1470014011014, 1470014011015, 1470014011016, 1470014011017, 1470014011020, 1470014011021, 1470014011022, 1470014011023, 1470014011024, 1470014011025, 1470014011026, 1470014011027, 1470014011028, 1470014011029, 1470014011030, 1470014011031, 1470014011034, 1470014011035, 1470014011036, 1470014011037, 1470014011038, 1470014011039, 1470014011040, 1470014011041, 1470014011042, 1470014011043, 1470014011055, 1470014011056, 1470014011057, 1470014011058, 1470014011059, 1470014011060, 1470014011061, 1470014011062, 1470014011066, 1470014012000, 1470014012001, 1470014012002, 1470014012003, 1470014012004, 1470014012005, 1470014012006, 1470014012007, 1470014012008, 1470014012009, 1470014012010, 1470014012011, 1470014012012, 1470014012013, 1470014012014, 1470014012015, 1470014012016, 1470014012017, 1470014012018, 1470014012019, 1470014012020, 1470014012021, 1470014012022, 1470014012023, 1470014012024, 1470014012025, 1470014012026, 1470014012027, 1470014012028, 1470014012029, 1470014012030, 1470014012031, 1470014012032, 1470014012033, 1470014012034, 1470014012035, 1470014013027, 1470014013028, 1470014013029, 1470014013030, 1470014013031, 1470014013037, 1470014013038, 1470014013039, 1470014013044, 1470014013046, 1470014013047, 1470014013048, 1470014013049, 1470014013050, 1470016004017, 1470016004018, 1470016004019, 1470016004020, 1470016004021, 1470016004023, 1470016004024, 1470016004025, 1470016004026, 1470016004027, 1470016004028, 1470016004029, 1470016004030, 1470016004031, 1470016004032, 1470016004037, 1470016004042, 1470016004043; VTD: 0200B, VTD: 0601: Block(s) 1470010021027, 1470010021028, 1470010021029, 1470010022055, 1470010022056, 1470010022057, 1470010022058, 1470010022062, 1470010031033, 1470010032015, 1470010032016, 1470010032020, 1470010032021, 1470010032024, 1470010033000, 1470010033001, 1470010033002, 1470010033003, 1470010033004, 1470010033008, 1470010033009, 1470010033010, 1470010033011, 1470010033012, 1470010033013, 1470011002008, 1470011002009, 1470012001012, 1470012001018, 1470012001019, 1470012001021, 1470012001024, 1470012001025, 1470012001026, 1470012001028, 1470012001030, 1470012001031, 1470012001032, 1470012001033, 1470012001036, 1470012001037, 1470012001043, 1470012001053, 1470012003004, 1470012003005, 1470012003006, 1470012003009, 1470012003010, 1470012003011, 1470012003012, 1470012003018, 1470012003019, 1470012003020; VTD: 1001, VTD: 1102B: Block(s) 1470010022045, 1470010022046, 1470010022047, 1470010022048, 1470010022049, 1470010022053, 1470010022054, 1470010022059, 1470010022060, 1470011002006, 1470011002007; VTD: 1301.

District 7: Pitt County: VTD: 1102A: Block(s) 1470010032002, 1470010032003, 1470010032004, 1470010032005, 1470010032006, 1470010032007, 1470010032008, 1470010032010; VTD: 1402A, VTD: 1402B, VTD: 1507B: Block(s) 1470001005000, 1470001005001, 1470001005002, 1470001005003, 1470001005004, 1470001005010, 1470004002000, 1470004002001, 1470004002002, 1470004002003, 1470004004000, 1470004004001, 1470004004002; VTD: 1509: 1470001005024, 1470002021024, 1470002021025, 1470002021026, 1470003022020, 1470004003005, 1470004003010, 1470004003011, 1470004003012, 1470004003013, 1470004003014, 1470004003015,

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District 8: Pitt County: VTD: 1102A: Block(s) 1470010011026, 1470010011030, 1470010011031, 1470010011032, 1470010021026; VTD: 1507, VTD: 1507B: Block(s) 1470004003000, 1470004003001, 1470004003002, 1470004003003, 1470004003004, 1470004003006, 1470004003007, 1470004003008, 1470004003009; VTD: 1508A: 1470001001003, 1470001001004, 1470001001005, 1470001001006, 1470001001007, 1470001001008, 1470001001009, 1470001001010, 1470001001011, 1470001001012, 1470001001013, 1470001001014, 1470001001015, 1470001001016, 1470001001017, 1470001001018, 1470001001019, 1470001001020, 1470001001021, 1470001001022, 1470001001023, 1470001001024, 1470001001025, 1470001002000, 1470001002001, 1470001002002, 1470001002003, 1470001002004, 1470001002005, 1470001002006, 1470001002007, 1470001002008, 1470001002009, 1470001002010, 1470001002011, 1470001002012, 1470001002013, 1470001002014, 1470001002015, 1470001002016, 1470001002017, 1470001002018, 1470001002019, 1470001002020, 1470001002021, 1470001002022, 1470001002023, 1470001002024, 1470001002025, 1470001002026, 1470001002027, 1470001003004, 1470001003005, 1470001003006, 1470001003007, 1470001003036, 1470001003037, 1470001003038, 1470002012002, 1470002012015, 1470002012016, 1470002012017, 1470002014006, 1470002014007, 1470002014008; VTD: 1508B, VTD: 1509: Block(s) 1470003021000, 1470003021001, 1470003021002, 1470003021003, 1470003021004, 1470003021005, 1470003021006, 1470003021007, 1470003021008, 1470003021009, 1470003021010, 1470003021011, 1470003021012, 1470003021013, 1470003021014, 1470003021015, 1470003021016, 1470003022000, 1470003022001, 1470003022002, 1470003022003, 1470003022004, 1470003022005, 1470003022006, 1470003022007, 1470003022008, 1470003022009, 1470003022010, 1470003022011, 1470003022012, 1470003022013, 1470003022014, 1470003022015, 1470003022016, 1470003022017, 1470003022018, 1470003022019, 1470003022021, 1470003023000, 1470003023001, 1470003023002, 1470003023003, 1470003023004, 1470003023005, 1470003023006, 1470003023007, 1470003023008, 1470003023009, 1470003023010, 1470003023013, 1470003023014, 1470003023025, 1470003023026, 1470009002028, 1470009002029, 1470009002030, 1470009002043, 1470009002059, 1470009002060, 1470009002061, 1470009002062, 1470009002063, 1470009002064, 1470009002065, 1470009002066, 1470009002067, 1470009002068, 1470009002069, 1470009002070, 1470009002071, 1470009002072, 1470009002074, 1470009002075, 1470009002102, 1470009002103, 1470009002104, 1470009002105, 1470009002106, 1470010011033, 1470010011034, 1470010011035, 1470010011036, 1470010011037, 1470010011038, 1470010011039, 1470010011040, 1470010011041, 1470010011042, 1470010011043, 1470010011044, 1470010011045, 1470010011046, 1470010011047, 1470010011048, 1470010011049, 1470010011050.

District 9: Pitt County: VTD: 0601: Block(s) 1470011002005, 1470011002010, 1470011002011, 1470011002012, 1470011002013, 1470011002014, 1470011002015, 1470011002016, 1470011002017, 1470011002018, 1470011002019, 1470011002020, 1470011002021, 1470011002029, 1470011002030, 1470011002031, 1470011002032, 1470011002033, 1470011002034, 1470011002037, 1470011003003, 1470011003004, 1470011003005, 1470011003006, 1470011003007, 1470011003008, 1470011003009, 1470011003010, 1470011003011, 1470011003012, 1470011003013, 1470011003014, 1470011003015, 1470011003016, 1470011003017, 1470011003018, 1470011003019, 1470011003020, 1470011003023, 1470011003026, 1470011003027, 1470011003028, 1470011003029, 1470011003030, 1470011003031, 1470011003032, 1470011003033, 1470011003034, 1470011003035, 1470011003036, 1470011003037, 1470011003038,

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SECTION 3.(c) This section becomes effective the first Monday in December 2016. In the 2016 election, all nine members of the board shall be elected. The five members receiving the lowest total number of votes each shall serve a term of four years. The four members receiving the highest total number of votes each shall serve a term of two years. All members elected in 2020 and thereafter shall serve a term of four years.

SECTION 4. Except as otherwise provided, this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 23rd day of July, 2013.
Became law on the date it was ratified.

Session Law 2013-319 **H.B. 530**

AN ACT TO REQUIRE ANY APPOINTMENTS BY BUNCOMBE COUNTY TO A METROPOLITAN PLANNING ORGANIZATION TO PROVIDE FOR GEOGRAPHIC REPRESENTATION OF THE COUNTY.

The General Assembly of North Carolina enacts:

SECTION 1. In making appointments to any metropolitan planning organization established under Article 16 of Chapter 136 of the General Statutes, the Buncombe County Commissioners may not appoint more than one elected official from each commissioner district in Buncombe County. Being elected separately under Section 1 of S.L. 2011-81, as amended by Section 4 of S.L. 2011-407, the Chairman of the Buncombe County Commissioners shall not be treated as from any commissioner district.

SECTION 2. This act becomes effective October 1, 2013, and applies to any appointments made on or after that date.

In the General Assembly read three times and ratified this the 23rd day of July, 2013.
Became law on the date it was ratified.

Session Law 2013-320 **H.B. 870**

AN ACT TO DECREASE THE DUPLIN COUNTY BOARD OF EDUCATION AND THE BOARD OF COMMISSIONERS OF DUPLIN COUNTY TO A FIVE-MEMBER BOARD, TO ESTABLISH REVISED DISTRICTS FOR THOSE BOARDS, AND TO CONFIRM THAT REDISTRICTING REQUIREMENTS FOLLOWING EACH FEDERAL CENSUS APPLY TO THOSE BOARDS.

The General Assembly of North Carolina enacts:

SECTION 1. S.L. 2011-112 is repealed.

SECTION 2. Section 1 of Chapter 966 of the 1987 Session Laws reads as rewritten:

"Section 1. ~~Except as provided in Section 4 of this act following the 1988 elections the~~ Effective the first Monday in December of 2014, the Duplin County Board of Commissioners and Board of Education shall each consist of ~~six~~ five members elected in partisan ~~elections~~ elections, one each from the ~~six~~ five districts described in Section 8. Only voters who reside in a district may vote in the party primaries and general elections for that district."

SECTION 3. Section 5 of Chapter 966 of the 1987 Session Laws reads as rewritten:

"Sec. 5. ~~In 1990 and every four years thereafter, one commissioner each shall be elected from Districts II and III. In 1992 and every four years thereafter, one commissioner each shall be elected from Districts I, IV, V and VI.~~ In 2014, one commissioner shall be elected from District II to a four-year term of office. In 2016, one commissioner shall be elected from District III to a two-year term of office, and one commissioner each shall be elected from Districts I, IV, and V to a four-year term of office. In 2018, and every four years thereafter, one commissioner each shall be elected from District II and District III. In 2020, and every four years thereafter, one commissioner each shall be elected from Districts I, IV, and V."

SECTION 4. Section 6 of Chapter 966 of the 1987 Session Laws reads as rewritten:

"Sec. 6. ~~In 1988 and every four years thereafter, three members shall be elected to the Board of Education, one each from Districts I, V and VI. The three other members of the Board of Education shall be elected in 1990 and every four years thereafter. In those years one member each shall be elected from Districts II, III and IV.~~In 2014, and every four years thereafter, one member each shall be elected from Districts II and III. In 2016, and every four years thereafter, one member each shall be elected from Districts I, IV, and V."

SECTION 5. Section 8 of Chapter 966 of the 1987 Session Laws reads as rewritten:

"Sec. 8. The election districts for the Duplin County Board of Commissioners and Board of Education are as follows:

~~**District I** – The area within the following boundary running counterclockwise from the intersection of Highway 403 with the Sampson County line: East on Highway 403 to the Faison town limits, southeast along the town limits to the intersection with Highway 117, south on 117 to State Road 1342, southwest on State 1342 (including the residences on both sides of the road) to State Road 1340, south on 1340 (including the residences on both sides of the road) to State Road 1341, southeast on 1341 (including the residences on both sides of the road) to the Warsaw town limits, continuing in a straight line southeast within Warsaw to the intersection with the Seaboard Coast Line railroad tracks, east on the railroad tracks to Front Street, south on Front to College Street, east on College to Pine Crest Drive, southeast on Pine Crest to the town limits, east and north along the town limits to the intersection at the eastern town limit with State Road 1300, east on 1300 to State Road 1375, south on 1375 to Highways 50 and 24, east on 50/24 to the Kenansville town limits, north along the Kenansville town limits to a point directly west of and opposite Allen Street (now Cooper Street), from that point east to Allen (Cooper) Street, east on Allen (Cooper) to Stokes Street, south on Stokes to the intersection with Seminary Street, then along a straight line from the intersection of Stokes and Seminary south to the intersection of Mallard Street and Main Street, across that intersection and then along a straight line directly south from the intersection of Mallard and Main streets to the town limits, east and North along the town limits to the intersection at the eastern town limits with Highway 24, east on 24 to the Northeast Cape Fear River, north along the river (the township line dividing Kenansville and Smith Townships) to Goshen Swamp, then west along Goshen Swamp to the Sampson County line (Goshen Swamp being the township line dividing Kenansville and Glisson Townships and dividing Faison and Wolfscrape Townships up to a~

~~point just south of State Road 1357), then south along the county line to the starting point at Highway 403.~~

~~**District II** – The area within the following boundary running counterclockwise from the intersection of Goshen Swamp with the Sampson County line: Southeast along Goshen Swamp to Northeast Cape Fear River, south along the river to Highway 24, east on 24 to the Beulaville city limits, north and east along the city limits to the intersection of Highway 241 with the northern city limits, north on 241 to Limestone Creek, northeast along the creek and the township line between Smith and Limestone Townships to the Jones County line, then north and west along the county line back to the starting point.~~

~~**District III** – The area included within the following boundary running counterclockwise from the intersection of the Limestone Township line with the Jones County line: Southwest along the township line dividing Smith and Limestone Townships to Limestone Creek, southwest along the creek to Highway 241, south on 241 to the Beulaville town limits, west and south along the town limits to the intersection at the western town limits with Highway 24, east on Highway 24 (Main Street) to Jackson Street, south on Jackson to Cavenaugh Street, then directly east from Cavenaugh for 125 yards, south from that point to Turner Road (excluding Mercer Court apartments from this district), east on Turner to Old Chinquapin Road, south on Old Chinquapin Road to the town limits, west along the town limits to Highway 41, south on Highway 41 (including the residences on both sides of the highway in this district) to the intersection with State Road 1967, south on Highway 41 from that point to the intersection with Highway 111 (formerly State Road 1001), southeast along a straight line from that intersection to Cypress Creek just west of where the creek crosses State Road 1816, southwest along Cypress Creek to the point where it crosses Highway 50 and west with the creek from that point to State Road 1970, north on 1970 to the intersection with Highway 50, then counterclockwise in the shape of a rectangle around Chinquapin (to include all of Chinquapin in this district) to a point on Highways 50 and 41 west of Chinquapin, west from that point to State Road 1964, north on 1964 to the intersection with State Road 1800, then north and west from that intersection along a line curving north of Hallsville (to include all of Hallsville in this district) to a point west of Hallsville on the township line dividing Kenansville and Limestone Townships, south along that township line to the intersection of Highway 50 and State Road 1961, south on Highway 50 to State Road 1953, southwest on 1953 to the Greenevers town limits, southwest along the southern boundary of the Greenevers town limits to State Road 1949, south on 1949 to State Road 1953, south on 1953 to State Road 1947, southeast on 1947 to the intersection with Highway 41, west on Highway 41 to Island Creek, south along the creek to the Northeast Cape Fear River, south along the Northeast Cape Fear River to the county line, then east and north along the county line back to the starting point.~~

~~**District IV** – The area within the following boundary running counterclockwise from the intersection of Highway 117 with the northern town limits of Magnolia: West, south and east along the Magnolia town limits to the point where Highway 117 intersects with the southern town limits of Magnolia, south on 117 to First Street in Rose Hill, west on First Street to the Seaboard Coast Line railroad track, south along the railroad track to the southern town limits of Rose Hill, east along the town limits to the intersection with Highway 117, south on 117 to the town limits of Teachey, then east, south and west along the Teachey town limits (excluding all of Teachey from this district) to the intersection of Highway 117 with the southern town limits of Teachey, south on 117 to the Wallace town limits, then west, south and east along the Wallace town limits (including all of Wallace in this district) to the intersection of Highway 117 with the southern town limits of Wallace, south on 117 to Rockfish Creek (which is the county line), east along Rockfish Creek to the Northeast Cape Fear River, north along the Northeast Cape Fear River to Island Creek (the boundary for District III), northwest along the creek to the point where it crosses Highway 41, east on Highway 41 to State Road 1947, north on 1947 to the intersection with State Road 1946, southwest along a straight line running from that intersection to the intersection of State Roads 1944 and 1945, west from that intersection along State Road 1944 to Highway 11, west on Highway 11 to State Road 1150,~~

~~west on 1150 to the line where Interstate Highway 40 is to be constructed, north along the Interstate 40 construction line to the point where it crosses State Road 1162, west on 1162 to State Road 1935, north on 1935 to State Road 1148, east on 1148 to State Road 1933, north on 1933 to State Road 1102, west on 1102 to State Road 1932, north on 1932 to State Road 1996, northwest on 1996 to State Road 1141, northwest on 1141 to State Road 1915, northwest on 1915 to State Road 1911, then east, north and northwest on 1911 to a point midway between State Roads 1161 and 1912, then along a straight line from that point northwest to the southeast corner of the Magnolia town limits, then north and west along the town limits to the starting point where Highway 117 intersects with the northern town limits.~~

~~**District V** – The area within the following boundary running counterclockwise from the intersection of College Street and South Pine Street in Warsaw: South on South Pine (U.S. 117) to the Warsaw city limits, south on 117 to the Magnolia town limits, east and south along the town limits to the southeastern corner of the town limits, then southeast along a straight line to a point on State Road 1911 midway between State Roads 1161 and 1912, south on 1911 to State Road 1915, southeast on 1915 to State Road 1141, southeast on 1141 to State Road 1996, southeast on 1996 to State Road 1932, south on 1932 to State Road 1102, east on 1102 to State Road 1933, south on 1933 to State Road 1148, west on 1148 to State Road 1935, south on 1935 to State Road 1162, east on 1162 to the construction line for Interstate 40, south along the I-40 construction line to State Road 1150, east on 1150 to Highway 11, northeast on 11 to State Road 1944, east on 1944 to its intersection with State Road 1945, then northeast along a straight line from the intersection of 1944 and 1945 to the intersection of State Roads 1946 and 1947, northwest on 1947 to State Road 1948, northeast on 1948 to State Road 1953, northeast on 1953 to State Road 1949, east and north on 1949 to the Greenevers town limits, east along the southern town limits of Greenevers to State Road 1953, northeast on 1953 to Highway 50, northwest on 50 to the intersection with State Road 1961, northeast along the township line dividing Kenansville and Limestone Townships to a point midway between Persimmons Branch and State Road 1982, east from that point above Hallsville (excluding all of Hallsville from this district) and curving across State Road 1961 to the intersection of State Roads 1800 and 1964, south on 1964 to Highway 50, east on 50 about 2/10 mile to a point just west of Chinquapin, then north, east, south and west along a rectangle around Chinquapin (excluding all of Chinquapin from this district) to the intersection of Highway 50 and State Road 1970, south on 1970 to Cypress Creek, southeast along the creek to Highway 50 just west of Maready, then further along the creek northwest to a point just west of State Road 1816, then northwest in a straight line from that point to the intersection of Highway 41 and 111 (formerly State Road 1001), north on 41 to State Road 1967, then north on 41 (excluding the residences on both sides of 41 from this district) to the Beulaville town limits, east along the town limits to Old Chinquapin Road, north on Old Chinquapin Road to Turner Road, west on Turner to a point 125 yards from Highway 41, north from that point along a straight line parallel to 41 to a point opposite Cavenaugh Street (including in this district the Mercer Court apartments), west to the intersection of Cavenaugh and Jackson Street, north on Jackson to Highway 24 (Main Street), west on 24 to the Kenansville city limits, south and west along the city limits to a point directly south of the intersection of Mallard Street and Main Street, directly north on a straight line to the intersection of Mallard and Main, then along a straight line from that intersection to the intersection of Seminary Street and Stokes Street, northwest on Stokes to Allen (Cooper) Street, west on Allen (Cooper) to the town limits (Mill Branch), south along the town limits to Highway 24, west on 24 to State Road 1375, north and west on 1375 to State Road 1300, west on 1300 to the Warsaw city limits, then south and west along the town limits to Pine Crest Drive, northwest on Pine Crest to College Street, west on College to the starting point at South Pine Street.~~

~~**District VI** – The area within the following boundary running counterclockwise from the intersection of Highway 403 with the Sampson County line. South and east along the county line to Highway 117 south of Wallace, north on 117 to the Wallace city limits, then west, north and east along the Wallace city limits to Highway 117 north of Wallace (excluding~~

~~all of the town of Wallace from this district), north on 117 to the Teachey town limits, then east, north and west along the town limits to 117 (including all of Teachey in this district), north on 117 to the Rose Hill city limits, west along the city limits to the Seaboard Coast Line railroad tracks, north along the railroad tracks to First Street, east on First to Highway 117, north on 117 to the Magnolia town limits, then west, north and east along the town limits to Highway 117 (excluding all of Magnolia from this district), north on 117 to the Warsaw city limits and into Warsaw where 117 becomes Pine Street, north on Pine to College Street, west on College to Front Street, north on Front to the Seaboard Coast Line railroad tracks, west along the railroad tracks to the city limits, northwest from that point along State Road 1341 (excluding residences on both sides of the road from this district) to State Road 1340, northwest on 1340 (excluding residences on both sides of the road from this district) to State Road 1342, northeast on 1342 (excluding residences on both sides of the road from this district) to Highway 117, north on 117 to the Faison town limits, then west and north along the town limits to Highway 403, west on 403 to the starting point at the Sampson County line.~~

~~When the description of a district states that residences on both sides of a highway are to be included in a district, the residences on the side of the highway away from the main body of the district that are considered within the district are those homes which are on lots bordering the highway or are on lots directly connected to the highway by a driveway or similar roadway and are located within two hundred yards of the highway.~~

~~The district boundaries above are the same as those ordered by the court. The descriptions have been rewritten, however, to provide additional detail and to correct several minor errors in directions.~~

(a) Districts. –

District I: Duplin County: VTD: CALY, VTD: FAIS: Block(s) 0610902001009, 0610902001010, 0610902001011, 0610902001012, 0610902001013, 0610902001014, 0610902001015, 0610902001016, 0610902001017, 0610902001018, 0610902001019, 0610902001020, 0610902001021, 0610902001022, 0610902001023, 0610902001030, 0610902001031, 0610902001032, 0610902001033, 0610902001034, 0610902001035, 0610902001036, 0610902001037, 0610902001038, 0610902001040, 0610902001041, 0610902001042, 0610902001043, 0610902001044, 0610902001045, 0610902001046, 0610902001047, 0610902001048, 0610902001049, 0610902001050, 0610902001051, 0610902001052, 0610902001053, 0610902001054, 0610902001055, 0610902001056, 0610902001057, 0610902001058, 0610902001059, 0610902001060, 0610902001061, 0610902001062, 0610902001063, 0610902001064, 0610902001065, 0610902001068, 0610902001082, 0610902002043, 0610902003000, 0610902003001, 0610902003002, 0610902003003, 0610902003004, 0610902003005, 0610902003006, 0610902003007, 0610902003008, 0610902003009, 0610902003010, 0610902003011, 0610902003012, 0610902003013, 0610902003014, 0610902003015, 0610902003016, 0610902003017, 0610902003018, 0610902003019, 0610902003020, 0610902003021, 0610902003022, 0610902003029, 0610902003030, 0610902003031, 0610902003032, 0610902003033, 0610902003034, 0610902003035, 0610902003036, 0610902003037, 0610902003038, 0610902003039, 0610902003040, 0610902003041, 0610902003042, 0610902003043, 0610902003044, 0610902003045, 0610902003046, 0610902003047, 0610902003048, 0610902003049, 0610902003050, 0610902003051, 0610902003052, 0610902003053, 0610902003054, 0610902003055, 0610902003056, 0610902003057, 0610902003058, 0610902003059, 0610902003060, 0610902003061, 0610902003062, 0610902003063, 0610902003064, 0610902003065, 0610902003066, 0610902003067, 0610902003068, 0610902003069, 0610902003070, 0610902003072, 0610902003073, 0610902003074, 0610902003076, 0610902003077, 0610902003078, 0610902003079, 0610902003080, 0610902003081, 0610902003082, 0610902003083, 0610902003084, 0610902003085, 0610902003086, 0610902003087, 0610902003088, 0610902003089, 0610902003090, 0610902003091, 0610902003092, 0610902003093, 0610902003094, 0610902003097, 0610902003098, 0610902003099, 0610902003100, 0610902003101; VTD: GLIS:

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(b) Boundaries. – The names and boundaries of voting tabulation districts specified in this section are as shown on the 2010 Census Redistricting TIGER/Line Shapefiles. If any

voting tabulation district boundary is changed, that change shall not change the boundary of a district, which shall remain the same as it is depicted by the 2010 Census Redistricting TIGER/Line Shapefiles."

SECTION 6. G.S. 153A-22 applies to the Duplin County Board of Commissioners. G.S. 115C-37(i) applies to the Duplin County Board of Education.

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

In the General Assembly read three times and ratified this the 23rd day of July, 2013.

Became law on the date it was ratified.

Session Law 2013-321 **H.B. 467**

AN ACT REQUIRING HEALTH CARE FACILITIES THAT PERFORM MAMMOGRAPHY EXAMINATIONS TO COMMUNICATE MAMMOGRAPHIC BREAST DENSITY INFORMATION TO PATIENTS AND TO MAKE A CORRECTION TO A STATUTE INVOLVING THE CANCER REGISTRY.

Whereas, mammographic examinations are typically used to characterize breast density into one of four groups; and

Whereas, women classified in the highest two levels have heterogeneously or extremely dense breast tissue and could have abnormalities that are not easily visible on a mammogram; and

Whereas, dense breast tissue may also increase the risk of developing cancer; and

Whereas, knowing her individual breast density level may aid in helping a woman better understand that supplemental screening may be beneficial if she is classified in the two highest levels of breast density; Now, therefore,

The General Assembly of North Carolina enacts:

SECTION 1. Article 7 of Chapter 130A of the General Statutes is amended by adding a new section to read:

"**§ 130A-215.5. Communication of mammographic breast density information to patients.**

(a) All health care facilities that perform mammography examinations shall include in the summary of the mammography report, required by federal law to be provided to a patient, information that identifies the patient's individual breast density classification based on the Breast Imaging Reporting and Data System established by the American College of Radiology. If the facility determines that a patient has heterogeneously or extremely dense breasts, the summary of the mammography report shall include the following notice:

"Your mammogram indicates that you may have dense breast tissue. Dense breast tissue is relatively common and is found in more than forty percent (40%) of women. The presence of dense tissue may make it more difficult to detect abnormalities in the breast and may be associated with an increased risk of breast cancer. We are providing this information to raise your awareness of this important factor and to encourage you to talk with your physician about this and other breast cancer risk factors. Together, you can decide which screening options are right for you. A report of your results was sent to your physician."

(b) Patients who receive diagnostic or screening mammograms may be directed to informative material about breast density. This informative material may include the American College of Radiology's most current brochure on the subject of breast density."

SECTION 2. G.S. 130A-211 reads as rewritten:

"**§ 130A-211. Immunity of persons who report cancer.**

A person who makes a report pursuant to G.S. 130A-209 ~~or 130A-210~~ to the central cancer registry shall be immune from any civil or criminal liability that might otherwise be incurred or imposed."

SECTION 3. This act becomes effective January 1, 2014.

In the General Assembly read three times and ratified this the 16th day of July, 2013.

Became law upon approval of the Governor at 4:15 p.m. on the 23rd day of July, 2013.

Session Law 2013-322 **S.B. 444**

AN ACT TO REQUIRE THE CONSTITUENT INSTITUTIONS OF THE UNIVERSITY OF NORTH CAROLINA TO RECOGNIZE THE CHEROKEE LANGUAGE AS A LANGUAGE FOR WHICH A STUDENT MAY SATISFY A FOREIGN LANGUAGE COURSE REQUIREMENT FOR DEGREE COMPLETION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 116-11 is amended by adding a new subdivision to read:

"(4c) The Board of Governors shall require each constituent institution to develop and implement a policy that recognizes the Cherokee language as a language for which a student may satisfy the foreign language course requirement for degree completion at the institution."

SECTION 2. This act is effective when it becomes law and applies to the 2013-2014 academic year and each subsequent year.

In the General Assembly read three times and ratified this the 18th day of July, 2013.

Became law upon approval of the Governor at 4:23 p.m. on the 23rd day of July, 2013.

Session Law 2013-323 **H.B. 26**

AN ACT TO STRENGTHEN THE LAWS PROTECTING AGAINST THE THEFT OF VEHICLES FOR DISASSEMBLY AND RESALE OF PARTS AND TO ASSIST LAW ENFORCEMENT IN THE INVESTIGATION OF ORGANIZED CRIMINAL ACTIVITY ASSOCIATED WITH THE THEFT OF VEHICLES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 14-72.7(a) reads as rewritten:

"§ **14-72.7. Chop shop activity.**

(a) A person is guilty of a ~~Class H~~ Class G felony if that person ~~knowingly~~ engages in any of the following activities, without regard to the value of the property in question:

(1) Altering, destroying, disassembling, dismantling, reassembling, or storing any motor vehicle or motor vehicle part the person knows or has reasonable grounds to believe ~~to be~~ has been illegally obtained by theft, fraud, or other illegal means.

(2) Permitting a place to be used for any activity prohibited by this section, where the person either owns or has legal possession of the place, and knows or has reasonable grounds to believe that the place is being used for any activity prohibited by this section.

(3) Purchasing, disposing of, selling, transferring, receiving, or possessing a motor vehicle or motor vehicle part either knowing or having reasonable grounds to believe ~~with the knowledge~~ that the vehicle identification number of the motor vehicle, or vehicle part identification number of the vehicle part, has been altered, counterfeited, defaced, destroyed, disguised, falsified, forged, obliterated, or removed.

(4) Purchasing, disposing of, selling, transferring, receiving, or possessing a motor vehicle or motor vehicle part to or from a person engaged in any activity prohibited by this section, knowing or having reasonable grounds to believe that the person is engaging in that activity."

SECTION 2. G.S. 20-62.1 reads as rewritten:

"§ **20-62.1. Purchase of vehicles for purposes of scrap or parts only.**

(a) Records for Scrap or Parts. – A secondary metals recycler, as defined in G.S. 66-420(8), and a salvage yard, as defined in G.S. 20-137.7(6), purchasing motor vehicles solely for the purposes of dismantling or wrecking such motor vehicles for the recovery of scrap metal or for the sale of parts only, ~~must~~shall comply with the ~~provision~~provisions of ~~G.S. 20-61,~~G.S. 20-61 and subsection (a1) of this section, provided, however, that a secondary metals recycler or salvage yard may purchase a motor vehicle without a certificate of title, if the motor vehicle is 10 model years old or older and the secondary metals recycler or salvage yard comply with the following requirements:

(1) Maintain a record on a form, or in a format, as approved by the Division of Motor Vehicles (DMV) of all purchase transactions of motor vehicles. The following information shall be maintained for transactions of motor vehicles:

a. The ~~name and address~~ name, address, and contact information of the secondary metals recycler or salvage yard.

b. The name, initials, or other identification of the individual entering the information.

c. The date of the transaction.

d. A description of the motor vehicle, including the ~~make~~year, make, and model to the extent practicable.

e. The vehicle identification number (VIN) of the vehicle.

f. The amount of consideration given for the motor vehicle.

g. A written statement signed by the seller or the seller's agent certifying that (i) the seller or the seller's agent has the lawful right to sell and dispose of the motor ~~vehicle.~~vehicle, (ii) the motor vehicle is at least 10 model years old, and (iii) the motor vehicle is not subject to any security interest or lien.

g1. A written statement that the motor vehicle will be scrapped or crushed for disposal or dismantled for parts only.

h. The ~~name and address~~name, address, and drivers license number of the person from whom the motor vehicle is being purchased.

i. A photocopy or electronic scan of a valid drivers license or identification card issued by the ~~Division of Motor Vehicles~~DMV of the seller of the motor vehicle, or seller's agent, to the secondary metals recycler or salvage yard, or in lieu thereof, any other identification card containing a photograph of the seller as issued by any state or federal agency of the United States: provided, that if the buyer has a copy of the seller's photo identification on file, the buyer may reference the identification that is on file, without making a separate photocopy for each transaction. If seller has no identification as described in this sub-subdivision, the secondary metals recycler or salvage yard shall not complete the transaction.

(1a) Verify with the DMV whether or not the motor vehicle has been reported stolen. The DMV shall develop a method to allow a person subject to this section to verify, at the time of the transaction, through the use of the Internet, that the vehicle has not been reported stolen, and that also allows for the DMV's response to be printed and retained by the person making the request. One of the following shall apply following the DMV response:

a. If the Division of Motor Vehicles confirms that the motor vehicle has been reported stolen, the secondary metals recycler or salvage yard shall not complete the transaction and shall notify the DMV of the current location of the vehicle and the identifying information of the person attempting to transfer the vehicle.

b. If the Division of Motor Vehicles confirms that the motor vehicle has not been stolen, the secondary metals recycler or salvage yard may proceed with the transaction and shall not be held criminally or civilly liable if the motor vehicle later turns out to be a stolen vehicle, unless the secondary metals recycler had knowledge that the motor vehicle was a stolen vehicle.

(2) Maintain the information required under subdivision (1) of this ~~subsection~~ subsection, and the record confirming that the vehicle was not stolen, required under subdivision (1a) of this subsection, for not less than two years from the date of the purchase of the motor vehicle.

(a1) Reporting Requirement. – Within 72 hours of each day's close of business, a secondary metals recycler or salvage yard purchasing a motor vehicle under this section shall submit to the National Motor Vehicle Title Information System (NMVTIS) such information contained in subdivision (1) of subsection (a) of this section, along with any other information or statement pertaining to the intended disposition of the motor vehicle, as may be required. The information shall be in a format that will satisfy the requirement for reporting information in accordance with rules adopted by the United States Department of Justice in 28 C.F.R. § 25.56. A secondary metals recycler or salvage yard may comply with this subsection by reporting the information required by this subsection to a third-party consolidator as long as the third-party consolidator reports the information to the NMVTIS in compliance with the provisions of this subsection.

(b) Inspection of Motor Vehicles and Records. – At any time it appears a secondary metals recycler, salvage yard, or any other person involved in secondary metals operations is open for business, a law enforcement officer shall have the right to inspect the following:

(1) Any and all motor vehicles in the possession of the secondary metals recycler, the salvage yard, or any other person involved in secondary metals operations.

(2) Any records required to be maintained under subsection (a) of this section.

(b1) Availability of Information. – The information obtained by the Division of Motor Vehicles pursuant to this section shall be made available to law enforcement agencies only. The information submitted pursuant to this section is confidential and shall not be considered a public record as that term is defined in G.S. 132-1.

(c) Violations. – Any person who knowingly and willfully violates any of the provisions of this section, or any person who falsifies the statement required under subsection (a)(1)g. of this section, shall be guilty of a ~~Class 1 misdemeanor for a first offense. A second or subsequent violation of this section is a~~ Class I ~~felony.~~felony and shall pay a minimum fine of one thousand dollars ($1,000). The court may order a defendant seller under this subsection to make restitution to the secondary metals recycler or salvage yard or lien holder for any damage or loss caused by the defendant seller arising out of an offense committed by the defendant seller.

…."

SECTION 3. Section 1 of this act becomes effective December 1, 2013, and applies to offenses committed on or after that date. Section 2 of this act becomes effective for reports and transactions occurring on or after December 1, 2013, and applies to offenses committed on or after that date. The remainder of this act is effective when it becomes law. Prosecutions for offenses committed before the effective date of this act are not abated or affected by this act, and the statutes that would be applicable but for this act remain applicable to those prosecutions.

In the General Assembly read three times and ratified this the 15th day of July, 2013.

Became law upon approval of the Governor at 4:25 p.m. on the 23rd day of July, 2013.

Session Law 2013-324 **H.B. 232**

AN ACT TO MAKE TECHNICAL AND OTHER CHANGES TO THE STATE HEALTH PLAN FOR TEACHERS AND STATE EMPLOYEES STATUTES, AS REQUESTED BY THE STATE HEALTH PLAN.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 135-48.40(b)(1) reads as rewritten:

"(b) Partially Contributory Coverage. – The following persons are eligible for coverage under the Plan, on a partially contributory basis, subject to the provisions of G.S. 135-48.43:

(1) All ~~permanent~~ full-time employees of an employing ~~unit~~ unit.~~who meet either of the following conditions:~~

~~a. Paid from general or special State funds.~~

~~b. Paid from non-State funds and in a group for which his or her employing unit has agreed to provide coverage.~~

~~Employees of State agencies, departments, institutions, boards, and commissions not otherwise covered by the Plan who are employed in permanent job positions on a recurring basis and who work 30 or more hours per week for nine or more months per calendar year are covered by the provisions of this subdivision.~~ For the purposes of this section, the full-time status of an employee will be determined by the employing unit in accordance with section 4980H of the Internal Revenue Code and the applicable regulations, as amended."

SECTION 2. G.S. 135-48.40(b)(2) is repealed.

SECTION 3. G.S. 135-48.42(e) reads as rewritten:

"(e) Eligible employees and retirees may only change their elections, including adding or removing dependents, during the Plan year due to a qualifying event as defined under federal law."

SECTION 4. G.S. 135-48.43 reads as rewritten:

"§ **135-48.43. Effective dates of coverage.**

(a) Eligible Employees and Retired Employees. – Employees and retirees who otherwise satisfy the eligibility requirements set forth in G.S. 135-48.40 will be offered coverage with the following effective dates:

(1) Employees and retired employees covered under the Predecessor Plan will continue to be covered, subject to the terms hereof.

(2) New employees may apply for coverage to be effective on the first day of the month following ~~employment, or on a like date the following month if the employee has enrolled.~~the date that the employee is determined by the employing unit to be a full-time employee as defined in G.S. 135-48.40(b)(1) or, if later, the first day of any applicable stability periods established by the employing unit in accordance with section 4980H of the Internal Revenue Code and the applicable regulations, as amended.

(3) Employees ~~age 19 or older~~ not enrolling or adding dependents ~~age 19 and older~~ when first eligible in accordance with G.S. 135-48.42 may enroll later during annual enrollment, ~~but may be subject to a 12-month waiting period for a preexisting health condition,~~ except employees who elect to change their coverage in accordance with rules adopted by the State Treasurer for optional alternative plans offered under the Plan.

(4) Members of the General Assembly, beginning with the 1985 Session, shall become first eligible with the convening of each Session of the General Assembly, regardless of a Member's service during previous Sessions. Members and their dependents enrolled when first eligible after the convening of each Session of the General Assembly will not be subject to

any waiting periods for preexisting health conditions. Members of the 1983 Session of the General Assembly, not already enrolled, shall be eligible to enroll themselves and their dependents on or before October 1, 1983, without being subject to any waiting periods for preexisting health conditions.

(b) Waiting Periods and Preexisting Conditions. –

…

(3) Retiring employees and dependents enrolled when first eligible after an employee's retirement are subject to no waiting period for preexisting conditions under the Plan. Retiring employees not enrolled or not adding dependents age 19 and older when first eligible after an employee's retirement may enroll at a later ~~on the first of any following month,~~ time during annual enrollment, but ~~will~~ may be subject to a 12-month waiting period for preexisting conditions except as provided in subdivision (a)(3) of this section.

…."

SECTION 5. G.S. 135-48.51 reads as rewritten:

"§ **135-48.51. Coverage and operational mandates related to Chapter 58 of the General Statutes.**

The following provisions of Chapter 58 of the General Statutes apply to the State Health Plan:

…

(8) G.S. 58-3-250, Payment obligations for covered services.

(9) G.S. 58-3-265, ~~Payment obligations for covered services.~~Prohibition on managed care provider incentives.

…."

SECTION 6. G.S. 147-86.23 reads as rewritten:

"§ **147-86.23. Interest and penalties.**

A State agency shall charge interest at the rate established pursuant to G.S. 105-241.21 on a past-due account receivable from the date the account receivable was due until it is paid. A State agency shall add to a past-due account receivable a late payment penalty of no more than ten percent (10%) of the account receivable. A State agency may waive a late-payment penalty for good cause shown. If another statute requires the payment of interest or a penalty on a past-due account receivable, this section does not apply to that past-due account receivable. This section does not apply to money owed to the University of North Carolina Health Care System or to East Carolina University's Division of Health Sciences for health care ~~services or~~ services, to the North Carolina Turnpike Authority for money owed to the Authority for ~~tolls.~~ tolls, or to the North Carolina State Health Plan for past-due account receivables related to premiums and claims payments."

SECTION 7. Section 1 and the amendment to G.S. 135-48.43(a)(2) made in Section 4 become effective January 1, 2015, and apply to plan years beginning on or after that date. Section 3 and Section 4, except for the amendment to G.S. 135-48.43(a)(2) made in Section 4, become effective January 1, 2014, and apply to plan years beginning on or after that date. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 18th day of July, 2013.

Became law upon approval of the Governor at 4:25 p.m. on the 23rd day of July, 2013.

Session Law 2013-325 **H.B. 255**

AN ACT TO PROVIDE THAT CERTAIN COURSES AND ACADEMIC CREDIT HOURS TRANSFERRED TO A CONSTITUENT INSTITUTION SHALL NOT BE INCLUDED IN THE CALCULATION OF CREDIT HOURS FOR PURPOSES OF THE TUITION

SURCHARGE AND TO REQUIRE THAT UNIFORM PROCEDURES BE IMPLEMENTED IN THE UNIVERSITY OF NORTH CAROLINA SYSTEM TO PROVIDE APPROPRIATE ADVANCE NOTICE TO A STUDENT WHEN THE STUDENT IS APPROACHING THE CREDIT HOUR LIMIT REGARDING THE TUITION SURCHARGE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 116-143.7 is amended by adding a new subsection to read:

"(d) Each constituent institution shall implement procedures to notify students and parents regarding the tuition surcharge and to provide appropriate advance notice to a student when the student is approaching the credit hour limit regarding the tuition surcharge. The procedures shall comply with the tuition surcharge notification principles established by the Board of Governors."

SECTION 2. G.S. 116-11 is amended by adding a new subdivision to read:

"(7a) The Board of Governors shall develop a uniform core set of notification principles regarding the tuition surcharge, including a process for each campus to notify students and parents at orientation and through each semester's tuition statements, and a process to provide appropriate advance notification to a student when the student is approaching the credit hour limit regarding the tuition surcharge. The Board of Governors shall direct each constituent institution to implement these procedures."

SECTION 3. Notwithstanding G.S. 116-143.7, courses and credit hours transferred from an institution of higher education that is not a constituent institution or a community college established pursuant to G.S. 115D-4 that are accepted by a constituent institution prior to August 15, 2013, shall not count toward the tuition surcharge under G.S. 116-143.7. The General Administration of The University of North Carolina shall report by March 1, 2014, to the Joint Legislative Education Oversight Committee on the number of courses exempted from the tuition surcharge pursuant to this section.

SECTION 4. This act is effective when it becomes law. Sections 1 and 2 of this act apply to the 2013 fall academic semester and to each subsequent academic semester.

In the General Assembly read three times and ratified this the 15th day of July, 2013.

Became law upon approval of the Governor at 4:25 p.m. on the 23rd day of July, 2013.

Session Law 2013-326 **H.B. 510**

AN ACT TO PROVIDE FOR THE FOSTER CHILDREN'S BILL OF RIGHTS UNDER THE LAWS PERTAINING TO CONTROL OVER CHILD PLACING AND CHILD CARE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 131D-10.1 reads as rewritten:

"§ **131D-10.1. ~~Purpose.~~Foster Care Children's Bill of Rights; purpose.**

(a) It is the policy of this State to strengthen and preserve the family as a unit consistent with a high priority of protecting children's welfare. When a child requires care outside the family unit, it is the duty of the State to assure that the quality of substitute care is as close as possible to the care and nurturing that society expects of a family. However, the State recognizes there are instances when protecting a child's welfare outweighs reunifying the family unit, and as such, the care of residential care facilities providing high quality services that include meeting the children's educational needs as determined by the Department of Health and Human Services, Division of Social Services can satisfy the standard of protecting a child's welfare, regardless of the child's age, particularly when the sibling groups can be kept intact. To that end, the General Assembly promotes the following in the provision of foster care:

(1) A safe foster home free of violence, abuse, neglect, and danger.
(2) First priority regarding placement in a home with siblings.
(3) The ability to communicate with the assigned social worker or case worker overseeing the child's case and have calls made to the social worker or case worker returned within a reasonable period of time.
(4) Allowing the child to remain enrolled in the school the child attended before being placed in foster care, if at all possible.
(5) Having a social worker, when a child is removed from the home, to immediately begin conducting an investigation to identify and locate all grandparents, adult siblings, and other adult relatives of the child to provide those persons with specific information and explanation of various options to participate in placement of a child.
(6) Participation in school extracurricular activities, community events, and religious practices.
(7) Communication with the biological parents if the child placed in foster care receives any immunizations and whether any additional immunizations are needed if the child will be transitioning back into a home with his or her biological parents.
(8) Establishing and having access to a bank or savings account in accordance with State laws and federal regulations.
(9) Obtaining identification and permanent documents, including a birth certificate, social security card, and health records by the age of 16, to the extent allowed by federal and State law.
(10) The use of appropriate communication measures to maintain contact with siblings if the child placed in foster care is separated from his or her siblings.
(11) Meaningful participation in a transition plan for those phasing out of foster care, including participation in family team, treatment team, court, and school meetings.

A violation of subdivisions (1) through (11) of this subsection shall not be construed to create a cause of action under this section against the State, the Department of Health and Human Services, or a person or entity providing foster care pursuant to this Article.

(b) The purpose of this Article is to assign the authority to protect the health, safety and well-being of children separated from or being cared for away from their families."

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

In the General Assembly read three times and ratified this the 17th day of July, 2013.

Became law upon approval of the Governor at 4:25 p.m. on the 23rd day of July, 2013.

Session Law 2013-327 **H.B. 616**

AN ACT AMENDING THE SECURE AND FAIR ENFORCEMENT MORTGAGE LICENSING ACT TO PROVIDE FOR THE LICENSURE OF A TRANSITIONAL MORTGAGE LOAN ORIGINATOR.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 53-244.030 reads as rewritten:

"§ **53-244.030. Definitions.**

For purposes of the Article, the following definitions apply:

…

(15) "Licensee" means a mortgage loan originator, transitional mortgage loan originator, mortgage broker, mortgage lender, or mortgage servicer or other person who is licensed pursuant to this Article.

…

(33a) "Transitional mortgage loan originator" means an individual who is authorized to act as a mortgage loan originator subject to a transitional mortgage loan originator license which is limited to a term of no more than 120 days and is not subject to reapplication, renewal, or extension by the Commissioner.

…."

SECTION 2. G.S. 53-244.040 reads as rewritten:

"§ **53-244.040. License and registration requirements.**

(a) Except as provided in subsection (d) of this section, no person may engage in the mortgage business or act as a mortgage loan originator with respect to any dwelling located in this State without first obtaining and maintaining a license under this Article. It shall be unlawful for any person, other than an exempt ~~person,~~ person or a person licensed as a transitional mortgage loan originator, to act as a mortgage loan originator without a mortgage loan originator license, which authorizes an individual who is employed by a licensee holding a license as provided in subsection (b) of this section to conduct the business of a mortgage loan originator.

(a1) In anticipation of satisfaction of all requirements necessary to obtain a license as a mortgage loan originator under this Article, a transitional mortgage loan originator license may be granted to an individual who has an active license to originate mortgage loans pursuant to the laws of any state or territory of the United States other than North Carolina, provided the individual registers, is fingerprinted, and maintains a unique identifier with the Nationwide Mortgage Licensing System and Registry at the time the individual submits a transitional mortgage loan originator application to the Commissioner. A transitional mortgage loan originator license may also be issued to a registered loan originator for the purpose of satisfying all requirements necessary to obtain a license as a mortgage loan originator under this Article if permitted by a guideline, rule, regulation, or interpretive letter which clarifies section 1503 of Title V of the Housing and Economic Recovery Act of 2008, P.L. 110-289, and only to the extent of such an issuance or determination.

…."

SECTION 3. G.S. 53-244.050 reads as rewritten:

"§ **53-244.050. License and registration application; claim of exemption.**

…

(b) The eligibility requirements for an application for licensure under this Article are as follows:

…

(1a) Each individual applicant for licensure as a transitional mortgage loan originator shall:

a. Be at least 18 years of age;

b. Have an active license to originate mortgage loans pursuant to the laws of any state or territory of the United States other than North Carolina;

c. Have a valid unique identifier, registration, and fingerprints on file with the Nationwide Mortgage Licensing System and Registry;

d. Have been employed for a period of no less than two years as a mortgage loan originator; and

e. Have provided certification of employment with a mortgage lender or mortgage broker licensed under this Article, including an attestation by the employer that the applicant is in his or her employ.

…

(c) In connection with an application for licensing as a mortgage loan originator, transitional mortgage loan originator, mortgage lender, mortgage broker, or mortgage servicer, the applicant and its owners, qualifying individual, and controlling persons shall furnish to the

Nationwide Mortgage Licensing System and Registry information concerning the applicant's identity, including:

…

(f) For purposes of this section, the Commissioner may request and the North Carolina Department of Justice may provide a criminal record check to the Commissioner for any person who has applied for or holds a mortgage lender, mortgage broker, mortgage servicer, ~~or~~ mortgage loan ~~originator~~ originator, or transitional mortgage loan originator license as provided by this section. The Commissioner shall provide the Department of Justice, along with the request, the fingerprints of the person, any additional information required by the Department of Justice, and a form signed by the person consenting to the check of the criminal record and to the use of the fingerprints and other identifying information required by the State or national repositories. The person's fingerprints shall be forwarded to the State Bureau of Investigation for a search of the State's criminal history record file, and the State Bureau of Investigation shall forward a set of the fingerprints to the Federal Bureau of Investigation for a national criminal history check. The Department of Justice may charge a fee for each person for conducting the checks of criminal history records authorized by this section.

…."

SECTION 4. G.S. 53-244.060 reads as rewritten:

"§ **53-244.060. Issuance of license.**

If an applicant satisfies the requirements of G.S. 53-244.050, the Commissioner shall issue a mortgage lender, mortgage broker, mortgage servicer, ~~or~~ mortgage loan ~~originator~~ originator, or transitional mortgage loan originator license unless the Commissioner finds any of the following:

…

(4) The applicant has demonstrated a lack of financial responsibility, character, or general fitness such as to fail to command the confidence of the community and to warrant a determination that the mortgage loan ~~originator~~ originator, transitional mortgage loan originator, or other licensee will operate honestly, fairly, and efficiently within the purposes of this Article. For purposes of this subdivision, a person shows a lack of financial responsibility when the person has shown a disregard in the management of the person's own financial affairs. Evidence that a person has not shown financial responsibility may include:

…."

SECTION 5. G.S. 53-244.090 reads as rewritten:

"§ **53-244.090. License application fees.**

(a) Every applicant for initial licensure shall pay a nonrefundable filing fee of one thousand two hundred fifty dollars ($1,250) for licensure as a mortgage broker, mortgage lender, or mortgage servicer, three hundred dollars ($300.00) for licensure as an exclusive mortgage broker, or one hundred twenty-five dollars ($125.00) for licensure as a mortgage loan ~~originator.~~originator or transitional mortgage loan originator. In addition, an applicant must pay the actual cost of obtaining a credit report, State and national criminal history record checks, and the processing fees required by the Nationwide Mortgage Licensing System and Registry.

…."

SECTION 6. G.S. 53-244.100 reads as rewritten:

"§ **53-244.100. Active license requirements and assignability.**

(a) It is unlawful for any person to engage in the mortgage business without first obtaining a license as a mortgage loan originator, transitional mortgage loan originator, mortgage lender, mortgage broker, or mortgage servicer issued by the Commissioner under this Article. It is unlawful for any person to employ, to compensate, or to appoint as its agent a mortgage loan originator unless the person is a licensed mortgage loan originator or a transitional mortgage loan originator under this Article. Persons defined in G.S. 53-244.030(8) or G.S. 53-244.030(29) are not subject to this subsection.

(b) The license of a mortgage loan originator or transitional mortgage loan originator is not effective during any period when that person is not employed by a mortgage lender, mortgage broker, or mortgage servicer licensed under this Article. When a mortgage loan originator or transitional mortgage loan originator ceases to be employed by a mortgage lender, mortgage broker, or mortgage servicer licensed under this Article, the mortgage loan ~~originator,~~originator or transitional mortgage loan originator and the mortgage lender, mortgage broker, or mortgage servicer licensed under this Article by whom that person is employed shall promptly notify the Commissioner in writing. The mortgage lender, mortgage broker, or mortgage servicer shall include a statement of the specific reason for the termination of the mortgage loan originator's or transitional mortgage loan originator's employment. A mortgage loan originator or transitional mortgage loan originator shall not be employed simultaneously by more than one mortgage lender, mortgage broker, or mortgage servicer licensed under this Article.

(c) Each mortgage lender, mortgage broker, and mortgage servicer licensed under this Article shall maintain on file with the Commissioner a list of all mortgage loan originators and transitional mortgage loan originators who are employed with the mortgage lender, mortgage broker, or mortgage servicer.

(d) No person, other than an exempt person, shall hold himself or herself out as a mortgage lender, a mortgage broker, a mortgage servicer, ~~or~~ a mortgage loan ~~originator~~ originator, or a transitional mortgage loan originator unless the person is licensed in accordance with this Article.

…."

SECTION 7. G.S. 53-244.103 reads as rewritten:

"§ **53-244.103. Surety bond requirements.**

(a) Each mortgage loan originator or transitional mortgage loan originator shall be covered by a surety bond through employment with a licensee in accordance with this section. The surety bond shall provide coverage for each mortgage loan originator or transitional mortgage loan originator employed by the licensee in an amount as prescribed by subsection (b) of this section and shall be in a form prescribed by the Commissioner. The Commissioner may adopt rules with respect to the requirements for the surety bonds as needed to accomplish the purposes of the Article.

…."

SECTION 8. G.S. 53-244.104 reads as rewritten:

"§ **53-244.104. Minimum net worth requirements.**

(a) A minimum net worth shall be continuously maintained for licensees in accordance with this section. In the event that the mortgage loan originator or transitional mortgage loan originator is an employee or exclusive agent of a person subject to this Article, the net worth of the person subject to this Article can be used in lieu of the mortgage loan originator's or transitional mortgage loan originator's minimum net worth requirement. The minimum net worth to be maintained for each license is as follows:

…."

SECTION 9. G.S. 53-244.106 reads as rewritten:

"§ **53-244.106. Display of license.**

Each mortgage broker or mortgage lender licensed under this Article shall display, in plain public view, the certificate of licensure issued by the Commissioner in its principal office and in each branch office. Each mortgage loan originator or transitional mortgage loan originator licensed under this Article shall display, in plain public view, in each branch office in which the individual acts as a mortgage loan originator or transitional mortgage loan originator the certificate of licensure issued by the Commissioner."

SECTION 10. G.S. 53-244.107 reads as rewritten:

"§ **53-244.107. Unique identifier shown.**

The unique identifier of any mortgage loan ~~originator~~ originator, transitional mortgage loan originator, or other person engaged in the mortgage business as defined in G.S. 53-244.030(11)

shall be clearly shown on all residential mortgage loan application forms, solicitations, advertisements, including business cards or Web sites, and any other documents as established by rule or order of the Commissioner."

SECTION 11. G.S. 53-244.111 reads as rewritten:

"§ **53-244.111. Prohibited acts.**

In addition to the activities prohibited under other provisions of this Article, it shall be unlawful for any person in the course of any residential mortgage loan transaction:

…

(3) To fail to account for or to deliver to any person any funds, documents, or other thing of value obtained in connection with a mortgage loan, including money provided by a borrower for a real estate appraisal or a credit report, which the mortgage lender, mortgage broker, mortgage servicer, ~~or~~ mortgage loan ~~originator~~ originator, or transitional mortgage loan originator is not entitled to retain under the circumstances.

…."

SECTION 12. G.S. 53-244.114 reads as rewritten:

"§ **53-244.114. Licensure authority.**

(a) The Commissioner may, by order, deny, suspend, revoke, or refuse to issue or renew a license of a licensee or applicant under this Article, or may restrict or limit the manner in which a licensee, applicant, or any person who owns an interest in or participates in the business of a licensee engages in the mortgage business, if the Commissioner finds both of the following:

…

(2) That any of the following circumstances apply to the applicant, licensee, or any partner, member, manager, officer, director, loan officer, limited loan officer, qualifying individual, or any person occupying a similar status or performing similar functions or any person directly or indirectly controlling the applicant or licensee. The person:

…

d. Is the subject of an order of the Commissioner denying or suspending that person's license as a mortgage loan ~~originator,~~originator, transitional mortgage loan originator, mortgage broker, mortgage lender, or mortgage servicer;

e. Is the subject of an order entered within the past five years by the authority of any state with jurisdiction over that state's mortgage brokerage, mortgage lending, or mortgage servicing industry denying that person's license as a mortgage loan ~~originator,~~originator, transitional mortgage loan originator, mortgage broker, mortgage lender, or mortgage servicer;

…

h. Has been the qualifying individual, branch manager, ~~or~~ mortgage loan ~~originator~~ originator, or transitional mortgage loan originator of a licensee who had knowledge of or reasonably should have had knowledge of, or participated in, any activity that resulted in the entry of an order under this Article suspending or withdrawing the license of a licensee;

…."

SECTION 13. G.S. 53-244.115 reads as rewritten:

"§ **53-244.115. Investigation and examination authority.**

…

(b) For purposes of investigating violations or complaints arising under this Article, or for the purposes of examination, the Commissioner may review, investigate, or examine any licensee, individual, or person subject to this Article as often as necessary in order to carry out

the purposes of this Article. The Commissioner may interview the officer, principals, person with control, qualified individual, mortgage loan ~~originators,~~originators, transitional mortgage loan originators, employees, independent contractors, agents, and customers of the licensee, individual, or person concerning their business. The Commissioner may direct, subpoena, or order the attendance of and examine under oath all persons whose testimony may be required about the loans or the business or subject matter of any examination or investigation and may direct, subpoena, or order the person to produce books, accounts, records, files, and any other documents the Commissioner deems relevant to the inquiry. The assessment set forth in G.S. 53-244.100A is for the purpose of meeting the cost of regulation under this Article. Any investigation or examination that, in the opinion of the Commissioner of Banks, requires extraordinary review, investigation, or special examination shall be subject to the actual costs of additional expenses and the hourly rate for the staff's time, to be determined annually by the Banking Commission.

(c) Each licensee, individual, or person subject to this Article shall make available to the Commissioner upon request the books and records relating to the operations of the licensee, individual, or person. No licensee, individual, or person subject to investigation or examination under this section may knowingly withhold, abstract, remove, mutilate, destroy, or secrete any books, records, computer records, or other information. Each licensee, individual, or person subject to this Article shall also make available for interview by the Commissioner the officers, principals, persons with control, qualified individuals, mortgage loan ~~originators,~~originators, transitional mortgage loan originators, employees, independent contractors, agents, and customers of the licensee, individual, or person concerning their business.

…."

SECTION 14. G.S. 53-244.118 reads as rewritten:

"§ **53-244.118. Rule-making authority; records.**

(a) The Commissioner may adopt any rules that the Commissioner deems necessary to carry out the provisions of this Article, to provide for the protection of the borrowing public, to prohibit unfair or deceptive practices, to instruct mortgage lenders, mortgage brokers, mortgage servicers, ~~or~~ mortgage loan ~~originators~~ originators, or transitional mortgage loan originators in interpreting this Article, and to implement and interpret the provisions of G.S. 24-1.1E, 24-1.1F, and 24-10.2 as they apply to licensees under this Article.

…

(c) The Commissioner shall keep a current roster showing the names and places of business of all licensees that shows their respective mortgage loan ~~originators~~ originators and transitional mortgage loan originators and a roster of exempt persons required to file a notice under G.S. 53-244.050(g). The roster shall:

…."

SECTION 15. G.S. 53-244.119 reads as rewritten:

"§ **53-244.119. Commissioner's participation in nationwide registry.**

(a) The Commissioner shall require mortgage loan ~~originators~~ originators and transitional mortgage loan originators to be licensed and registered through the Nationwide Mortgage Licensing System and Registry. In order to carry out this requirement, the Commissioner is authorized to participate in the Nationwide Mortgage Licensing System and Registry. For this purpose, the Commissioner may establish by rule any requirements as necessary, including:

…."

SECTION 16. G.S. 53-244.120 reads as rewritten:

"§ **53-244.120. Confidentiality of information.**

…

(e) The confidentiality provisions contained in subsection (c) of this section shall not apply with respect to the information or material relating to the employment history of and publicly adjudicated disciplinary and enforcement actions against mortgage lenders, mortgage brokers, mortgage servicers, ~~or~~ mortgage loan ~~originators~~ originators, or transitional mortgage

loan originators that are included in the Nationwide Mortgage Licensing System and Registry for access by the public."

SECTION 17. This act becomes effective September 1, 2013, and applies to applications for licensure as a transitional mortgage loan originator filed on or after that date.

In the General Assembly read three times and ratified this the 16th day of July, 2013.

Became law upon approval of the Governor at 4:25 p.m. on the 23rd day of July, 2013.

Session Law 2013-328 **H.B. 636**

AN ACT TO DIRECT THE NORTH CAROLINA GEOGRAPHIC INFORMATION COORDINATING COUNCIL TO RECOMMEND THAT NEGRO HEAD CREEK IN UNION COUNTY BE RENAMED SALEM CREEK.

The General Assembly of North Carolina enacts:

SECTION 1. The North Carolina Geographic Information Coordinating Council shall recommend to the United States Board on Geographic Names that it change the name of Negro Head Creek in Union County to Salem Creek.

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

In the General Assembly read three times and ratified this the 18th day of July, 2013.

Became law upon approval of the Governor at 4:25 p.m. on the 23rd day of July, 2013.

Session Law 2013-329 **H.B. 700**

AN ACT MAKING OMNIBUS CHANGES TO THE LAWS RELATING TO STATE INFORMATION TECHNOLOGY GOVERNANCE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 147-33.72B(b)(1) reads as rewritten:

"(b) The Plan shall include the following elements:

(1) An inventory of current information technology assets and major projects currently in progress. As used in this subdivision, the term "major project" includes projects subject to review and approval under ~~G.S. 147-33.72C, or that cost more than five hundred thousand dollars ($500,000) to implement.~~G.S. 147-33.72C."

SECTION 2. G.S. 147-33.72C reads as rewritten:

"§ **147-33.72C. Project approval standards.**

(a) Project Review and Approval. – The State Chief Information Officer shall:

(1) Review all State agency information technology ~~projects that cost or are expected to cost more than five hundred thousand dollars ($500,000), whether the project is undertaken in a single phase or component or in multiple phases or components.~~ projects. If the State Chief Information Officer determines a project meets the quality assurance requirements established under this Article, the State Chief Information Officer shall approve the project.

~~(2) Establish thresholds for determining which information technology projects costing or expected to cost five hundred thousand dollars ($500,000) or less shall be subject to review and approval under subdivision (a)(1) of this section. When establishing the thresholds, the State Chief Information Officer shall consider factors such as project cost, potential project risk, agency size, and projected budget.~~

(b) Project Implementation. – No State agency shall proceed with an information technology project that is subject to review and approval under subsection (a) of this section until the State CIO approves the project. If a project is not approved, the State CIO shall specify in writing to the agency the grounds for denying the approval. The State CIO shall provide this information to the agency within five business days of the denial.

(c) Suspension of Approval. – The State Chief Information Officer may suspend the approval of any information technology project that does not continue to meet the applicable quality assurance standards. ~~This authority extends to any information technology project that costs more than five hundred thousand dollars ($500,000) to implement regardless of whether the project was originally subject to review and approval under subsection (a) of this section.~~ If the State CIO suspends approval of a project, the State CIO shall specify in writing to the agency the grounds for suspending the approval. The State CIO shall provide this information to the agency within five business days of the suspension.

The Office of Information Technology Services shall report any suspension immediately to the Office of the State Controller and the Office of State Budget and Management. The Office of State Budget and Management shall not allow any additional expenditure of funds for a project that is no longer approved by the State Chief Information Officer.

~~(d) General Quality Assurance. – Information technology projects that are not subject to review and approval under subsection (a) of this section shall meet all other standards established under this Article.~~

(e) Performance Contracting. – All contracts between a State agency and a private party for information technology projects shall include provisions for vendor performance review and accountability. The State CIO may require that these contract provisions require a performance bond, include monetary ~~penalties~~ penalties, or require other performance assurance measures for projects that are not completed or performed within the specified time period or that involve costs in excess of those specified in the contract. The State CIO may ~~require contract provisions requiring a vendor to provide a performance bond.~~utilize cost savings realized on government-vendor partnerships, as defined in G.S. 143-135.9, as performance incentives for an information technology project vendor.

(f) Notwithstanding the provisions of G.S. 114-2.3, any State agency developing and implementing an information technology project with a total cost of ownership in excess of five million dollars ($5,000,000) may be required by the State Chief Information Officer to engage the services of private counsel or subject matter experts with the appropriate information technology and intellectual property expertise. The private counsel or subject matter expert may review requests for proposals; review and provide advice and assistance during the evaluation of proposals and selection of any vendors; and review and negotiate contracts associated with the development, implementation, operation, and maintenance of the project. This requirement may also apply to information technology programs that are separated into individual projects, if the total cost of ownership for the overall program exceeds five million dollars ($5,000,000)."

SECTION 3. G.S. 147-33.72H reads as rewritten:

"§ **147-33.72H. Information Technology Fund.**

There is established a special revenue fund to be known as the Information Technology Fund, which may receive transfers or other credits as authorized by the General Assembly. Money shall be appropriated from the Information Technology Fund to support the operation and administration of the Office of the State Chief Information Officer. Money may be appropriated from the Information Technology Fund to meet statewide requirements, including planning, project management, security, electronic mail, State portal operations, and the administration of systemwide procurement procedures. Expenditures involving funds appropriated to the Office of Information Technology Services from the Information Technology Fund shall be made by the CIO. By October 1 of each year, the State CIO shall submit to the Joint Legislative Oversight Committee on Information Technology a report on all expenditures involving funds appropriated to the Office of Information Technology Services

from the Information Technology Fund for the preceding fiscal year. Interest earnings on the Information Technology Fund balance shall be credited to the Information Technology Fund."

SECTION 4. G.S. 147-33.77(a) reads as rewritten:

"(a) The State Chief Information Officer may appoint ~~a Chief Deputy Information Officer.~~ one or more Deputy Chief Information Officers. The salary of ~~the Chief~~ a Deputy Information Officer shall be set by the State Chief Information Officer. The State Chief Information Officer may appoint all employees, including legal counsel, necessary to carry out the powers and duties of the office. These employees shall be subject to the State Personnel Act."

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

In the General Assembly read three times and ratified this the 17th day of July, 2013.

Became law upon approval of the Governor at 4:25 p.m. on the 23rd day of July, 2013.

Session Law 2013-330 **S.B. 73**

AN ACT TO REQUIRE THAT LOCAL WORKFORCE DEVELOPMENT BOARDS USE A COMPETITIVE SELECTION PROCESS TO AWARD ADULT AND DISLOCATED WORKER SERVICES PROVIDER CONTRACTS AUTHORIZED IN THE WORKFORCE INVESTMENT ACT OF 1998 AND TO TRANSFER THE APPRENTICESHIP PROGRAM TO THE DEPARTMENT OF COMMERCE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143B-438.11 reads as rewritten:

"§ **143B-438.11. Local Workforce Development Boards.**

(a) Duties. – Local Workforce Development Boards shall have the following powers and duties:

(1) To develop policy and act as the governing body for local workforce development.

(2) To provide planning, oversight, and evaluation of local workforce development programs, including the local One-Stop Delivery System.

(3) To provide advice regarding workforce policy and programs to local elected officials, employers, education and employment training agencies, and citizens.

(4) To develop a local plan in coordination with the appropriate community partners to address the workforce development needs of the service area.

(5) To develop linkages with economic development efforts and activities in the service area and promote cooperation and coordination among public organizations, education agencies, and private businesses.

(6) To review local agency plans and grant applications for workforce development programs for coordination and achievement of local goals and needs.

(7) To serve as the Workforce Investment Board for the designated substate area for the purpose of the federal Workforce Investment Act of 1998.

(7a) To designate through a competitive selection process, by no later than July 1, 2014, the providers of adult and dislocated worker services authorized in the Workforce Investment Act of 1998.

(8) To provide the appropriate guidance and information to Workforce Investment Act consumers to ensure that they are prepared and positioned to make informed choices in selecting a training provider. Each local Workforce Development Board shall ensure that consumer choice is properly maintained in the one-stop centers and that consumers are provided the full array of public and private training provider information.

(9) To provide coordinated regional workforce development planning and labor market data sharing."

SECTION 2.(a) All functions, powers, duties, obligations, resources, and appropriations vested in the Apprenticeship Program and the Apprenticeship Council are transferred to, vested in, and consolidated into the Department of Commerce as a Type I transfer, as defined in G.S. 143A-6. The Secretary of Commerce and the Office of State Budget and Management are authorized to take all other steps necessary to consolidate the Apprenticeship Program and Apprenticeship Council into the Department of Commerce.

SECTION 2.(b) G.S. 143A-71 is repealed.

SECTION 2.(c) Chapter 94 of the General Statutes reads as rewritten:

"**Chapter 94.**

"**Apprenticeship.**

"§ **94-1. Purpose.**

The purposes of this Chapter are: to open to young people the opportunity to obtain training that will equip them for profitable employment and citizenship; to set up, as a means to this end, a program of voluntary apprenticeship under approved apprentice agreements providing facilities for their training and guidance in the arts and crafts of industry and trade, with parallel instruction in related and supplementary education; to promote employment opportunities for young people under conditions providing adequate training and reasonable earnings; to relate the supply of skilled workers to employment demands; to establish standards for apprentice training; to establish an Apprenticeship Council and apprenticeship committees and sponsors to assist in effectuating the purposes of this Chapter; to provide for a Director of Apprenticeship within the Department of ~~Labor;~~ Commerce; to provide for reports to the legislature and to the public regarding the status of apprentice training in the State; to establish a procedure for the determination of apprentice agreement controversies; and to accomplish related ends.

"§ **94-2. Apprenticeship Council.**

The ~~Commissioner of Labor~~ Secretary of Commerce shall appoint an Apprenticeship Council composed of four representatives each from employer and employee organizations respectively and three representatives from the public at large. One State official designated by the Department of Public Instruction and one State official designated by the Department of Community Colleges shall be a member ex officio of said council, without vote. The terms of office of the members of the Apprenticeship Council first appointed by the ~~Commissioner of Labor~~ Secretary of Commerce shall expire as designated by the ~~Commissioner~~ Secretary at the time of making the appointment: two representatives each of employers and employees, being appointed for one year and one representative of the public at large being appointed for two years; and one representative each of employers, employees, and the public at large being appointed for a term of three years. Any member appointed to fill a vacancy occurring prior to the expiration of the term of his predecessor shall be appointed for the remainder of said term. Each member of the Council not otherwise compensated by public moneys, shall be reimbursed for transportation and shall receive such per diem compensation as is provided generally for boards and commissions under the biennial maintenance appropriation acts for each day spent in attendance at meetings of the Apprenticeship Council. The ~~Commissioner of Labor~~ Secretary of Commerce shall annually appoint one member of the Council to act as its chairman.

The Apprenticeship Council shall meet at the call of the ~~Commissioner of Labor~~ Secretary of Commerce and shall aid him in formulating policies for the effective administration of this Chapter. Subject to the approval of the ~~Commissioner,~~ Secretary, the Apprenticeship Council shall establish standards for apprentice agreement which in no case shall be lower than those prescribed by this Chapter, shall issue such rules and regulations as may be necessary to carry out the intent and purposes of said Chapter, and shall perform such other functions as the ~~Commissioner~~ Secretary may direct. Not less than once a year the Apprenticeship Council shall make a report through the ~~Commissioner of Labor~~ Secretary of its activities and findings to the legislature and to the public.

"§ **94-3. Director of Apprenticeship.**

The ~~Commissioner of Labor~~ Secretary of Commerce is hereby directed to appoint a Director of Apprenticeship which appointment shall be subject to the confirmation of the State Apprenticeship Council by a majority vote. The ~~Commissioner of Labor~~ Secretary of Commerce is further authorized to appoint and employ such clerical, technical, and professional help as shall be necessary to effectuate the purposes of this Chapter.

"§ **94-4. Powers and duties of Director of Apprenticeship.**

The Director, under the supervision of the ~~Commissioner of Labor~~ Secretary of Commerce and with the advice and guidance of the Apprenticeship Council is authorized to administer the provisions of this Chapter; in cooperation with the Apprenticeship Council and apprenticeship committees and sponsors, to set up conditions and training standards for apprentice agreements, which conditions or standards shall in no case be lower than those prescribed by this Chapter; to act as secretary of the Apprenticeship Council; to approve for the Council if in his opinion approval is for the best interest of the apprenticeship any apprentice agreement which meets the standards established under this Chapter; to terminate or cancel any apprentice agreement in accordance with the provisions of such agreement; to keep a record of apprentice agreements and their disposition; to issue certificates of completion of apprenticeship; and to perform such other duties as are necessary to carry out the intent of this Chapter, including other on-job training necessary for emergency and critical civilian production: Provided, that the administration and supervision of related and supplemental instruction for apprentices, coordination of instruction with job experiences, and the selection and training of teachers and coordinators for such instruction shall be the responsibility of State and local boards responsible for vocational education.

…

§ 94-6. Definition of an apprentice.

The term "apprentice," as used herein, shall mean a person at least 16 years of age who is covered by a written apprenticeship agreement approved by the Apprenticeship Council, which apprenticeship agreement provides for not less than 2,000 hours of reasonably continuous employment for such person for his participation in an approved schedule of work experience and for organized, related supplemental instruction in technical subjects related to the trade. A minimum of 144 hours of related supplemental instruction for each year of apprenticeship is recommended. The required hours for apprenticeship agreements and the recommended hours for related supplemental instruction may be decreased or increased in accordance with standards adopted by the apprenticeship committee or sponsor, subject to approval of the ~~Commissioner of Labor.~~Secretary of Commerce.

…

§ 94-12. Fees.

The following fees are imposed on each apprentice who is covered by a written apprenticeship agreement entered into under this Chapter: (i) a new registration fee of fifty dollars ($50.00); and (ii) an annual fee of fifty dollars ($50.00). The fees are departmental receipts and must be applied to the costs of administering the apprenticeship program. The ~~Commissioner~~ Secretary of Commerce may adopt rules pursuant to Chapter 150B of the General Statutes to implement this section."

SECTION 3. Section 2 of this act becomes effective January 1, 2014. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 18th day of July, 2013.

Became law upon approval of the Governor at 4:26 p.m. on the 23rd day of July, 2013.

Session Law 2013-331 **H.B. 646**

AN ACT TO PROHIBIT A COUNTY OR CITY FROM ENFORCING ANY ORDINANCE THAT REGULATES THE TRIMMING OR REMOVAL OF TREES ON PROPERTY OWNED OR OPERATED BY A PUBLIC AIRPORT AUTHORITY.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 153A-123 is amended by adding a new subsection to read:

"(h) Notwithstanding any authority under this Article or any local act of the General Assembly, no ordinance regulating trees may be enforced on land owned or operated by a public airport authority."

SECTION 2. G.S. 160A-175 is amended by adding a new subsection to read:

"(h) Notwithstanding any authority under this Article or any local act of the General Assembly, no ordinance regulating trees may be enforced on land owned or operated by a public airport authority."

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

In the General Assembly read three times and ratified this the 18th day of July, 2013.

Became law upon approval of the Governor at 4:26 p.m. on the 23rd day of July, 2013.

Session Law 2013-332 **H.B. 662**

AN ACT PROVIDING FOR ISSUANCE OF A LIMITED PLUMBING CONTRACTOR LICENSE TO INSTALL AND SERVICE BACKFLOW PREVENTION ASSEMBLIES AND TO ALLOW COURTS TO AWARD THE BOARD OF EXAMINERS OF PLUMBING, HEATING, AND FIRE SPRINKLER CONTRACTORS REASONABLE COSTS OF INVESTIGATION AND PROSECUTION OF VIOLATIONS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 87-21(b)(2) reads as rewritten:

"(b) Classes of Licenses; Eligibility and Examination of Applicant; Necessity for License. –

…

(2) Restricted licenses or classifications. –

a. The Board shall establish and issue a fuel piping license for use by persons who do not possess the required Class I or Class II plumbing or heating license, but desire to engage in the contracting or installing of fuel piping extending from an approved fuel source at or near the premises, which piping is used or may be used to supply fuel to any systems, equipment, or appliances located inside the premises.

b. The Board shall establish and issue a limited plumbing contractor license for use by persons who do not possess the required Class I or Class II plumbing license but desire to engage in the contracting or installation, repair, or replacement of either of the following:

1. Exterior potable water service lines or backflow preventers serving irrigation systems or domestic water service systems of two inch diameter or smaller.

2. Exterior building sewer or water service piping of two inch diameter or smaller.

c. The Board may also establish additional restricted classifications to provide for: (i) the licensing of any person, partnership, firm, or corporation desiring to engage in a specific phase of heating, plumbing, or fire sprinkling contracting; (ii) the licensing of any

person, partnership, firm, or corporation desiring to engage in a specific phase of heating, plumbing, or fire sprinkling contracting that is an incidental part of their primary business, which is a lawful business other than heating, plumbing, or fire sprinkling contracting; or (iii) the licensing of persons desiring to engage in contracting and installing fuel piping from an approved fuel source on the premises to a point inside the residence."

SECTION 2. G.S. 87-25.1 reads as rewritten:

"§ **87-25.1. Board may seek injunctive relief.**

Whenever it appears to the Board that any person, firm or corporation is violating any of the provisions of this Article or of the rules and regulations of the Board promulgated under this Article, the Board may apply to the superior court for a restraining order and injunction to restrain the violation; and the superior courts have jurisdiction to grant the requested relief, irrespective of whether or not criminal prosecution has been instituted or administrative sanctions imposed by reason of the violation. ~~The venue for actions brought under this subsection shall be the superior court of any county in which such acts are alleged to have been committed or in the county where the defendants in such action reside.~~The court may award the Board its reasonable costs associated with the investigation and prosecution of the violation."

SECTION 3. This act is effective when it becomes law. Section 2 of this act is applicable to actions brought on or after that date.

In the General Assembly read three times and ratified this the 15th day of July, 2013.

Became law upon approval of the Governor at 4:26 p.m. on the 23rd day of July, 2013.

Session Law 2013-333 **H.B. 701**

AN ACT PROVIDING THAT AGENCIES MAY PURCHASE INFORMATION TECHNOLOGY GOODS AND SERVICES THROUGH MULTIPARTY COOPERATIVE PURCHASING AGREEMENTS APPROVED BY THE STATE CHIEF INFORMATION OFFICER.

The General Assembly of North Carolina enacts:

SECTION 1.(a) Subdivision (1) of G.S. 147-33.81 is recodified as subdivision (1a) of that section.

SECTION 1.(b) G.S. 147-33.81 is amended by adding a new subdivision to read:

"(1) "Cooperative purchasing agreement" means an agreement between a vendor and one or more states or state agencies providing that the parties may collaboratively or collectively purchase information technology goods and services in order to increase economics of scale and reduce costs."

SECTION 2. G.S. 147-33.95 reads as rewritten:

"§ **147-33.95. Procurement of information technology.**

(a) Notwithstanding any other provision of law, the Office of Information Technology Services shall procure all information technology for State agencies. The Office shall integrate technological review, cost analysis, and procurement for all information technology needs of those State agencies in order to make procurement and implementation of technology more responsive, efficient, and cost-effective. All contract information shall be made a matter of public record after the award of contract. Trade secrets, test data, similar proprietary information, and security information protected under G.S. 132-6.1(c) may remain confidential.

(b) The Office shall have the authority and responsibility, subject to the provisions of this Part, to:

(1) Purchase or contract for all information technology in the State government, or any of its departments, institutions, or agencies covered by this Part. The Office may authorize any State agency covered by this Part to purchase or

contract for information technology. The Office or a State agency may use any authorized means, including negotiations, reverse auctions, and the solicitation, offer, and acceptance of electronic bids. G.S. 143-135.9 shall apply to these procedures.

(2) Establish processes, specifications, and standards that shall apply to all information technology to be purchased, licensed, or leased in the State government or any of its departments, institutions, or agencies covered by this Part.

(2a) Establish procedures to permit State agencies and local government agencies to use the General Services Administration (GSA) Cooperative Purchasing Program to purchase information technology (i) awarded under General Services Administration Supply Schedule 70 Information Technology and (ii) from contracts under the GSA's Consolidated Schedule containing information technology special item numbers.

(3) Comply with the State government-wide technical architecture, as required by the State CIO.

(4) If a State agency wishes to enter into a cooperative purchasing agreement, the agency must first obtain approval by the State CIO. Upon receiving a request to use a cooperative purchasing agreement, the State CIO must evaluate the need for goods or services available through the agreement, review the specifications, terms, and conditions of the agreement, and obtain legal advice on the use of the agreement. Prior to granting approval, the State CIO must find that the agreement was awarded pursuant to a competitive bidding process and that the agency will obtain the best value pursuant to G.S. 143-135.9 by using the agreement. Upon approval by the State CIO, a State agency may use the agreement without further approval. Agencies must report periodically to the CIO regarding the use of these agreements.

(5) The State CIO shall establish procedures for the utilization of cooperative purchasing agreements.

(c) For purposes of this section, "reverse auction" means a real-time purchasing process in which vendors compete to provide goods or services at the lowest selling price in an open and interactive electronic environment. The vendor's price may be revealed during the reverse auction. The Office may contract with a third-party vendor to conduct the reverse auction.

(d) For purposes of this section, "electronic bidding" means the electronic solicitation and receipt of offers to contract. Offers may be accepted and contracts may be entered by use of electronic bidding.

(e) The Office may use the electronic procurement system established by G.S. 143-48.3 to conduct reverse auctions and electronic bidding. All requirements relating to formal and competitive bids, including advertisement, seal, and signature, are satisfied when a procurement is conducted or a contract is entered in compliance with the reverse auction or electronic bidding requirements established by the Office.

(f) The Office shall adopt rules consistent with this section."

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

In the General Assembly read three times and ratified this the 18th day of July, 2013.

Became law upon approval of the Governor at 4:26 p.m. on the 23rd day of July, 2013.

Session Law 2013-334 **H.B. 802**

AN ACT AMENDING THE LAWS RELATED TO LANDLORD AND TENANT RELATIONSHIPS TO SHORTEN THE TIME PERIOD REQUIRED TO EVICT A TENANT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 7A-222 reads as rewritten:

"§ **7A-222. General trial practice and procedure.**

(a) Trial of a small claim action before a magistrate is without a jury. The rules of evidence applicable in the trial of civil actions generally are observed. At the conclusion of plaintiff's evidence the magistrate may render judgment of dismissal if plaintiff has failed to establish a prima facie case. If a judgment of dismissal is not rendered the defendant may introduce evidence. At the conclusion of all the evidence the magistrate may render judgment or may in his discretion reserve judgment for a period not in excess of 10 ~~days.~~days, except as provided in subsection (b) of this section.

(b) In a small claim action for summary ejectment, the magistrate shall render judgment on the same day on which the conclusion of all the evidence and submission of legal authorities occurs, unless the parties concur on an extension of additional time for entering the judgment and except for more complex summary ejectment cases, in which event the magistrate shall render judgment within five business days of the hearing. Complex summary ejectment cases include cases brought for criminal activity, breaches other than nonpayment of rent, evictions involving SECTION 8 of the Housing Act of 1937 (42 U.S.C. § 1437f) or public housing tenants, and cases with counterclaims."

SECTION 2. G.S. 7A-223 reads as rewritten:

"§ **7A-223. Practice and procedure in small claim actions for summary ejectment.**

(a) In any small claim action demanding summary ejectment or past due rent, or both, the complaint may be signed by an agent acting for the plaintiff who has actual knowledge of the facts alleged in the complaint. If a small claim action demanding summary ejectment is assigned to a magistrate, the practice and procedure prescribed for commencement, form and service of process, assignment, pleadings, and trial in small claim actions generally are observed, except that if the defendant by written answer denies the title of the plaintiff, the action is placed on the civil issue docket of the district court division for trial before a district judge. In such event, the clerk withdraws assignment of the action from the magistrate and immediately gives written notice of withdrawal, by any convenient means, to the plaintiff and the magistrate to whom the action has been assigned. The plaintiff, within five days after receipt of the notice, and the defendant, in his answer, may request trial by jury. Failure to request jury trial within the time limited is a waiver of the right to trial by jury.

(b) If either party in a small claim action for summary ejectment moves for a continuance, the magistrate shall render a decision on the motion in accordance with Rule 40(b) of the Rules of Civil Procedure. The magistrate shall not continue a matter for more than five days or until the next session of small claims court, whichever is longer, without the consent of both parties."

SECTION 3. G.S. 7A-228 reads as rewritten:

"§ **7A-228. New trial before magistrate; appeal for trial de novo; how appeal perfected; oral notice; dismissal.**

(a) The chief district court judge may authorize magistrates to hear motions to set aside an order or judgment pursuant to G.S. 1A-1, Rule 60(b)(1) and order a new trial before a magistrate. The exercise of the authority of the chief district court judge in allowing magistrates to hear Rule 60(b)(1) motions shall not be construed to limit the authority of the district court to hear motions pursuant to Rule 60(b)(1) through (6) of the Rules of Civil Procedure for relief from a judgment or order entered by a magistrate and, if granted, to order a new trial before a magistrate. After final disposition before the magistrate, the sole remedy for an aggrieved party is appeal for trial de novo before a district court judge or a jury. Notice of appeal may be given orally in open court upon announcement or after entry of judgment. If not announced in open court, written notice of appeal must be filed in the office of the clerk of superior court within 10 days after entry of judgment. The appeal must be perfected in the manner set out in subsection (b). Upon announcement of the appeal in open court or upon receipt of the written notice of

appeal, the appeal shall be noted upon the judgment. If the judgment was mailed to the parties, then the time computations for appeal of such judgment shall be pursuant to G.S. 1A-1, Rule 6.

(b) The appeal shall be perfected by (1) oral announcement of appeal in open court; or (2) by filing notice of appeal in the office of the clerk of superior court within 10 days after entry of judgment pursuant to subsection (a), and by serving a copy of the notice of appeal on all parties pursuant to G.S. 1A-1, Rule 5. Failure to pay the costs of court to appeal within 10 days after entry of judgment in a summary ejectment action, and within 20 days after entry of judgment in all other actions, shall result in the automatic dismissal of the appeal. Notwithstanding the foregoing deadlines, if an appealing party petitions to qualify as an indigent for the appeal and is denied, that party shall have an additional five days to perfect the appeal by paying the court costs. The failure to demand a trial by jury in district court by the appealing party before the time to perfect the appeal has expired is a waiver of the right thereto.

(b1) A person desiring to appeal as an indigent shall, within 10 days of entry of judgment by the magistrate, file an affidavit that he or she is unable by reason of poverty to pay the costs of appeal. Within 20 days after entry of judgment, a superior or district court judge, magistrate, or the clerk of the superior court may authorize a person to appeal to district court as an indigent if the person is unable to pay the costs of appeal. The clerk of superior court shall authorize a person to appeal as an indigent if the person files the required affidavit and meets one or more of the criteria listed in G.S. 1-110. A superior or district court judge, a magistrate, or the clerk of the superior court may authorize a person who does not meet any of the criteria listed in G.S. 1-110 to appeal as an indigent if the person cannot pay the costs of appeal.

The district court may dismiss an appeal and require the person filing the appeal to pay the court costs advanced if the allegations contained in the affidavit are determined to be untrue or if the court is satisfied that the action is frivolous or malicious. If the court dismisses the appeal, the court shall affirm the judgment of the magistrate.

(c) Whenever such appeal is docketed and is regularly set for trial, and the appellant fails to appear and prosecute his appeal, the presiding judge may have the appellant called and the appeal dismissed; and in such case the judgment of the magistrate shall be affirmed.

(d) When a defendant in a summary ejectment action has given notice of appeal and perfected the appeal in accordance with G.S. 7A-228(b), the plaintiff may serve upon the defendant a motion to dismiss the appeal if the defendant:

(1) Failed to raise a defense orally or in writing in the small claims court;

(2) Failed to file a motion, answer, or counterclaim in the district court; and

(3) Failed to make any payment due under any applicable bond to stay execution of the judgment for possession.

The motion to dismiss the appeal shall list all of the deficiencies committed by the defendant, as described in subdivisions (1), (2), and (3) of this subsection, and shall state that the court will decide the motion to dismiss without a hearing if the defendant fails to respond within 10 days of receipt of the motion. The defendant may defeat the motion to dismiss by responding within 10 days of receipt of the motion by doing any of the following acts: (i) filing a responsive motion, answer, or counterclaim and serving the plaintiff with a copy thereof or (ii) paying the amount due under the bond to stay execution. The court shall review the file, determine whether the motion satisfies the requirements of this subsection, determine whether the defendant has made a sufficient response to defeat the motion, and shall enter an order resolving the matter without a hearing."

SECTION 4. G.S. 42-25.9 reads as rewritten:

"§ **42-25.9. Remedies.**

…

(g) ~~Ten~~ Seven days after being placed in lawful possession by execution of a writ of possession, a landlord may ~~throw away,~~ dispose ~~of, or sell all items~~ of personal property remaining on the ~~premises,~~ premises in accordance with the provisions of this section and G.S. 42-36.2(b), except that in the case of the lease of a space for a manufactured home as defined in G.S. 143-143.9(6), G.S. 44A-2(e2) shall apply to the disposition of a manufactured

home with a current value in excess of five hundred dollars ($500.00) and its contents by a landlord after being placed in lawful possession by execution of a writ of possession. During the ~~10-day~~ seven-day period after being placed in lawful possession by execution of a writ of possession, a landlord may move for storage purposes, but shall not throw away, dispose of, or sell any items of personal property remaining on the premises unless otherwise provided for in this Chapter. Upon the tenant's request prior to the expiration of the ~~10-day~~ seven-day period, the landlord shall release possession of the property to the tenant during regular business hours or at a time agreed upon. If the landlord elects to sell the property at public or private sale, the landlord shall give written notice to the tenant by first-class mail to the tenant's last known address at least seven days prior to the day of the sale. The seven-day notice of sale may run concurrently with the ~~10-day~~ seven-day period which allows the tenant to request possession of the property. The written notice shall state the date, time, and place of the sale, and that any surplus of proceeds from the sale, after payment of unpaid rents, damages, storage fees, and sale costs, shall be disbursed to the tenant, upon request, within ~~10~~ seven days after the sale, and will thereafter be delivered to the government of the county in which the rental property is located. Upon the tenant's request prior to the day of sale, the landlord shall release possession of the property to the tenant during regular business hours or at a time agreed upon. The landlord may apply the proceeds of the sale to the unpaid rents, damages, storage fees, and sale costs. Any surplus from the sale shall be disbursed to the tenant, upon request, within ~~10~~ seven days of the sale and shall thereafter be delivered to the government of the county in which the rental property is located.

(h) If the total value of all property remaining on the premises at the time of execution of a writ of possession in an action for summary ejectment is less than five hundred dollars ($500.00), the property shall be deemed abandoned five days after the time of execution, and the landlord may throw away or dispose of the property. Upon the tenant's request prior to the expiration of the five-day period, the landlord shall release possession of the property to the tenant during regular business hours or at a time agreed upon."

SECTION 5. G.S. 42-36.2 reads as rewritten:

"§ **42-36.2. Notice to tenant of execution of writ for possession of property; storage of evicted tenant's personal property.**

(a) When Sheriff May Remove Property. – Before removing a tenant's personal property from demised premises pursuant to a writ for possession of real property or an order, the sheriff shall give the tenant notice of the approximate time the writ will be executed. The time within which the sheriff shall have to execute the writ shall be no more than ~~seven~~ five days from the sheriff's receipt thereof. The sheriff shall remove the tenant's property, as provided in the writ, no earlier than the time specified in the notice, unless:

(1) The landlord, or his authorized agent, signs a statement saying that the tenant's property can remain on the premises, in which case the sheriff shall simply lock the premises; or

(2) The landlord, or his authorized agent, signs a statement saying that the landlord does not want to eject the tenant because the tenant has paid all court costs charged to him and has satisfied his indebtedness to the landlord.

Upon receipt of either statement by the landlord, the sheriff shall return the writ unexecuted to the issuing clerk of court and shall make a notation on the writ of his reasons. The sheriff shall attach a copy of the landlord's statement to the writ. If the writ is returned unexecuted because the landlord signed a statement described in subdivision (2) of this subsection, the clerk shall make an entry of satisfaction on the judgment docket. If the sheriff padlocks, the costs of the proceeding shall be charged as part of the court costs.

(b) Sheriff May Store Property. – When the sheriff removes the personal property of an evicted tenant from demised premises pursuant to a writ or order the tenant shall take possession of his property. If the tenant fails or refuses to take possession of his property, the sheriff may deliver the property to any storage warehouse in the county, or in an adjoining county if no storage warehouse is located in that county, for storage. The sheriff may require

the landlord to advance the cost of delivering the property to a storage warehouse plus the cost of one month's storage before delivering the property to a storage warehouse. If a landlord refuses to advance these costs when requested to do so by the sheriff, the sheriff shall not remove the tenant's property, but shall return the writ unexecuted to the issuing clerk of court with a notation thereon of his reason for not executing the writ. Except for the disposition of manufactured homes and their contents as provided in G.S. 42-25.9(g) and G.S. 44A-2(e2), within ~~10 days~~seven days of the landlord's being placed in lawful possession by execution of a writ of possession and upon the tenant's request within that ~~10 day~~seven-day period, the landlord shall release possession of the property to the tenant during regular business hours or at a time agreed upon. During the ~~10 day~~seven-day period after being placed in lawful possession by execution of a writ of possession, a landlord may move for storage purposes, but shall not throw away, dispose of, or sell any items of personal property remaining on the premises unless otherwise provided for in this Chapter. ~~After the expiration of the 10 day period, the landlord may throw away, dispose of, or sell the property in accordance with the provisions of G.S. 42-25.9(g).~~ If, after being placed in lawful possession by execution of a writ, the landlord has offered to release the tenant's property and the tenant fails to retrieve such property during the landlord's regular business hours within seven days after execution of the writ, the landlord may throw away, dispose of, or sell the property in accordance with the provisions of G.S. 42-25.9(g). If the tenant does not request release of the property within ~~10 days,~~seven days, all costs of summary ejectment, execution and storage proceedings shall be charged to the tenant as court costs and shall constitute a lien against the stored property or a claim against any remaining balance of the proceeds of a warehouseman's lien sale.

(c) Liability of the Sheriff. – A sheriff who stores a tenant's property pursuant to this section and any person acting under the sheriff's direction, control, or employment shall be liable for any claims arising out of the willful or wanton negligence in storing the tenant's property.

(d) Notice. – The notice required by subsection (a) shall, except in actions involving the lease of a space for a manufactured home as defined in G.S. 143-143.9(6), inform the tenant that failure to request possession of any property on the premises within ~~10~~ seven days of execution may result in the property being thrown away, disposed of, or sold. Notice shall be made by one of the following methods:

(1) By delivering a copy of the notice to the tenant or his authorized agent at least two days before the time stated in the notice for serving the writ;

(2) By leaving a copy of the notice at the tenant's dwelling or usual place of abode with a person of suitable age and discretion who resides there at least two days before the time stated in the notice for serving the writ; or

(3) By mailing a copy of the notice by first-class mail to the tenant at his last known address at least five days before the time stated in the notice for serving the writ."

SECTION 6. The Administrative Office of the Courts is directed to develop a form for parties in small claim actions for summary ejectment to inform them of the time line and process in summary ejectment actions. The clerk of superior court shall make the form available to the parties.

SECTION 7. This act becomes effective September 1, 2013, and applies to all actions for summary ejectment filed on and after that date.

In the General Assembly read three times and ratified this the 16th day of July, 2013.

Became law upon approval of the Governor at 4:26 p.m. on the 23rd day of July, 2013.

Session Law 2013-335 **H.B. 796**

AN ACT EXEMPTING CERTAIN COLUMBARIUMS FROM THE NORTH CAROLINA CEMETERY ACT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 65-47 reads as rewritten:

"§ **65-47. Scope.**

(a) The provisions of this Article shall apply to all persons engaged in the business of operating a cemetery as defined herein, except cemeteries owned and operated by governmental agencies or churches.

(b) Any cemetery beneficially owned and operated by a fraternal organization or its corporate agent for at least 50 years prior to September 1, 1975, shall be exempt from the provisions of Article 9 of this Chapter.

(c) The provisions of this Article shall not apply to persons licensed under Article 13D of Chapter 90 of the General Statutes when engaging in activities for which a license is required under the Article.

(d) A columbarium that is built on the grounds of a private, self-contained retirement community in a county where no commercially available columbarium exists, funded solely by the residents of that community, and reserved exclusively for the residents' use shall be exempt from the provisions of Article 9 of this Chapter."

SECTION 2. This act is effective when it becomes law and expires 18 months after that date.

In the General Assembly read three times and ratified this the 16th day of July, 2013.

Became law upon approval of the Governor at 4:27 p.m. on the 23rd day of July, 2013.

Session Law 2013-336 **S.B. 43**

AN ACT TO DIRECT THE OFFICE OF STATE PERSONNEL, IN CONJUNCTION WITH THE DEPARTMENT OF PUBLIC INSTRUCTION AND THE OFFICE OF STATE BUDGET AND MANAGEMENT, TO STUDY AND MAKE RECOMMENDATIONS REGARDING THE MANAGEMENT OF WORKERS' COMPENSATION CLAIMS SUBMITTED BY STATE AND LOCAL GOVERNMENT EMPLOYEES, AS RECOMMENDED BY THE JOINT LEGISLATIVE COMMITTEE ON WORKERS' COMPENSATION INSURANCE COVERAGE COMPLIANCE AND FRAUD PREVENTION AND DETECTION.

The General Assembly of North Carolina enacts:

SECTION 1. The Office of State Personnel, in conjunction with the Department of Public Instruction and the Office of State Budget and Management, shall study the expenses related to the management of workers' compensation claims submitted by State and local government employees, and make recommendations as to how efficiency can be improved and expenses can be reduced. The study shall examine at least all of the following:

(1) An identification of State agencies that currently include budget line items for expenses related to workers' compensation claims.

(2) An identification of State agencies that do not currently include budget line items for expenses related to workers' compensation claims, including an explanation as to how these expenses are paid.

(3) An explanation of how the expenses related to the management of workers' compensation claims are allocated among the State agencies, including fees and expenses payable to third-party administrators and legal fees and expenses incurred in the defense of these claims.

(4) Recommendations for alternative budgeting methods that can be used for anticipated expenses related to workers' compensation claims, including the use of a fractional percentage of State agency payroll based on historical data or actuarial analysis.

(5) In order to increase the flexibility of State agencies to settle workers' compensation claims, recommendations for alternative budgeting methods that can be used for anticipated expenses related to lump sum settlements of workers' compensation claims.

(6) Recommendations for strategies that may be implemented to further motivate State agencies to return injured employees to work as soon as possible.

(7) An identification of State agencies that would be the best candidates for a pilot program to assess the efficacy of implementing one or more of the recommendations identified in this study for achieving greater efficiency and reducing expenses in the management of workers' compensation claims.

SECTION 2. No later than October 1, 2013, the Office of State Personnel shall report its findings and recommendations to the General Assembly.

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

In the General Assembly read three times and ratified this the 16th day of July, 2013.

Became law upon approval of the Governor at 4:28 p.m. on the 23rd day of July, 2013.

Session Law 2013-337 **S.B. 140**

AN ACT TO INCREASE THE RECOGNITION, REPORTING, AND PROSECUTION OF THOSE WHO WOULD DEFRAUD OR FINANCIALLY EXPLOIT DISABLED OR OLDER ADULTS AND TO CONTINUE THE TASK FORCE ON FRAUD AGAINST OLDER ADULTS, AS RECOMMENDED BY THE TASK FORCE ON FRAUD AGAINST OLDER ADULTS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 14-112.2 reads as rewritten:

"§ **14-112.2. Exploitation of an ~~elder~~ older adult or disabled adult.**

(a) The following definitions apply in this section:

(1) Disabled adult. – A person 18 years of age or older or a lawfully emancipated minor who is present in the State of North Carolina and who is physically or mentally incapacitated as defined in G.S. 108A-101(d).

(2) ~~Elder~~ Older adult. – A person ~~60~~65 years of age or ~~older who is not able to provide for the social, medical, psychiatric, psychological, financial, or legal services necessary to safeguard the person's rights and resources and to maintain the person's physical and mental well-being.~~older.

(b) It is unlawful for a person: (i) who stands in a position of trust and confidence with an ~~elder~~ older adult or disabled adult, or (ii) who has a business relationship with an ~~elder~~ older adult or disabled adult to knowingly, by deception or intimidation, obtain or use, or endeavor to obtain or use, an ~~elder~~ older adult's or disabled adult's funds, assets, or property with the intent to temporarily or permanently deprive the ~~elder~~ older adult or disabled adult of the use, benefit, or possession of the funds, assets, or property, or to benefit someone other than the ~~elder~~ older adult or disabled adult.

(c) It is unlawful for a ~~person, who knows or reasonably should know that an elder adult or disabled adult lacks the capacity to consent,~~person to knowingly, by deception or intimidation, obtain or use, endeavor to obtain or use, or conspire with another to obtain or use an ~~elder~~ older adult's or disabled adult's funds, assets, or property with the intent to temporarily or permanently deprive the ~~elder~~ older adult or disabled adult of the use, benefit, or possession of the funds, assets, or property, or benefit someone other than the ~~elder~~ older adult or disabled adult. This subsection shall not apply to a person acting within the scope of that person's lawful authority as the agent for the ~~elder~~ older adult or disabled adult.

(d) A violation of subsection (b) of this section is punishable as follows:

(1) If the funds, assets, or property involved in the exploitation of the ~~elderly person~~ older adult or disabled adult is valued at one hundred thousand dollars ($100,000) or more, then the offense is a Class F felony.

(2) If the funds, assets, or property involved in the exploitation of the ~~elderly person~~ older adult or disabled adult is valued at twenty thousand dollars ($20,000) or more but less than one hundred thousand dollars ($100,000), then the offense is a Class G felony.

(3) If the funds, assets, or property involved in the exploitation of the ~~elderly person~~ older adult or disabled adult is valued at less than twenty thousand dollars ($20,000), then the offense is a Class H felony.

(e) A violation of subsection (c) of this section is punishable as follows:

(1) If the funds, assets, or property involved in the exploitation of the ~~elderly person~~ older adult or disabled adult is valued at one hundred thousand dollars ($100,000) or more, then the offense is a Class G felony.

(2) If the funds, assets, or property involved in the exploitation of the ~~elderly person~~ older adult or disabled adult is valued at twenty thousand dollars ($20,000) or more but less than one hundred thousand dollars ($100,000), then the offense is a Class H felony.

(3) If the funds, assets, or property involved in the exploitation of the ~~elderly person~~ older adult or disabled adult is valued at less than twenty thousand dollars ($20,000), then the offense is a Class I felony."

SECTION 2.(a) G.S. 53B-4 is amended by adding a new subdivision to read as follows:

"§ **53B-4. Access to financial records.**

Notwithstanding any other provision of law, no government authority may have access to a customer's financial record held by a financial institution unless the financial record is described with reasonable specificity and access is sought pursuant to any of the following:

…

(13) A subpoena delivered to the financial institution pursuant to G.S. 108A-116 by (i) a county department of social services director investigating a credible report of financial exploitation of a disabled adult or (ii) a law enforcement agency investigating a credible report of financial exploitation of a disabled adult or older adult."

SECTION 2.(b) G.S. 53B-9 reads as rewritten:

"§ **53B-9. Duty of financial institutions; fee; limitation of liability.**

(a) Upon service of a subpoena or court order pursuant to G.S. 53B-4(1), (3), (9), or (11) and receipt of certification pursuant to G.S. 53B-5(5), or upon receipt of a subpoena pursuant to G.S. 53B-4(13), a financial institution shall locate the financial records requested and prepare to make them available to the government authority seeking access to them. Upon receipt of notice that a customer has challenged the court order or subpoena, the financial institution may suspend its efforts to make the records available until after final disposition of the challenge.

(b) Upon receipt of access to financial records pursuant to G.S. 53B-4(1), (3), (9), ~~or (11),~~(11), or (13), a government authority shall pay the financial institution that provided the financial records a fee for costs directly incurred in assembling and delivering the financial records. The fee shall be at the rate established pursuant to the Right to Financial Privacy Act § 1115(a), 12 U.S.C. § 3415, and ~~12 C.F.R. 219.~~12 C.F.R. 219, unless waived, in whole or in part, by the financial institution.

(c) A financial institution that discloses a financial record pursuant to this Chapter in good faith reliance upon certification by a government authority pursuant to G.S. 53B-5(5) is not liable for damages resulting from the disclosure."

SECTION 3. G.S. 108A-14(a) is amended by adding a new subdivision to read as follows:

"§ **108A-14. Duties and responsibilities.**

(a) The director of social services shall have the following duties and responsibilities:

…

(14) To receive and evaluate reports of abuse, neglect, or exploitation of disabled adults and to take appropriate action as required by the Protection of the Abused, Neglected, or Exploited Disabled Adults Act, Article 6 of this Chapter, to protect these adults.

(15) To receive and evaluate reports of financial exploitation of disabled adults, to investigate credible reports of financial exploitation under Article 6A of this Chapter, and to take appropriate action to protect these adults."

SECTION 4. Chapter 108A of the General Statutes is amended by adding a new Article to read as follows:

"Article 6A.

"Protection of Disabled and Older Adults From Financial Exploitation.

"**§ 108A-112. Legislative intent and purpose.**

Determined to fight the growing problem of fraud and financial exploitation targeting disabled and older adults in North Carolina, the General Assembly enacts this Article to facilitate the collection of records needed to investigate and prosecute such incidents.

"**§ 108A-113. Definitions.**

As used in this Article, the following definitions apply:

(1) Customer. – A person who is a present or former holder of an account with a financial institution.

(2) Disabled adult. – An individual 18 years of age or older or a lawfully emancipated minor who is present in the State of North Carolina and who is physically or mentally incapacitated as defined in G.S. 108A-101(d).

(3) Financial exploitation. – The illegal or improper use of a disabled adult's or older adult's financial resources for another's profit or pecuniary advantage.

(4) Financial institution. – A banking corporation, trust company, savings and loan association, credit union, or other entity principally engaged in lending money or receiving or soliciting money on deposit.

(5) Financial record. – An original of, a copy of, or information derived from a record held by a financial institution pertaining to a customer's relationship with the financial institution and identified with or identifiable with the customer.

(6) Law enforcement agency. – Any duly accredited State or local government agency possessing authority to enforce the criminal statutes of North Carolina.

(7) Investigating entity. – A law enforcement agency investigating alleged financial exploitation of a disabled adult or an older adult, or a county department of social services investigating alleged financial exploitation of a disabled adult.

(8) Older adult. – An individual 65 years of age or older.

(9) Promptly. – As soon as practicable, with reasonable allowance to be made for the time required to retrieve older data or records that are not readily or immediately retrievable due to their current storage media.

"**§ 108A-114. Financial institutions encouraged to offer disabled adult and older adult customers the opportunity to submit a list of trusted persons to be contacted in case of financial exploitation.**

All financial institutions are encouraged, but not required, to offer to disabled adult and older adult customers the opportunity to submit, and periodically update, a list of persons that the disabled adult or older adult customer would like the financial institution to contact in case of suspected financial exploitation of the disabled adult or older adult customer. No financial institution, or officer or employee thereof, who acts in good faith in offering to its customer the

opportunity to submit and update a list of such contact persons may be held liable in any action for doing so.

"**§ 108A-115. Duty to report suspected fraud; content of report; immunity for reporting.**

(a) Any financial institution, or officer or employee thereof, having reasonable cause to believe that a disabled adult or older adult is the victim or target of financial exploitation shall report such information to the following:

(1) Persons on the list provided by the customer under G.S. 108A-114, if such a list has been provided by the customer. The financial institution may choose not to contact persons on the provided list if the financial institution suspects that those persons are financially exploiting the disabled adult or older adult.

(2) The appropriate local law enforcement agency.

(3) The appropriate county department of social services, if the customer is a disabled adult.

(b) The report may be made orally or in writing. The report shall include the name and address of the disabled adult or older adult, the nature of the suspected financial exploitation, and any other pertinent information.

(c) No financial institution, or officer or employee thereof, who acts in good faith in making a report under this section may be held liable in any action for doing so.

"**§ 108A-116. Production of customers' financial records in cases of suspected financial exploitation; immunity; records may not be used against account owner.**

(a) An investigating entity may, under the conditions specified in this section, obtain a subpoena directing a financial institution to provide to the investigating entity the financial records of a disabled adult or older adult customer. The subpoena may be issued by any judge of the superior court, judge of the district court, or magistrate in the county of residence of the disabled adult or older adult customer whose financial records are being subpoenaed, upon finding that all of the following conditions are met:

(1) The investigating entity is investigating, pursuant to the investigating entity's statutory authority, a credible report that the disabled adult or older adult is being or has been financially exploited.

(2) The disabled adult's or older adult's financial records are needed in order to substantiate or evaluate the report.

(3) Time is of the essence in order to prevent further exploitation of that disabled adult or older adult.

(b) Delivery of the subpoena may be effected by hand, via certified mail, return receipt requested, or through a designated delivery service authorized pursuant to 26 U.S.C. § 7502(f)(2) and may be addressed to the financial institution's local branch or office vice president, its local branch or office manager or assistant branch or office manager, or the agent for service of process listed by the financial institution with the North Carolina Secretary of State or, if there is none, with the agent for service of process listed by the financial institution in any state in which it is domiciled.

(c) A financial institution shall promptly provide to the head of an investigating entity, or his or her designated agent, the financial records of a disabled adult or older adult customer upon receipt of a subpoena delivered pursuant to subsection (b) of this section identifying the disabled adult or older adult customer.

(d) All produced copies of the disabled adult's or older adult's financial records, as well as any information obtained pursuant to the duty to report found in G.S. 108A-115, shall be kept confidential by the investigating entity unless required by court rules to be disclosed to a party to a court proceeding or introduced and admitted into evidence in an open court proceeding.

(e) No financial institution or investigating entity, or officer or employee thereof, who acts in good faith in providing, seeking, or obtaining financial records or any other information in accordance with this section, or in providing testimony in any judicial proceeding based upon the contents thereof, may be held liable in any action for doing so.

(f) No customer may be subject to indictment, criminal prosecution, criminal punishment, or criminal penalty by reason of or on account of anything disclosed by a financial institution pursuant to this section, nor may any information obtained through such disclosure be used as evidence against the customer in any criminal or civil proceeding. Notwithstanding the foregoing, information obtained may be used against a person who is a joint account owner accused of financial exploitation of a disabled adult or older adult joint account holder, but solely for criminal or civil proceedings directly related to the alleged financial exploitation of the disabled adult or older adult joint account holder.

"**§ 108A-117. Notice to customer; delayed notice.**

(a) Upon the issuance of a subpoena pursuant to G.S. 108A-116, the investigating entity shall immediately provide the customer with written notice of its action by first-class mail to the customer's last known address, unless an order for delayed notice is obtained pursuant to subsection (b) of this section. The notice shall be sufficient to inform the customer of the name of the investigating entity that has obtained the subpoena, the financial records subject to production pursuant to the subpoena, and the purpose of the investigation.

(b) An investigating entity may include in its application for a subpoena pursuant to G.S. 108A-116 a request for an order delaying the customer notice required pursuant to subsection (a) of this section. The judge or magistrate issuing the subpoena may order a delayed notice in accordance with subsection (c) of this section if it finds, based on affidavit or oral testimony under oath or affirmation before the issuing judge or magistrate, that all of the following conditions are met:

(1) The investigating entity is investigating a credible report that the adult is being or has been financially exploited.

(2) There is reason to believe that the notice will result in at least one of the following:

a. Endangering the life or physical safety of any person.

b. Flight from prosecution.

c. Destruction of or tampering with evidence.

d. Intimidation of potential witnesses.

e. Serious jeopardy to an investigation or official proceeding.

f. Undue delay of a trial or official proceeding.

(c) Upon making the findings required in subsection (b) of this section, the judge or magistrate shall enter an ex parte order granting the requested delay for a period not to exceed 30 days. If the court finds there is reason to believe that the notice may endanger the life or physical safety of any person, the court may order that the delay be for a period not to exceed 180 days. An order delaying notice shall direct that:

(1) The financial institution not disclose to any person the existence of the investigation, of the subpoena, or of the fact that the customer's financial records have been provided to the investigating entity for the duration of the period of delay authorized in the order;

(2) The investigating entity deliver a copy of the order to the financial institution along with the subpoena that is delivered pursuant to G.S. 108-116(b); and

(3) The order be sealed until otherwise ordered by the judge or magistrate.

(d) Upon application by the investigating entity, further extensions of the delay of notice may be granted by order of a judge or magistrate in the county of residence of the disabled adult or older adult customer whose financial records are being subpoenaed, upon a finding of the continued existence of the conditions set forth in subdivisions (1) and (2) of subsection (b) of this section, and subject to the requirements of subsection (c) of this section. If the initial delay was granted for a period not to exceed 30 days, the delay may be extended by additional periods of up to 30 days each and the total delay in notice granted under this section shall not exceed 90 days. If the initial delay was granted for a period not to exceed 180 days, the delay may be extended by additional periods of up to 180 days each and may continue

to be extended until the court finds the notice would no longer endanger the life or physical safety of any person.

(e) Upon the expiration of the period of delay of notice granted under this section, including any extensions thereof, the customer shall be served with a copy of the notice required by subsection (a) of this section."

SECTION 5.(a) Section 1(c) of S.L. 2011-189 reads as rewritten:

"**SECTION 1.(c)** The Task Force shall make ~~an interim~~ a report to the North Carolina Study Commission on Aging on or before November 1, 2011, and a ~~final~~report including findings, recommendations, and draft legislation to the Joint Legislative Oversight Committee on Health and Human Services on or before ~~October 1, 2012.~~February 1, 2013. The Task Force shall report to the Joint Legislative Oversight Committee on Health and Human Services prior to the 2014 Regular Session of the 2013 General Assembly on the efficacy of any of the Task Force's recommendations that are adopted. The Task Force shall terminate on May 1, 2015, or upon the filing of its final report, whichever occurs first."

SECTION 5.(b) The Consumer Protection Division, Department of Justice, shall add the following to its list of approved associations represented on the Task Force:

(1) The North Carolina Credit Union League.

(2) An association representing nondepository financial institutions.

(3) The North Carolina Bar Association, whose participating representatives shall include attorneys involved in protecting the privacy and property interests of disabled and older adults.

SECTION 6. Section 1 of this act becomes effective December 1, 2013, and applies to offenses committed on or after that date. Sections 2, 3, and 4 of this act become effective December 1, 2013. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 17th day of July, 2013.

Became law upon approval of the Governor at 4:28 p.m. on the 23rd day of July, 2013.

Session Law 2013-338 **S.B. 200**

AN ACT TO EXTEND THE TIME FOR LOCAL FORENSIC SCIENCE LABS TO OBTAIN ACCREDITATION.

The General Assembly of North Carolina enacts:

SECTION 1. Section 11 of S.L. 2011-19, as amended by Section 9 of S.L. 2011-307 and by Section 6 of S.L. 2012-168, reads as rewritten:

"**SECTION 11.** Sections 1 through 5 and Sections 9 through 11 are effective when this act becomes law, and Section 6 becomes effective July 1, 2011. Sections 7 and 8 of this act are effective when they become ~~law,~~ law; however, until ~~July 1, 2013,~~ July 1, 2016, the provisions of those sections shall apply only to the North Carolina State Crime Laboratory, and on or after ~~July 1, 2013,~~ July 1, 2016, the provisions of Sections 7 and 8 shall apply to all laboratories conducting forensic or chemical analysis for admission in the courts of this State. Nothing in this act is intended to amend or modify either the statutory or common law applicable to discovery in criminal cases which was applicable prior to the effective date of this act. Prosecutions for offenses committed before the effective date of this act are not abated or affected by this act, and the statutes that would be applicable but for this act remain applicable to those prosecutions."

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

In the General Assembly read three times and ratified this the 15th day of July, 2013.

Became law upon approval of the Governor at 4:28 p.m. on the 23rd day of July, 2013.

Session Law 2013-339 **S.B. 223**

AN ACT TO ALLOW AREA BOARDS TO OFFER APPLICANTS FOR THE POSITION OF AREA DIRECTOR SEVERANCE BENEFITS AND RELOCATION EXPENSES AS AN INCENTIVE FOR ACCEPTING AN OFFER OF EMPLOYMENT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 122C-121(a2) reads as rewritten:

"(a2) The area board shall not provide the director with any benefits that are not also provided by the area board to all permanent employees of the area ~~program.~~program, except that the area board may, in its discretion, offer severance benefits, relocation expenses, or both, to an applicant for the position of director as an incentive for the applicant to accept an offer of employment. The director shall be reimbursed only for allowable employment-related expenses at the same rate and in the same manner as other employees of the area program."

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

In the General Assembly read three times and ratified this the 18th day of July, 2013.

Became law upon approval of the Governor at 4:28 p.m. on the 23rd day of July, 2013.

Session Law 2013-340 **S.B. 372**

AN ACT TO REQUIRE NOTICE AND AN OPPORTUNITY FOR COMMENT FROM COUNTY BOARDS WHEN PERMITS FOR LAND APPLICATION OF WASTE WITHIN THAT COUNTY ARE ISSUED BY THE ENVIRONMENTAL MANAGEMENT COMMISSION; TO INCREASE THE THRESHOLD FOR DEPARTMENT OF TRANSPORTATION INFORMAL BID PROCEDURES AND CLARIFY THAT THE DEPARTMENT'S POLICY CONCERNING PARTICIPATION BY DISADVANTAGED MINORITY-OWNED AND WOMEN-OWNED BUSINESSES APPLY TO CONTRACTS LET USING THOSE PROCEDURES; AND TO STUDY STATE PAYMENTS IN LIEU OF TAXES OF PUBLIC LANDS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143-215.1(d) reads as rewritten:

"§ **143-215.1. Control of sources of water pollution; permits required.**

…

(d) Applications and Permits for Sewer Systems, Sewer System Extensions and Pretreatment Facilities, Land Application of Waste, and for Wastewater Treatment Facilities Not Discharging to the Surface Waters of the State. –

(1) All applications for new permits and for renewals of existing permits for sewer systems, sewer system extensions and for disposal systems, and for land application of waste, or treatment works which do not discharge to the surface waters of the State, and all permits or renewals and decisions denying any application for permit or renewal shall be in writing. The Commission shall act on a permit application as quickly as possible. The Commission may conduct any inquiry or investigation it considers necessary before acting on an application and may require an applicant to submit plans, specifications, and other information the Commission considers necessary to evaluate the application. If the Commission fails to act on an application for a permit, including a renewal of a permit, within 90 days after the applicant submits all information required by the Commission, the application is considered to be approved. Permits and renewals issued in approving such facilities pursuant to this subsection shall be effective until the date specified therein or until rescinded unless modified or revoked by the Commission.

Prior to acting on a permit application for the land application of bulk residuals resulting from the operation of a wastewater treatment facility, the Commission shall provide notice and an opportunity for comment from the governing board of the county in which the site of the land application of bulk residuals is proposed to be located. Local governmental units to whom pretreatment program authority has been delegated shall establish, maintain, and provide to the public, upon written request, a list of pretreatment applications received.

(2) An applicant for a permit to dispose of petroleum contaminated soil by land application shall give written notice that he intends to apply for such a permit to each city and county government having jurisdiction over any part of the land on which disposal is proposed to occur. The Commission shall not accept such a permit application unless it is accompanied by a copy of the notice and evidence that the notice was sent to each such government by certified mail, return receipt requested. The Commission may consider, in determining whether to issue the permit, the comments submitted by local governments."

SECTION 2.1. G.S. 136-28.1 reads as rewritten:

"§ **136-28.1. Letting of contracts to bidders after advertisement; exceptions.**

(a) All contracts over ~~one million two hundred thousand dollars ($1,200,000)~~two million five hundred thousand dollars ($2,500,000) that the Department of Transportation may let for construction, maintenance, operations, or repair necessary to carry out the provisions of this Chapter shall be let to a responsible bidder after public advertising under rules and regulations to be made and published by the Department of Transportation. The right to reject any and all bids shall be reserved to the Board of Transportation. Contracts for construction or repair for federal aid projects entered into pursuant to this section shall not contain the standardized contract clauses prescribed by 23 U.S.C. § 112(e) and 23 C.F.R. § 635.109 for differing site conditions, suspensions of work ordered by the engineer or significant changes in the character of the work. For those federal aid projects, the Department of Transportation shall use only the contract provisions for differing site conditions, suspensions of work ordered by the engineer, or significant changes in the character of the work developed by the North Carolina Department of Transportation and approved by the Board of Transportation.

(b) For contracts let to carry out the provisions of this Chapter in which the amount of work to be let to contract for transportation infrastructure construction or repair is ~~one million two hundred thousand dollars ($1,200,000)~~two million five hundred thousand dollars ($2,500,000) or less, and for transportation infrastructure maintenance, excluding resurfacing, that is ~~one million two hundred thousand dollars ($1,200,000)~~two million five hundred thousand dollars ($2,500,000) per year or less, at least three informal bids shall be solicited. The term "informal bids" is defined as bids in writing, received pursuant to a written request, without public advertising. All such contracts shall be awarded to the lowest responsible bidder. The Secretary of Transportation shall keep a record of all bids submitted, which record shall be subject to public inspection at any time after the bids are opened.

…."

SECTION 2.2. G.S. 136-28.4(c) reads as rewritten:

"(c) The following definitions apply in this section:

(1) "Contract" includes, but is not limited to, contracts let under the procedures set forth in G.S. 136-28.1(a) and (b).

~~(1)~~(1a) "Disadvantaged Business" has the same meaning as "disadvantaged business enterprise" in 49 C.F.R. § 26.5 Subpart A or any subsequently promulgated replacement regulation.

…."

SECTION 3.1. There is established the State Payment in Lieu of Taxes Study Commission. The Commission shall consist of 13 members appointed as follows:

(1) Three members of the House of Representatives appointed by the Speaker of the House of Representatives.
(2) Three members of the Senate appointed by the President Pro Tempore of the Senate.
(3) The Secretary of Revenue or the Secretary's designee.
(4) Three members of the public appointed by the Speaker of the House of Representatives, two based on the recommendation of the North Carolina Association of County Commissioners and one based on the recommendation of the North Carolina League of Municipalities.
(5) Three members of the public appointed by the President Pro Tempore of the Senate, two based on the recommendation of the North Carolina Association of County Commissioners and one based on the recommendation of the North Carolina League of Municipalities.

SECTION 3.2. The Speaker of the House of Representatives and the President Pro Tempore of the Senate shall each designate a cochair. The Commission may meet at any time upon the joint call of the cochairs. A quorum of the Commission shall be a majority of its members. No action may be taken except by a majority vote at a meeting at which a quorum is present.

SECTION 3.3. Vacancies on the Commission shall be filled by the same appointing authority that made the initial appointment.

SECTION 3.4. Subject to the approval of the Legislative Services Commission, the Commission may meet in the Legislative Building or the Legislative Office Building.

SECTION 3.5. The Legislative Services Commission, through the Legislative Services Officer, shall assign professional staff to assist the Commission in its work. The House of Representatives' and the Senate's Director of Legislative Assistants shall assign clerical support staff to the Commission, and the expenses relating to the clerical employees shall be borne by the Commission.

SECTION 3.6. The Commission, while in the discharge of its official duties, may exercise all powers provided for under G.S. 120-19 and G.S. 120-19.1 through G.S. 120-19.4. The Commission may contract for professional, clerical, or consultant services as provided by G.S. 120-32.02.

SECTION 3.7. Members of the Commission shall receive subsistence and travel expenses at the rates set forth in G.S. 120-3.1, 138-5, or 138-6, as appropriate.

SECTION 3.8. The Commission shall study issues relating to the development of a State payment in lieu of taxes for State properties, including wildlife and game lands. The Commission may consider any other issues deemed relevant.

SECTION 3.9. The Commission may submit an interim report on the results of its study, including any proposed legislation, to the members of the Senate and the House of Representatives at any time by filing a copy of the report with the Office of the President Pro Tempore of the Senate, the Office of the Speaker of the House of Representatives, and the Legislative Library. The Commission shall submit a final report on the results of its study, including any proposed legislation, to the members of the Senate and the House of Representatives, prior to the convening of the 2015 General Assembly, by filing a copy of the report with the Office of the President Pro Tempore of the Senate, the Office of the Speaker of the House of Representatives, and the Legislative Library. The Committee shall terminate upon the convening of the 2015 General Assembly or upon the filing of its final report, whichever occurs first.

SECTION 4. Section 1 of this act becomes effective August 1, 2013, and applies to land application permit applications received on or after that date. Section 2.1 of this act becomes effective August 1, 2013, and applies to transportation project bids solicited on or after that date. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 16th day of July, 2013.

Became law upon approval of the Governor at 4:28 p.m. on the 23rd day of July, 2013.

Session Law 2013-341 **S.B. 407**

AN ACT TO REQUIRE THE DIVISION OF MOTOR VEHICLES TO IMPLEMENT A STATEWIDE ELECTRONIC LIEN SYSTEM TO PROCESS THE NOTIFICATION AND RELEASE OF SECURITY INTERESTS AND CERTIFICATE OF TITLE DATA.

The General Assembly of North Carolina enacts:

SECTION 1. Article 3 of Chapter 20 of the General Statutes is amended by adding a new section to read:

"§ **20-58.4A. Electronic lien system.**

(a) Implementation. – No later than July 1, 2014, the Division shall implement a statewide electronic lien system to process the notification, release, and maintenance of security interests and certificate of title data where a lien is notated, through electronic means instead of paper documents otherwise required by this Chapter. The Division may contract with a qualified vendor or vendors to develop and implement this statewide electronic lien system, or the Division may develop and make available to qualified service providers a well-defined set of information services that will enable secure access to the data and internal application components necessary to facilitate the creation of an electronic lien system.

(b) Minimum Standards for a Vendor Implemented System. – When contracting with a qualified vendor or vendors to implement the system required in subsection (a) of this section, the Division shall set the following minimum standards:

(1) The Division shall issue a competitive request for proposal to assess the qualifications of any vendor or vendors responsible for the establishment and ongoing support of the statewide electronic lien system. The Division may also reserve the right to receive input regarding specifications for the electronic lien system from parties that do not respond to a request for proposal to establish and operate an electronic lien system.

(2) Any contract entered into with a vendor or vendors shall include no costs or charges payable by the Division to the vendor or vendors. The vendor or vendors shall reimburse the Division for documented reasonable implementation costs directly associated with the establishment and ongoing support of the statewide electronic lien system.

(3) Upon implementation of the electronic lien system pursuant to subsection (a) of this section, the qualified vendor or vendors may charge participating lienholders or their agents a per-transaction fee for each lien notification. The per-transaction lien notification fee shall be consistent with market pricing in an amount not to exceed three dollars and fifty cents ($3.50) for costs associated with the development and ongoing administration of the electronic lien system. The qualified vendor or vendors shall not charge lienholders or their agents any additional fee for lien releases, assignments, or transfers. To recover their costs, participating lienholders or their agents may charge the borrower of a motor vehicle loan or the lessee of an automotive lease an amount equal to the transaction fee per lien notification plus a fee in an amount not to exceed three dollars ($3.00) for each electronic transaction where a lien is notated.

(4) A qualified vendor or vendors may also serve as a service provider to lienholders, if all of the following conditions are met:

a. The contract with the vendor must include provisions specifically prohibiting the vendor from using information concerning vehicle titles for marketing or business solicitation purposes.

b. The contract with the vendor must include an acknowledgment by the vendor that it is required to enter into agreements to exchange electronic lien data with any service providers who offer electronic lien and title services in the State and who have been approved by the Division for participation in the system and with service providers who are not qualified vendors.

c. The Division must periodically monitor fees charged by a qualified vendor also serving as a service provider to lienholders and providing services as a qualified vendor to other service providers to ensure the vendor is not engaged in predatory pricing.

(c) Minimum Standards for Division-Developed System. – If the Division chooses to develop an interface to enable service provider access to data to facilitate the creation of an electronic lien system, then the Division shall do so for a cost not to exceed two hundred fifty thousand dollars ($250,000) and set the following minimum standards:

(1) The Division shall establish qualifications for third-party service providers offering electronic lien services and establish a qualification process that will vet applications developed by service providers for compliance with defined security and architecture standards as follows:

a. Qualifications shall be posted within 60 days of the effective date of this section.

b. Interested service providers shall respond by providing qualifications within 30 days of posting.

c. The Division shall notify service providers of their approval.

d. Within 30 days of approval, each qualified service provider shall remit payment in an amount equal to the development costs as a fraction of the number of qualified service providers participating in the electronic lien services.

e. If there is a service provider who later wishes to participate but did not apply or pay the initial development costs, then that provider may apply to participate if the provider meets all qualifications and pays the same amount in development costs as other participating service providers.

(2) Each qualified service provider shall remit to the Division an annual fee not to exceed three thousand dollars ($3,000) on a date prescribed by the Division to be used for the operation and maintenance of the electronic lien system.

(3) Any contract entered into with a service provider shall include no costs or charges payable by the Division to the service provider.

(4) Upon implementation of the electronic lien system pursuant to subsection (a) of this section, the service provider may charge participating lienholders or their agents a per-transaction fee consistent with market pricing.

(5) The contract with the service provider must include provisions specifically prohibiting the service provider from using information concerning vehicle titles for marketing or business solicitation purposes.

(d) Qualified vendors and service providers shall have experience in directly providing electronic solutions to State motor vehicle departments or agencies.

(e) Notwithstanding any requirement in this Chapter that a lien on a motor vehicle shall be noted on the face of the certificate of title, if there are one or more liens or encumbrances on the motor vehicle or mobile home, the Division may electronically transmit the lien to the first lienholder and notify the first lienholder of any additional liens. Subsequent lien satisfactions

may be electronically transmitted to the Division and shall include the name and address of the person satisfying the lien.

(f) When electronic transmission of liens and lien satisfactions is used, a certificate of title need not be issued until the last lien is satisfied and a clear certificate of title is issued to the owner of the vehicle.

(g) When a vehicle is subject to an electronic lien, the certificate of title for the vehicle shall be considered to be physically held by the lienholder for purposes of compliance with State or federal odometer disclosure requirements.

(h) A duly certified copy of the Division's electronic record of the lien shall be admissible in any civil, criminal, or administrative proceeding in this State as evidence of the existence of the lien.

(i) Mandatory Participation. – Beginning July 1, 2015, all individuals and lienholders who are normally engaged in the business or practice of financing motor vehicles, and who conduct at least five transactions annually, shall utilize the electronic lien system implemented in subsection (a) of this section to record information concerning the perfection and release of a security interest in a vehicle.

(j) Effect of Electronic Notice or Release. – An electronic notice or release of a security interest made through the electronic system implemented pursuant to subsection (a) of this section shall have the same force and effect as a notice or release on a paper document provided under G.S. 20-58 through G.S. 20-58.8.

(k) Nothing in this section shall preclude the Division from collecting a title fee for the preparation and issuance of a title."

SECTION 2. Prior to the statewide implementation of the electronic lien system pursuant to G.S. 20-58.4A, the Division, along with one or more qualified vendors and up to five lienholders, may conduct a pilot program of the electronic lien system for a period of up to 90 days.

SECTION 3. No later than October 1, 2013, the Division shall report to the Chairs of the Joint Legislative Transportation Oversight Committee on the status of the implementation of the electronic lien system pursuant to G.S. 20-58.4A. The report shall include, at a minimum, whether the Division is proceeding with a vendor-implemented system or Division-implemented system and whether implementation is on schedule and on budget.

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

In the General Assembly read three times and ratified this the 15th day of July, 2013.

Became law upon approval of the Governor at 4:28 p.m. on the 23rd day of July, 2013.

Session Law 2013-342 **S.B. 386**

AN ACT TO PROVIDE REPRESENTATION OF SWINE INTERESTS ON THE BOARD OF AGRICULTURE, AND TO EXPAND THE DEFINITION OF A "PUBLIC CORPORATION" FOR THE PURPOSE OF ESTABLISHING FOREIGN TRADE ZONES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 106-2, as amended by S.L. 2013-99, reads as rewritten:

"§ **106-2. Department of Agriculture and Consumer Services established; Board of Agriculture, membership, terms of office, etc.**

(a) Department and Board Established. – The Department of Agriculture and Consumer Services is created and established and shall be under the control of the Commissioner of Agriculture, with the consent and advice of a board to be established and named "The Board of Agriculture."

(b) Membership; Qualifications. – The Board of Agriculture shall consist of the Commissioner of Agriculture, who shall be an ex officio member and chairman thereof and

shall preside at all meetings, and of ~~10~~11 other members from the State, so distributed as to reasonably represent the different sections and agriculture of the State. The Commissioner of Agriculture and the members of the Board of Agriculture shall be practicing farmers engaged in their profession. The members of the Board shall be appointed by the Governor by and with the consent of the Senate. In the appointment of the members of the Board the Governor shall also take into consideration the different agricultural interests of the State, and shall appoint members with the following qualifications:

(1) One member who shall be a practicing tobacco farmer to represent the tobacco farming interest.
(2) One member who shall be a practicing cotton grower to represent the cotton interest.
(3) One member who shall be a practicing fruit or vegetable farmer to represent the fruit and vegetable farming interest.
(4) One member who shall be a practicing dairy farmer to represent the dairy and ~~livestock~~cattle interest of the State.
(5) One member who shall be a practicing poultryman to represent the poultry interest of the State.
(6) One member who shall be a practicing peanut grower to represent the peanut interests of the State.
(7) One member who shall be experienced in marketing to represent the marketing of products of the State.
(8) One member who shall be actively involved in forestry to represent the forestry interests of the State.
(9) One member who shall be actively involved in the nursery business to represent the nursery industry of the State.
(10) One member who shall be a practicing general farmer to represent the general farming interest.
(11) One member who shall be a practicing pork farmer to represent the swine interest of the State.

(c) Terms. – The term of office of members of the Board shall be six years and until their successors are duly appointed and qualified.

(d) Vacancies. – Vacancies in the Board shall be filled by the Governor for the unexpired term."

SECTION 2. G.S. 55C-2 reads as rewritten:

"§ **55C-2. "Public corporation" defined.**

The term "public corporation" for the purposes of this Chapter, means the State of North Carolina or any political subdivision thereof, or any public agency of this State or any political subdivision thereof, or any public board, bureau, commission or authority created by the ~~General Assembly.~~General Assembly, or a corporate municipal instrumentality of one or more states."

SECTION 3. Section 1 of this act becomes effective September 1, 2013, and applies to appointments to the Board of Agriculture made on or after that date. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 17th day of July, 2013.

Became law upon approval of the Governor at 4:29 p.m. on the 23rd day of July, 2013.

Session Law 2013-343 **S.B. 406**

AN ACT TO REPEAL LAWS AND ORDINANCES THAT WERE DENIED PRECLEARANCE UNDER SECTION 5 OF THE VOTING RIGHTS ACT OF 1965.

The General Assembly of North Carolina enacts:

SECTION 1. Article 6A of Chapter 120 of the General Statutes is amended by adding a new section to read:

"**§ 120-30.9J. Repeal of acts and ordinances which were denied preclearance.**

Any (i) city or county ordinance or resolution, (ii) act, policy, or resolution of a county board of elections, or (iii) public or local law enacted by the General Assembly, for which prior to June 25, 2013, either the United States Department of Justice interposed an objection or the United States District Court for the District of Columbia denied a declaratory judgment under Section 5 of the Voting Rights Act of 1965 is repealed. This section shall not apply to any ordinance, resolution, act, policy, or law to which the United States Department of Justice withdrew its objection or, after the United States Department of Justice interposed an objection, the United States District Court for the District of Columbia issued a declaratory judgment that such ordinance, resolution, act, policy, or law did not violate Section 5 of the Voting Rights Act of 1965."

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

In the General Assembly read three times and ratified this the 16th day of July, 2013.

Became law upon approval of the Governor at 4:29 p.m. on the 23rd day of July, 2013.

Session Law 2013-344 **S.B. 454**

AN ACT TO CLARIFY THE AUTHORITY OF THE GASOLINE AND OIL INSPECTION BOARD TO REGULATE PETROLEUM DEVICE TECHNICIANS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 119-33 reads as rewritten:

"**§ 119-33. Investigation and inspection of measuring equipment; devices calculated to falsify measures.**

(a) The gasoline and oil inspectors shall be required to investigate and inspect the equipment for measuring gasoline, kerosene, lubricating oil, and other liquid petroleum products. ~~Said~~ The inspectors shall be under the supervision of the Commissioner of Agriculture, and are hereby vested with the same power and authority now given by law to inspectors of weights and measures, ~~insofar as the same may be necessary~~ in order to effectuate the provisions of this Article. The rules, regulations, specifications and tolerance limits as promulgated by the National Conference ~~of~~ on Weights and Measures, and recommended by the ~~United States Bureau of Standards,~~ National Institute of Standards and Technology, shall be observed by said inspectors insofar as they apply to the inspection of equipment used in measuring gasoline, kerosene, lubricating oil and other petroleum products. Inspectors of weights and measures appointed and maintained by the various counties and cities of the State shall have the same power and authority given by this section to inspectors under the supervision of the Commissioner of Agriculture. In all cases where it is found, after inspection, that the measuring equipment used in connection with the distribution of such products is inaccurate, the inspector shall condemn and seize all incorrect devices which in his best judgment ~~are not susceptible of satisfactory repair,~~cannot be satisfactorily repaired, but ~~such as are incorrect, and in his best judgment~~measuring equipment, that in the judgment of the inspector may be repaired, ~~he shall mark or tags~~shall be marked or tagged as "condemned for repairs" in a manner prescribed by the Commissioner of Agriculture. After notice in writing the owners or users of such measuring devices which have been condemned for repairs shall have the ~~same~~ devices repaired and corrected within 10 ~~days,~~days by a registered petroleum device technician, and ~~the~~ neither the owners ~~and/or~~nor the users ~~thereof~~ of the devices shall ~~neither~~ use ~~nor~~ or dispose of ~~said~~ the measuring devices in any manner, but shall hold the ~~same~~ devices at the disposal of the gasoline and oil inspector. The inspector shall confiscate and destroy all measuring devices which have been condemned for repairs and have not been repaired as

required by this Article. The gasoline and oil inspectors shall officially seal all dispensing pumps or other dispensing devices found to be accurate on ~~inspection,~~inspection. ~~and if,~~The finding, upon inspection at a later date, that any pump is ~~found to be~~ inaccurate and the seal broken, ~~the same~~ shall constitute prima facie evidence of intent to defraud by giving inaccurate measure, and (i) the owner ~~and/or~~, (ii) the user, or (iii) both of them ~~thereof~~ shall be guilty of a Class 2 misdemeanor. Any person other than a registered petroleum device technician who ~~shall remove or break~~removes or breaks any seal placed upon ~~said~~ a measuring ~~and/or~~or dispensing ~~devices~~ device by ~~said inspectors~~any oil and gas inspector until the provisions of this section have been complied with shall be guilty of a Class 2 misdemeanor. Any person, firm, or corporation who ~~shall sell or have~~sells or has in his possession for the purpose of selling or using any measuring device to be used or calculated to be used to falsify any measure shall be guilty of a Class 1 misdemeanor.

(b) The Gasoline and Oil Inspection Board may adopt rules to provide for the registration of petroleum device technicians. The rules may establish qualifications for registration and may also establish grounds for the suspension or revocation of registration. The annual fee for registration of a petroleum device technician shall be twenty dollars ($20.00)."

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

In the General Assembly read three times and ratified this the 18th day of July, 2013.

Became law upon approval of the Governor at 4:30 p.m. on the 23rd day of July, 2013.

Session Law 2013-345 **S.B. 455**

AN ACT TO INCREASE PENALTIES FOR VIOLATION OF THE SEED LAW.

The General Assembly of North Carolina enacts:

SECTION 1.(a) G.S. 106-277.19 reads as rewritten:

"§ **106-277.19. ~~Revocation~~ Revocation, suspension, or refusal of license for cause; hearing; appeal.**

In accordance with Chapter 150B of the General Statutes, the Commissioner is authorized to suspend any seed license issued for a period not to exceed three years, revoke any seed license issued, or to refuse to issue a seed license to any person ~~as hereinafter provided,~~ upon satisfactory proof that said person has repeatedly violated any of the provisions of this Article or any of the rules ~~and regulations made and promulgated~~adopted thereunder.~~thereunder; provided that no license shall be revoked or refused until the person shall have first been given an opportunity to appear at a hearing before the Commissioner. Any person who is refused a license, or whose license is revoked by any order of the Commissioner, may appeal within 30 days from said order to the Superior Court of Wake County or the superior court of the county of his residence.~~"

SECTION 1.(b) G.S. 106-277.24 reads as rewritten:

"§ **106-277.24. Penalty for violations.**

Any person, firm or corporation violating any provision of this Article or any rule or regulation adopted pursuant thereto shall be guilty of a Class 3 misdemeanor and upon conviction thereof shall ~~only~~ pay a fine of not more than ~~five hundred dollars ($500.00).~~ten thousand dollars ($10,000). This fine shall not apply, however, to a retailer with respect to any transaction where the seed sold by the retailer was acquired by the retailer in a sealed container or package, or the retailer did not have reasonable knowledge that the seed sold was in violation of this Article. In determining the amount of the fine, the court shall consider the retail value of the seed sold in violation of the law, and in cases involving the unlawful sale of seed protected under the federal Plant Variety Protection Act, the court shall order the payment of restitution to any injured party for any losses incurred as a result of the unlawful sale."

SECTION 2. This act becomes effective December 1, 2013, and applies to violations committed on or after that date.

In the General Assembly read three times and ratified this the 17th day of July, 2013.

Became law upon approval of the Governor at 4:30 p.m. on the 23rd day of July, 2013.

Session Law 2013-346 **S.B. 488**

AN ACT TO AMEND THE NURSING HOME ADMINISTRATOR ACT AND TO INCREASE CERTAIN FEES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 90-278(1) reads as rewritten:

"§ **90-278. Qualifications for licensure.**

The Board shall have authority to issue licenses to qualified persons as nursing home administrators, and shall establish qualification criteria for such nursing home administrators.

(1) A license as a nursing home administrator shall be issued to any person upon the Board's determination ~~that:~~that the person:

a. ~~He is~~Is at least 18 years of age, of good moral character and of sound physical and mental health; and

b. ~~He has~~Has successfully completed the equivalent of two years of college level study (60 semester hours or 96 quarter hours) from an accredited community college, college or university prior to application for licensure;

or

has completed a combination of education and experience, acceptable under rules promulgated by the Board, prior to application for licensure. Under this provision, two years of supervisory experience in a nursing home shall be equated to one year of college study;

c. ~~He has~~Has satisfactorily completed a course prescribed by the Board, which course contains instruction on the services provided by nursing homes, laws governing nursing homes, protection of patient interests and nursing home administration; and

d. ~~He has~~Has successfully completed ~~his~~ the training period as an administrator-in-training as prescribed by the Board. If a person has served at least 12 weeks as a hospital administrator or assistant administrator of a hospital-based long-term care nursing unit or hospital-based swing beds licensed under Article 5 of Chapter 131E or Article 2 of Chapter 122C, the Board shall consider this experience comparable to the initial on-the-job portion of the administrator-in-training program only; and

e. ~~He has~~Has passed ~~examinations administered by the Board and designed to test for competence in the subject matters referred to in paragraph c of this subdivision.~~the national and State examinations designed to test for competence in the subject matters referred to in sub-subdivision c. of this subdivision within one year from the date of completion of the administrator-in-training program.

…."

SECTION 2. G.S. 90-280 reads as rewritten:

"§ **90-280. Fees; display of license; duplicate license; inactive list.**

(a) Each applicant for an examination administered by the Board and each applicant for an administrator-in-training program and reciprocity endorsement shall pay a processing fee set by the Board not to exceed ~~one hundred dollars ($100.00)~~five hundred dollars ($500.00) plus the actual cost of the exam.

(b) Each person licensed as a nursing home administrator shall be required to pay a license fee in an amount set by the Board not to exceed ~~five hundred dollars ($500.00).~~one thousand dollars ($1,000). A license shall expire on the thirtieth day of September of the second year following its issuance and shall be renewable biennially upon payment of a renewal fee set by the Board not to exceed ~~five hundred dollars ($500.00).~~one thousand dollars ($1,000).

(c) Each person licensed as a nursing home administrator shall display his or her license certificate, along with the current certificate of renewal, in a conspicuous place in his or her place of employment.

(d) Any person licensed as a nursing home administrator may receive a duplicate license or verification of license by payment of a fee set by the Board not to exceed ~~twenty-five dollars ($25.00).~~one hundred dollars ($100.00).

(e) Any person licensed as a nursing home administrator who is not acting, serving, or holding himself or herself out to be a nursing home administrator may have his or her name placed on an inactive list for such period of time not to exceed four years upon payment of a fee set by the Board not to exceed ~~fifty dollars ($50.00)~~two hundred dollars ($200.00) per year. Each year during that four-year period, upon request and payment of the fee, the person's name may remain on an inactive list for one additional year.

(f) Any person having a temporary license issued pursuant to G.S. 90-278(3) shall pay a fee in an amount set by the Board not to exceed ~~two hundred dollars ($200.00).~~five hundred dollars ($500.00). If the Board renews the temporary license, no further fee shall be required.

(g) The Board may set fees not to exceed ~~two hundred and fifty dollars ($250.00)~~one thousand dollars ($1,000) for conducting and administering initial training and continuing education courses, and may set a fee not to exceed one hundred dollars ($100.00) per hour for certifying a course submitted for review by another individual or agency wishing to offer such courses or may set an annual fee not to exceed ~~two thousand dollars ($2,000)~~four thousand dollars ($4,000) for certifying a course provider in lieu of certifying each course offered by the provider."

SECTION 3. G.S. 90-283 reads as rewritten:

"§ **90-283. Organization of Board; compensation; employees and services.**

The Board shall elect from its membership a chairman, vice-chairman and secretary, and shall adopt rules and regulations to govern its proceedings. Board members shall be entitled to receive only such compensation and reimbursement as is prescribed by Chapter 93B of the General Statutes for State boards generally. At any meeting a majority of the voting members shall constitute a quorum. The Board ~~may employ any necessary personnel to assist it in the performance of its duties and may contract for such services as may be~~ shall have the power to employ or retain professional personnel, including legal counsel subject to G.S. 114-2.3, and clerical or other special personnel deemed necessary to carry out the provisions of this Article."

SECTION 4. G.S. 90-285(3) reads as rewritten:

"§ **90-285. Functions and duties of the Board.**

The Board shall meet at least once annually in Raleigh or any other location designated by the chairman and shall have the following functions and duties:

…

(3) Issue licenses to qualified ~~individuals.~~individuals consistent with G.S. 90-278 and G.S. 90-287 and any rules adopted by the Board implementing those provisions.

…."

SECTION 5. G.S. 90-285.1 reads as rewritten:

"§ **90-285.1. Suspension, revocation or refusal to issue a license.**

The Board may suspend, revoke, or refuse to issue a license or may reprimand or otherwise discipline a licensee after due notice and an opportunity to be heard at a formal hearing, upon substantial evidence that a licensee:

(1) Has violated the provisions of this Article or the rules adopted by the Board;

(2) Has violated the provisions of Part 2 of Article 6 of Chapter 131E of the General Statutes and rules promulgated thereunder;
(3) Has been convicted of, or has tendered and has had accepted a plea of no contest to, a criminal offense showing professional unfitness;
(4) Has practiced fraud, deceit, or misrepresentation in securing or procuring a nursing home administrator license;
(5) Is incompetent to engage in the practice of nursing home administration or to act as a nursing home administrator;
(6) Has practiced fraud, deceit, or misrepresentation in his or her capacity as a nursing home administrator;
(7) Has committed acts of misconduct in the operation of a nursing home under his jurisdiction;
~~(8) Is a habitual drunkard;~~
(9) Is addicted or dependent upon the use of alcohol or any controlled substance, including morphine, opium, cocaine, or other drugs;
(10) Has practiced without being registered biennially;
(11) Has transferred or surrendered possession of, either temporarily or permanently, his or her license or certificate to any other person;
(12) Has paid, given, has caused to be paid or given or offered to pay or to give to any person a commission or other valuable consideration for the solicitation or procurement, either directly or indirectly, of nursing home patronage;
(13) Has been guilty of fraudulent, misleading, or deceptive advertising;
(14) Has falsely impersonated another licensee;
(15) Has failed to exercise regard for the safety, health or life of the patient;
(16) Has permitted unauthorized disclosure of information relating to a patient or his or her records; or
(17) Has discriminated among patients, employees, or staff on account of race, ~~sex,~~gender, religion, color, ~~or national origin.~~national origin, mental or physical disability, or any other class protected by State or federal law."

SECTION 6. G.S. 90-287 reads as rewritten:

"§ **90-287. Reciprocity with other states.**

The Board may issue a nursing home administrator's ~~license, without examination,~~ license to any person who holds a current license as a nursing home administrator from another jurisdiction, provided that the Board finds that the standards for licensure in such other jurisdiction are at least the substantial equivalent of those prevailing in this ~~State,~~State and that the applicant has passed the national and the State examinations administered by the Board and is otherwise qualified."

SECTION 7. G.S. 90-288.01 reads as rewritten:

"§ **90-288.01. Criminal history record checks of applicants for licensure.**

(a) The following definitions apply in this section:
(1) Applicant. – A person applying for initial licensure pursuant to either G.S. 90-278 or G.S. 90-287 or applying for renewal of licensure pursuant to G.S. 90-286.
(2) Criminal history. – A history of conviction of a state or federal crime, whether a misdemeanor or felony, that bears on an applicant's fitness for licensure as a nursing home administrator. The crimes include the criminal offenses set forth in any of the following Articles of Chapter 14 of the General Statutes: Article 5, Counterfeiting and Issuing Monetary Substitutes; Article 5A, Endangering ~~Executive and Legislative~~Executive, Legislative, and Court Officers; Article 6, Homicide; Article 7A, Rape and Other Sex Offenses; Article 8, Assaults; Article 10, Kidnapping and Abduction; Article 13, Malicious Injury or Damage by Use of Explosive or Incendiary Device or Material; Article 14, Burglary and Other Housebreakings; Article 15,

Arson and Other Burnings; Article 16, Larceny; Article 17, Robbery; Article 18, Embezzlement; Article 19, False Pretenses and Cheats; Article 19A, Obtaining Property or Services by False or Fraudulent Use of Credit Device or Other Means; Article 19B, Financial Transaction Card Crime Act; Article 20, Frauds; Article 21, Forgery; Article 26, Offenses Against Public Morality and Decency; Article 26A, Adult Establishments; Article 27, Prostitution; Article 28, Perjury; Article 29, Bribery; Article 31, Misconduct in Public Office; Article 35, Offenses Against the Public Peace; Article 36A, Riots, Civil Disorders, and Emergencies; Article 39, Protection of Minors; Article 40, Protection of the Family; Article 59, Public Intoxication; and Article 60, Computer-Related Crime. The crimes also include possession or sale of drugs in violation of the North Carolina Controlled Substances Act, Article 5 of Chapter 90 of the General Statutes, and alcohol-related offenses, including sale to underage persons in violation of G.S. 18B-302 or driving while impaired in violation of G.S. 20-138.1 through G.S. 20-138.5.

(b) Criminal History Record Check. – The Board shall require a criminal history record check of all ~~applicants.~~applicants for initial licensure and temporary licensure. The Board, in its discretion, may require a criminal history record check of an applicant for license renewal. Refusal to consent to a criminal history record check may constitute grounds for the Board to deny licensure to an applicant. The Board shall provide to the North Carolina Department of Justice the fingerprints of the applicant to be checked, a form signed by the applicant consenting to the criminal history record check and the use of fingerprints and other identifying information required by the State or National Repositories, and any additional information required by the Department of Justice. The Board shall keep all information obtained pursuant to this section confidential. The Board shall collect any fees required by the Department of Justice and shall remit the fees to the Department of Justice for expenses associated with conducting the criminal history record check.

(c) Convictions. – If the applicant's criminal history record check reveals one or more convictions listed under subdivision (2) of subsection (a) of this section, the conviction shall not automatically bar licensure. The Board shall consider all of the following factors regarding the conviction:

(1) The level of seriousness of the crime.
(2) The date of the crime.
(3) The age of the applicant at the time of the conviction.
(4) The circumstances surrounding the commission of the crime, if known.
(5) The nexus between the criminal conduct of the applicant and the job duties of the position to be filled.
(6) The applicant's prison, jail, probation, parole, rehabilitation, and employment records since the date the crime was committed.
(7) The subsequent commission by the applicant of a crime listed in subsection (a) of this section.

(d) Denial of Licensure. – ~~If~~ Except as otherwise provided by law, if the Board refuses to issue or renew a license based on information obtained in a criminal history record check, the ~~Board must disclose to the applicant the information contained in the criminal history record check that is relevant to the Board's actions. The~~ Board shall not provide a copy of the criminal history record check to the applicant. An applicant has the right to appear before the Board to appeal the Board's decision. An appearance before the Board shall constitute an exhaustion of administrative remedies in accordance with Chapter 150B of the General Statutes.

(e) Limited Immunity. – The Board, its officers and employees, acting in good faith and in compliance with this section, shall be immune from civil liability for its actions based on information provided in an applicant's criminal history record check."

SECTION 8. Article 20 of Chapter 90 of the General Statutes is amended by adding the following new section to read:

"§ **90-288.02. Confidentiality of investigative records.**

Records, papers, and other documents containing information collected and compiled by or on behalf of the Board as a result of an investigation, inquiry, or interview conducted in connection with certification, licensure, or a disciplinary matter shall not be considered public records within the meaning of Chapter 132 of the General Statutes. Any notice or statement of charges, notice of hearing, or decision rendered in connection with a hearing shall be a public record. Information that identifies a resident who has not consented to the public disclosure of services rendered to him or her by a person certified or licensed under this Chapter shall be deleted from the public record. All other records, papers, and documents containing information collected and compiled by or on behalf of the Board shall be public records, but any information that identifies a resident who has not consented to the public disclosure of services rendered to him or her shall be deleted."

SECTION 9. Any person who has met the qualifications for licensure and been issued a license as a nursing home administrator by the State Board of Examiners for Nursing Home Administrators on or before the effective date of Section 1 of this act shall be deemed to have complied with the requirements of G.S. 90-278(1) as enacted by Section 1 of this act.

SECTION 10. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 18th day of July, 2013.

Became law upon approval of the Governor at 4:30 p.m. on the 23rd day of July, 2013.

Session Law 2013-347 **S.B. 505**

AN ACT TO CLARIFY THAT THE EXEMPTION FROM ZONING FOR A BONA FIDE FARM INCLUDES GRAIN STORAGE FACILITIES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 153A-340(b) reads as rewritten:

"§ **153A-340. Grant of power.**

…

(b) (1) These regulations may affect property used for bona fide farm purposes only as provided in subdivision (3) of this subsection. This subsection does not limit regulation under this Part with respect to the use of farm property for nonfarm purposes.

(2) Except as provided in G.S. 106-743.4 for farms that are subject to a conservation agreement under G.S. 106-743.2, bona fide farm purposes include the production and activities relating or incidental to the production of crops, grains, fruits, vegetables, ornamental and flowering plants, dairy, livestock, poultry, and all other forms of ~~agriculture~~ agriculture, as defined in G.S. 106-581.1. For purposes of this subdivision, "when performed on the farm" in G.S. 106-581.1(6) shall include the farm within the jurisdiction of the county and any other farm owned or leased to or from others by the bona fide farm operator, no matter where located. For purposes of this subdivision, the production of a nonfarm product that the Department of Agriculture and Consumer Services recognizes as a "Goodness Grows in North Carolina" product that is produced on a farm subject to a conservation agreement under G.S. 106-743.2 is a bona fide farm purpose. For purposes of determining whether a property is being used for bona fide farm purposes, any of the following shall constitute sufficient evidence that the property is being used for bona fide farm purposes:

a. A farm sales tax exemption certificate issued by the Department of Revenue.
b. A copy of the property tax listing showing that the property is eligible for participation in the present use value program pursuant to G.S. 105-277.3.
c. A copy of the farm owner's or operator's Schedule F from the owner's or operator's most recent federal income tax return.
d. A forest management plan.
e. A Farm Identification Number issued by the United States Department of Agriculture Farm Service Agency.

(3) The definitions set out in G.S. 106-802 apply to this subdivision. A county may adopt zoning regulations governing swine farms served by animal waste management systems having a design capacity of 600,000 pounds steady state live weight (SSLW) or greater provided that the zoning regulations may not have the effect of excluding swine farms served by an animal waste management system having a design capacity of 600,000 pounds SSLW or greater from the entire zoning jurisdiction."

SECTION 2. G.S. 106-581.1 reads as rewritten:

"§ **106-581.1. Agriculture defined.**

For purposes of this Article, the terms "agriculture", "agricultural", and "farming" refer to all of the following:

(1) The cultivation of soil for production and harvesting of crops, including but not limited to fruits, vegetables, sod, flowers and ornamental plants.
(2) The planting and production of trees and timber.
(3) Dairying and the raising, management, care, and training of livestock, including horses, bees, poultry, and other animals for individual and public use, consumption, and marketing.
(4) Aquaculture as defined in G.S. 106-758.
(5) The operation, management, conservation, improvement, and maintenance of a farm and the structures and buildings on the farm, including building and structure repair, replacement, expansion, and construction incident to the farming operation.
(6) When performed on the farm, "agriculture", "agricultural", and "farming" also include the marketing and selling of agricultural products, agritourism, the storage and use of materials for agricultural purposes, packing, treating, processing, sorting, storage, and other activities performed to add value to crops, livestock, and agricultural items produced on the farm, and similar activities incident to the operation of a farm.
(7) A public or private grain warehouse or warehouse operation where grain is held 10 days or longer and includes, but is not limited to, all buildings, elevators, equipment, and warehouses consisting of one or more warehouse sections and considered a single delivery point with the capability to receive, load out, weigh, dry, and store grain."

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

In the General Assembly read three times and ratified this the 16th day of July, 2013.

Became law upon approval of the Governor at 4:30 p.m. on the 23rd day of July, 2013.

Session Law 2013-348 **S.B. 659**

AN ACT TO CONFORM THE MOTOR VEHICLE LAW OF NORTH CAROLINA TO SECTIONS 154 AND 164 OF THE FEDERAL HIGHWAY BILL.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-17.8 reads as rewritten:

"§ **20-17.8. Restoration of a license after certain driving while impaired convictions; ignition interlock.**

(a) Scope. – This section applies to a person whose license was revoked as a result of a conviction of driving while impaired, G.S. 20-138.1, and:

(1) The person had an alcohol concentration of 0.15 or more;

(2) The person has been convicted of another offense involving impaired driving, which offense occurred within seven years immediately preceding the date of the offense for which the person's license has been revoked; or

(3) The person was sentenced pursuant to G.S. 20-179(f3).

For purposes of subdivision (1) of this subsection, the results of a chemical analysis, as shown by an affidavit or affidavits executed pursuant to G.S. 20-16.2(c1), shall be used by the Division to determine that person's alcohol concentration.

…

(c1) Vehicles Subject to Requirement. – A person subject to this section shall have all registered vehicles owned by that person equipped with a functioning ignition interlock system of a type approved by the ~~Commissioner,~~Commissioner. The Commissioner shall not issue a license to a person subject to this section until presented with proof of the installation of an ignition interlock system in all registered vehicles owned by the person. In order to avoid an undue financial hardship, a person subject to this section may seek a waiver from the Division for any vehicle registered to that person that is ~~unless the Division determines that one or more specific registered vehicles owned by that person are~~ relied upon by another member of that person's family for transportation and that the vehicle is not in the possession of the person subject to this section. The Division shall determine such waiver on a case-by-case basis following an assessment of financial hardship to the person subject to this restriction. The Commissioner shall cancel the drivers license of any person subject to this section for registration of a motor vehicle owned by the person without an installed ignition interlock system or removal of the ignition interlock system from a motor vehicle owned by the person, other than when changing ignition interlock providers or upon sale of the vehicle.

(d) Effect of Limited Driving Privileges. – If the person was eligible for and received a limited driving privilege under G.S. 20-179.3, with the ignition interlock requirement contained in G.S. 20-179.3(g5), the period of time for which that limited driving privilege was held shall be applied towards the requirements of subsection (c).

(e) Notice of Requirement. – When a court reports to the Division a conviction of a person who is subject to this section, the Division must send the person written notice of the requirements of this section and of the consequences of failing to comply with these requirements. The notification must include a statement that the person may contact the Division for information on obtaining and having installed an ignition interlock system of a type approved by the Commissioner.

(f) Effect of Violation of Restriction. – A person subject to this section who violates any of the restrictions of this section commits the offense of driving while license revoked under G.S. 20-28(a) and is subject to punishment and license revocation as provided in that section. If a law enforcement officer has reasonable grounds to believe that a person subject to this section has consumed alcohol while driving or has driven while he has remaining in his body any alcohol previously consumed, the suspected offense of driving while license is revoked is an alcohol-related offense subject to the implied-consent provisions of G.S. 20-16.2. If a person subject to this section is charged with driving while license revoked by violating a condition of subsection (b) of this section, and a judicial official determines that there is probable cause for the charge, the person's license is suspended pending the resolution of the case, and the judicial official must require the person to surrender the license. The judicial official must also notify the person that he is not entitled to drive until his case is resolved. An alcohol concentration report from the ignition interlock system shall not be admissible as

evidence of driving while license revoked, nor shall it be admissible in an administrative revocation proceeding as provided in subsection (g) of this section, unless the person operated a vehicle when the ignition interlock system indicated an alcohol concentration in violation of the restriction placed upon the person by subdivision (b)(3) of this section. ~~If a person subject to this section is charged with driving while license revoked by violating the requirements of subsection (c1) of this section, and no other violation of this section is alleged, the court may make a determination at the hearing of the case that the vehicle, on which the ignition interlock system was not installed, was relied upon by another member of that person's family for transportation and that the vehicle was not in the possession of the person subject to this section, and therefore the vehicle was not required to be equipped with a functioning ignition interlock system. If the court determines that the vehicle was not required to be equipped with a functioning ignition interlock system and the person subject to this section has committed no other violation of this section, the court shall find the person not guilty of driving while license revoked.~~

…

(l) Medical Exception to Requirement. – A person subject to this section solely for the reason set forth in subdivision (a)(1) of this section and who has a medically diagnosed physical condition that makes the person incapable of personally activating an ignition interlock system may request an exception to the requirements of this section from the Division. The Division shall not issue an exception to this section unless the person has submitted to a physical examination by two or more physicians or surgeons duly licensed to practice medicine in this State or in any other state of the United States and unless such examining physicians or surgeons have completed and signed a certificate in the form prescribed by the Division. Such certificate shall be devised by the Commissioner with the advice of those qualified experts in the field of diagnosing and treating physical disorders that the Commissioner may select and shall be designed to elicit the maximum medical information necessary to aid in determining whether or not the person is capable of personally activating an ignition interlock system. The certificate shall contain a waiver of privilege and the recommendation of the examining physician to the Commissioner as to whether the person is capable of personally activating an ignition interlock system.

The Commissioner is not bound by the recommendations of the examining physicians but shall give fair consideration to such recommendations in acting upon the request for medical exception, the criterion being whether or not, upon all the evidence, it appears that the person is in fact incapable of personally activating an ignition interlock system. The burden of proof of such fact is upon the person seeking the exception.

Whenever an exception is denied by the Commissioner, such denial may be reviewed by a reviewing board upon written request of the person seeking the exception filed with the Division within 10 days after receipt of such denial. The composition, procedures, and review of the reviewing board shall be as provided in G.S. 20-9(g)(4). This subsection shall not apply to persons subject to an ignition interlock requirement under this section for the reasons set forth in subdivision (a)(2) or (a)(3) of this section."

SECTION 2. G.S. 20-179(h) reads as rewritten:

"(h) Level Two Punishment. – A defendant subject to Level Two punishment may be fined up to two thousand dollars ($2,000) and shall be sentenced to a term of imprisonment that includes a minimum term of not less than seven days and a maximum term of not more than 12 months. The term of imprisonment may be suspended only if a condition of special probation is imposed to require the defendant to serve a term of imprisonment of at least seven days or to abstain from consuming alcohol for at least 90 consecutive days, as verified by a continuous alcohol monitoring system, of a type approved by the Division of Adult Correction of the Department of Public Safety. If the defendant is subject to Level Two punishment based on a finding that the grossly aggravating factor in subdivision (1) or (2) of subsection (c) of this section applies, the conviction for a prior offense involving impaired driving occurred within five years before the date of the offense for which the defendant is being sentenced and the

judge suspends all active terms of imprisonment and imposes abstention from alcohol as verified by a continuous alcohol monitory system, then the judge must also impose as an additional condition of special probation that the defendant must complete 240 hours of community service. If the defendant is monitored on an approved continuous alcohol monitoring system during the pretrial period, up to 60 days of pretrial monitoring may be credited against the 90-day monitoring requirement for probation. If the defendant is placed on probation, the judge shall impose a requirement that the defendant obtain a substance abuse assessment and the education or treatment required by G.S. 20-17.6 for the restoration of a drivers license and as a condition of probation. The judge may impose any other lawful condition of probation."

SECTION 3. G.S. 15A-1371(h) reads as rewritten:

"(h) Community Service Parole. – Notwithstanding the provisions of any other subsection herein, prisoners serving sentences for impaired driving shall be eligible for community service ~~parole,~~parole after serving the minimum sentence required by G.S. 20-179, in the discretion of the Post-Release Supervision and Parole Commission.

Community service parole is early parole for the purpose of participation in community service under the supervision of the Section of Community Corrections of the Division of Adult Correction. A parolee who is paroled under this subsection must perform as a condition of parole community service in an amount and over a period of time to be determined by the Post-Release Supervision and Parole Commission. However, the total amount of community service shall not exceed an amount equal to 32 hours for each month of active service remaining in his minimum sentence. The Post-Release Supervision and Parole Commission may grant early parole under this section without requiring the performance of community service if it determines that such performance is inappropriate to a particular case.

The probation/parole officer and the judicial services coordinator shall develop a program of community service for the parolee. The coordinator shall report any willful failure to perform community service work to the probation/parole officer. Parole may be revoked for any parolee who willfully fails to perform community service work as directed by the Section of Community Corrections of the Division of Adult Correction. The provisions of G.S. 15A-1376 shall apply to this violation of a condition of parole.

Community service parole eligibility shall be available to a prisoner:

(1) Who is serving an active sentence the term of which exceeds six months; and
(2) Who, in the opinion of the Post-Release Supervision and Parole Commission, is unlikely to engage in further criminal conduct; and
(3) Who agrees to complete service of his sentence as herein specified; and
(4) Who has served one-half of his minimum ~~sentence.~~sentence, at least 10 days if sentenced to Level One punishment or at least seven days if sentenced to Level Two punishment, whichever is longer.

In computing the service requirements of subdivision (4) of this subsection, credit shall be given for good time and gain time credit earned pursuant to ~~G.S. 148-13.~~G.S. 148-13 but only after a person has served at least 10 days if sentenced to Level One punishment or at least seven days if sentenced to Level Two punishment. Nothing herein is intended to create or shall be construed to create a right or entitlement to community service parole in any prisoner.

(i) The fee required by G.S. 143B-708 shall be paid by all persons who participate in the Community Service Parole Program.

(j) The Post-Release Supervision and Parole Commission may terminate a prisoner's community service parole before the expiration of the term of imprisonment where doing so will not endanger the public, unduly depreciate the seriousness of the crime, or promote disrespect for the law."

SECTION 4. G.S. 20-138.7(a3) reads as rewritten:

"(a3) Meaning of Terms. – Under this section, the term "motor vehicle" means ~~only those types of motor vehicles which North Carolina law requires to be registered, whether the motor~~

~~vehicle is registered in North Carolina or another jurisdiction.~~any vehicle driven or drawn by mechanical power and manufactured primarily for use on public highways and includes mopeds."

SECTION 5. This act becomes effective October 1, 2013, and applies to offenses committed on or after that date.

In the General Assembly read three times and ratified this the 15th day of July, 2013.

Became law upon approval of the Governor at 4:30 p.m. on the 23rd day of July, 2013.

Session Law 2013-349 **S.B. 344**

AN ACT TO ALLOW FOR THE ISSUANCE OF TITLE BY THE DIVISION OF MOTOR VEHICLES TO THE OWNER OF OUT-OF-STATE MOTOR VEHICLES THAT ARE THIRTY-FIVE MODEL YEARS OLD OR OLDER IF THE LICENSE AND THEFT BUREAU OF THE DIVISION OF MOTOR VEHICLES FAILS TO COMPLETE AN INSPECTION AND VERIFICATION OF THE VEHICLE'S IDENTIFICATION NUMBER WITHIN FIFTEEN DAYS OF RECEIVING A REQUEST FOR INSPECTION AND VERIFICATION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-53(e) reads as rewritten:

"§ **20-53. Application for specially constructed, reconstructed, or foreign vehicle.**

…

(e) No title shall be issued to an initial applicant for (i) out-of-state vehicles that are 35 model years old or older or (ii) a specially constructed vehicle prior to the completion of a vehicle verification conducted by the License and Theft Bureau of the Division of Motor Vehicles. These verifications shall be conducted as soon as practical. For an out-of-state vehicle that is 35 model years old or older, this inspection shall consist of verifying the public vehicle identification number to ensure that it matches the vehicle and ownership documents. No covert vehicle identification numbers are to be examined on an out-of-state vehicle 35 model years or older unless the inspector develops probable cause to believe that the ownership documents or public vehicle identification number presented does not match the vehicle being examined. However, upon such application and the submission of any required documentation, the Division shall be authorized to register the vehicle pending the completion of the verification of the vehicle. The registration shall be valid for one year but shall not be renewed unless and until the vehicle examination has been completed.

If an inspection and verification is not conducted by the License and Theft Bureau of the Division of Motor Vehicles within 15 days after receiving a request for such and the inspector has no probable cause to believe that the ownership documents or public vehicle identification number presented does not match the vehicle being examined, the vehicle shall be deemed to have satisfied all inspection and verification requirements and title shall issue to the owner within 15 days thereafter. If an inspection and verification is timely performed and the vehicle passes the inspection and verification, title shall issue to the owner within 15 days of the date of the inspection.

…."

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

In the General Assembly read three times and ratified this the 15th day of July, 2013.

Became law upon approval of the Governor at 5:06 p.m. on the 23rd day of July, 2013.

Session Law 2013-350 **H.B. 491**

AN ACT DIRECTING THE LEE COUNTY SHERIFF TO PROVIDE SCHOOL RESOURCE OFFICERS TO THE LEE COUNTY SCHOOLS.

The General Assembly of North Carolina enacts:

SECTION 1. This act applies to Lee County only.

SECTION 2. The Lee County Sheriff shall be responsible for providing school resource officers to the Lee County Schools. The Lee County Sheriff and the Lee County Board of Education shall enter into a memorandum of understanding for the provision of these services for the Lee County Schools. The Sheriff shall use funds appropriated by Lee County to the Sheriff's Office for school resource officers to provide school resource officers to the Lee County Schools.

SECTION 3. G.S. 74E-2 is amended by adding the following new subsection to read:

"(c) The Lee County Board of Education is decertified as a company police agency under this Chapter and shall not be recertified. The Lee County Board of Education shall not employ or contract with a company police agency certified under this Chapter."

SECTION 4. This act becomes effective August 1, 2013.

In the General Assembly read three times and ratified this the 25th day of July, 2013.

Became law on the date it was ratified.

Session Law 2013-351 **H.B. 493**

AN ACT TO AUTHORIZE THE TOWN OF ROBBINSVILLE TO LEVY AN OCCUPANCY TAX.

The General Assembly of North Carolina enacts:

PART I: TOWN OF ROBBINSVILLE OCCUPANCY TAX

SECTION 1.1. Occupancy Tax. – (a) Authorization and Scope. – The Town Council of the Town of Robbinsville may levy a room occupancy tax of up to three percent (3%) of the gross receipts derived from the rental of any room, lodging, or accommodation furnished by a hotel, motel, inn, tourist camp, or similar place within the town that is subject to sales tax imposed by the State under G.S. 105-164.4(a)(3). This tax is in addition to any State or local sales tax.

SECTION 1.1.(b) Administration. – A tax levied under this Part shall be levied, administered, collected, and repealed as provided in G.S. 160A-215. The penalties provided in G.S. 160A-215 apply to a tax levied under this Part.

SECTION 1.1.(c) Distribution and Use of Tax Revenue. – The Town of Robbinsville shall, on a quarterly basis, remit the net proceeds of the occupancy tax to the Robbinsville Tourism Development Authority. The Authority shall use at least two-thirds of the funds remitted to it under this subsection to promote travel and tourism in the Town of Robbinsville and shall use the remainder for tourism-related expenditures.

The following definitions apply in this Part:

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

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

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

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

SECTION 1.2. Tourism Development Authority. – (a) Appointment and Membership. – When the Town Council adopts a resolution levying a room occupancy tax under this Part, it shall also adopt a resolution creating the Robbinsville Tourism Development Authority, which shall be a public authority under the Local Government Budget and Fiscal Control Act. The resolution shall provide for the membership of the Authority, including the members' terms of office, and for the filling of vacancies on the Authority. At least one-third of the members shall be individuals who are affiliated with businesses that collect the tax in the town, and at least one-half of the members shall be individuals who are currently active in the promotion of travel and tourism in the town. The Town Council shall designate one member of the Authority as chair and shall determine the compensation, if any, to be paid to members of the Authority.

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

SECTION 1.2.(b) Duties. – The Authority shall expend the net proceeds of the tax levied under this Part for the purposes provided in Section 1.1(c) of this section. The Authority shall promote travel, tourism, and conventions in the town, sponsor tourist-related events and activities in the town, and finance tourist-related capital projects in the town.

SECTION 1.2.(c) Reports. – The Authority shall report quarterly and at the close of the fiscal year to the Robbinsville Town Council on its receipts and expenditures for the preceding quarter and for the year in such detail as the Town Council may require.

SECTION 1.3. G.S. 160A-215(g) reads as rewritten:

"(g) Applicability. – Subsection (c) of this section applies to all cities that levy an occupancy tax. To the extent subsection (c) conflicts with any provision of a local act, subsection (c) supersedes that provision. The remainder of this section applies only to Beech Mountain District W, to the Cities of Belmont, Conover, Eden, Elizabeth City, Gastonia, Goldsboro, Greensboro, Hickory, High Point, Jacksonville, Kings Mountain, Lenoir, Lexington, Lincolnton, Lowell, Lumberton, Monroe, Mount Airy, Mount Holly, Reidsville, Roanoke Rapids, Salisbury, Shelby, Statesville, Washington, and Wilmington, to the Towns of Ahoskie, Beech Mountain, Benson, Bermuda Run, Blowing Rock, Boiling Springs, Boone, Burgaw, Carolina Beach, Carrboro, Cooleemee, Cramerton, Dallas, Dobson, Elkin, Fontana Dam, Franklin, Grover, Hillsborough, Jonesville, Kenly, Kure Beach, Leland, McAdenville, Mocksville, Mooresville, Murfreesboro, North Topsail Beach, Pembroke, Pilot Mountain, Ranlo, Robbinsville, Selma, Smithfield, St. Pauls, Swansboro, Troutman, Tryon, West Jefferson, Wilkesboro, Wrightsville Beach, Yadkinville, and Yanceyville, and to the municipalities in Avery and Brunswick Counties."

PART IV: EFFECTIVE DATE

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

In the General Assembly read three times and ratified this the 25th day of July, 2013.

Became law on the date it was ratified.

Session Law 2013-352 **H.B. 195**

AN ACT EXTENDING THE AUTHORITY OF THE TOWN OF CORNELIUS TO USE DESIGN-BUILD DELIVERY METHODS.

The General Assembly of North Carolina enacts:

SECTION 1. Section 4 of S.L. 2011-180 reads as rewritten:

"**SECTION 4.** This act is effective when it becomes law. Section 1 of this act shall expire ~~July 1, 2013.~~July 1, 2016. Section 3 of this act shall expire June 30, 2016."

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

In the General Assembly read three times and ratified this the 25th day of July, 2013.

Became law on the date it was ratified.

Session Law 2013-353 **H.B. 669**

AN ACT TO APPOINT PERSONS TO VARIOUS PUBLIC OFFICES UPON THE RECOMMENDATION OF THE SPEAKER OF THE HOUSE OF REPRESENTATIVES AND THE PRESIDENT PRO TEMPORE OF THE SENATE.

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

Whereas, the Speaker of the House of Representatives and the President Pro Tempore of the Senate have made recommendations; Now, therefore,

The General Assembly of North Carolina enacts:

PART I. SPEAKER'S APPOINTMENTS

SECTION 1.1. Karen A. Vaughn of New Hanover County is appointed to the Acupuncture Licensing Board for a term expiring on June 30, 2016.

SECTION 1.2. Effective October 1, 2013, Marvin N. Arrington of Pitt County is appointed to the African-American Heritage Commission for a term expiring on September 30, 2016.

SECTION 1.3. Dwight E. Shook of Alexander County is appointed to the North Carolina Agricultural Finance Authority for a term expiring on June 30, 2016.

SECTION 1.5.(a) Bryan "Kent" Jackson of Wake County is appointed to the State Building Commission for a term expiring on June 30, 2015, to fill the unexpired term of Robert W. Hites, Jr.

SECTION 1.5.(b) Rick A. Whitaker of Durham County is appointed to the State Building Commission for a term expiring on June 30, 2016.

SECTION 1.6. Effective March 1, 2013, John Reid of Mecklenburg County is appointed to the North Carolina Capital Facilities Finance Agency Board of Directors for a term expiring on March 1, 2017.

SECTION 1.7. Judi K. Grainger of Wake County and Ray N. Rouse, III of Wake County are appointed to the Centennial Authority for terms expiring on June 30, 2017.

SECTION 1.8.(a) Cheryl D. Turner of Mecklenburg County is appointed to the North Carolina Charter School Advisory Board for a term expiring on June 30, 2015.

SECTION 1.8.(b) Eric E. Sanchez of Henderson County and Alex Quigley of Durham County are appointed to the North Carolina Charter School Advisory Board for terms expiring on June 30, 2017.

SECTION 1.9.(a) Janice Price of Mecklenburg County and Glenda Weinert of Buncombe County are appointed to the Child Care Commission for terms expiring on June 30, 2015.

SECTION 1.9.(b) Susan Creech of Wake County and Kevin R. Campbell of Mecklenburg County are appointed to the Child Care Commission for terms expiring on June 30, 2016.

SECTION 1.10. Dr. Ricky Sides of Forsyth County is appointed to the State Board of Chiropractic Examiners for a term expiring on June 30, 2015.

SECTION 1.11.(a) Effective August 1, 2013, Kevin W. Markham of Wake County is appointed to the Clean Water Management Trust Fund Board of Trustees for a term expiring on July 1, 2014.

SECTION 1.11.(b) Effective August 1, 2013, J. Frank Bragg of Mecklenburg County is appointed to the Clean Water Management Trust Fund Board of Trustees for a term expiring on July 1, 2015.

SECTION 1.11.(c) Effective August 1, 2013, Charles E. Vines of Mitchell County is appointed to the Clean Water Management Trust Fund Board of Trustees for a term expiring on July 1, 2016.

SECTION 1.12. R. Steven Johnson of Wake County, Chief Patricia Bazemore of Wake County, Angela L. Williams of Guilford County, and Diane Isaacs of Cumberland County are appointed to the North Carolina Criminal Justice Education and Training Standards Commission for terms expiring on June 30, 2015.

SECTION 1.13. Robert A. Graves of Randolph County is appointed to the Criminal Justice Information Network Governing Board for a term expiring on June 30, 2017.

SECTION 1.14. Bradley Lail of Catawba County is appointed to the Disciplinary Hearing Commission of the North Carolina State Bar for a term expiring on June 30, 2015, to fill an unexpired term of the Honorable Shirley Randleman.

SECTION 1.15. Effective September 1, 2013, Marisol D. Barr of Beaufort County and the Honorable Jennifer Knox of Wake County are appointed to the Domestic Violence Commission for terms expiring on August 31, 2015.

SECTION 1.16. Effective September 1, 2013, Ronda Jones of Stokes County is appointed to the North Carolina Board of Electrolysis Examiners for a term expiring on August 31, 2016.

SECTION 1.17. The Honorable Dan Ingle of Alamance County is appointed to the North Carolina Emergency Medical Services Advisory Council for a term expiring on December 31, 2014, to fill the unexpired term of the Honorable William Wainwright.

SECTION 1.18.(a) Effective August 1, 2013, Clyde E. "Butch" Smith of Cleveland County is appointed to the Environmental Management Commission for a term expiring on June 30, 2015.

SECTION 1.18.(b) Effective August 1, 2013, Benne C. Hutson of Mecklenburg County and Charles Carter of Wake County are appointed to the Environmental Management Commission for terms expiring on June 30, 2017.

SECTION 1.19. Kevin S. Gordon of Cleveland County is appointed to the State Fire and Rescue Commission for a term expiring on June 30, 2016.

SECTION 1.20. William Thomas Lamm, III of Wilson County and Steve R. Mayo of Wayne County are appointed to the Board of Directors of the North Carolina Global TransPark Authority for terms expiring on June 30, 2017.

SECTION 1.21. Elizabeth Gregg of Mecklenburg County is appointed to the Board of the North Carolina Health Insurance Risk Pool for a term expiring on June 30, 2016.

SECTION 1.23. Harold "Butch" Upton of Cleveland County is appointed to the North Carolina Home Inspector Licensure Board for a term expiring on July 1, 2017.

SECTION 1.24. Effective January 1, 2014, Representative John Szoka of Cumberland County is appointed to the Interstate Commission on Educational Opportunity for Military Children for a term expiring on December 31, 2015.

SECTION 1.25. The Honorable Stan Haywood of Randolph County, Ashley M. Honeycutt of Wake County, Representative Tom Murry of Wake County, Representative Mark Hollo of Alexander County, Representative Becky Carney of Mecklenburg County, Wanda Moore of Chowan County, and Leigh Foushee of Johnston County are appointed to the Justus-Warren Heart Disease and Stroke Prevention Task Force for terms expiring on June 30, 2015.

SECTION 1.26. The Honorable Michael D. Philbeck of Cleveland County is appointed to the Local Government Commission for a term expiring on June 30, 2017.

SECTION 1.27. Effective January 1, 2014, James Storie of Watauga County is appointed to the North Carolina Locksmith Licensing Board for a term expiring on December 31, 2016.

SECTION 1.28. Effective September 1, 2013, Douglas S. Baker of Orange County is appointed to the North Carolina State Lottery Commission for a term expiring on August 31, 2018.

SECTION 1.29. R. Gene Davis of Wake County and Mary Jo Cresimore of Wake County are appointed to the Board of Trustees of the North Carolina Museum of Art for terms expiring on June 30, 2015.

SECTION 1.30.(a) Holly Koerber of Pasquotank County is appointed to the North Carolina's Northeast Commission for a term expiring on June 30, 2014, to fill the unexpired term of Steven E. Howell.

SECTION 1.30.(b) The Honorable Roland H. Vaughan of Chowan County, David B. King of Halifax County, and Mark C. Hamblin of Beaufort County are appointed to the North Carolina's Northeast Commission for terms expiring on June 30, 2014.

SECTION 1.31. Patricia Campbell of Iredell County is appointed to the North Carolina Board of Nursing for a term expiring on December 31, 2015, to fill the unexpired term of James L. Forte.

SECTION 1.32.(a) Effective August 1, 2013, Edward W. Wood of Chowan County is appointed to the North Carolina Parks and Recreation Authority for a term expiring on July 1, 2014.

SECTION 1.32.(b) Effective August 1, 2013, Paul A. Herbert of Mecklenburg County is appointed to the North Carolina Parks and Recreation Authority for a term expiring on July 1, 2015.

SECTION 1.32.(c) Effective August 1, 2013, Lydia Boesch of Moore County is appointed to the North Carolina Parks and Recreation Authority for a term expiring on July 1, 30, 2016.

SECTION 1.33. Phillip J. Strach of Wake County is appointed to the State Personnel Commission for a term expiring on June 30, 2019.

SECTION 1.34. George Rountree, III of New Hanover County is appointed to the North Carolina State Ports Authority for a term expiring on June 30, 2015.

SECTION 1.35. James Nance of Stanly County is appointed to the North Carolina Railroad Company Board of Directors for a term expiring on June 30, 2017.

SECTION 1.36. Dianne M. Layden of Perquimans County is appointed to the North Carolina Recreational Therapy Licensure Board for a term expiring on June 30, 2016.

SECTION 1.37. Dale Petty of Dare County, Danny Gray of Camden County, and Earl W. Willis, Jr. of Chowan County are appointed to the Roanoke Island Commission for terms expiring on June 30, 2015.

SECTION 1.38. Garth K. Dunklin of Mecklenburg County, Stephanie Mansur Simpson of Wake County, and the Honorable Ralph Walker of Guilford County are appointed to the Rules Review Commission for terms expiring on June 30, 2015.

SECTION 1.39. Constance M. Adams of Burke County is appointed to the North Carolina Board for Licensing of Soil Scientists for a term expiring on June 30, 2016.

SECTION 1.40. Loris Colclough of Forsyth County is appointed to the Board of Trustees of the Teachers' and State Employees' Retirement System for a term expiring on June 30, 2015.

SECTION 1.41. Linda Suggs of Wake County and Fletcher "Gene" McIntrye of Stanly County are appointed to the North Carolina Center for the Advancement of Teaching Board of Trustees for terms expiring on June 30, 2017.

SECTION 1.42. Dr. Peggy D. Smith of Johnston County is appointed to the Teaching Fellows Commission for a term expiring on June 30, 2015.

SECTION 1.43. Frank X. Roche of Wake County is appointed to the Board of Trustees of the University of North Carolina Center for Public Television for a term expiring on June 30, 2015.

SECTION 1.44. Stephen Lawler of Pitt County and Robert T. "Bob" Numbers, II of Wake County are appointed to the University of North Carolina Panel on Nongovernmental Competition for terms expiring on June 30, 2017.

SECTION 1.45. Representative Nelson Dollar of Wake County and Representative Bill Brawley of Mecklenburg County are appointed to the Virginia-North Carolina High Speed Rail Compact for terms expiring on December 31, 2014.

SECTION 1.46. David J. Brown of Yadkin County and John H. Boyette of Wilson County are appointed to the Well Contractors Certification Commission for terms expiring on June 30, 2016.

SECTION 1.47. George Richard Edwards, Jr. of New Hanover County, the Honorable Timothy L. Spear of Washington County, Thomas L. Fonville of Wake County, and Chief Michell Hicks of Cherokee County are appointed to the North Carolina Wildlife Resources Commission for terms expiring on June 30, 2015.

SECTION 1.48. James L.F. Smith of New Hanover County, Robert F. Warwick of New Hanover County, and the Honorable G.L. Pridgen of Robeson County are appointed to the Southeastern North Carolina Regional Economic Development Commission for terms expiring on June 30, 2014.

SECTION 1.49. The Honorable Bruce Goforth of Buncombe County, Pamela Moody of Graham County, and Erik C. Brinke of Cherokee County are appointed to the Western North Carolina Regional Economic Development Commission for terms expiring on June 30, 2014.

SECTION 1.50. The Reverend Stanley A. Lewis of Halifax County is appointed to the Board of Directors of the North Carolina Partnership for Children, Inc., for a term expiring on December 31, 2014, to fill the unexpired term of the Reverend Adam Hatley.

SECTION 1.51. Jerry Pearce of Wake County is appointed to the North Carolina On-Site Wastewater Contractors and Inspectors Certification Board for a term expiring on July 1, 2016.

SECTION 1.52. Richard "Dick" Lagatore of Mecklenburg County is appointed to the North Carolina Cemetery Commission for a term expiring on June 30, 2017.

PART II. PRESIDENT PRO TEMPORE'S APPOINTMENTS

SECTION 2.1. Nancy A. Fuller of Mecklenburg County and Emmylou Norfleet of Buncombe County are appointed to the Acupuncture Licensing Board for terms expiring on June 30, 2016.

SECTION 2.2. Belinda Ann Tate of Forsyth County is appointed to the African-American Heritage Commission for a term expiring on June 30, 2016.

SECTION 2.3. W. Lentz Brewer of New Hanover County is appointed to the Board of Trustees of the Teachers' and State Employees' Retirement System for a term expiring on June 30, 2015.

SECTION 2.4.(a) Tara Fields of Johnston County is appointed to the Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services for a term expiring on June 30, 2014, to fill the unexpired term of Frank H. Edwards.

SECTION 2.4.(b) Melissa Gott of New Hanover County is appointed to the Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services for a term expiring on June 30, 2015, to fill the unexpired term of Patricia B. Todd.

SECTION 2.4.(c) Dr. Brian B. Sheitman of Wake County and Pamela B. Poteat of Gaston County are appointed to the Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services for terms expiring on June 30, 2016.

SECTION 2.5. Augustus "Dick" Adams of Pitt County is appointed to the North Carolina Crime Victims Compensation Commission for a term expiring on June 30, 2017.

SECTION 2.6. Jim K. Festerman of Rockingham County, Robert "Bob" Myrick of Brunswick County, Charles T. Johnson of Wake County, and Johnny D. Hawkins of Durham County are appointed to the Criminal Justice Education and Training Standards Commission for terms expiring on June 30, 2015.

SECTION 2.7.(a) Randy Moreau of New Hanover County is appointed to the Disciplinary Hearing Commission of the North Carolina State Bar for a term expiring on June 30, 2015, to fill the unexpired term of Joshua Fulton.

SECTION 2.7.(b) Michael Edward of Wake County is appointed to the Disciplinary Hearing Commission of the North Carolina State Bar for a term expiring on June 30, 2016.

SECTION 2.8. Effective September 1, 2013, Cathy M. Cloninger of Gaston County, Karla Siu of Durham County, Pamela T. Thompson of Alamance County, and Nathaniel Parker of Wake County are appointed to the Domestic Violence Commission for terms expiring on August 31, 2015.

SECTION 2.9. Helen Brann of Person County, Shonda Corbett of Wake County, David Huang of Orange County, the Honorable Austin Allran of Catawba County, Glenn Martin of Rockingham County, the Honorable Louis Pate of Wayne County, the Honorable David L. Curtis of Lincoln County, and Mike Patil of Orange County are appointed to the Justus-Warren Heart Disease and Stroke Prevention Task Force for terms expiring on June 30, 2015.

SECTION 2.10. William A. Rodda of Forsyth County is appointed to the Local Government Commission for a term expiring on June 30, 2017.

SECTION 2.11. Charles B. Williams of New Hanover County is appointed to the North Carolina Agricultural Finance Authority for a term expiring on June 30, 2016.

SECTION 2.12. Samuel Houston of Wake County is appointed to the North Carolina Board of Science and Technology for a term expiring on June 30, 2015.

SECTION 2.13. Michael D. Powell of Brunswick County is appointed to the North Carolina Cemetery Commission for a term expiring on June 30, 2017.

SECTION 2.14.(a) Melanie C. Gayle of Moore County and April Duvall of Macon County are appointed to the North Carolina Child Care Commission for terms expiring on June 30, 2015.

SECTION 2.14.(b) Elizabeth Gilleland of Wake County and Charles F. McDowell, III of Scotland County are appointed to the North Carolina Child Care Commission for terms expiring on June 30, 2016.

SECTION 2.15.(a) Effective August 1, 2013, Robin S. Hackney of New Hanover County is appointed to the North Carolina Clean Water Management Trust Fund Board of Trustees for a term expiring on July 1, 2014.

SECTION 2.15.(b) Effective August 1, 2013, Johnny D. Martin of Wake County is appointed to the North Carolina Clean Water Management Trust Fund Board of Trustees for a term expiring on July 1, 2015.

SECTION 2.15.(c) Effective August 1, 2013, William Toole of Gaston County is appointed to the North Carolina Clean Water Management Trust Fund Board of Trustees for a term expiring on July 1, 2016.

SECTION 2.16. Crystal Combs Cody of Lincoln County, Robert "Bob" Lee of Anson County, and Daniel N. Kiger of Surry County are appointed to the Criminal Justice Information Network Governing Board for terms expiring on June 30, 2017.

SECTION 2.17.(a) Effective August 1, 2013, David W. Anderson of Johnston County and Steve Keen of Wayne County are appointed to the Environmental Management Commission for terms expiring on June 30, 2015.

SECTION 2.17.(b) Effective August 1, 2013, Steve Tedder of Stokes County is appointed to the Environmental Management Commission for a term expiring on June 30, 2017.

SECTION 2.18. Danny Barwick Smith of Lenoir County is appointed to the Board of Directors of the North Carolina Global TransPark Authority for a term expiring on June 30, 2017.

SECTION 2.19.(a) Stancil Barnes of Edgecombe County and Dean Carpenter of Gaston County are appointed to the North Carolina Housing Finance Agency Board of Directors for terms expiring on June 30, 2015.

SECTION 2.19.(b) Paul Kennedy of Guilford County and Charles Mullen of Nash County are appointed to the North Carolina Housing Finance Agency Board of Directors for terms expiring on June 30, 2017.

SECTION 2.20.(a) Charles A. Allen of Cumberland County is appointed to the North Carolina Irrigation Contractors' Licensing Board for a term expiring on September 30, 2015, to fill the unexpired term of Frank Snow.

SECTION 2.20.(b) Effective October 1, 2013, Lindsey R. Griffin of Pitt County is appointed to the North Carolina Irrigation Contractors' Licensing Board for a term expiring on September 30, 2016.

SECTION 2.21. David Cranfield of Rowan County and Clifford DeSpain of Wake County are appointed to the North Carolina Manufactured Housing Board for terms expiring on June 30, 2016.

SECTION 2.22. Carol Carstarphen of Gaston County and Becki Gray of Wake County are appointed to the North Carolina Museum of Art Board of Trustees for terms expiring on June 30, 2015.

SECTION 2.23.(a) Walter H. James of Rockingham County is appointed to the North Carolina On-Site Wastewater Contractors and Inspectors Certification Board for a term expiring on July 1, 2014, to fill the unexpired term of Jim Lanier.

SECTION 2.23.(b) William Davis of Wilson County is appointed to the North Carolina On-Site Wastewater Contractors and Inspectors Certification Board for a term expiring on July 1, 2016.

SECTION 2.24. Effective January 1, 2014, Joan Graham of Guilford County, Marie D. Inscore of Nash County, and Tannis F. Nelson of New Hanover County are appointed to the Board of Directors of the North Carolina Partnership for Children, Inc., for terms expiring on December 31, 2016.

SECTION 2.25. John Pike of Wayne County is appointed to the North Carolina Railroad Board of Directors for a term expiring on June 30, 2017.

SECTION 2.26. Michael Atkins of Wake County is appointed to the North Carolina Recreational Therapy Licensure Board for a term expiring on June 30, 2016.

SECTION 2.27. Robin L. Ross of Caldwell County is appointed to the North Carolina Respiratory Care Board for a term expiring on June 30, 2016.

SECTION 2.28. Paula T. Benson of Wilson County and Eric R. Hall of Wake County are appointed to the North Carolina School of Science and Mathematics Board of Trustees for terms expiring on June 30, 2017.

SECTION 2.29. Kory J. Swanson of Durham County is appointed to the North Carolina Marine Industrial Park Authority for a term expiring on June 30, 2015.

SECTION 2.30. Mark Nichols of Johnston County is appointed to the North Carolina Sheriffs' Education and Training Standards Commission for a term expiring on June 30, 2015.

SECTION 2.31.(a) Aaron K. Thomas of Robeson County is appointed to the North Carolina State Building Commission for a term expiring on June 30, 2015, to fill the unexpired term of Benjamin Tuggle.

SECTION 2.31.(b) Susan Lewis of Gaston County is appointed to the North Carolina State Building Commission for a term expiring on June 30, 2016.

SECTION 2.32. Daniel Locklear of Robeson County is appointed to the North Carolina State Commission of Indian Affairs for a term expiring on June 30, 2015.

SECTION 2.33. Effective September 1, 2013, Barry Dodson of Rockingham County is appointed to the North Carolina State Lottery Commission for a term expiring on August 31, 2018.

SECTION 2.34. Michael Lee of New Hanover County is appointed to the North Carolina State Ports Authority for a term expiring on June 30, 2015.

SECTION 2.35. Jo Ann Hines Duncan of Wake County is appointed to the North Carolina Teaching Fellows Commission for a term expiring on June 30, 2015.

SECTION 2.36. Perry Safran of Wake County is appointed to the North Carolina Turnpike Authority Board for a term expiring on January 13, 2017.

SECTION 2.37. Thomas Berry of Guilford County, Mark Craig of Guilford County, Wendell Murphy of Duplin County, and Garry Spence of Mecklenburg County are appointed to the North Carolina Wildlife Resources Commission for a term expiring on June 30, 2015.

SECTION 2.38. Robert "Bob" Quinn of Chowan County, John Robbins of Dare County, and Peregrine White of Dare County are appointed to the Roanoke Island Commission for terms expiring on June 30, 2015.

SECTION 2.39. Dr. Miguel Cruz of Yancey County is appointed to the State Board of Chiropractic Examiners for a term expiring on June 30, 2016.

SECTION 2.40. Joseph Lovallo of Transylvania County is appointed to the North Carolina State Board of Cosmetic Art Examiners for a term expiring on June 30, 2016.

SECTION 2.41. Ronnie Griffin of Wayne County is appointed to the State Fire and Rescue Commission for a term expiring on June 30, 2016.

SECTION 2.42. Orson Scott Card of Guilford County is appointed to the University of North Carolina Center for Public Television Board of Trustees for a term expiring on June 30, 2015.

SECTION 2.43. Effective January 1, 2014, Ken Burkel of Forsyth County, Lloyd Jordan, Jr. of Pitt County, Lisa B. McCann of Cabarrus County, and Arthur Totillo of Person County are appointed to the License to Give Trust Fund Commission for terms expiring on December 31, 2015.

SECTION 2.44.(a) Effective upon the effective date of this act, Jim Gusler of Caswell County is appointed to the North Carolina Emergency Medical Services Advisory Council for a term expiring on December 31, 2015.

SECTION 2.44.(b) Effective January 1, 2014, Traci M. Little of Alamance County is appointed to the North Carolina Emergency Medical Services Advisory Council for a term expiring on December 31, 2017.

SECTION 2.45. Effective January 1, 2014, Steve Stroud of Rowan County is appointed to the North Carolina Locksmith Licensing Board for a term expiring on December 31, 2016.

SECTION 2.46. Baker A. Mitchell, Jr. of New Hanover County is appointed to the North Carolina Charter School Advisory Board for a term expiring on June 30, 2015.

SECTION 2.47. Charles Johnson of Wake County is appointed to the Board of Trustees of the State Health Plan for Teachers and State Employees for a term expiring on June 30, 2015.

SECTION 2.48. Effective January 1, 2014, the Honorable Dan Soucek of Watauga County is appointed to the Education Commission of the States for a term expiring on December 31, 2015.

SECTION 2.49. Effective December 1, 2013, D. Anthony Blackman of Wake County is appointed to the Economic Investment Committee for a term expiring on November 30, 2015.

SECTION 2.50. Jeff T. Hyde of Guilford County, Margaret Currin of Wake County, John Hemphill of Wake County, Thomas G. Taylor of Gaston County, and Faylene Whitaker of Randolph County are appointed to the Rules Review Commission for terms expiring on June 30, 2015.

SECTION 2.51. Senator Kathy Harrington of Gaston County and Senator Bill Rabon of Brunswick County are appointed to the Virginia-North Carolina High-Speed Rail Compact Commission for terms expiring on June 30, 2015.

SECTION 2.52.(a) Effective August 1, 2013, Westin Bordeaux of New Hanover County is appointed to the North Carolina Parks and Recreation Authority for a term expiring on July 1, 2014.

SECTION 2.52.(b) Effective August 1, 2013, Lisa Wolff of Alamance County is appointed to the North Carolina Parks and Recreation Authority for a term expiring on July 1, 2015.

SECTION 2.52.(c) Effective August 1, 2013, Cynthia Tart of Brunswick County is appointed to the North Carolina Parks and Recreation Authority for a term expiring on July 1, 2016.

SECTION 2.53.(a) Effective August 1, 2013, Captain Marc Hairston of Onslow County is appointed to the Coastal Resources Commission for a term expiring on June 30, 2014.

SECTION 2.53.(b) Effective August 1, 2013, Harry Q. Simmons, Jr. of Brunswick County is appointed to the Coastal Resources Commission for a term expiring on June 30, 2015.

SECTION 2.54. Tracy L. Philbeck of Gaston County is appointed to the Rural Infrastructure Authority for a term expiring on June 30, 2016.

PART III. TECHNICAL CORRECTIONS

SECTION 3. Section 2.5 of S.L. 2011-406 reads as rewritten:

"**SECTION 2.5.** Michelle Lowery of Buncombe County is reappointed to the North Carolina Recreational Therapy Licensure Board for a term expiring on ~~June 30, 2013.~~June 30, 2014."

PART IV. EFFECTIVE DATE

SECTION 4. Unless otherwise provided, this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 25th day of July, 2013.

Became law on the date it was ratified.

Session Law 2013-354 **H.B. 1015**

AN ACT ANNEXING CERTAIN DESCRIBED PROPERTY TO THE CORPORATE LIMITS OF THE CITY OF BESSEMER CITY.

The General Assembly of North Carolina enacts:

SECTION 1. The corporate limits of the City of Bessemer City are extended by adding the following described territory:

Lying and being in Gaston County, North Carolina, and being a portion of Crowders Mountain Road (S.R. 1302) and Interstate Highway # 85.

Beginning at an existing iron pin located on the existing city limit line of Bessemer City and the western R/W of Crowders Mountain Road; said iron being the southeastern corner of Luther E. Brooks (D.B. 1234, Pg. 702) as recorded in the Gaston County Register of Deeds and the northeastern corner of Gaston County (D.B. 1826, Pg. 227); said point also being located N 11-22-21 E, a ground horizontal distance of 7,803.56' from NCGS Station "Grate" having coordinates of N. = 554,067.68' and E. = 1,313,520.10', thence crossing said road and with the city limit line, S 57-08-08 E, a distance of 67.90' to a point on the eastern right-of-way of Crowders Mountain Road; thence following three calls along the eastern R/W of said road and the city limit line as follows, (a) Along the arc of a curve to the left, having a radius of 490.70' and an arc of 38.30' and also having a long chord bearing and distance of S 01-08-31 W – 38.29' to a point, (b) Along the arc of a curve to the left, having a radius of 490.70' and an arc

of 64.90' and also having a long chord bearing and distance of S 04-52-59 E – 64.85' to a point and, (c) S 08-32-52 E, a distance of 90.57' to a point; thence running along the easterly R/W of said road thirty-seven calls as follows, (1) S 10-36-54 E, a distance of 81.51' to a point, (2) S 11-44-23 E, a distance of 101.94' to a point, (3) S 11-02-23 E, a distance of 104.39' to a point, (4) S 11-52-27 E, a distance of 344.18' to a point, (5) S 11-39-50 E, a distance of 104.36' to a point, (6) S 11-41-38 E, a distance of 110.20' to a point, (7) S 11-25-23 E, a distance of 258.85' to a point, (8) S 11-27-46 E, a distance of 71.05' to a point, (9) S 11-56-47 E, a distance of 242.35' to a point, (10) S 11-32-16 E, a distance of 218.20' to a point, (11) S 11-42-55 E, a distance of 98.41' to a point, (12) S 11-29-12 E, a distance of 86.64' to a point, (13) S 11-00-42 E, a distance of 106.63' to a point, (14) S 10-59-40 E, a distance of 100.06' to a point, (15) S 11-04-17 E, a distance of 100.58' to a point, (16) S 11-17-10 E, a distance of 106.91' to a point, (17) S 11-31-28 E, a distance of 557.38' to a point, (18) S 11-27-19 E, a distance of 99.62' to a point, (19) S 11-44-20 E, a distance of 105.11' to a point, (20) Along the arc of a curve to the left having a radius of 4,703.30' and an arc of 306.60', and also having a long chord bearing and distance of S 13-41-22 E – 306.55' to a point, (21) S 15-17-54 E, a distance of 48.23' to a point, (22) S 15-41-14 E, a distance of 102.44' to a point, (23) S 16-23-08 E, a distance of 98.37' to a point, (24) S 16-44-05 E, a distance of 98.13' to a point, (25) S 16-40-50 E, a distance of 99.33' to a point, (26) S 16-51-44 E, a distance of 103.24' to a point, (27) S 17-05-36 E, a distance of 48.39' to a point, (28) S 17-03-06 E, a distance of 102.15' to a point, (29) S 16-39-36 E, a distance of 102.48' to a point, (30) S 16-28-53 E, a distance of 101.40' to a point, (31) S 16-21-32 E, a distance of 103.27' to a point, (32) S 16-14-19 E, a distance of 104.54' to a point, (33) S 15-51-30 E, a distance of 67.56' to a point, (34) Along the arc of a curve to the right, having a radius of 1,340.92' and an arc of 374.13' and also having a long chord bearing and distance of, S 07-38-11 E – 372.93' to a point, (35) S 00-47-32 E, a distance of 93.55' to a point, (36) N 60-39-01 E, a distance of 20.00' to a leaning concrete R/W monument, and (37) S 02-09-01 W, a distance of 363.21' to a concrete R/W monument located at the northeastern right-of-way of Crowders Mountain Road and U.S. Interstate Highway # 85; thence along the northerly right-of-way of Interstate Highway # 85 as follows, N 49-55-21 E, a distance of 751.37' to a point; thence N 39-57-59 E, a distance of 20.00' to a point; thence N 50-02-01 E, a distance of 204.01' to a point; thence N 52-14-38 E, a distance of 308.41' to a point; thence along the arc of a curve to the right, having a radius of 3,962.47' and an arc of 345.89' and also having a long chord bearing and distance of N 54-50-58 E – 354.77' to a point; thence S 32-35-05 E, a distance of 20.00' to a point; thence along the arc of a curve to the right, having a radius of 3,942.47' and an arc of 611.89' and also having a long chord bearing and distance of N 61-51-41 E – 611.28' to a point; thence N 23-41-32 W, a distance of 25.81' to a point; thence N 65-44-26 E, a distance of 118.22' to a point; thence S 15-59-23 E, a distance of 28.90' to a point; thence N 68-42-40 E, a distance of 102.00' to a point, thence N 20-32-52 W, a distance of 60.00' to a point; thence along the arc of a curve to the right, having a radius of 4,002.47' and an arc of 519.44' and also having a long chord bearing and distance of N 73-10-13 E – 519.08' to a point; thence S 13-06-43 E, a distance of 60.00' to a point; thence along the arc of a curve to the right, having a radius of 3,942.47' and an arc of 517.33' and also having a long chord bearing and distance of N 80-38-50 E – 516.96' to a point; thence N 85-02-37 E, a distance of 603.58' to a point; thence N 03-57-59 W, a distance of 30.00' to a point; thence N 86-02-01 E, a distance of 400.00' to a point; thence S 03-57-59 E, a distance of 30.00' to a point; thence N 86-00-16 E, a distance of 599.00' to a point; thence N 03-57-59 W, a distance of 20.00' to a point; thence N 86-02-01 E, a distance of 200.00' to a point; thence S 03-57-59 E, a distance of 20.00' to a point; thence N 85-52-26 E, a distance of 651.00' to a point; thence N 03-31-04 W, a distance of 92.83' to a point; thence along the arc of a curve to the left, having a radius of 7,451.43' and an arc of 436.99' and also having a long chord bearing and distance of N 84-47-39 E – 436.93' to a point; thence S 05-38-11 E, a distance of 60.43' to a point; thence along the arc of a curve to the left, having a radius of 7,475.43 and an arc of 1,078.63' and also having a long chord bearing and distance of N 78-58-20 E – 1,077.69' to a point; thence N 15-09-41 W, a distance of 20.00' to a point; thence along the arc of a curve to the left, having a

radius of 7,455.43' and an arc of 387.36' and also having a long chord bearing and distance of N 73-21-01 E – 387.32' to a point; thence S 18-08-18 E, a distance of 20.00' to a point; thence along the arc of a curve to the left, having a radius of 7,475.43' and the arc of 881.33' and also having a long chord bearing and distance of N 68-29-03 E – 880.82' to a point; thence S 24-53-36 E, a distance of 32.70' to a point; thence N 65-44-10 E, a distance of 500.92' to a point; thence N 65-36-46 E, a distance of 348.70' to a point; thence N 61-32-11 E, a distance of 197.00' to a point; thence along the arc of a curve to the left, having a radius of 1,302.81' and an arc of 254.50' and also having a long chord bearing and distance of N 55-59-02 E – 254.10' to a point; thence N 50-25-54 E, a distance of 192.12' to a point; thence N 46-27-07 E, a distance of 489.99' to a point in the centerline of Edgewood Road (S.R. # 1307); thence with the centerline of Edgewood Road, S 31-29-07 E, a distance of 823.33' to a point on the southerly right-of-way of Interstate Highway # 85; thence along the southerly right-of-way of Interstate Highway # 85 as follows, S 66-09-25 W, a distance of 36.28' to a point; thence along the arc of a curve to the right, having a radius of 546.28' and an arc of 186.60' and also having a long chord bearing and distance of S 75-50-10 W – 185.69' to a point; thence S 85-31-01 W, a distance of 580.78' to a point; thence along the arc of a curve to the left, having a radius of 1,313.98' and an arc of 274.72' and also having a long chord bearing and distance of S 75-24-01 W – 274.22' to a point; thence S 69-27-15 W, a distance of 195.40' to a point; thence S 65-25-06 W, a distance of 336.83' to a point; thence S 65-31-01 W, a distance of 200.00' to a point; thence S 66-01-09 W, a distance of 400.76' to a point; thence along the arc of a curve to the right, having a radius of 7,765.43' and an arc of 650.68' and also having a long chord bearing and distance of S 68-15-26 W – 650.49' to a point; thence S 19-20-32 E, a distance of 50.00' to a point; thence along the arc of a curve to the right, having a radius of 7,815.43' and an arc of 673.02' and also having a long chord bearing and distance of S 73-07-29 W – 672.82' to a point; thence N 14-24-30 W, a distance of 40.00' to a point; thence along the arc of a curve to the right, having a radius of 7,775.43' and an arc of 917.87' and also having a long chord bearing and distance of S 78-58-25 W – 917.33' to a point; thence S 07-38-41 E, a distance of 105.00' to a point; thence along the arc of a curve to the right, having a radius of 7,880.43' and an arc of 619.18' and also having a long chord bearing and distance of S 84-36-23 W – 619.02' to a point; thence N 03-08-34 W, a distance of 109.78' to a point; thence S 86-02-01 W, a distance of 598.11' to a point; thence S 03-57-59 E, a distance of 20.00' to a point; thence S 86-02-01 W, a distance of 400.00' to a point; thence N 03-57-59 W, a distance of 20.00' to a point; thence S 86-02-01 W, a distance of 400.00' to a point; thence S 03-57-59 E, a distance of 30.00' to a point; thence S 86-02-01 W, a distance of 400.00' to a point; thence N 03-57-59 W, a distance of 30.00' to a point; thence S 85-02-29 W, a distance of 596.19' to a point; thence along the arc of a curve to the left, having a radius of 3,682.47' and an arc of 580.02' and also having a long chord bearing and distance of S 79-53-39 W – 579.42' to a point; thence S 14-37-05 E, a distance of 20.00' to a point; thence along the arc of a curve to the left, having radius of 3,662.47' and an arc of 476.01' and also having a long chord bearing and distance of S 71-39-31 W – 475.67' to a point; thence S 22-03-53 E, a distance of 20.00' to a point; thence along the arc of a curve to the left, having a radius of 3,642.47' and an arc of 477.28' and also having a long chord bearing and distance of S 64-10-53 W – 476.94' to a point; thence N 29-34-20 W, a distance of 20.00' to a point; thence along the arc of a curve to the left, having a radius of 3,662.47' and an arc of 576.83' and also having a long chord bearing and distance of S 55-57-31 W – 576.27' to a point; thence N 38-35-46 W, a distance of 20.00' to a point; thence S 50-24-58 W, a distance of 1,571.71' to a point located on the westerly right-of-way of Crowders Mountain Road; thence thirty-seven calls along the westerly right-of-way of Crowders Mountain Road as follows, (1) N 03-02-48 E, a distance of 754.65' to a point; thence (2) N 71-47-01 E, a distance of 20.00' to a point; thence (3) N 00-47-36 W, a distance of 123.81' to a point; thence (4) along the arc of a curve to the left, having a radius of 1,280.95' and an arc of 359.34' and also having a long chord bearing and distance of N 07-35-30 W – 358.18' to a point; thence (5) N 15-51-30 W, a distance of 67.25' to a point; thence (6) N 16-14-19 W, a distance of 104.28' to a point; thence (7) N 16-21-32 W, a distance of 103.14' to a point; thence (8) N 16-28-53 W, a distance of

101.25' to a point; thence (9) N 16-39-36 W, a distance of 102.18' to a point; thence (10) N 17-03-06 W, a distance of 101.92' to a point; thence (11) N 17-05-36 W, a distance of 48.48' to a point; thence (12) N 16-51-44 W, a distance of 103.46' to a point; thence (13) N 16-40-50 W, a distance of 99.40' to a point; thence (14) N 16-44-05 W, a distance of 98.92' to a point; thence (15) N 15-41-41 W, a distance of 103.00' to a point; thence (16) N 15-17-54 W, a distance of 48.60' to a point; thence (17) along the arc of a curve to the right, having a radius of 4,770.88' and an arc of 312.24' and also having a long chord bearing and distance of N 13-40-25 W – 312.19' to a point; thence (18) N 11-44-20 W, a distance of 103.18' to a point; thence (19) N 11-27-19 W, a distance of 99.73' to a point; thence (20) N 11-31-28 W, a distance of 557.47' to a point; thence (21) N 11-17-10 W, a distance of 107.15' to a point; thence (22) N 11-04-17 W, a distance of 100.73' to a point; thence (23) N 10-59-40 W, a distance of 100.09' to a point; thence (24) N 11-00-42 W, a distance of 106.37' to a point; thence (25) N 11-29-12 W, a distance of 86.28' to a point; thence (26) N 11-42-55 W, a distance of 98.39' to a point; thence (27) N 11-32-16 W, a distance of 218.08' to a point; thence (28) N 11-56-47 W, a distance of 242.39' to a point; thence (29) N 11-27-46 W, a distance of 71.33' to a point; thence (30) N 11-25-23 W, a distance of 258.73' to a point; thence (31) N 11-41-38 W, a distance of 110.07' to a point; thence (32) N 11-39-50 W, a distance of 104.24' to a point; thence (33) N 11-54-27 W, a distance of 344.51' to a point; thence (34) N 11-02-23 W, a distance of 104.48' to a point; thence (35) N 11-44-23 W, a distance of 101.58' to a point; thence (36) N 09-31-29 W, a distance of 176.87' to a point; thence (37) along the arc of a curve to the right, having a radius of 550.70' and an arc of 146.58' and also having a long chord bearing and distance of N 00-49-10 W – 146.22' to the point of beginning containing 87.8592 acres be it more or less.

SECTION 2. This act becomes effective June 30, 2013.

In the General Assembly read three times and ratified this the 25th day of July, 2013.

Became law on the date it was ratified.

Session Law 2013-355 **S.B. 337**

AN ACT TO CREATE THE NORTH CAROLINA CHARTER SCHOOLS ADVISORY BOARD AND MAKE OTHER CHANGES TO CHARTER SCHOOL LAWS.

The General Assembly of North Carolina enacts:

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

"§ **115C-238.29A. ~~Purpose.~~Purpose of charter schools and establishment of North Carolina Charter Schools Advisory Board.**

(a) Purpose of Charter Schools. – The purpose of this Part is to authorize a system of charter schools to provide opportunities for teachers, parents, pupils, and community members to establish and maintain schools that operate independently of existing schools, as a method to accomplish all of the following:

(1) Improve student learning;

(2) Increase learning opportunities for all students, with special emphasis on expanded learning experiences for students who are identified as at risk of academic failure or academically gifted;

(3) Encourage the use of different and innovative teaching methods;

(4) Create new professional opportunities for teachers, including the opportunities to be responsible for the learning program at the school site;

(5) Provide parents and students with expanded choices in the types of educational opportunities that are available within the public school system; and

(6) Hold the schools established under this Part accountable for meeting measurable student achievement results, and provide the schools with a method to change from rule-based to performance-based accountability systems.

(b) North Carolina Charter Schools Advisory Board. – There is created the North Carolina Charter Schools Advisory Board, hereinafter referred to in this Part as the Advisory Board. The Advisory Board shall be located administratively within the Department of Public Instruction and shall report to the State Board of Education.

(1) Membership. – The State Superintendent of Public Instruction, or the Superintendent's designee, shall be the secretary of the Advisory Board and a nonvoting member. The Advisory Board shall consist of the following 11 voting members:

a. Three members appointed by the Governor, including the chair of the Advisory Board.

b. Three members appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate, in accordance with G.S. 120-121.

c. Three members appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives, in accordance with G.S. 120-121.

d. One member appointed by the State Board of Education.

e. The Lieutenant Governor or the Lieutenant Governor's designee.

(2) Covered board. – The Advisory Board shall be treated as a board for purposes of Chapter 138A of the General Statutes.

(3) Qualifications of members. – Members appointed to the Advisory Board shall collectively possess strong experience and expertise in public and nonprofit governance, management and finance, assessment, curriculum and instruction, public charter schools, and public education law. All appointed members of the Advisory Board shall have demonstrated an understanding of and a commitment to charter schools as a strategy for strengthening public education.

(4) Terms of office and vacancy appointments. – Appointed members shall serve four-year terms of office beginning on July 1. No appointed member shall serve more than eight consecutive years. Vacancy appointments shall be made by the appointing authority for the remainder of the term of office.

(5) Presiding officers and quorum. – The Advisory Board shall annually elect a vice-chair from among its membership. The chair shall preside over the Advisory Board's meetings. In the absence of the chair, the vice-chair shall preside over the Advisory Board's meetings. A majority of the Advisory Board constitutes a quorum.

(6) Meetings. – Meetings of the Advisory Board shall be held upon the call of the chair or the vice-chair with the approval of the chair.

(7) Expenses. – Members of the Advisory Board shall be reimbursed for travel and subsistence expenses at the rates allowed to State officers and employees by G.S. 138-6(a).

(8) Removal. – Any appointed member of the Advisory Board may be removed by a vote of at least two-thirds of the members of the Advisory Board at any duly held meeting for any cause that renders the member incapable or unfit to discharge the duties of the office.

(9) Powers and duties. – The Advisory Board shall have the following duties:

a. To make recommendations to the State Board of Education on the adoption of rules regarding all aspects of charter school operation, including time lines, standards, and criteria for acceptance and approval of applications, monitoring of charter schools, and grounds for revocation of charters.

b. To review applications and make recommendations to the State Board for final approval of charter applications.

c. To make recommendations to the State Board on actions regarding a charter school, including renewals of charters, nonrenewals of charters, and revocations of charters.

d. To undertake any other duties and responsibilities as assigned by the State Board."

SECTION 1.(b) G.S. 115C-238.29B reads as rewritten:

"§ **115C-238.29B. Eligible applicants; contents of applications; submission of applications for approval.**

(a) Any ~~person, group of persons, or~~ nonprofit corporation seeking to establish a charter school may apply to establish a charter school. If the applicant seeks to convert a public school to a charter school, the application shall include a statement signed by a majority of the teachers and instructional support personnel currently employed at the school indicating that they favor the conversion and evidence that a significant number of parents of children enrolled in the school favor conversion.

(b) The application shall contain at least the following information:

(1) A description of a program that implements one or more of the purposes in G.S. 115C-238.29A.

(2) A description of student achievement goals for the school's educational program and the method of demonstrating that students have attained the skills and knowledge specified for those student achievement goals.

(3) The governance structure of the school including the names of the ~~proposed~~ initial members of the board of directors of the nonprofit, tax-exempt corporation and the process to be followed by the school to ensure parental involvement.

(3a) The local school administrative unit in which the school will be located.

(4) Admission policies and procedures.

(5) A proposed budget for the school and evidence that the financial plan for the school is economically sound.

(6) Requirements and procedures for program and financial audits.

(7) A description of how the school will comply with G.S. 115C-238.29F.

(8) Types and amounts of insurance coverage, including bonding insurance for the principal officers of the school, to be obtained by the charter school.

(9) The term of the charter.

(10) The qualifications required for individuals employed by the school.

(11) The procedures by which students can be excluded from the charter school and returned to a public school. Notwithstanding any law to the contrary, any local board may refuse to admit any student who is suspended or expelled from a charter school due to actions that would lead to suspension or expulsion from a public school under G.S. 115C-390.5 through G.S. 115C-390.11 until the period of suspension or expulsion has expired.

(12) The number of students to be served, which number shall be at least 65, and the minimum number of teachers to be employed at the school, which number shall be at least three. However, the charter school may serve fewer than 65 students or employ fewer than three teachers if the application contains a compelling reason, such as the school would serve a geographically remote and small student population.

(13) Information regarding the facilities to be used by the school and the manner in which administrative services of the school are to be provided.

(14) Repealed by Session Laws 1997-430, s. 1.

~~(c) An applicant shall submit the application to a chartering entity for preliminary approval. A chartering entity may be:~~

~~(1) The local board of education of the local school administrative unit in which the charter school will be located;~~

~~(2) The board of trustees of a constituent institution of The University of North Carolina, so long as the constituent institution is involved in the planning, operation, or evaluation of the charter school; or~~

~~(3) The State Board of Education.~~

~~Regardless of which chartering entity receives the application for preliminary approval, the State Board of Education shall have final approval of the charter school~~.

~~Notwithstanding the provisions of this subsection, if the State Board of Education finds that an applicant (i) submitted an application to a local board of education and received final approval from the State Board of Education, but (ii) is unable to find a suitable location within that local school administrative unit to operate, the State Board of Education may authorize the charter school to operate within an adjacent local school administrative unit for one year only. The charter school cannot operate for more than one year unless it reapplies, in accordance with subdivision (1), (2), or (3) of this subsection, and receives final approval from the State Board of Education.~~

~~(d) Unless an applicant submits its application under subsection (c) of this section to the local board of education of the local school administrative unit in which the charter school will be located, the applicant shall submit a copy of its application to that local board within seven days of its submission under subsection (c) of this section. The local board may offer any information or comment concerning the application it considers appropriate to the chartering entity. The local board shall deliver this information to the chartering entity no later than January 1 of the next calendar year. The applicant shall not be required to obtain or deliver this information to the chartering entity on behalf of the local board. The State Board shall consider any information or comment it receives from a local board and shall consider the impact on the local school administrative unit's ability to provide a sound basic education to its students when determining whether to grant preliminary and final approval of the charter school.~~

(e) The State Board shall establish reasonable fees of no less than five hundred dollars ($500.00) and no more than one thousand dollars ($1,000) for initial and renewal charter applications, in accordance with Article 2A of Chapter 150B of the General Statutes. No application fee shall be refunded in the event the application is rejected or the charter is revoked."

SECTION 1.(c) G.S. 115C-238.29C is repealed.

SECTION 1.(d) G.S. 115C-238.29D reads as rewritten:

"§ **115C-238.29D. Final approval of applications for charter schools.**

(a) The State Board may grant final approval of an application if it finds (i) that the application meets the requirements set out in this Part ~~or~~and such other requirements as may be adopted by the State Board of ~~Education~~Education, (ii) that the applicant has the ability to operate the school and would be likely to operate the school in an educationally and economically sound manner, and (iii) that granting the application would achieve one or more of the purposes set out in G.S. 115C-238.29A. The State Board shall act by ~~March~~ January 15 of a calendar year on all applications and appeals it receives prior to ~~February 15~~a date established by the Office of Charter Schools for receipt of applications in the prior ~~of that~~ calendar year. In reviewing applications for the establishment of charter schools within a local school administrative unit, the State Board is encouraged to give preference to applications that demonstrate the capability to provide comprehensive learning experiences to students identified by the applicants as at risk of academic failure.

(b) Repealed by Session Laws 2011-164, s. 2(a), effective July 1, 2011.

(c) The State Board of Education may authorize a school before the applicant has secured its space, equipment, facilities, and personnel if the applicant indicates the authority is necessary for it to raise working capital. The State Board shall not allocate any funds to the school until the school has obtained space.

(d) The State Board of Education may grant the initial charter for a period not to exceed 10 years and may renew the charter upon the request of the chartering entity for subsequent periods not to exceed 10 years each. The State Board of Education shall review the operations

of each charter school at least once every five years to ensure that the school is meeting the expected academic, financial, and governance standards.

A material revision of the provisions of a charter application shall be made only upon the approval of the State Board of Education.

It shall not be considered a material revision of a charter application and shall not require the prior approval of the State Board for a charter school to increase its enrollment during the charter school's second year of operation and annually thereafter (i) by up to twenty percent (20%) of the school's previous year's enrollment or (ii) in accordance with planned growth as authorized in the charter. Other enrollment growth shall be considered a material revision of the charter application, and the State Board may approve such additional enrollment growth of greater than twenty percent (20%) only if the State Board finds ~~that:~~all of the following:

(1) The actual enrollment of the charter school is within ten percent (10%) of its maximum authorized ~~enrollment;~~enrollment.

(2) The charter school has commitments for ninety percent (90%) of the requested maximum ~~growth;~~growth.

~~(3) The board of education of the local school administrative unit in which the charter school is located has had an opportunity to be heard by the State Board of Education on any adverse impact the proposed growth would have on the unit's ability to provide a sound basic education to its students;~~

(4) The charter school is not currently identified as ~~low-performing;~~low-performing.

(5) The charter school meets generally accepted standards of fiscal ~~management; and~~management.

(6) It is otherwise appropriate to approve the enrollment growth."

SECTION 1.(e) G.S. 115C-238.29E reads as rewritten:

"§ **115C-238.29E. Charter school operation.**

(a) A charter school that is approved by the State shall be a public school within the local school administrative unit in which it is located. ~~It shall be accountable to the local board of education if it applied for and received preliminary approval from that local board for purposes of ensuring compliance with applicable laws and the provisions of its charter.~~ All ~~other~~ charter schools shall be accountable to the State Board for ensuring compliance with applicable laws and the provisions of their ~~charters, except that any of these charter schools may agree to be accountable to the local board of the school administrative unit in which the charter school is located rather than to the State Board.~~charters.

(b) A charter school shall be operated by a private nonprofit corporation that shall have received federal tax-exempt status no later than 24 months following final approval of the application.

(c) A charter school shall operate under the written charter signed by the ~~entity to which it is accountable under subsection (a) of this section~~ State Board and the applicant. A charter school is not required to enter into any other contract. The charter shall incorporate the information provided in the application, as modified during the charter approval process, and any terms and conditions imposed on the charter school by the State Board of Education. No other terms may be imposed on the charter school as a condition for receipt of local funds.

(d) The board of directors of the charter school shall decide matters related to the operation of the school, including budgeting, curriculum, and operating procedures.

(e) A charter school's specific location shall not be prescribed or limited by a local board or other authority except a zoning authority. The school may lease space from a local board of education or as is otherwise lawful in the local school administrative unit in which the charter school is located. If a charter school leases space from a sectarian organization, the charter school classes and students shall be physically separated from any parochial students, and there shall be no religious artifacts, symbols, iconography, or materials on display in the charter school's entrance, classrooms, or hallways. Furthermore, if a charter school leases space

from a sectarian organization, the charter school shall not use the name of that organization in the name of the charter school.

At the request of the charter school, the local board of education of the local school administrative unit in which the charter school will be located shall lease any available building or land to the charter school unless the board demonstrates that the lease is not economically or practically feasible or that the local board does not have adequate classroom space to meet its enrollment needs. Notwithstanding any other law, a local board of education may provide a school facility to a charter school free of charge; however, the charter school is responsible for the maintenance of and insurance for the school facility. If a charter school has requested to lease available buildings or land and is unable to reach an agreement with the local board of education, the charter school shall have the right to appeal to the board of county commissioners in which the building or land is located. The board of county commissioners shall have the final decision-making authority on the leasing of the available building or land.

(f) Except as provided in this Part and pursuant to the provisions of its charter, a charter school is exempt from statutes and rules applicable to a local board of education or local school administrative unit."

SECTION 1.(f) G.S. 115C-238.29F reads as rewritten:

"§ **115C-238.29F. General requirements.**

(a) Health and Safety Standards. – A charter school shall meet the same health and safety requirements required of a local school administrative unit. The Department of Public Instruction shall ensure that charter schools provide parents and guardians with information about meningococcal meningitis and influenza and their vaccines at the beginning of every school year. This information shall include the causes, symptoms, and how meningococcal meningitis and influenza are spread and the places where parents and guardians may obtain additional information and vaccinations for their children.

The Department of Public Instruction shall also ensure that charter schools provide parents and guardians with information about cervical cancer, cervical dysplasia, human papillomavirus, and the vaccines available to prevent these diseases. This information shall be provided at the beginning of the school year to parents of children entering grades five ~~though~~ through 12. This information shall include the causes and symptoms of these diseases, how they are transmitted, how they may be prevented by vaccination, including the benefits and possible side effects of vaccination, and the places where parents and guardians may obtain additional information and vaccinations for their children.

The Department of Public Instruction shall also ensure that charter schools provide students in grades nine through 12 with information annually on the manner in which a parent may lawfully abandon a newborn baby with a responsible person, in accordance with G.S. 7B-500.

The Department of Public Instruction shall also ensure that the guidelines for individual diabetes care plans adopted by the State Board of Education under G.S. 115C-12(31) are implemented in charter schools in which students with diabetes are enrolled and that charter schools otherwise comply with the provisions of G.S. 115C-375.3.

(b) School Nonsectarian. – A charter school shall be nonsectarian in its programs, admission policies, employment practices, and all other operations and shall not charge tuition or fees, except that a charter school may charge any fees that are charged by the local school administrative unit in which the charter school is located. A charter school shall not be affiliated with a nonpublic sectarian school or a religious institution.

(c) Civil Liability and Insurance. –

(1) The board of directors of a charter school may sue and be sued. The State Board of Education shall adopt rules to establish reasonable amounts and types of liability insurance that the board of directors shall be required by the charter to obtain. The board of directors shall obtain at least the amount of and types of insurance required by these rules to be included in the charter. Any sovereign immunity of the charter school, of the organization that operates the charter school, or its members, officers, or directors, or of the

employees of the charter school or the organization that operates the charter school, is waived to the extent of indemnification by insurance.

(2) No civil liability shall attach to ~~any chartering entity, to~~ the State Board of Education, or to any of their members or employees, individually or collectively, for any acts or omissions of the charter school.

(d) Instructional Program. –

(1) The school shall provide instruction each year for at least 185 days or 1,025 hours over nine calendar months.

(2) The school shall design its programs to at least meet the student performance standards adopted by the State Board of Education and the student performance standards contained in the charter.

(3) A charter school shall conduct the student assessments required ~~for charter schools~~ by the State Board of Education.

(4) The school is subject to and shall comply with Article 9 of Chapter 115C of the General Statutes and The Individuals with Disabilities Education Improvements Act, 20 U.S.C. § 1400, et seq., (2004), as amended.~~shall comply with policies adopted by the State Board of Education for charter schools relating to the education of children with disabilities.~~

(5) The school is subject to and shall comply with Article 27 of Chapter 115C of the General Statutes, except that a charter school may also exclude a student from the charter school and return that student to another school in the local school administrative unit in accordance with the terms of its ~~charter.~~charter after due process.

(d1) Reading Proficiency and Student Promotion. –

(1) Students in the third grade shall be retained if the student fails to demonstrate reading proficiency by reading at or above the third grade level as demonstrated by the results of the State-approved standardized test of reading comprehension administered to third grade students. The charter school shall provide reading interventions to retained students to remediate reading deficiency, which may include 90 minutes of daily, uninterrupted, evidence-based reading instruction, accelerated reading classes, transition classes containing third and fourth grade students, and summer reading camps.

(2) Students may be exempt from mandatory retention in third grade for good cause but shall continue to receive instructional supports and services and reading interventions appropriate for their age and reading level. Good cause exemptions shall be limited to the following:

a. Limited English Proficient students with less than two years of instruction in an English as a Second Language program.

b. Students with disabilities, as defined in G.S. 115C-106.3(1), whose individualized education program indicates the use of alternative assessments and reading interventions.

c. Students who demonstrate reading proficiency appropriate for third grade students on an alternative assessment of reading comprehension. The charter school shall notify the State Board of Education of the alternative assessment used to demonstrate reading proficiency.

d. Students who demonstrate, through a student reading portfolio, reading proficiency appropriate for third grade students.

e. Students who have (i) received reading intervention and (ii) previously been retained more than once in kindergarten, first, second, or third grades.

(3) The charter school shall provide notice to parents and guardians when a student is not reading at grade level. The notice shall state that if the student's reading deficiency is not remediated by the end of third grade, the student shall be retained unless he or she is exempt from mandatory retention for good cause. Notice shall also be provided to parents and guardians of any student who is to be retained under this subsection of the reason the student is not eligible for a good cause exemption, as well as a description of proposed reading interventions that will be provided to the student to remediate identified areas of reading deficiency.

(4) The charter school shall annually publish on the charter school's Web site and report in writing to the State Board of Education by September 1 of each year the following information on the prior school year:

a. The number and percentage of third grade students demonstrating and not demonstrating reading proficiency on the State-approved standardized test of reading comprehension administered to third grade students.

b. The number and percentage of third grade students not demonstrating reading proficiency and who do not return to the charter school for the following school year.

c. The number and percentage of third grade students who take and pass the alternative assessment of reading comprehension.

d. The number and percentage of third grade students retained for not demonstrating reading proficiency.

e. The number and percentage of third grade students exempt from mandatory third grade retention by category of exemption as listed in subdivision (2) of this subsection.

(e) Employees. –

(1) An employee of a charter school is not an employee of the local school administrative unit in which the charter school is located. The charter school's board of directors shall employ and contract with necessary teachers to perform the particular service for which they are employed in the school; at least ~~seventy-five~~fifty percent ~~(75%)~~(50%) of these teachers ~~in grades kindergarten through five, at least fifty percent (50%) of these teachers in grades six through eight, and at least fifty percent (50%) of these teachers in grades nine through 12~~ shall hold teacher ~~certificates.~~licenses. All teachers ~~in grades six through 12~~ who are teaching in the core subject areas of mathematics, science, social studies, and language arts shall be college graduates.

The board also may employ necessary employees who are not required to hold teacher ~~certificates~~ licenses to perform duties other than teaching and may contract for other services. The board may discharge teachers and ~~noncertificated~~ nonlicensed employees.

(2) No local board of education shall require any employee of the local school administrative unit to be employed in a charter school.

(3) If a teacher employed by a local school administrative unit makes a written request for a leave of absence to teach at a charter school, the local school administrative unit shall grant the leave for one year. For the initial year of a charter school's operation, the local school administrative unit may require that the request for a leave of absence be made up to 45 days before the teacher would otherwise have to report for duty. After the initial year of a charter school's operation, the local school administrative unit may require that the request for a leave of absence be made up to 90 days before the teacher would otherwise have to report for duty. A local board of education

is not required to grant a request for a leave of absence or a request to extend or renew a leave of absence for a teacher who previously has received a leave of absence from that school board under this subdivision. A teacher who has career status under G.S. 115C-325 prior to receiving a leave of absence to teach at a charter school may return to a public school in the local school administrative unit with career status at the end of the leave of absence or upon the end of employment at the charter school if an appropriate position is available. If an appropriate position is unavailable, the teacher's name shall be placed on a list of available teachers and that teacher shall have priority on all positions for which that teacher is qualified in accordance with G.S. 115C-325(e)(2).

(4) The employees of the charter school shall be deemed employees of the local school administrative unit for purposes of providing certain State-funded employee benefits, including membership in the Teachers' and State Employees' Retirement System and the State Health Plan for Teachers and State Employees. The State Board of Education provides funds to charter schools, approves the original members of the boards of directors of the charter schools, has the authority to grant, supervise, and revoke charters, and demands full accountability from charter schools for school finances and student performance. Accordingly, it is the determination of the General Assembly that charter schools are public schools and that the employees of charter schools are public school employees. Employees of a charter school whose board of directors elects to become a participating employer under G.S. 135-5.3 are "teachers" for the purpose of membership in the North Carolina Teachers' and State Employees' Retirement System. In no event shall anything contained in this Part require the North Carolina Teachers' and State Employees' Retirement System to accept employees of a private employer as members or participants of the System.

(5) Education employee associations shall have equal access to charter school employees as provided in G.S. 115C-335.9.

(e1) Criminal History Checks. –

(1) If the local board of education of the local school administrative unit in which a charter school is located has adopted a policy requiring criminal history checks under G.S. 115C-332, then the board of directors of each charter school located in that local school administrative unit shall adopt a policy mirroring the local board of education policy that requires an applicant for employment to be checked for a criminal history, as defined in G.S. 115C-332. Each charter school board of directors shall apply its policy uniformly in requiring applicants for employment to be checked for a criminal history before the applicant is given an unconditional job offer. A charter school board of directors may employ an applicant conditionally while the board is checking the person's criminal history and making a decision based on the results of the check.

(2) There shall be no liability for negligence on the part of the State Board of Education or the board of directors of the charter school, or their employees, arising from any act taken or omission by any of them in carrying out the provisions of this subsection. The immunity established by this subsection shall not extend to gross negligence, wanton conduct, or intentional wrongdoing that would otherwise be actionable. The immunity established by this subsection shall be deemed to have been waived to the extent of indemnification by insurance, indemnification under Articles 31A and 31B of Chapter 143 of the General Statutes, and to the extent sovereign immunity

is waived under the Tort Claims Act, as set forth in Article 31 of Chapter 143 of the General Statutes.

(f) Accountability. –

(1) The school is subject to the financial audits, the audit procedures, and the audit requirements adopted by the State Board of Education for charter schools. These audit requirements may include the requirements of the School Budget and Fiscal Control Act.

(2) The school shall comply with the reporting requirements established by the State Board of Education in the Uniform Education Reporting System.

(3) The school shall report at least annually to the ~~chartering entity and the~~ State Board of Education the information required by the ~~chartering entity or the~~ State Board.

(g) Admission Requirements. –

(1) Any child who is qualified under the laws of this State for admission to a public school is qualified for admission to a charter school.

(2) No local board of education shall require any student enrolled in the local school administrative unit to attend a charter school.

(3) Admission to a charter school shall not be determined according to the school attendance area in which a student resides, except that any local school administrative unit in which a public school converts to a charter school shall give admission preference to students who reside within the former attendance area of that school.

(4) Admission to a charter school shall not be determined according to the local school administrative unit in which a student resides.

(5) A charter school shall not discriminate against any student on the basis of ethnicity, national origin, gender, or disability. Except as otherwise provided by law or the mission of the school as set out in the charter, the school shall not limit admission to students on the basis of intellectual ability, measures of achievement or aptitude, athletic ability, disability, race, creed, gender, national origin, religion, or ancestry. The charter school may give enrollment priority to siblings of currently enrolled students who were admitted to the charter school in a previous year and to children of the school's principal, teachers, and teacher assistants. In addition, and only for its first year of operation, the charter school may give enrollment priority to children of the initial members of the charter school's board of directors, so long as (i) these children are limited to no more than ten percent (10%) of the school's total enrollment or to 20 students, whichever is less, and (ii) the charter school is not a former public or private school. If multiple birth siblings apply for admission to a charter school and a lottery is needed under G.S. 115C-238.29F(g)(6), the charter school shall enter one surname into the lottery to represent all of the multiple birth siblings. If that surname of the multiple birth siblings is selected, then all of the multiple birth siblings shall be admitted. Within one year after the charter school begins operation, the population of the school shall reasonably reflect the racial and ethnic composition of the general population residing within the local school administrative unit in which the school is located or the racial and ethnic composition of the special population that the school seeks to serve residing within the local school administrative unit in which the school is located. The school shall be subject to any court-ordered desegregation plan in effect for the local school administrative unit.

(6) During each period of enrollment, the charter school shall enroll an eligible student who submits a timely application, unless the number of applications exceeds the capacity of a program, class, grade level, or building. In this

case, students shall be accepted by lot. Once enrolled, students are not required to reapply in subsequent enrollment periods.

(7) Notwithstanding any law to the contrary, a charter school may refuse admission to any student who has been expelled or suspended from a public school under G.S. 115C-390.5 through G.S. 115C-390.11 until the period of suspension or expulsion has expired.

(h) Transportation. – The charter school may provide transportation for students enrolled at the school. The charter school shall develop a transportation plan so that transportation is not a barrier to any student who resides in the local school administrative unit in which the school is located. The charter school is not required to provide transportation to any student who lives within one and one-half miles of the school. At the request of the charter school and if the local board of the local school administrative unit in which the charter school is located operates a school bus system, then that local board may contract with the charter school to provide transportation in accordance with the charter school's transportation plan to students who reside in the local school administrative unit and who reside at least one and one-half miles of the charter school. A local board may charge the charter school a reasonable charge that is sufficient to cover the cost of providing this transportation. Furthermore, a local board may refuse to provide transportation under this subsection if it demonstrates there is no available space on buses it intends to operate during the term of the contract or it would not be practically feasible to provide this transportation.

(i) Assets. – Upon dissolution of the charter school or upon the nonrenewal of the charter, all net assets of the charter school purchased with public funds shall be deemed the property of the local school administrative unit in which the charter school is located.

(j) Driving Eligibility Certificates. – In accordance with rules adopted by the State Board of Education, the designee of the school's board of directors shall do all of the following:

(1) Sign driving eligibility certificates that meet the conditions established in G.S. 20-11.

(2) Obtain the necessary written, irrevocable consent from parents, guardians, or emancipated juveniles, as appropriate, in order to disclose information to the Division of Motor Vehicles.

(3) Notify the Division of Motor Vehicles when a student who holds a driving eligibility certificate no longer meets its conditions.

(k) The Display of the United States and North Carolina Flags and the Recitation of the Pledge of Allegiance. – A charter school shall (i) display the United States and North Carolina flags in each classroom when available, (ii) require the recitation of the Pledge of Allegiance on a daily basis, and (iii) provide age-appropriate instruction on the meaning and historical origins of the flag and the Pledge of Allegiance. A charter school shall not compel any person to stand, salute the flag, or recite the Pledge of Allegiance. If flags are donated or are otherwise available, flags shall be displayed in each classroom.

(l) North Carolina School Report Cards. – A charter school shall ensure that the report card issued for it by the State Board of Education receives wide distribution to the local press or is otherwise provided to the public. A charter school shall ensure that the overall school performance score and grade earned by the charter school for the current and previous four school years is prominently displayed on the school Web site. If a charter school is awarded a grade of D or F, the charter school shall provide notice of the grade in writing to the parent or guardian of all students enrolled in that school."

SECTION 1.(g) G.S. 115C-238.29G reads as rewritten:

"§ **115C-238.29G. Causes for nonrenewal or termination; disputes.**

(a) The State Board of ~~Education, or a chartering entity subject to the approval of the State Board of Education,~~ Education may terminate, not renew, or seek applicants to assume the charter through a competitive bid process established by the State Board ~~terminate or not renew a charter~~ upon any of the following grounds:

(1) Failure to meet the requirements for student performance contained in the charter;
(2) Failure to meet generally accepted standards of fiscal management;
(3) Violations of law;
(4) Material violation of any of the conditions, standards, or procedures set forth in the charter;
(5) Two-thirds of the faculty and instructional support personnel at the school request that the charter be terminated or not renewed; or
(6) Other good cause identified.

(a1) The State Board shall adopt criteria for adequate performance by a charter school and shall identify charter schools with inadequate performance. The criteria shall include a requirement that a charter school which demonstrates no growth in student performance and has annual performance composites below sixty percent (60%) in any two years in a three-year period is inadequate.

(1) If a charter school is inadequate in the first five years of the charter, the charter school shall develop a strategic plan to meet specific goals for student performance that are consistent with State Board criteria and the mission approved in the charter school. The strategic plan shall be reviewed and approved by the State Board. The State Board is authorized to terminate or not renew a charter for failure to demonstrate improvement under the strategic plan.
(2) If a charter school is inadequate and has had a charter for more than five years, the State Board is authorized to terminate, not renew, or seek applicants to assume the charter through a competitive bid process established by the State Board. ~~terminate or not renew the charter.~~The State Board shall develop rules on the assumption of a charter by a new entity that include all aspects of the operations of the charter school, including the status of the employees. Public assets would transfer to the new entity and not revert to the local school administrative unit in which the charter school is located pursuant to G.S. 115C-238.29F(i).

(b) The State Board of Education shall develop and implement a process to address contractual and other grievances between a charter school and ~~its chartering entity or~~ the local board of education during the time of its charter.

(c) The State Board and the charter school are encouraged to make a good-faith attempt to resolve the differences that may arise between them. They may agree to jointly select a mediator. The mediator shall act as a neutral facilitator of disclosures of factual information, statements of positions and contentions, and efforts to negotiate an agreement settling the differences. The mediator shall, at the request of either the State Board or a charter school, commence a mediation immediately or within a reasonable period of time. The mediation shall be held in accordance with rules and standards of conduct adopted under Chapter 7A of the General Statutes governing mediated settlement conferences but modified as appropriate and suitable to the resolution of the particular issues in disagreement.

Notwithstanding Article 33C of Chapter 143 of the General Statutes, the mediation proceedings shall be conducted in private. Evidence of statements made and conduct occurring in a mediation are not subject to discovery and are inadmissible in any court action. However, no evidence otherwise discoverable is inadmissible merely because it is presented or discussed in a mediation. The mediator shall not be compelled to testify or produce evidence concerning statements made and conduct occurring in a mediation in any civil proceeding for any purpose, except disciplinary hearings before the State Bar or any agency established to enforce standards of conduct for mediators. The mediator may determine that an impasse exists and discontinue the mediation at any time. The mediator shall not make any recommendations or public statement of findings or conclusions. The State Board and the charter school shall share equally

the mediator's compensation and expenses. The mediator's compensation shall be determined according to rules adopted under Chapter 7A of the General Statutes."

SECTION 1.(h) G.S. 115C-238.29H reads as rewritten:

"§ **115C-238.29H. State and local funds for a charter school.**

(a) The State Board of Education shall allocate to each charter school:

(1) An amount equal to the average per pupil allocation for average daily membership from the local school administrative unit allotments in which the charter school is located for each child attending the charter school except for the allocation for children with disabilities and for the allocation for children with limited English proficiency;

(2) An additional amount for each child attending the charter school who is a child with disabilities; and

(3) An additional amount for children with limited English proficiency attending the charter school, based on a formula adopted by the State Board.

In accordance with G.S. 115C-238.29D(d), the State Board shall allow for annual adjustments to the amount allocated to a charter school based on its enrollment growth in school years subsequent to the initial year of operation.

In the event a child with disabilities leaves the charter school and enrolls in a public school during the first 60 school days in the school year, the charter school shall return a pro rata amount of funds allocated for that child to the State Board, and the State Board shall reallocate those funds to the local school administrative unit in which the public school is located. In the event a child with disabilities enrolls in a charter school during the first 60 school days in the school year, the State Board shall allocate to the charter school the pro rata amount of additional funds for children with disabilities.

(a1) Funds allocated by the State Board of Education may be used to enter into operational and financing leases for real property or mobile classroom units for use as school facilities for charter schools and may be used for payments on loans made to charter schools for ~~facilities or equipment.~~facilities, equipment, or operations. However, State funds shall not be used to obtain any other interest in real property or mobile classroom units. No indebtedness of any kind incurred or created by the charter school shall constitute an indebtedness of the State or its political subdivisions, and no indebtedness of the charter school shall involve or be secured by the faith, credit, or taxing power of the State or its political subdivisions. Every contract or lease into which a charter school enters shall include the previous sentence. The school also may own land and buildings it obtains through non-State sources.

(b) If a student attends a charter school, the local school administrative unit in which the child resides shall transfer to the charter school an amount equal to the per pupil share of the local current expense ~~appropriation~~ fund of ~~to~~ the local school administrative unit for the fiscal year. The per pupil share of the local current expense fund shall be transferred to the charter school within 30 days of the receipt of monies into the local current expense fund. The local school administrative unit and charter school may use the process for mediation of differences between the State Board and a charter school provided in G.S. 115C-238.29G(c) to resolve differences on calculation and transference of the per pupil share of the local current expense fund. The amount transferred under this subsection that consists of revenue derived from supplemental taxes shall be transferred only to a charter school located in the tax district for which these taxes are levied and in which the student resides.

(c) The local school administrative unit shall also provide each charter school to which it transfers a per pupil share of its local current expense fund with all of the following information within the 30-day time period provided in subsection (b) of this section:

(1) The total amount of monies the local school administrative unit has in each of the funds listed in G.S. 115C-426(c).

(2) The student membership numbers used to calculate the per pupil share of the local current expense fund.

(3) How the per pupil share of the local current expense fund was calculated.

(d) Prior to commencing an action under subsection (b) of this section, the complaining party shall give the other party 15 days' written notice of the alleged violation. The court shall award the prevailing party reasonable attorneys' fees and costs incurred in an action under subsection (b) of this section. The court shall order any delinquent funds, costs, fees, and interest to be paid in equal monthly installments and shall establish a time for payment in full that shall be no later than three years from the entry of any judgment."

SECTION 1.(i) G.S. 115C-238.29I reads as rewritten:

"§ **115C-238.29I. Notice of the charter school process; review of charter ~~schools; Charter School Advisory Committee.~~schools.**

(a) The State Board of Education shall distribute information announcing the availability of the charter school process described in this Part to each local school administrative unit and public postsecondary educational institution and, through press releases, to each major newspaper in the State.

(b) Repealed by Session Laws 1997-18, s. 15(i).

(c) The State Board of Education shall review and evaluate the educational effectiveness of the charter ~~school approach~~schools authorized under this Part and the effect of charter schools on the public schools in the local school administrative unit in which the charter schools are located. The Board shall report annually no later than January ~~1, 2002,~~1 to the Joint Legislative Education Oversight Committee ~~with recommendations to modify, expand, or terminate that approach. The Board shall base its recommendations predominantly on the following information:~~on the following:

(1) The current and projected impact of charter schools on the delivery of services by the public schools.

(2) Student academic progress in the charter schools as measured, where available, against the academic year immediately preceding the first academic year of the charter schools' operation.

(3) Best practices resulting from charter school operations.

(4) Other information the State Board considers appropriate.

~~(d) The State Board of Education may establish a Charter School Advisory Committee to assist with the implementation of this Part. The Charter School Advisory Committee may (i) provide technical assistance to chartering entities or to potential applicants, (ii) review applications for preliminary approval, (iii) make recommendations as to whether the State Board should approve applications for charter schools, (iv) make recommendations as to whether the State Board should terminate or not renew a charter, (v) make recommendations concerning grievances between a charter school and its chartering entity, the State Board, or a local board, (vi) assist with the review under subsection (c) of this section, and (vii) provide any other assistance as may be required by the State Board.~~

~~(e) Notwithstanding the dates set forth in this Part, the State Board of Education may establish an alternative time line for the submission of applications, preliminary approvals, criminal record checks, appeals, and final approvals so long as the Board grants final approval by March 15 of each calendar year.~~"

SECTION 1.(j) G.S. 115C-238.29J is repealed.

SECTION 1.(k) G.S. 115C-238.29K is repealed.

SECTION 2.(a) G.S. 115C-426(c) reads as rewritten:

"(c) The uniform budget format shall require the following funds:

(1) The State Public School Fund.

(2) The local current expense fund.

(3) The capital outlay fund.

In addition, other funds may be used to account for reimbursements, including indirect costs, fees for actual costs, tuition, sales tax revenues distributed using the ad valorem method pursuant to G.S. 105-472(b)(2), sales tax refunds, gifts and grants restricted as to use, trust funds, federal appropriations made directly to local school administrative units, and funds received for prekindergarten ~~programs, and special programs.~~programs. In addition, the

appropriation or use of fund balance or interest income by a local school administrative unit shall not be construed as a local current expense ~~appropriation.~~appropriation included as a part of the local current expense fund.

Each local school administrative unit shall maintain those funds shown in the uniform budget format that are applicable to its operations."

SECTION 2.(b) G.S. 115C-448 reads as rewritten:

"§ **115C-448. Special funds of individual schools.**

(a) The board of education shall appoint a treasurer for each school within the local school administrative unit that handles special funds. The treasurer shall keep a complete record of all moneys in his charge in such form and detail as may be prescribed by the finance officer of the local school administrative unit, and shall make such reports to the superintendent and finance officer of the local school administrative unit as they or the board of education may prescribe. Special funds of individual schools shall be deposited in an official depository of the local school administrative unit in special accounts to the credit of the individual school, and shall be paid only on checks or drafts signed by the principal of the school and the treasurer. The board of education may, in its discretion, waive the requirements of this section for any school which handles less than three hundred dollars ($300.00) in any school year.

(b) Nothing in this section shall prevent the board of education from requiring that all funds of individual schools be deposited with and accounted for by the school finance officer. If this is done, these moneys shall be disbursed and accounted for in the same manner as other school funds except that the check or draft shall not bear the certificate of preaudit.

(c) For the purposes of this section, "special funds of individual schools" includes by way of illustration and not limitation funds realized from gate receipts of interscholastic athletic competition, sale of school annuals and newspapers, and dues of student organizations.

(d) Special funds of individual schools shall not be included as part of the local current expense fund of a local school administrative unit for the purposes of determining the per pupil share of the local current expense fund transferred to a charter school pursuant to G.S. 115C-238.29H(b)."

SECTION 3. G.S. 105-275 reads as rewritten:

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

The following classes of property are designated special classes under Article V, Sec. 2(2), of the North Carolina Constitution and are excluded from tax:

…

(46) Real property that is occupied by a charter school and is wholly and exclusively used for educational purposes as defined in G.S. 105-278.4(f) regardless of the ownership of the property."

SECTION 4. G.S. 143B-426.40A is amended by adding a new subsection to read:

"(m) Assignment of Funds Allocated by the State Board of Education to Charter Schools. – This section does not apply to assignments by charter schools to obtain funds for facilities, equipment, or operations pursuant to G.S. 115C-238.29H."

SECTION 5. Section 7.17(b) of S.L. 2010-31 is repealed.

SECTION 6. Notwithstanding G.S. 115C-238.29A, as amended by this act, initial appointments to the Advisory Board shall be made by the Governor, the General Assembly, and the State Board of Education no later than August 1, 2013. Initial terms of office to the Advisory Board shall be as follows:

(1) Two members appointed by the Governor, as designated by the Governor, shall be appointed to serve until June 30, 2015. One member appointed by the Governor, as designated by the Governor, shall be appointed to serve until June 30, 2017, including the chair.

(2) One member appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives, as designated by the Speaker, shall be appointed to serve until June 30, 2015. Two members appointed by the General Assembly upon the recommendation of the

Speaker of the House of Representatives, as designated by the Speaker, shall be appointed to serve until June 30, 2017.

(3) One member appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate, as designated by the President Pro Tempore, shall be appointed to serve until June 30, 2015. Two members appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate, as designated by the President Pro Tempore, shall be appointed to serve until June 30, 2017.

(4) One member appointed by the State Board of Education shall be appointed to serve until June 30, 2015.

SECTION 7. The North Carolina Charter School Advisory Council, as established by the State Board of Education on August 4, 2011, by Policy TCS-B-006, is abolished.

SECTION 8. Section 3 of this act is effective for taxes imposed for taxable years beginning on or after July 1, 2013. Section 7 of this act becomes effective August 1, 2013. The remainder of this act is effective when it becomes law. G.S. 115C-238.29H(d), as enacted by this act, applies to proceedings commenced on or after the effective date of this act. Nothing in this act shall be construed to affect pending litigation.

In the General Assembly read three times and ratified this the 24th day of July, 2013.

Became law upon approval of the Governor at 4:54 p.m. on the 25th day of July, 2013.

Session Law 2013-356 **H.B. 194**

AN ACT ALLOWING THE NORTH CAROLINA VETERINARY BOARD TO ACCEPT PROGRAM FOR THE ASSESSMENT OF VETERINARY EDUCATION EQUIVALENCE (PAVE) CERTIFICATION TO MEET LICENSURE REQUIREMENTS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 90-187(c) reads as rewritten:

"(c) An application from a graduate of a ~~nonaccredited college of veterinary medicine outside the United States and Canada~~program not accredited by the American Veterinary Medical Association may not be considered by the Board until the applicant furnishes satisfactory proof of graduation from a college of veterinary medicine and of successful completion of ~~the~~ a certification program developed and administered ~~by~~ by (i) the Educational Commission for Foreign Veterinary Graduates of the American Veterinary Medical ~~which Association,~~Association or (ii) the Program for the Assessment of Veterinary Education Equivalence (PAVE) of the American Association of Veterinary State Boards. The certification ~~program~~ programs shall include examinations with respect to clinical proficiency and comprehension of and ability to communicate in the English language."

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

In the General Assembly read three times and ratified this the 18th day of July, 2013.

Became law upon approval of the Governor at 4:54 p.m. on the 25th day of July, 2013.

Session Law 2013-357 **H.B. 649**

AN ACT TO MAKE TECHNICAL CHANGES TO THE SMALL EMPLOYER GROUP HEALTH COVERAGE REFORM ACT TO MITIGATE THE EFFECTS OF THE FEDERAL AFFORDABLE CARE ACT ON NORTH CAROLINA'S SMALL BUSINESSES AND TO INCREASE STOP LOSS INSURANCE OPTIONS FOR SMALL EMPLOYERS.

The General Assembly of North Carolina enacts:

SECTION 1. Corrections to small group act. – No small employer carrier shall be required to issue the basic or standard health benefit plan as described in G.S. 58-50-125(a). Any basic or standard health benefit plans described in G.S. 58-50-125(a) that are not "grandfathered health plans," as that term is used under Section 1251 of the Affordable Care Act, P.L. 11-148, as amended, shall be terminated on the next anniversary date on or after January 1, 2014, and the small employer carrier shall offer the employer replacement coverage from available small group health benefit plans pursuant to and in accordance with all applicable State and federal laws and regulations. The termination shall be preceded by a 90-day notice to the Commissioner, the employer policyholder, the participants, and the beneficiaries. If the plan is issued to a self-employed individual, as defined in G.S. 58-50-110(21a), then the small employer carrier shall offer (i) replacement coverage from available individual health benefit plans or (ii) if the small employer carrier does not offer individual health benefit plans in this State, then individual conversion coverage pursuant to G.S. 58-53-45.

SECTION 2.(a) The following are repealed: G.S. 58-50-126, 58-50-127, 58-50-135, 58-50-155, and 58-50-156.

SECTION 2.(b) G.S. 58-50-110 reads as rewritten:

"§ **58-50-110. Definitions.**

As used in this Act:

…

(10a) "Grandfathered health plan" means a health benefit plan providing coverage considered grandfathered health coverage described in 45 C.F.R. §147.140(a).

…

(22) "Small employer" means any individual actively engaged in business that, on at least fifty percent (50%) of its working days during the preceding calendar quarter, employed no more than 50 eligible employees, the majority of whom are employed within this State, and is not formed primarily for purposes of buying health insurance and in which a bona fide employer-employee relationship exists. In determining the number of eligible employees, companies that are affiliated companies, or that are eligible to file a combined tax return for purposes of taxation by this State, shall be considered one employer. Subsequent to the issuance of a health benefit plan to a small employer and for the purpose of determining eligibility, the size of a small employer shall be determined annually. Except as otherwise specifically provided, the provisions of this Act that apply to a small employer shall continue to apply until the plan anniversary following the date the small employer no longer meets the requirements of this definition. For purposes of this ~~Act,~~subdivision, the term small employer includes self-employed individuals. Effective January 1, 2014, this definition shall apply only to grandfathered group health plans subject to this Act.

(22a) "Small employer" means, in connection with a nongrandfathered group health plan with respect to a calendar year and a plan year, an employer that employed an average of at least one but not more than 50 employees on business days during the preceding calendar year and that employs at least one employee on the first day of the plan year. The number of employees shall be determined using the method set forth in section 4980H(c)(2) of the Internal Revenue Code.

…."

SECTION 2.(c) G.S. 58-50-115 reads as rewritten:

"§ **58-50-115. Health benefit plans subject to Act.**

(a) A health benefit plan is subject to this Act if it provides health benefits for small employers ~~or self-employed individuals~~ and if any of the following conditions are met:

(1) Any part of the premiums or benefits is paid by a small employer or any covered individual is reimbursed, whether through wage or adjustments or otherwise, by a small employer for any portion of the premium;

(2) The health benefit plan is treated by the employer ~~or any of the covered self-employed individuals~~ as part of a plan or program for the purpose of sections 106, 125, or 162 of the United States Internal Revenue Code; or

(3) The small employer ~~or self-employed individuals have~~ has permitted payroll deductions for the eligible enrollees for the health benefit plans.

(b) Repealed by Session Laws 1993, c. 529, s. 3.5."

SECTION 2.(d) G.S. 58-50-125(d) reads as rewritten:

"(d) ~~As a condition of transacting business as a small employer carrier in this State, the carrier shall either offer small employers at least one basic and one standard health care plan or the alternative coverages provided in G.S. 58-50-126. Every small employer that elects to be covered under such a plan and agrees to make the required premium payments and to satisfy the other provisions of the plan shall be issued such a plan by the small employer carrier. The premium payment requirements used in connection with basic and standard health care plans may address the potential credit risk of small employers that elect coverage in accordance with this subsection by means of payment security provisions that are reasonably related to the risk and are uniformly applied.~~

If a small employer carrier offers coverage to a small employer, the small employer carrier shall offer coverage to all eligible employees of a small employer and their dependents. A small employer carrier shall not offer coverage to only certain individuals in a small employer group except in the case of late enrollees as provided in G.S. 58-50-130(a)(4b). A small employer carrier shall not modify any health benefit plan with respect to a small employer, any eligible employee, or dependent through riders, endorsements, or otherwise, in order to restrict or exclude coverage for certain diseases or medical conditions otherwise covered by the health benefit plan. In the case of an eligible employee or dependent of an eligible employee who, before the effective date of the plan, was excluded from coverage or denied coverage by a small employer carrier in the process of providing a health benefit plan to an eligible small employer, the small employer carrier shall provide an opportunity for the eligible employee or dependent of an eligible employee to enroll in the health benefit plan currently held by the small employer."

SECTION 2.(e) Effective January 1, 2015, subsections (a) and (a1) of G.S. 58-50-125 are repealed.

SECTION 2.(f) G.S. 58-50-130 reads as rewritten:

"§ **58-50-130. Required health care plan provisions.**

…

(b) For all small employer health benefit plans that are grandfathered health benefit plans and that are subject to this section, the premium rates are subject to all of the following provisions:

…."

SECTION 2.(g) G.S. 58-50-130 is amended by adding the following new subsections to read:

"(b1) For all small employer health benefit plans that are not grandfathered health benefit plans and that are subject to this section, the premium rates are subject to all of the following provisions:

(1) A small employer carrier shall use a method to develop premiums for small employer group health benefit plans that are not grandfathered health plans which spreads financial risk across a large population and allows adjustments for only the following factors:

a. Age, except that the rate shall not vary by more than the ratio of three to one (3:1) for adults.
b. Whether the plan or coverage covers individual or family.
c. Geographic rating areas.
d. Tobacco use, except that the rate shall not vary by more than the ratio of one and two-tenths to one (1.2:1) due to tobacco use.

With respect to family coverage under a health benefit plan, the rating variations for age and tobacco use shall be applied based on the portion of premium that is attributable to each family member covered under the plan.

(2) A small employer carrier shall consider the claims experience of all enrollees in all small employer group health benefit plans that are not grandfathered health plans offered by the insurer in the small employer group market in this State to be members of a single risk pool. No small employer carrier shall consider claims experience of grandfathered health plans in developing the single risk pool.

…

(i) A small employer carrier shall not modify the premium rate charged to a small group nongrandfathered health benefit plan or a small employer group member, including changes in rates related to the increasing age of a group member, for 12 months from the initial issue date or renewal date."

SECTION 3. G.S. 58-50-130(a) reads as rewritten:

"(a) Health benefit plans covering small employers are subject to the following provisions:

…

(5) ~~Notwithstanding any other provision of this Chapter, no small employer carrier, insurer, subsidiary of an insurer, or controlled individual of an insurance holding company shall act as an administrator or claims paying agent, as opposed to an insurer, on behalf of small groups which, if they purchased insurance, would be subject to this section.~~ No small employer carrier, insurer, subsidiary of an insurer, or controlled individual of an insurance holding company shall provide stop loss, catastrophic, or reinsurance coverage to small employers who employ fewer than 26 eligible employees that does not comply with the underwriting, rating, and other applicable standards in this Act. An insurer shall not issue a stop loss health insurance policy to any person, firm, corporation, partnership, or association defined as a small employer that does any of the following:

a. Provides direct coverage of health expenses payable to an individual.
b. Has an annual attachment point for claims incurred per individual that is lower than twenty thousand dollars ($20,000) for plan years beginning in 2013. For subsequent policy years, the amount shall be indexed using the Consumer Price Index for Medical Services for All Urban Consumers for the South Region and shall be rounded to the nearest whole thousand dollars. The index factor shall be the index as of July of the year preceding the change divided by the index as of July 2012.
c. Has an annual aggregate attachment point lower than the greater of one of the following:
    1. One hundred twenty percent (120%) of expected claims.
    2. Twenty thousand dollars ($20,000) for plan years beginning in 2013. For subsequent policy years, the amount shall be indexed using the Consumer Price Index for Medical Services for All Urban Consumers for the South Region and shall be rounded to the nearest whole thousand dollars. The index

factor shall be the index as of July of the year preceding the change divided by the index as of July 2012.

Nothing in this subsection prohibits an insurer from providing additional incentives to small employers with benefits promoting a medical home or benefits that provide health care screenings, are focused on outcomes and key performance indicators, or are reimbursed on an outcomes basis rather than a fee-for-service basis.

…."

SECTION 4.(a) G.S. 58-50-110(22a) is repealed.

SECTION 4.(b) G.S. 58-50-110 reads as rewritten:

"§ **58-50-110. Definitions.**

As used in this Act:

…

(22b) "Small employer" means, in connection with a nongrandfathered group health plan with respect to a calendar year and a plan year, an employer who employed an average of at least one but not more than 100 employees on business days during the preceding calendar year and who employs at least one employee on the first day of the plan year. The number of employees shall be determined using the method set forth in section 4980H(c)(2) of the Internal Revenue Code.

…."

SECTION 5. The Department of Insurance shall adopt rules to implement this act. The Department of Insurance shall adopt rules providing for the oversight, monitoring of, and reporting by insurers and third-party administrators who administer health benefit plans with stop loss coverage pursuant to this act. The Department of Insurance shall make the amount of the attachment points in Section 3 of this act available to the public annually.

SECTION 6. Section 1 of this act is effective when it becomes law. Except as otherwise provided in that section, Section 2 of this Act becomes effective January 1, 2014, and applies to all insurance contracts and policies issued, renewed, or amended on or after that date. Section 3 of this act becomes effective October 1, 2013, and applies to all stop loss insurance contracts and policies issued, renewed, or amended on or after that date. Section 4 of this act becomes effective January 1, 2016. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 15th day of July, 2013.

Became law upon approval of the Governor at 4:54 p.m. on the 25th day of July, 2013.

Session Law 2013-358 **S.B. 380**

AN ACT TO CREATE THE CHARLOTTE DOUGLAS INTERNATIONAL AIRPORT COMMISSION UNDER THE CITY OF CHARLOTTE.

The General Assembly of North Carolina enacts:

SECTION 1. This act shall be known and may be cited as the "Charlotte Douglas International Airport Commission Act."

SECTION 2. S.L. 2013-272 is repealed.

SECTION 3. Chapter 5 of the Charter of the City of Charlotte, being S.L. 2000-26, is amended by adding a new Article to read:

"ARTICLE III. CHARLOTTE DOUGLAS INTERNATIONAL AIRPORT COMMISSION.

"Section 5.51. **Charlotte Douglas International Airport Commission.**

There is created the Charlotte Douglas International Airport Commission, which shall be an agency of the City, having the powers, authority, and jurisdiction set out in this Article and such other and additional powers and authority as shall be conferred upon it by future acts of the General Assembly.

"Section 5.52. **Definitions.**

Unless the context requires otherwise, the following definitions apply throughout this Article to the defined words and phrases and their cognates:

(1) "Airport" means Charlotte Douglas International Airport in Mecklenburg County.

(2) "Airport Facilities" means airport facilities of all kinds, including, but not limited to, landing fields, hangars, fixed-base operations, shops, restaurants and catering facilities, terminals, buildings, automobile parking facilities, and all other facilities necessary, beneficial, and/or helpful for the landing, taking off, operating, servicing, repairing, and parking of aircraft, the loading, unloading, and handling of cargo and mail, express and freight, and the accommodation, convenience, and comfort of crews and passengers, together with related transportation facilities, all necessary, beneficial, and/or helpful appurtenances, machinery, and equipment, and all lands, properties, rights, easements, and franchises relating thereto and considered necessary, beneficial, and/or helpful by the Commission in connection therewith.

(3) "Airport Property" means all the real property and improvements thereto designated as airport property on the Airport Layout Plan or Airport Development Plan of the Airport conditionally approved by the FAA on February 13, 2013.

(4) "Appointing Authorities" means the entities described in Section 5.24 of this Charter who are empowered to appoint members of the Commission and referred to collectively as "Appointing Authorities" and individually as "Appointing Authority."

(5) "Commission" means the Charlotte Douglas International Airport Commission created by this Article or, if such Commission is abolished or otherwise ceases to exist, the authority, board, body, commission, or other entity succeeding to the principal functions thereof.

(6) "FAA" means the Federal Aviation Administration or any successor agency.

(7) "Member" means an individual who is appointed to the Commission, as provided by this Article.

(8) "Servants" means accountants, auditors, agents, contractors, design professionals, attorneys, and other persons and entities whose services may from time to time be deemed by the Commission to be necessary, beneficial, or helpful.

"Section 5.53. **Membership; Terms.**

(a) The Commission shall consist of 13 members appointed as follows:

(1) Three registered voters of the City of Charlotte appointed by the Mayor, at least one of whom shall be a resident of the west side of the City of Charlotte.

(2) Four registered voters of the City of Charlotte appointed by the Council, at least one of whom shall be a resident of the west side of the City of Charlotte.

(3) One registered voter of Mecklenburg County appointed by the Mecklenburg County Board of Commissioners.

(4) One registered voter of Cabarrus County appointed by the Cabarrus County Board of Commissioners.

(5) One registered voter of Gaston County appointed by the Gaston County Board of Commissioners.

(6) One registered voter of Iredell County appointed by the Iredell County Board of Commissioners.

(7) One registered voter of Lincoln County appointed by the Lincoln County Board of Commissioners.

(8) One registered voter of Union County appointed by the Union County Board of Commissioners.

(b) In order to effectuate a seamless start-up of the Commission, and to give the Appointing Authorities time to consider candidates for and to appoint members as provided herein, the initial members of the Commission from the time this act becomes law shall be the members of the Airport Advisory Committee of the City of Charlotte who shall serve only until seven members shall have been appointed by the Appointing Authorities and qualified by taking their oath of office. The powers of the Airport Advisory Committee serving as initial members shall be limited to ministerial acts, and no employment or management contracts shall be awarded or entered into by the initial members, and any such contracts as the initial members shall award or enter into shall not be effective or binding on the members selected by the Appointing Authorities; provided, however, the initial members may take such actions as are appropriate in accordance with Sections 5.59(c)(5) and 5.62 of this Charter. The Appointing Authorities shall appoint initial members no later than October 1, 2013. Members, when practical, shall have experience in aviation, logistics, construction and/or facilities management, law, accounting, and/or finance.

(c) No person may be appointed as a member or serve during continuance in office on the Commission who:

(1) Is employed by a servant of the Commission as defined in Section 5.52 of this Charter;

(2) Is a tenant or employee of a tenant of an airport owned, operated, or controlled by the Commission, or other commercial user or employee of a commercial user of any airport operated by the Commission; or

(3) Has been convicted of a felony or a crime of moral turpitude.

(d) Members shall serve four-year terms and may serve up to a total of two successive four-year terms. A member who has reached this limit may not be reappointed to the Commission except after a lapse of four years following the most recent term served. In the event a member is appointed to fill an unexpired term, and at least two years of the unexpired term remain to be served, such appointment shall be counted in applying the two-term limit; otherwise, it shall not be counted. In order to ensure that the terms of all members of the Commission do not expire at the same time, the initial terms of the members of the Commission, appointed by the Counties of Cabarrus, Gaston, Iredell, Lincoln, Mecklenburg, and Union, shall be for two years. All initial four-year terms expire December 31, 2017, and all initial two-year terms expire December 31, 2015.

(e) Any vacancy occurring among the membership of the Commission shall be filled within 60 days after notice thereof by the appointment of a successor by the Appointing Authority of the previous member. Such successor member shall serve for the remainder of the unexpired term.

(f) Members and their successors shall take and subscribe to an oath of office before an officer authorized to administer oaths, which oath shall be filed with the Commission.

(g) Any member may be suspended or removed from office by that member's Appointing Authority or a majority vote of the other members for cause affecting that member's duties and responsibilities as a member; for misfeasance, malfeasance, or nonfeasance in office; or for conduct tending to undermine any decisions of the Commission, or for conduct exposing the Commission to liability for damages.

(h) Except for malfeasance, members shall not be personally liable, in any manner, for their acts or omissions as members.

(i) Each member may continue to serve until a successor has been duly appointed and qualified, but not for more than 60 days beyond the end of the term.

"Section 5.54. **Meetings; Reimbursement; Procedures.**

(a) The organization and business of the Commission shall be conducted as provided in this Article.

(b) Members shall constitute the governing board of the Commission and may, among other things and from time to time, adopt suitable bylaws not inconsistent with the provisions of this act.

(c) Each member, including the chair, shall have one vote. A majority of the members in office shall constitute a quorum, and, unless otherwise provided in this act, all actions of the Commission shall be determined by a majority vote of the members present and voting in a duly called meeting at which a quorum is present.

(d) The Commission shall hold meetings at least monthly at such times and places as it from time to time may designate and at such other times on the call of the chair or by six members of the Commission; provided, a monthly meeting need not be held if it is determined by the chair or seven members that such meeting is not required.

(e) Members may receive payment or reimbursement for travel, lodging, and meal expenses incurred in transacting business on behalf of the Commission. Members may also receive free parking at any airport owned, leased, subleased, or controlled by the Commission, which members may use for official purposes during the respective member's term of office.

(f) All meetings and closed sessions of the Commission shall be conducted in accordance with Article 33C of Chapter 143 of the General Statutes as it may be amended or in accordance with any successor statute.

"Section 5.55. **Officers and Funds.**

(a) The members of the Commission shall elect annually from their membership a chair, vice-chair, and shall elect a secretary and such other officers as they deem appropriate and otherwise provide for the efficient administration of the Commission's affairs; provided, however, the Commission may provide by resolution that the finance officer of the City shall by virtue of that office be also the finance officer of the Commission, and in such case shall serve as such finance officer without additional compensation. All funds of the Commission shall be kept by its treasurer in a separate bank account or accounts from other funds of the City and shall be paid out only in accordance with procedures established by such Commission. Quarterly operating statements of the Commission and an annual audited statement shall be presented to the Council. The Commission shall be deemed a "special district," as defined in G.S. 159-7, for purposes of the Local Government Budget and Fiscal Control Act and shall budget and administer its fiscal affairs according to the provisions of that act applicable to special districts.

(b) The fiscal year of the Commission shall begin on July 1 and end on June 30. On or before May 15 of each year, the Commission shall prepare and adopt a proposed budget for the next ensuing fiscal year and deliver copies of such proposed budget to the Cabarrus, Gaston, Iredell, Lincoln, Mecklenburg, and Union County Boards of Commissioners and the Charlotte City Council. In order to effectuate a seamless start-up of operation of the airport by the Commission, the initial budget of the Commission shall be the budget established by the Council for the Airport for the period July 1, 2013, through June 30, 2014, until the initial budget shall be revised by the Commission. The financial affairs of the Commission shall be governed by the Local Government Finance Act. The Commission shall have full control of the budget of the Airport.

"Section 5.56. **Powers and Duties.**

(a) The Commission shall operate the airport in a proper, efficient, economical, and business-like manner, to the end that it may effectively serve the public needs for which it was established at the least cost and expense to the City. To that end, the Commission shall have the power and authority to do the following:

(1) Adopt and from time to time revise an official seal.

(2) Maintain an office or offices at such place or places as it may designate within Mecklenburg County only.

(3) Exercise on behalf of the City within Mecklenburg County all the powers that the City has concerning airports under Chapter 63 of the General Statutes and any other provision of general law, this charter, or other provision of local act applicable to the City, except as limited by this Article.

(4) Operate the airport.

(5) Purchase, acquire, develop, establish, construct, own, control, lease, equip, improve, administer, maintain, operate, and/or regulate airports and/or landing fields for the use of airplanes and other aircraft and all facilities incidental thereto, within the limits of Mecklenburg County; and for any of such purposes, purchase, acquire, own, develop, hold, lease, sublease, and operate real and/or personal property comprising such airports.

(6) Purchase real and personal property.

(7) Sue and be sued in the name of the Commission.

(8) In addition to the powers granted by subdivisions (4) and (5) of this subsection, (i) upon the consent of the governing bodies of such airports, to acquire by purchase or otherwise and to hold lands for the purpose of constructing, maintaining, and/or operating existing airports in Cabarrus, Gaston, Iredell, Lincoln, and Union Counties and (ii) upon the consent and agreement of the Boards of County Commissioners of Cabarrus, Gaston, Iredell, Lincoln, and Union Counties, to acquire land and construct, make improvement, extension, enlargement, or equipping of future airport facilities in such counties.

(9) Charge and collect fees, royalties, rents, and/or other charges, including fuel flowage fees, for the use and/or occupancy by persons of the airports and other property owned, leased, subleased, or controlled by the Commission or for services rendered in the operation thereof.

(10) Make all reasonable rules and regulations and policies as it may from time to time deem to be necessary, beneficial, or helpful for the proper maintenance, use, occupancy, operation, and/or control of any airport or airport facility owned, leased, subleased, or controlled by the Commission and provide and enforce civil and criminal penalties for the violation of such rules, regulations, and/or policies; provided that such rules, regulations, policies, and penalties are not in conflict with any applicable law, rules, or regulation of the State of North Carolina, the United States, or any agency, department, or subdivision of either of them, including the rules and regulations of the FAA or the Transportation Security Administration.

(11) With the approval of the City, sell, exchange, lease, sublease, or otherwise dispose of any property, real or personal, belonging to the Commission and not needed by the Commission to operate any airport owned or operated by it or to generate revenues to pay debt obligations of the Commission, or grant easements over, through, under, or across any real property belonging to the Commission, or donate to another governmental entity within North Carolina or to the United States any surplus, obsolete, or unused personal property; provided Article 12 of Chapter 160A of the General Statutes does not apply and is not applicable to any such sale, exchange, lease, sublease, grant, donation, or other disposition.

(12) Purchase such insurance and insurance coverages as the Commission may from time to time deem to be necessary, beneficial, or helpful.

(13) Deposit, invest, and/or reinvest any of its funds as provided by the Local Government Finance Act for the deposit or investment of unit funds.

(14) Operate, own, lease, sublease, control, regulate, and/or grant to others the right to operate on any airport premises owned, operated, or controlled by the Commission, general aviation terminal and fixed-base operations,

aircraft deicing equipment and systems, restaurants, snack bars and vending machines, food and beverage dispensing outlets, rental car services, catering services, novelty shops, insurance sales, advertising media, merchandise outlets, motels, hotels, barber shops, automobile parking and storage facilities, automobile service stations, garage service facilities, motion picture shows, personal service establishments, and/or all other types of facilities, activities, and enterprises as may be directly or indirectly related to the maintenance and/or furnishing of public commercial service and/or general aviation airport facilities.

(15) Accept grants of money and/or materials or property of any kind for any existing or future airport facilities from the State of North Carolina, the United States, or any agency, department, or subdivision of either of them, including the FAA or from any private agency, entity, or individual, upon such terms and conditions as may be imposed, and enter into contracts and grant agreements with the FAA and/or with the State of North Carolina or any of its agencies, departments, or subdivisions, in the capacity of sponsor or cosponsor of any airport development project involving the acquisition, construction, development, reconstruction, improvement, extension, enlargement, or equipping of any existing or future airport facilities.

(16) Employ and fix the compensation of an Executive Director, who shall serve at the pleasure of the Commission or pursuant to the terms of an employment contract awarded by the Commission and who shall manage the affairs of the Commission under the supervision of the Commission.

(17) Employ, or provide for the employment of such employees by the Executive Director, including law enforcement officers, as the Commission may from time to time deem to be necessary, beneficial, or helpful.

(18) Employ, hire, retain, or contract with such servants whose services may from time to time be deemed by the Commission to be necessary, beneficial, or helpful. In order to effectuate a seamless transfer of the Airport from the ownership and operation by the City of Charlotte to the ownership and operation by the Commission, the Commission will honor and be bound by all existing contracts between the City and such servants as presently are engaged to assist the City with respect to the Airport.

(b) As provided by general law, it shall be the responsibility of the City as governed by its Council for all issuance of revenue bonds and/or refunding revenue bonds pursuant to the State and Local Government Revenue Bond Act, Article 5 of Chapter 159 of the General Statutes, all issuance of general obligation debt pursuant to the Local Government Bond Act, Article 4 of Chapter 159 of the General Statutes, and all purchase of any of its outstanding bonds or notes. The Commission shall keep the City Manager and Council promptly appraised of any future need for such actions.

"Section 5.57. **Eminent Domain.**

The Commission may not exercise any powers of eminent domain. Any eminent domain with respect to acquisition of property for airport purposes shall be exercised by the City.

"Section 5.58. **Exemptions; Taxes.**

The Commission has the same exemptions with respect to payment of taxes and license fees as provided for the City by the laws of this State. The Commission is not authorized to levy any tax.

"Section 5.59. **Funds and Property.**

(a) The Commission shall have control, on behalf of the City, of the Airport Property, Airport Facilities, and all other property held or owned by the City of Charlotte with respect to the Airport, real or personal, tangible or intangible, and includes all cash and cash equivalents and checking, investment, and demand deposit bank accounts held by the City pertaining to or generated from revenues of the Airport, including, without limiting the generality hereof,

amounts on deposit in or with respect to the Discretionary Fund, the Cannon Fund, the Revenue Fund, the Operating Fund, the Bond Funds, the Debt Service Funds, the Construction Funds, the Capital Projects Funds, Passenger Facility Charges, Contract Facility Charges, and all other funds and accounts of the City with respect to the Airport. This Article does not impair the City's obligations to servants and employees of the Commission and bondholders of the City's General Airport Revenue Bonds, and including, without limiting the generality hereof, the obligations under the Revenue Bond Order adopted November 18, 1985, and all Series Resolutions issued under the Bond Order, the Special Facility Bond Order adopted May 11, 1987, and all Series Resolutions adopted under the Special Facility Bond Order, and the Taxable Special Facility Revenue Bonds (Consolidated Car Rental Facilities Project) Series 2011 General Trust Indenture and the Series Indenture, Number 1, both dated November 1, 2011, and all agreements and understandings with respect to trustee(s) or paying agent(s) of the City's airport revenue bonds, letters of credit, or other credit facilities of the City with respect to airport revenue bonds, and all leases, licenses, options to purchase, and other encumbrances on the Airport Property and Airport Facilities, whether or not those encumbrances are recorded. Any such payments shall be made by the City through the Commission under the terms of such contracts first with funds under the jurisdiction of the Commission. This act does not affect the title of any property. If the property was titled to the City of Charlotte prior to enactment of this Article, that title remains with the City.

(b) The Commission acts on behalf of the City with respect to all rights, duties, and obligations of the City in any commercial or development agreements pertaining to or related to the Airport Property and Airport Facilities that are in effect at the time of the transfer, and any commercial agreements, development agreements, and other contracts of the City pertaining to or related to the Airport Property and Airport Facilities that are in effect on enactment of this Article remain in effect.

(c) The Commission, on behalf of the City, shall:

(1) Honor and be bound by all pending or executory land or real property purchase contracts by the City with respect to property and lands to be acquired for and in connection with the Airport.

(2) Honor and be bound by all existing rules and regulations of the Aviation Department of the City of Charlotte with respect to the Airport, including the Airport Security Plan, until such rules and regulations shall be amended by the Commission in accordance with the provisions of this Article.

(3) Honor and be bound by all existing contracts of the City with third-party concessionaires and management contractors with respect to the Airport.

(4) Honor and be bound by all existing contracts and grant agreements of the City with respect to the Airport.

(5) Be deemed as a matter of law to have appointed as its initial Executive Director the Aviation Director of the City of Charlotte as of February 14, 2013, with initial compensation and benefits of the initial Executive Director being the same compensation and benefits as were being received from the City of Charlotte on February 14, 2013, and the initial Executive Director shall be entitled as a matter of law to the continuation of the rights and benefits extended to him or her under the existing retirement system of the City.

(6) Be deemed as a matter of law to have adopted initially the employment and human resources policies of the Commission, such policies of the City as they applied to employees of the Airport on the effective date of this Article, and the Commission shall be deemed to have adopted the current employee handbook of the City applicable to the Airport until the Commission adopts different policies or a different employee handbook.

"Section 5.60. **Assistance by City.**

Upon the request of the Executive Director of the Commission, the City shall continue to provide such services to the Commission as it currently provides to the Airport Department and shall receive as compensation therefor from the Commission such amount as is appropriate for such services as provided by OMB Circular A-87 until the Commission shall direct the City to terminate such services.

"Section 5.61. **Employees.**

(a) The employees assigned to the City's Aviation Department or under the direction of the Aviation Director as of the date of enactment of this Article are administratively assigned to the Commission and shall be employed in accordance with this Article as provided by Section 5.56 of this Charter and compensated by the Commission (the "Airport Employees").

(b) Following the time this bill becomes law, the Airport Employees shall continue to receive, until provided otherwise by the Commission through the adoption of new personnel policies as provided by this Article, all employment benefits currently available to the Airport Employees, including, but not limited to, health care benefits, retirement benefits, disability insurance, life insurance, and accrued time off or leave, and the Commission shall promptly reimburse the City the costs of providing such benefits.

"Section 5.61A. **Annual Reports.**

The Commission shall make annual reports to the Cabarrus, Gaston, Iredell, Lincoln, Mecklenburg, and Union County Boards of Commissioners and the Council setting forth a summary of its general operations and transactions conducted by it pursuant to this Article.

"Section 5.62. **Statutory Construction.**

The powers of the Commission created by this Article shall be construed liberally in favor of the Commission. No listing of powers included in this Article is intended to be exclusive or restrictive, and the specific mention of, or failure to mention, particular powers in this act shall not be construed as limiting in any way the general powers of the Commission as stated in Section 5.56 of this Charter. It is the intent of this Article to grant the Commission full power and right to exercise all authority necessary for the effective operation and conduct of the Commission. It is further intended that the Commission should have all implied powers necessary or incidental to carrying out the expressed powers and the expressed purposes for which the Commission is created. The fact that this Article specifically states that the Commission possesses a certain power does not mean that the Commission must exercise such power unless this Article specifically so requires.

"Section 5.63. **Initial Guidance.**

In its initial decisions, the Commission shall consider the consultant recommendations made to the City in 2013 concerning governance of the Airport."

SECTION 4.(a) There is created as an agency of the City of Charlotte the Charlotte Douglas International Airport Oversight Committee (Committee), which shall consist of five members appointed as follows:

(1) One by the Governor.
(2) One by the President Pro Tempore of the Senate.
(3) One by the Speaker of the House of Representatives.
(4) One by the Mayor of the City of Charlotte.
(5) One by the City Council of the City of Charlotte.

SECTION 4.(b) The Committee shall monitor the actions of the Charlotte Douglas International Airport Commission (Commission) established by this act and make regular reports and recommendations, if needed (including, but not limited to, an interim report in June of 2014 and a final report in June of 2015) to the Mayor and City Council on the following points:

(1) Whether the Charlotte Douglas International Airport (Airport) continues to be one of the best performing and lowest cost major hub airports.
(2) Whether that Airport finances are completely separate from those of the State or of any local government.

(3) Whether the Airport contracts and pays for only the services it needs and uses, including services from the State or from any local government.

(4) Whether the Airport continues to have a compensation system that enables it to attract and retain top talent.

(5) Whether the operations of the Commission comply with the provisions of this act.

SECTION 4.(c) The initial meeting of the Committee shall be called by the mayoral appointee or by any three members. A quorum is three members. The Committee may adopt other rules of procedure that do not conflict with State law.

SECTION 4.(d) This section expires and the Committee terminates July 1, 2015.

SECTION 5. If any provision of this act or its application is held invalid, the invalidity does not affect other provisions or applications of this act that can be given effect without the invalid provisions or application, and to this end the provisions of this act are severable.

SECTION 6. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 26th day of July, 2013.

Became law on the date it was ratified.

Session Law 2013-359 **H.B. 250**

AN ACT TO PROVIDE FOR ENROLLMENT PRIORITY AND PROCEDURES FOR CERTAIN STUDENTS APPLYING TO CHARTER SCHOOLS AND TO MAKE CHANGES AS TO WHAT QUALIFIES AS A MATERIAL REVISION TO A CHARTER APPLICATION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 115C-238.29F(g) reads as rewritten:

"(g) Admission Requirements. –

(1) Any child who is qualified under the laws of this State for admission to a public school is qualified for admission to a charter school.

(2) No local board of education shall require any student enrolled in the local school administrative unit to attend a charter school.

(3) Admission to a charter school shall not be determined according to the school attendance area in which a student resides, except that any local school administrative unit in which a public school converts to a charter school shall give admission preference to students who reside within the former attendance area of that school.

(4) Admission to a charter school shall not be determined according to the local school administrative unit in which a student resides.

(5) A charter school shall not discriminate against any student on the basis of ethnicity, national origin, gender, or disability. Except as otherwise provided by law or the mission of the school as set out in the charter, the school shall not limit admission to students on the basis of intellectual ability, measures of achievement or aptitude, athletic ability, disability, race, creed, gender, national origin, religion, or ancestry. Within one year after the charter school begins operation, the charter school shall make efforts for the population of the school to reasonably reflect the racial and ethnic composition of the general population residing within the local school administrative unit in which the school is located or the racial and ethnic composition of the special population that the school seeks to serve residing within the local school administrative unit in which the school is located. The school shall be subject to any court-ordered desegregation plan in effect for the local school administrative unit.

(5a) The charter school may give enrollment priority to any of the following:

a. ~~siblings~~Siblings of currently enrolled students who were admitted to the charter school in a previous ~~year and~~ year. For the purposes of this subsection, the term "siblings" includes any of the following who reside in the same household: half siblings, stepsiblings, and children residing in a family foster home.

b. Siblings of students who have completed the highest grade level offered by that school and who were enrolled in at least four grade levels offered by the charter school or, if less than four grades are offered, in the maximum number of grades offered by the charter school.

c. ~~to children~~Limited to no more than fifteen percent (15%) of the school's total enrollment, unless granted a waiver by the State Board of Education, the following:

1. Children of the school's ~~principal, teachers, and teacher assistants.~~full-time employees.

2. ~~In addition, and only for~~ For its first year of operation, ~~the charter school may give enrollment priority to~~ children of the initial members of the charter school's board of directors.~~directors, so long as (i) these children are limited to no more than ten percent (10%) of the school's total enrollment or to 20 students, whichever is less, and (ii) the charter school is not a former public or private school.~~

d. A student who was enrolled in the charter school within the two previous school years but left the school (i) to participate in an academic study abroad program or a competitive admission residential program or (ii) because of the vocational opportunities of the student's parent.

(5b) Lottery procedures for siblings.

a. If ~~multiple birth~~ siblings apply for admission to a charter school and a lottery is needed under G.S. 115C-238.29F(g)(6), the charter school ~~shall~~ may enter one surname into the lottery to represent all of the ~~multiple birth siblings.~~siblings applying at the same time. If that surname of the ~~multiple birth~~ siblings is selected, then all of the ~~multiple birth~~ siblings shall be ~~admitted.~~admitted to the extent that space is available and does not exceed the grade level capacity.

b. If multiple birth siblings apply for admission to a charter school and a lottery is needed under G.S. 115C-238.29F(g)(6), the charter school shall enter one surname into the lottery to represent all of the multiple birth siblings applying at the same time. If that surname of the multiple birth siblings is selected, then all of the multiple birth siblings shall be admitted.

~~Within one year after the charter school begins operation, the population of the school shall reasonably reflect the racial and ethnic composition of the general population residing within the local school administrative unit in which the school is located or the racial and ethnic composition of the special population that the school seeks to serve residing within the local school administrative unit in which the school is located. The school shall be subject to any court-ordered desegregation plan in effect for the local school administrative unit.~~

(6) During each period of enrollment, the charter school shall enroll an eligible student who submits a timely application, unless the number of applications exceeds the capacity of a program, class, grade level, or building. In this

case, students shall be accepted by lot. Once enrolled, students are not required to reapply in subsequent enrollment periods.

(7) Notwithstanding any law to the contrary, a charter school may refuse admission to any student who has been expelled or suspended from a public school under G.S. 115C-390.5 through G.S. 115C-390.11 until the period of suspension or expulsion has expired."

SECTION 2. G.S. 115C-238.29D reads as rewritten:

"§ **115C-238.29D. Final approval of applications for charter schools.**

(a) The State Board may grant final approval of an application if it finds that the application meets the requirements set out in this Part or adopted by the State Board of Education and that granting the application would achieve one or more of the purposes set out in G.S. 115C-238.29A. The State Board shall act by March 15 of a calendar year on all applications and appeals it receives prior to February 15 of that calendar year.

(b) Repealed by Session Laws 2011-164, s. 2(a), effective July 1, 2011.

(c) The State Board of Education may authorize a school before the applicant has secured its space, equipment, facilities, and personnel if the applicant indicates the authority is necessary for it to raise working capital. The State Board shall not allocate any funds to the school until the school has obtained space.

(d) The State Board of Education may grant the initial charter for a period not to exceed 10 years and may renew the charter upon the request of the chartering entity for subsequent periods not to exceed 10 years each. The State Board of Education shall review the operations of each charter school at least once every five years to ensure that the school is meeting the expected academic, financial, and governance standards.

(e) A material revision of the provisions of a charter application shall be made only upon the approval of the State Board of Education.

~~It shall not be considered a material revision of a charter application and shall not require the prior approval of the State Board for a charter school to increase its enrollment during the charter school's second year of operation and annually thereafter (i) by up to twenty percent (20%) of the school's previous year's enrollment or (ii) in accordance with planned growth as authorized in the charter. Other~~ Except as provided in subsection (f) of this section, enrollment growth shall be considered a material revision of the charter application, and the State Board may approve such additional enrollment growth of greater than twenty percent (20%) only if the State Board finds ~~that:~~all of the following:

(1) The actual enrollment of the charter school is within ten percent (10%) of its maximum authorized ~~enrollment;~~enrollment.

(2) The charter school has commitments for ninety percent (90%) of the requested maximum ~~growth;~~growth.

(3) The board of education of the local school administrative unit in which the charter school is located has had an opportunity to be heard by the State Board of Education on any adverse impact the proposed growth would have on the unit's ability to provide a sound basic education to its ~~students;~~students.

(4) The charter school is not currently identified as ~~low-performing;~~low-performing.

(5) The charter school meets generally accepted standards of fiscal ~~management; and~~management.

(6) It is otherwise appropriate to approve the enrollment growth.

(f) It shall not be considered a material revision of a charter application and shall not require prior approval of the State Board for a charter school to do any of the following:

(1) Increase its enrollment during the charter school's second year of operation and annually thereafter by up to twenty percent (20%) of the school's previous year's enrollment.

(2) Increase its enrollment during the charter school's second year of operation and annually thereafter in accordance with planned growth as authorized in its charter.

(3) Expand to offer one grade higher than the charter school currently offers if the charter school has operated for at least three years and has not been identified as having inadequate performance as provided in G.S. 115C-238.29G(a1)."

SECTION 3. This act is effective when it becomes law and applies beginning with the 2013-2014 school year.

In the General Assembly read three times and ratified this the 17th day of July, 2013.

Became law upon approval of the Governor at 9:06 a.m. on the 26th day of July, 2013.

Session Law 2013-360 **S.B. 402**

AN ACT TO MAKE BASE BUDGET APPROPRIATIONS FOR CURRENT OPERATIONS OF STATE DEPARTMENTS, INSTITUTIONS, AND AGENCIES, AND FOR OTHER PURPOSES.

The General Assembly of North Carolina enacts:

PART I. INTRODUCTION AND TITLE OF ACT

TITLE

SECTION 1.1. This act shall be known as the "Current Operations and Capital Improvements Appropriations Act of 2013."

INTRODUCTION

SECTION 1.2. The appropriations made in this act are for maximum amounts necessary to provide the services and accomplish the purposes described in the budget. Savings shall be effected where the total amounts appropriated are not required to perform these services and accomplish these purposes and, except as allowed by the State Budget Act or this act, the savings shall revert to the appropriate fund at the end of each fiscal year.

PART II. CURRENT OPERATIONS AND EXPANSION GENERAL FUND

CURRENT OPERATIONS AND EXPANSION/GENERAL FUND

SECTION 2.1. Appropriations from the General Fund of the State for the maintenance of the State departments, institutions, and agencies, and for other purposes as enumerated, are made for the fiscal biennium ending June 30, 2015, according to the following schedule:

Current Operations – General Fund	**2013-2014**	**2014-2015**
EDUCATION		
Community Colleges System Office	1,021,295,467	1,016,487,467
Department of Public Instruction	7,867,960,649	8,048,101,622
University of North Carolina – Board of Governors		
Appalachian State University	127,908,903	127,908,903
East Carolina University		
Academic Affairs	220,012,450	220,615,626

Health Affairs	64,841,247	64,841,247
Elizabeth City State University	35,363,212	35,385,057
Fayetteville State University	49,336,186	49,336,186
North Carolina Agricultural and Technical State University	96,882,428	96,882,428
North Carolina Central University	84,084,488	84,084,488
North Carolina State University		
Academic Affairs	389,976,973	390,045,059
Agricultural Extension	39,859,682	39,859,682
Agricultural Research	54,911,053	54,911,053
University of North Carolina at Asheville	37,465,299	37,465,299
University of North Carolina at Chapel Hill		
Academic Affairs	274,632,544	274,515,010
Health Affairs	187,260,403	190,741,444
Area Health Education Centers	42,418,348	42,418,348
University of North Carolina at Charlotte	192,697,970	192,683,456
University of North Carolina at Greensboro	153,838,192	153,783,960
University of North Carolina at Pembroke	54,175,566	54,175,566
University of North Carolina School of the Arts	31,547,460	29,146,203
University of North Carolina at Wilmington	96,484,692	96,484,692
Western Carolina University	83,140,199	83,161,081
Winston-Salem State University	68,957,656	68,980,084
General Administration	34,752,475	34,752,475
University Institutional Programs	(32,137,074)	(52,671,909)
Related Educational Programs	82,160,148	117,918,501
North Carolina School of Science and Mathematics	19,126,182	19,126,182
Aid to Private Colleges	93,351,588	93,351,588
Total University of North Carolina – Board of Governors	2,583,048,270	2,599,901,709
HEALTH AND HUMAN SERVICES		
Department of Health and Human Services		
Central Management and Support	73,786,129	76,301,328
Division of Aging and Adult Services	54,142,341	54,342,341
Division of Blind Services/Deaf/Hard of Hearing	8,178,618	8,178,618
Division of Child Development and Early Education	254,314,609	254,314,609
Health Service Regulation	16,396,057	16,411,479
Division of Medical Assistance	3,461,950,119	3,608,119,091
Division of Mental Health	699,535,602	704,985,988
NC Health Choice	67,949,160	57,747,933
Division of Public Health	144,154,087	141,941,587
Division of Social Services	174,608,432	176,558,432
Division of Vocation Rehabilitation	38,773,169	38,773,169
Total Health and Human Services	4,993,788,323	5,137,674,575
NATURAL AND ECONOMIC RESOURCES		
Department of Agriculture and Consumer Services	115,085,702	115,409,902
Department of Commerce		
Commerce	51,228,804	56,733,282

Commerce State-Aid	21,723,226	15,624,767
Wildlife Resources Commission	12,476,588	14,476,588
Department of Environment and Natural Resources	154,037,311	157,767,236
Department of Labor	16,696,339	16,696,339
JUSTICE AND PUBLIC SAFETY		
Department of Public Safety	1,716,893,395	1,690,014,006
Judicial Department	456,926,252	456,426,252
Judicial Department – Indigent Defense	115,129,423	111,357,264
Department of Justice	79,726,123	82,308,926
GENERAL GOVERNMENT		
Department of Administration	67,567,025	67,047,033
Office of Administrative Hearings	5,241,643	5,027,130
Department of State Auditor	11,217,468	11,217,468
Office of State Controller	28,710,691	28,710,691
Department of Cultural Resources		
Cultural Resources	63,670,145	63,008,100
Roanoke Island Commission	450,000	450,000
State Board of Elections	5,302,373	5,693,244
General Assembly	52,087,986	51,634,767
Office of the Governor		
Office of the Governor	5,170,050	5,172,132
Office of State Budget and Management	7,451,706	7,534,217
OSBM – Reserve for Special Appropriations	4,912,000	1,520,000
Housing Finance Agency	8,411,632	8,411,632
Department of Insurance		
Insurance	37,994,004	38,003,624
Insurance – Volunteer Safety Workers' Compensation Fund	0	0
Office of Lieutenant Governor	681,089	675,089
Department of Revenue	80,998,918	80,896,458
Department of Secretary of State	11,575,183	11,575,183

Department of State Treasurer		
State Treasurer	8,137,890	7,026,305
State Treasurer – Retirement for Fire and Rescue Squad Workers	23,179,042	23,179,042
RESERVES, ADJUSTMENTS, AND DEBT SERVICE		
Salary Adjustment Reserve	7,500,000	7,500,000
State Health Plan Contribution	33,500,000	89,000,000
State Retirement System Contributions	36,000,000	36,000,000
Reserve for Future Benefit Needs	0	56,400,000
Judicial Retirement System Contributions	1,000,000	1,000,000
Severance Reserve	16,000,000	0
Statewide Compensation Study	1,000,000	0
Firemen's and Rescue Squad Workers' Pension Fund	(820,000)	(820,000)
Information Technology Fund	9,053,142	10,470,657
Information Technology Reserve Fund	28,000,000	31,582,485
NC Government Efficiency and Reform Project	2,000,000	2,000,000
One North Carolina Fund	9,000,000	9,000,000
Unemployment Insurance (UI) Reserve	23,800,000	13,600,000
Reserve for Escheat Fund Global TransPark Debt Repayment	27,000,000	0
Reserve for Voter ID	1,000,000	1,000,000
Reserve for Pending Legislation	4,000,000	4,500,000
Reserve for Eugenics Program	10,000,000	0
Contingency and Emergency Fund	5,000,000	5,000,000
Job Development Investment Grants (JDIG)	51,823,772	63,045,357
Debt Service		
General Debt Service	707,580,634	723,721,279
Federal Reimbursement	1,616,380	1,616,380
TOTAL CURRENT OPERATIONS – GENERAL FUND	20,602,828,645	20,990,378,208
GENERAL FUND AVAILABILITY STATEMENT		

SECTION 2.2.(a) The General Fund availability used in developing the 2013-2015 biennial budget is shown below.

	FY 2013-2014	**FY 2014-2015**
Unappropriated Balance Remaining from Previous Year	$ 213,432,877	$ 250,510,043
Projected Overcollections FY 2012-2013	458,483,783	0
Overcollections Due to Disputed MSA Payments	71,516,217	0
Projected Reversions FY 2012-2013	225,000,000	0
Net Supplemental Medicaid Appropriations (S.L. 2013-56, as amended by Section 13 of S.L. 2013-184)	(308,100,000)	0
Less Earmarkings of Year End Fund Balance		0
Savings Reserve	(232,537,942)	(37,122,346)
Repairs and Renovations	(150,000,000)	(12,751,137)
Beginning Unreserved Fund Balance	**277,794,935**	**200,636,560**
Revenues Based on Existing Tax Structure	**19,628,100,000**	**20,549,000,000**
Nontax Revenues		
Investment Income	13,700,000	14,100,000
Judicial Fees	250,200,000	251,400,000
Disproportionate Share	110,000,000	109,000,000
Insurance	72,500,000	73,400,000
Other Nontax Revenues	173,000,000	175,000,000
Highway Trust Fund/Use Tax Reimbursement Transfer	0	0
Highway Fund Transfer	218,100,000	215,900,000
Subtotal Non-tax Revenues	**837,500,000**	**838,800,000**
Total General Fund Availability	**$ 20,743,394,935**	**$ 21,588,436,560**
Adjustments to Availability: 2013 Session		
Reserve for Tax Simplification and Reduction Act (HB 998)	(86,600,000)	(437,800,000)
Repeal Certain Real Estate Conveyance Tax Earmarks	37,400,000	37,400,000
Repeal Certain Scrap Tire Disposal Tax Earmarks	3,475,291	3,475,291
Repeal Certain White Goods Management Tax Earmarks	1,217,796	1,217,796
Direct Portion of Solid Waste Disposal Tax to General Fund	2,300,000	2,300,000
Adjust Gross Premiums Tax for Volunteer Safety Workers Worker's Compensation Fund	(3,000,000)	(3,000,000)
Reserve for Repeal of Education Expenses Credit (HB 269)	0	1,500,000
Extend Aviation Fuel Tax Refunds	(3,186,000)	0
Tobacco Master Settlement Agreement (MSA)	137,500,000	137,500,000
MSA Disputed Payments Erroneously Paid to Golden LEAF (S.L. 2011-145)	24,639,357	0
Repeal North Carolina Public Campaign Fund	3,500,000	0
Transfer from NC Flex FICA Fund Balance	6,000,000	0
Transfer from E-Commerce Reserve Fund Balance	5,111,585	6,000,000
Transfer from Misdemeanant Confinement Fund	1,000,000	1,000,000
Transfer from Separate Insurance Benefits Plan for Reimbursement of Premiums Paid for State Law Enforcement Officers	16,510,611	16,510,611
Increase Lobbyist Fees	400,000	400,000
Extend Local Government Hold Harmless	(7,850,000)	0
Certificate of Need for Certain Replacement Equipment	(150,513)	(150,513)
Adjust Transfer from Insurance Regulatory Fund	(560,589)	(560,589)
Adjust Transfer from Treasurer's Office	175,215	175,215

Subtotal Adjustments to Availability: 2013 Session	**137,882,753**	**(234,032,189)**
Revised General Fund Availability	**20,881,277,688**	**21,354,404,371**
Less General Fund Appropriations	**(20,630,767,645)**	**(20,998,801,208)**
Unappropriated Balance Remaining	**$ 250,510,043**	**$ 355,603,163**

SECTION 2.2.(b) In addition to funds transferred pursuant to G.S. 105-164.44D, the sum of two hundred eighteen million one hundred thousand dollars ($218,100,000) for the 2013-2014 fiscal year and the sum of two hundred fifteen million nine hundred thousand dollars ($215,900,000) for the 2014-2015 fiscal year shall be transferred from the Highway Fund to the General Fund.

SECTION 2.2.(c) Notwithstanding the provisions of G.S. 143C-4-3, the State Controller shall transfer a total of one hundred fifty million dollars ($150,000,000) from the unreserved fund balance to the Repairs and Renovations Reserve on June 30, 2013, and a total of twelve million seven hundred fifty-one thousand one hundred thirty-seven dollars ($12,751,137) to the Repairs and Renovations Reserve on June 30, 2014. This subsection becomes effective June 30, 2013. Funds transferred under this section to the Repairs and Renovations Reserve are appropriated for the 2013-2014 and 2014-2015 fiscal years and shall be used in accordance with G.S. 143C-4-3.

SECTION 2.2.(d) Notwithstanding G.S. 143C-4-2, the State Controller shall transfer a total of two hundred thirty-two million five hundred thirty-seven thousand nine hundred forty-two dollars ($232,537,942) from the unreserved fund balance to the Savings Reserve Account on June 30, 2013, and the sum of thirty-seven million one hundred twenty-two thousand three hundred forty-six dollars ($37,122,346) from the unreserved fund balance to the Savings Reserve Account on June 30, 2014. Neither of these transfers is an "appropriation made by law," as that phrase is used in Section 7(1) of Article V of the North Carolina Constitution. This subsection becomes effective June 30, 2013.

SECTION 2.2.(e) Notwithstanding any other provision of law to the contrary, effective July 1, 2013, the following amounts shall be transferred to the State Controller to be deposited in the appropriate budget code as determined by the State Controller. These funds shall be used to support the General Fund appropriations as specified in this act for the 2013-2014 fiscal year and the 2014-2015 fiscal year.

Budget Code	**Fund Code**	**Description**	**FY 2013-2014 Amount**	**FY 2014-2015 Amount**
24100	2514	E-Commerce Fund	$ 5,111,585	$ 6,000,000
24500	2225	Misdemeanant Confinement Fund	1,000,000	1,000,000
24160	2000	NC FICA Account	6,000,000	0
68025	6101	NC Public Campaign Finance Fund	3,500,000	0
73429	7429	Separate Insurance Benefits Plan	$ 16,510,611	$ 16,510,611

PART III. CURRENT OPERATIONS/HIGHWAY FUND

CURRENT OPERATIONS AND EXPANSION/HIGHWAY FUND

SECTION 3.1. Appropriations from the State Highway Fund for the maintenance and operation of the Department of Transportation and for other purposes as enumerated are made for the fiscal biennium ending June 30, 2015, according to the following schedule:

Current Operations – Highway Fund	**2013-2014**	**2014-2015**
Department of Transportation		
Administration	$ 91,066,219	$ 94,975,916

Division of Highways		
Administration	35,139,990	35,139,990
Construction	61,669,922	46,859,878
Maintenance	1,120,543,988	1,022,097,721
Planning and Research	4,055,402	4,055,402
OSHA Program	365,337	365,337
Ferry Operations	40,935,538	39,785,538
State Aid to Municipalities	142,102,740	136,874,010
Intermodal Divisions		
Public Transportation	85,244,235	85,244,235
Aviation	28,744,510	22,244,510
Rail	40,142,294	24,692,294
Bicycle and Pedestrian	751,066	751,066
Governor's Highway Safety	284,932	284,932
Division of Motor Vehicles	118,994,643	119,532,589
Other State Agencies, Reserves, Transfers	260,693,983	263,469,382
Capital Improvements	18,055,500	19,937,700
Total Highway Fund Appropriations	**$ 2,048,790,299**	**$ 1,916,310,500**

HIGHWAY FUND/AVAILABILITY STATEMENT

SECTION 3.2. The Highway Fund availability used in developing the 2013-2015 fiscal biennial budget is shown below:

Highway Fund Availability Statement	**2013-2014**	**2014-2015**
Unreserved Fund Balance	$ 72,214,149	$ 0
Estimated Revenue	1,937,200,000	1,892,400,000
Adjustment to Revenue Availability:		
Adjustment to Emission Inspection Fees	23,600,000	21,600,000
Adjustment to Technology Improvement Account Fees	634,000	634,000
Motor Fuel Tax		
(Shallow Draft Navigation Channel Dredging Fund)	(2,280,350)	(2,193,500)
Motor Fuel Tax (37.5 cents per gallon cap)	(1,837,500)	0
Electric Vehicle Registration Fee	60,000	120,000
North Carolina Railroad Company Dividend Payments	19,200,000	3,750,000
Total Highway Fund Availability	**$ 2,048,790,299**	**$ 1,916,310,500**
Unappropriated Balance	0	0

PART IV. HIGHWAY TRUST FUND APPROPRIATIONS

HIGHWAY TRUST FUND APPROPRIATIONS

SECTION 4.1. Appropriations from the State Highway Trust Fund for the maintenance and operation of the Department of Transportation and for other purposes as enumerated are made for the fiscal biennium ending June 30, 2015, according to the following schedule:

Current Operations – Highway Trust Fund	**2013-2014**	**2014-2015**
Program Administration	$ 45,590,880	$ 45,590,880
Aid to Municipalities	0	0
Intrastate	0	0
Secondary Roads	0	0
Urban Loops	0	0
Mobility Fund	0	0
Turnpike Authority	49,000,000	49,000,000
Transfer to General Fund	0	0
Transfer to Highway Fund	400,000	400,000
Debt Service	79,170,090	60,307,448
Strategic Prioritization Funding Plan for Transportation Investments	930,926,530	950,101,672
Total Highway Trust Fund Appropriations	**$ 1,105,087,500**	**$ 1,105,400,000**

HIGHWAY TRUST FUND AVAILABILITY STATEMENT

SECTION 4.2. The Highway Trust Fund availability used in developing the 2013-2015 fiscal biennial budget is shown below:

Highway Trust Fund Availability	**2013-2014**	**2014-2015**
Unreserved Fund Balance	$ 0	$ 0
Estimated Revenue	1,105,700,000	1,105,400,000
Adjustment to Revenue Availability		
Motor Fuel Tax (37.5 cents per gallon cap)	(612,500)	0
Total Highway Trust Fund Availability	**$ 1,105,087,500**	**$ 1,105,400,000**
Unappropriated Balance	$ 0	$ 0

PART V. OTHER APPROPRIATIONS

APPROPRIATION OF OTHER FUNDS

SECTION 5.1.(a) Expenditures of cash balances, federal funds, departmental receipts, grants, and gifts from the General Fund, Special Revenue Fund, Enterprise Fund, Internal Service Fund, and Trust and Agency Fund are appropriated and authorized for the 2013-2015 fiscal biennium as follows:

(1) For all budget codes listed in "The State of North Carolina Recommended Continuation Budget and Fund Purpose Statements, 2013-2015" and in the Budget Support Document, cash balances and receipts are appropriated up to the amounts specified, as adjusted by the General Assembly, for the 2013-2014 fiscal year and the 2014-2015 fiscal year. Funds may be expended only for the programs, purposes, objects, and line items or as otherwise authorized by the General Assembly. Expansion budget funds listed in those documents are appropriated only as otherwise provided in this act.

(2) Notwithstanding the provisions of subdivision (1) of this subsection:

a. Any receipts that are required to be used to pay debt service requirements for various outstanding bond issues and certificates of participation are appropriated up to the actual amounts received for the 2013-2014 fiscal year and the 2014-2015 fiscal year and shall be used only to pay debt service requirements.

b. Other funds, cash balances, and receipts of funds that meet the definition issued by the Governmental Accounting Standards Board of a trust or agency fund are appropriated for and in the amounts required to meet the legal requirements of the trust agreement for the 2013-2014 fiscal year and the 2014-2015 fiscal year.

SECTION 5.1.(b) Receipts collected in a fiscal year in excess of the amounts authorized by this section shall remain unexpended and unencumbered until appropriated by the General Assembly in a subsequent fiscal year, unless the expenditure of overrealized receipts in the fiscal year in which the receipts were collected is authorized by the State Budget Act. Overrealized receipts are appropriated up to the amounts necessary to implement this subsection.

SECTION 5.1.(c) Notwithstanding subsections (a) and (b) of this section, there is appropriated from the Reserve for Reimbursements to Local Governments and Shared Tax Revenues for each fiscal year an amount equal to the amount of the distributions required by law to be made from that reserve for that fiscal year.

SECTION 5.1.(d) The Office of State Budget and Management, the Office of the State Controller, the Department of Revenue, and the Fiscal Research Division shall jointly study the Reserve for Reimbursements to Local Governments and Shared Tax Revenues (Budget Code 24705) within the Department of Revenue and shall determine the best manner in which to budget the funds deposited into and expended from this fund. When conducting this study, the Office of State Budget and Management, the Office of the State Controller, the Department of Revenue, and the Fiscal Research Division shall jointly determine if any statutory or other changes are needed in order to ensure that these funds are properly accounted for and budgeted in a manner consistent with the North Carolina Constitution. No later than May 1, 2014, the Office of State Budget and Management, the Office of the State Controller, the Department of Revenue, and the Fiscal Research Division shall report the results of this study, including their findings, recommendations, and any legislative proposals, to the Chairs of the Senate Appropriations/Base Budget Committee and of the House Appropriations Committee.

SECTION 5.1.(e) Subdivisions (2) through (4) of subsection (d) of Section 5.1 of S.L. 2011-145, as enacted by Section 5.1 of S.L. 2012-142, are repealed. This subsection becomes effective on June 30, 2013.

OTHER RECEIPTS FROM PENDING GRANT AWARDS

SECTION 5.2.(a) Notwithstanding G.S. 143C-6-4, State agencies may, with approval of the Director of the Budget, spend funds received from grants awarded subsequent to the enactment of this act for grant awards that are for less than two million five hundred thousand dollars ($2,500,000), do not require State matching funds, and will not be used for a capital project. State agencies shall report to the Joint Legislative Commission on Governmental Operations within 30 days of receipt of such funds.

State agencies may spend all other funds from grants awarded after the enactment of this act only with approval of the Director of the Budget and after consultation with the Joint Legislative Commission on Governmental Operations.

SECTION 5.2.(b) The Office of State Budget and Management shall work with the recipient State agencies to budget grant awards according to the annual program needs and within the parameters of the respective granting entities. Depending on the nature of the award, additional State personnel may be employed on a time-limited basis. Funds received from such grants are hereby appropriated and shall be incorporated into the authorized budget of the recipient State agency.

SECTION 5.2.(c) Notwithstanding the provisions of this section, no State agency may accept a grant not anticipated in this act if acceptance of the grant would obligate the State to make future expenditures relating to the program receiving the grant or would otherwise result in a financial obligation as a consequence of accepting the grant funds.

CIVIL PENALTY AND FORFEITURE FUND

SECTION 5.3.(a) Appropriations are made from the Civil Penalty and Forfeiture Fund for the fiscal biennium ending June 30, 2015, as follows:

	FY 2013-2014	**FY 2014-2015**
School Technology Fund	$ 18,000,000	$ 18,000,000
State Public School Fund	$163,392,921	$120,362,790
Total Appropriation	$181,392,921	$138,362,790

SECTION 5.3.(b) Excess receipts realized in the Civil Penalty and Forfeiture Fund in the 2012-2013 fiscal year are hereby appropriated to the State Public School Fund for the 2013-2014 fiscal year.

SECTION 5.3.(c) Excess receipts realized in the Civil Penalty and Forfeiture Fund in the 2013-2014 fiscal year shall be allocated to the School Technology Fund for the 2014-2015 fiscal year.

INDIAN GAMING EDUCATION REVENUE FUND

SECTION 5.4.(a) There is appropriated from the Indian Gaming Education Revenue Fund to the Department of Public Instruction, School Technology Fund, the sum of three million dollars ($3,000,000) for the 2013-2014 fiscal year and the sum of three million five hundred thousand dollars ($3,500,000) for the 2014-2015 fiscal year.

SECTION 5.4.(b) G.S. 143C-9-7 does not apply to the use of these funds for the 2013-2015 fiscal biennium.

PART VI. GENERAL PROVISIONS

CONTINGENCY AND EMERGENCY FUND LIMITATION

SECTION 6.1. For the 2013-2015 fiscal biennium and notwithstanding the provisions of G.S. 143C-4-4(b), funds appropriated to the Contingency and Emergency Fund may be used only for expenditures required (i) by a court or Industrial Commission order or (ii) to respond to events as authorized under G.S. 166A-19.40(a) of the North Carolina Emergency Management Act. These funds shall not be used for other statutorily authorized purposes or for any other contingencies and emergencies.

ESTABLISHING OR INCREASING FEES UNDER THIS ACT

SECTION 6.2.(a) Notwithstanding G.S. 12-3.1, an agency is not required to consult with the Joint Legislative Commission on Governmental Operations prior to establishing or increasing a fee to the level authorized or anticipated in this act.

SECTION 6.2.(b) Notwithstanding G.S. 150B-21.1A(a), an agency may adopt an emergency rule in accordance with G.S. 150B-21.1A to establish or increase a fee as authorized by this act if the adoption of a rule would otherwise be required under Article 2A of Chapter 150B of the General Statutes.

GLOBAL TRANSPARK LOAN REPAYMENT

SECTION 6.3.(a) The Office of State Budget and Management shall transfer funds from the Reserve for Global TransPark Loan Repayment to the Escheat Fund as payment-in-full for the outstanding loan from the Escheat Fund to the Global TransPark Authority originally authorized under G.S. 63A-4(a)(22) and G.S. 147-69.2(b)(11).

SECTION 6.3.(b) G.S. 63A-4(a)(22) is repealed.

SECTION 6.3.(c) G.S. 147-69.2(b)(11) is repealed.

MSA PAYMENTS

SECTION 6.4.(a) Sections 2(a) and 2(b) of S.L. 1999-2 are repealed.

SECTION 6.4.(b) Section 6 of S.L. 1999-2, as amended by Section 6.11(d) of Session Law 2011-145 and Section 7(b) of Session Law 2011-391, reads as rewritten:

"**SECTION 6.(a)** ~~Except as provided in subsection (b) of this section, it is the intent of the General Assembly that the~~ The funds under the Master Settlement Agreement, which is incorporated into the Consent ~~Decree, be allocated as follows:~~Decree, shall be credited to the Settlement Reserve Fund.

~~(1) Fifty percent (50%) to the nonprofit corporation as provided by the Consent Decree.~~

~~(2) Fifty percent (50%) shall be allocated as follows:~~

~~a. Debt service as authorized by the State Capital Facilities Act of 2004, Part 1 of S.L. 2004-179 and S.L. 2004-124. As soon as practicable after the beginning of each fiscal year, the State Treasurer shall estimate and transfer to Budget Code 69430 the amount of debt service anticipated to be paid during the fiscal year for special indebtedness authorized by the State Capital Facilities Act of 2004.~~

~~b. The sum of eight million dollars ($8,000,000) is credited to Budget Code 69430 and shall be transferred to the University Cancer Research Fund in accordance with G.S. 116-29.1.~~

~~c. The balance remaining to be credited to the State General Fund to be used for the following purposes:~~

~~1. The benefit of tobacco producers, tobacco allotment holders, and persons engaged in tobacco-related businesses. To carry out this purpose, funds may provide direct and indirect financial assistance, to the extent allowed by law, to (i) indemnify tobacco producers, allotment holders, and persons engaged in tobacco-related businesses from the adverse economic effects of the Master Settlement Agreement, (ii) compensate tobacco producers and allotment holders for the economic loss resulting from lost quota, and (iii) revitalize tobacco dependent communities.~~

~~2. The benefit of health to fund programs and initiatives that include research, education, prevention, and treatment of health problems in North Carolina and to increase the capacity of communities to respond to the public's health needs through programs such as Health Choice and the State's Medicaid program.~~

(b) Any monies paid into the North Carolina State Specific Account from the Disputed Payments Account on account of the Non-Participating Manufacturers that would have been transferred to The Golden L.E.A.F. (Long-Term Economic Advancement Foundation), ~~Inc., or to the trust funds established in accordance with subdivision (a)(2) of this section~~ Inc., shall be deposited in the Settlement Reserve ~~Fund and transferred to nontax Budget Code 19878~~Fund."

SECTION 6.4.(c) The Attorney General shall take all necessary actions to notify the court in the action entitled State of North Carolina v. Philip Morris Incorporated, et al., 98 CVS 14377, in the General Court of Justice, Superior Court Division, Wake County, North Carolina, and the administrators of the State Specific Account established under the Master Settlement Agreement of this action by the General Assembly regarding redirection of payments set forth in subsections (a) and (b) of this section.

SECTION 6.4.(d) G.S. 116-29.1(b) reads as rewritten:

"(b) ~~The General Assembly finds that it is imperative that the State provide a minimum of fifty million dollars ($50,000,000) each calendar year to the University Cancer Research Fund; therefore, effective~~ Effective July 1 of each calendar ~~year:~~year,

~~(1) Of the funds credited to Budget Code 69430 in the Department of State Treasurer, the sum of eight million dollars ($8,000,000) is transferred from Budget Code 69430 to the University Cancer Research Fund and appropriated for this purpose.~~

~~(2)~~ ~~The~~ the funds remitted to the University Cancer Research Fund by the Secretary of Revenue from the tax on tobacco products other than cigarettes pursuant to G.S. 105-113.40A ~~is~~are appropriated for this purpose.

~~(3) An amount equal to the difference between (i) fifty million dollars ($50,000,000) and (ii) the amounts appropriated pursuant to subdivisions (1) and (2) of this subsection is appropriated from the General Fund for this purpose.~~"

SECTION 6.4.(e) G.S. 143C-9-3 reads as rewritten:

"§ **143C-9-3. Settlement Reserve Fund.**

(a) The "Settlement Reserve Fund" is established ~~as a restricted reserve~~ in the General ~~Fund. Except as otherwise provided in this section, funds shall be expended from the Settlement Reserve Fund only by specific appropriation by the General Assembly.~~Fund to receive proceeds from tobacco litigation settlement agreements or final orders or judgments of a court in litigation between tobacco companies and the states. Funds credited to the Settlement Reserve Fund each fiscal year shall be included in General Fund availability as nontax revenue for the next fiscal year.

(b), (c) Repealed by Session Laws 2011-145, s. 6.11(i), effective July 1, 2011.

(d) Unless prohibited by federal law, federal funds provided to the State by block grant or otherwise as part of federal legislation implementing a settlement between United States tobacco companies and the states shall be credited to the Settlement Reserve Fund. Unless otherwise encumbered or distributed under a settlement agreement or final order or judgment of the court, funds paid to the State or a State agency pursuant to a tobacco litigation settlement agreement, or a final order or judgment of a court in litigation between tobacco companies and the states, shall be credited to the Settlement Reserve Fund."

GOVERNMENT EFFICIENCY AND REFORM

SECTION 6.5.(a) The Office of State Budget and Management shall contract for a Government Efficiency and Reform review and analysis of the executive branch of State government, which shall be known as NC GEAR. The purpose of the review and analysis is to evaluate the efficiency and effectiveness of State government and to identify specific strategies for making State government more efficient and effective. The review and analysis may examine entire departments, agencies, institutions, or similar programs in different departments. The review and analysis shall include an examination of the efficiency and effectiveness of major management policies, practices, and functions pertaining to the following areas:

(1) The statutory authority, funding sources, and functions of each department, agency, institution, or program.

(2) The organizational structure and staffing patterns in place to perform these functions and whether they are appropriate based on comparative data and other reasonable staffing criteria.

(3) The measurement of each reviewed program's outcomes, overall performance, and success in accomplishing its mandated or stated mission and subsequent goals, considering the resources provided to the program.

(4) State and local responsibilities for providing government services and funding for those services, and whether these responsibilities should be reallocated.

(5) Personnel systems operations and management.

(6) State purchasing operations and management.

(7) Information technology and telecommunications systems policy, organization, and management.

(8) The identification of opportunities to reduce fragmentation, duplication, and related or overlapping services or activities through restructuring of departmental organizations and streamlining programs.

SECTION 6.5.(b) All executive branch departments, agencies, boards, commissions, authorities, and institutions in the executive branch of State government, including receipt-supported agencies, and all non-State entities receiving State funds shall be subject to review and analysis. The chief administrative officer of each entity shall ensure full cooperation with the Office of State Budget and Management and provide timely responses to the Office of State Budget and Management's request for information under the provisions of G.S. 143C-2-1(b).

SECTION 6.5.(c) The Office of State Budget and Management will work collaboratively with the Office of State Auditor to develop the review, analysis, and findings needed to produce a final report and recommendations to the Governor and General Assembly.

SECTION 6.5.(d) The contracting provisions of Chapter 143 of the General Statutes and related State purchasing and budget regulations do not apply to NC GEAR; however, the Office of State Budget and Management shall report all external contracts for consultants or professional services within 30 days of their execution to the Joint Legislative Commission on Governmental Operations, the Fiscal Research Division, the President Pro Tempore of the Senate, and the Speaker of the House of Representatives.

SECTION 6.5.(e) The Office of State Budget and Management shall submit an interim report of the NC GEAR's analysis, findings, and recommendations to the Governor, the President Pro Tempore of the Senate, the Speaker of the House of Representatives, the Fiscal Research Division, and the Program Evaluation Division by February 15, 2014, and a final report by February 15, 2015.

SECTION 6.5.(f) Funds appropriated for NC GEAR shall be used to contract with consultants and other experts and to pay for travel, postage, printing, planning, and other related costs as needed to accomplish the objectives specified for the project. Funds appropriated for the 2013-2015 fiscal biennium for NC GEAR shall not revert at the end of each fiscal year but shall remain available for expenditure for the project.

EXPENDITURES OF FUNDS IN RESERVES LIMITED

SECTION 6.6. All funds appropriated by this act into reserves may be expended only for the purposes for which the reserves were established.

BUDGET CODE CONSOLIDATIONS

SECTION 6.7. Notwithstanding G.S. 143C-6-4, the Office of State Budget and Management may, after reporting to the Fiscal Research Division, adjust the authorized budget by making transfers among purposes or programs for the purpose of consolidating budget and fund codes or eliminating inactive budget and fund codes. The Office of State Budget and Management shall change the authorized budget to reflect these adjustments.

NORTH CAROLINA STATE LOTTERY COMMISSION CONTRACTS

SECTION 6.8. G.S. 18C-151(a) reads as rewritten:

"(a) Except as otherwise specifically provided in this subsection for contracts for the purchase of services, apparatus, supplies, materials, or equipment, Article 8 of Chapter 143 of the General Statutes, including the provisions relating to minority participation goals, shall apply to contracts entered into by the Commission. If this subsection and Article 8 of Chapter 143 are in conflict, the provisions of this subsection shall control. In recognition of the particularly sensitive nature of the Lottery and the competence, quality of product, experience, and timeliness, fairness, and integrity in the operation and administration of the Lottery and maximization of the objective of raising revenues, a contract for the purchase of services, apparatus, supplies, materials, or equipment requiring an estimated aggregate expenditure of ~~ninety thousand dollars ($90,000)~~three hundred thousand dollars ($300,000) or more may be awarded by the Commission only after the following have occurred:

…."

PROVISION OF ANONYMOUS TAX RETURN DATA TO STATE BUDGET DIRECTOR

SECTION 6.9. G.S. 105-259(b) is amended by adding the following new subdivision to read:

"(b) Disclosure Prohibited. – An officer, an employee, or an agent of the State who has access to tax information in the course of service to or employment by the State may not disclose the information to any other person except as provided in this subsection. Standards used or to be used for the selection of returns for examination and data used or to be used for determining the standards may not be disclosed for any purpose. All other tax information may be disclosed only if the disclosure is made for one of the following purposes:

…

(44) To furnish the State Budget Director or the Director's designee a sample of tax returns or other tax information from which taxpayers' names and identification numbers have been removed that is suitable in character, composition, and size for statistical analyses by the Office of State Budget and Management."

EXEMPTIONS FROM MANAGEMENT FLEXIBILITY REDUCTIONS

SECTION 6.10. Notwithstanding G.S. 143C-6-4, expansion funds appropriated for the 2013-2015 fiscal biennium to State agencies as defined by G.S. 143C-1-1(d)(24) shall not be used to offset management flexibility adjustments in this act.

REVISE PUBLIC SCHOOL BUILDING CAPITAL FUND/ APPROPRIATE EDUCATION LOTTERY FUNDS

SECTION 6.11.(a) G.S. 115C-546.1(a) reads as rewritten:

"(a) There is created the Public School Building Capital Fund. The Fund shall be used to assist county governments in meeting their public school building capital ~~needs and their equipment needs under their local school technology plans.~~needs."

SECTION 6.11.(b) G.S. 115C-546.2 reads as rewritten:

"§ **115C-546.2. Allocations from the Fund; uses; expenditures; reversion to General Fund; matching requirements.**

...

(b) Counties shall use monies ~~in the Fund~~ previously credited to the Fund by the Secretary of Revenue pursuant to G.S. 115C-546.1(b) for capital outlay projects including the planning, construction, reconstruction, enlargement, improvement, repair, or renovation of public school buildings and for the purchase of land for public school buildings; for equipment to implement a local school technology ~~plan that is approved pursuant to G.S. 115C-102.6C;~~ plan; or for both. Monies used to implement a local school technology plan shall be transferred to the State School Technology Fund and allocated by that Fund to the local school administrative unit for equipment.

As used in this section, "public school buildings" only includes facilities for individual schools that are used for instructional and related purposes and does not include centralized administration, maintenance, or other facilities.

In the event a county finds that it does not need all or part of the funds allocated to it for capital outlay projects including the planning, construction, reconstruction, enlargement, improvement, repair, or renovation of public school buildings, for the purchase of land for public school buildings, or for equipment to implement a local school technology plan, the unneeded funds allocated to that county may be used to retire any indebtedness incurred by the county for public school facilities.

In the event a county finds that its public school building needs and its school technology needs can be met in a more timely fashion through the allocation of financial resources previously allocated for purposes other than school building needs or school technology needs and not restricted for use in meeting public school building needs or school technology needs,

the county commissioners may, with the concurrence of the affected local Board of Education, use those financial resources to meet school building needs and school technology needs and may allocate the funds it receives under this Article for purposes other than school building needs or school technology needs to the extent that financial resources were redirected from such purposes. The concurrence described herein shall be secured in advance of the allocation of the previously unrestricted financial resources and shall be on a form prescribed by the Local Government Commission.

(c) Monies previously credited to the Fund by the Secretary of Revenue pursuant to G.S. 115C-546.1(b) for capital projects shall be matched on the basis of one dollar of local funds for every three dollars of State funds. ~~Monies~~ Such monies in the Fund transferred to the State Technology Fund do not require a local match.

Revenue received from local sales and use taxes that is restricted for public school capital outlay purposes pursuant to G.S. 105-502 or G.S. 105-487 may be used to meet the local matching requirement. Funds expended by a county after July 1, 1986, for land acquisition, engineering fees, architectural fees, or other directly related costs for a public school building capital project that was not completed prior to July 1, 1987, may be used to meet the local match requirement.

(d) If funds are appropriated from the Education Lottery Fund to the Public School Building Capital Fund, such funds shall be allocated for school capital construction projects on a per average daily membership basis according to the average daily membership for the budget year as determined and certified by the State Board of Education.~~Monies transferred into the Fund in accordance with Chapter 18C of the General Statutes shall be allocated for capital projects for school construction projects as follows:~~

~~(1) A sum equal to sixty-five percent (65%) of those monies transferred in accordance with G.S. 18C-164 shall be allocated on a per average daily membership basis according to the average daily membership for the budget year as determined and certified by the State Board of Education.~~

~~(2) A sum equal to thirty-five percent (35%) of those monies transferred in accordance with G.S. 18C-164 shall be allocated to those local school administrative units located in whole or part in counties in which the effective county tax rate as a percentage of the State average effective tax rate is greater than one hundred percent (100%), with the following definitions applying to this subdivision:~~

~~a. "Effective county tax rate" means the actual county rate for the previous fiscal year, including any countywide supplemental taxes levied for the benefit of public schools, multiplied by a three-year weighted average of the most recent annual sales assessment ratio studies.~~

~~b. "State average effective tax rate" means the average effective county tax rates for all counties.~~

~~c. "Sales assessment ratio studies" means sales assessment ratio studies performed by the Department of Revenue under G.S. 105-289(h).~~

(3) No county shall have to provide matching funds required under subsection (c) of this section.

(4) A county may use monies in this Fund to pay for school construction projects in local school administrative units and to retire indebtedness incurred for school construction projects.

(5) A county may not use monies in this Fund to pay for school technology needs.

(e) The State Board of Education may use up to one million five hundred thousand dollars ($1,500,000) each year of monies in the Fund to support positions in the Department of Public Instruction's Support Services Division."

SECTION 6.11.(c) G.S. 18C-164 reads as rewritten:

"§ **18C-164. Transfer of net revenues.**

(a) The funds remaining in the North Carolina State Lottery Fund after receipt of all revenues to the Lottery Fund and after accrual of all obligations of the Commission for prizes and expenses shall be considered to be the net revenues of the North Carolina State Lottery Fund. The net revenues of the North Carolina State Lottery Fund shall be transferred four times a year to the Education Lottery Fund, which shall be created in the State treasury.

(b) From the Education Lottery Fund, the ~~Commission~~ Office of State Budget and Management shall transfer a sum equal to five percent (5%) of the net revenue of the prior year to the Education Lottery Reserve Fund. A special revenue fund for this purpose shall be established in the State treasury to be known as the Education Lottery Reserve Fund, and that fund shall be capped at fifty million dollars ($50,000,000). Monies in the Education Lottery Reserve Fund may be appropriated only as provided in subsection (e) of this section.

(c) ~~The Commission shall distribute~~ The General Assembly shall appropriate the remaining net revenue of the Education Lottery ~~Fund, as follows, in the following manner:~~Fund annually in the Current Operations Appropriations Act for education-related purposes, based upon estimates of lottery net revenue to the Education Lottery Fund provided by the Office of State Budget and Management and the Fiscal Research Division of the Legislative Services Commission.

~~(1) A sum equal to fifty percent (50%) to support reduction of class size in early grades to class size allotments not exceeding 1:18 in order to eliminate achievement gaps and to support academic prekindergarten programs for at-risk four-year-olds who would otherwise not be served in a high-quality education program in order to help those four-year-olds be prepared developmentally to succeed in school.~~

~~(2) A sum equal to forty percent (40%) to the Public School Building Capital Fund in accordance with G.S. 115C-546.2.~~

~~(3) A sum equal to ten percent (10%) to the State Educational Assistance Authority to fund college and university scholarships in accordance with Article 35A of Chapter 115C of the General Statutes.~~

~~(d) Of the sums transferred under subsection (c) of this section, the General Assembly shall appropriate the funds annually based upon estimates of lottery net revenue to the Education Lottery Fund provided by the Office of State Budget and Management and the Fiscal Research Division of the North Carolina General Assembly.~~

(e) If the actual net revenues are less than the appropriation for that given year, then the Governor may transfer from the Education Lottery Reserve Fund an amount sufficient to equal the appropriation by the General Assembly. ~~If the monies available in the Education Lottery Reserve Fund are insufficient to reach a full appropriation, the Governor shall transfer monies in order of priority, to the following:~~

~~(1) To support academic prekindergarten programs for at-risk four-year-olds who would otherwise not be served in a high-quality education program in order to help those four-year-olds be prepared developmentally to succeed in school.~~

~~(2) To reduce class size.~~

~~(3) To provide financial aid for needy students to attend college.~~

~~(4) To the Public School Building Capital Fund to be spent in accordance with this section.~~

(f) ~~If the actual~~ Actual net revenues ~~exceed~~ in excess of the amounts appropriated in ~~that fiscal year, the excess net revenues~~ a fiscal year shall remain in the Education Lottery ~~Fund, and then be transferred as follows:~~ Fund.

~~(1) Fifty percent (50%) to the Public School Building Capital Fund to be spent in accordance with this section.~~

~~(2) Fifty percent (50%) to the State Educational Assistance Authority to be spent in accordance with this section.~~"

SECTION 6.11.(d) G.S. 115C-499.3(b) reads as rewritten:

"(b) Subject to the maximum amounts provided in this section, the Authority shall have the power to determine the actual scholarship amounts disbursed to students in any given year based on the amount of ~~net income available under Chapter 18C of the General Statutes.~~ funds appropriated from the Education Lottery Fund. If the net income available is not sufficient to fully fund the scholarships to the maximum amount, all scholarships shall be reduced equally, to the extent practicable, so that every eligible applicant shall receive a proportionate scholarship amount."

SECTION 6.11.(e) The appropriations made from the Education Lottery Fund for the 2013-2015 fiscal biennium are as follows:

	FY 2013-2014	**FY 2014-2015**
Classroom Teachers	$ 220,643,188	$ 220,643,188
Prekindergarten Program	75,535,709	75,535,709
Public School Building Capital Fund	100,000,000	100,000,000
Scholarships for Needy Students	30,450,000	30,450,000
UNC Need-Based Financial Aid	10,744,733	10,744,733
UNC Need-Based Financial Aid Forward Funding Reserve	32,530,359	19,130,728
Digital Learning	11,928,735	11,928,735
TOTAL APPROPRIATION	**$ 481,832,724**	**$ 468,433,093**

SECTION 6.11.(f) Notwithstanding G.S. 18C-164, the Office of State Budget and Management shall not transfer funds to the Education Lottery Reserve Fund for the 2013-2014 fiscal year.

SECTION 6.11.(g) Funds appropriated for Digital Learning pursuant to subsection (e) of this section shall be used to support grants to local education agencies (LEAs) for (i) delivering educator professional development focused on using digital and other instructional technologies to provide high-quality, integrated digital teaching and learning to all students and (ii) acquiring quality digital content to enhance instruction.

Up to one million dollars ($1,000,000) may be used by the Department of Public Instruction to (i) develop a plan to transition from funding for textbooks, both traditional and digital, to funding for digital materials, including textbooks and instructional resources and (ii) provide educational resources that remain current, are aligned with curriculum, and are effective for all learners by 2017. The plan shall also include an inventory of the infrastructure needed to support robust digital learning in public schools.

SECTION 6.11.(h) Subsection (c) of this section becomes effective June 30, 2013.

STATE BUDGET ACT AMENDMENTS

SECTION 6.12.(a) G.S. 143C-1-1(d)(19) reads as rewritten:

"(19) Nontax revenue. – Revenue that is not a tax proceed or a departmental receipt and that is required by statute to be credited to ~~the General Fund.~~a fund."

SECTION 6.12.(b) G.S. 143C-1-1(d)(30) reads as rewritten:

"(30) Unreserved fund balance. – The available ~~General Fund~~ cash balance effective June 30 after excluding documented encumbrances, unearned revenue, ~~federal grants,~~ statutory requirements, and other legal obligations to ~~General Fund~~ a fund's cash balance as determined by the State Controller. Beginning unreserved fund balance equals ending unreserved fund balance from the prior fiscal year."

SECTION 6.12.(c) G.S. 143C-1-3(c) reads as rewritten:

"(c) Notwithstanding subsections (a) and (b) of this section, funds established for The University of North Carolina and its constituent institutions pursuant to the following statutes are exempt from Chapter 143C of the General Statutes and shall be accounted for as provided

by those statutes, except that the provisions of Article 8 of Chapter 143C of the General Statutes shall apply to the funds: G.S. 116-35, 116-36, 116-36.1, 116-36.2, 116-36.4, 116-36.5, 116-36.6, 116-44.4, 116-68, 116-220, ~~116-235, 116-238.~~116-235."

SECTION 6.12.(d) Article 1 of Chapter 143C of the General Statutes is amended by adding a new section to read:

"**§ 143C-1-5. Chapter is applicable to The University of North Carolina.**

Except as expressly provided in G.S. 143C-1-3(c) or otherwise expressly provided by law, The University of North Carolina shall be subject to the provisions of this Chapter in the same manner and to the same degree as other State agencies."

SECTION 6.12.(e) G.S. 143C-3-5(e) reads as rewritten:

"(e) ~~Revenue~~ Availability Estimates. – The recommended Current Operations Appropriations Act shall contain a statement showing the estimates of General Fund availability, Highway Fund availability, and Highway Trust Fund availability upon which the Recommended State Budget is based."

SECTION 6.12.(f) G.S. 143C-9-6 reads as rewritten:

"§ **143C-9-6. JDIG ~~Reserve Fund.~~Reserve.**

(a) The State Controller shall establish a reserve in the General Fund to be known as the JDIG Reserve. Funds from the JDIG Reserve shall not be ~~expended or~~ transferred except in accordance with G.S. 143B-437.63.

(b) It is the intent of the General Assembly to appropriate funds annually to the JDIG Reserve established in this section in amounts sufficient to meet the anticipated cash requirements for each fiscal year of the Job Development Investment Grant Program established pursuant to G.S. 143B-437.52."

SECTION 6.12.(g) G.S. 143C-9-8(a) reads as rewritten:

"(a) The State Controller shall establish a reserve in the General Fund to be known as the One North Carolina Fund Reserve. Funds from the One North Carolina Fund Reserve shall not be ~~expended or~~ transferred except in accordance with G.S. 143B-437.75."

SUBSTANTIVE CHANGES

SECTION 6.12.(h) G.S. 143C-1-1(d) is amended by adding the following new subdivisions to read:

"(1a) Authorized budget. – The certified budget with changes authorized by the Director of the Budget through authority granted in G.S. 143C-6-4 or other statutes.

(1b) Availability. – The total anticipated cash available within a fund for appropriation purposes, including unreserved fund balance and all revenue and receipts anticipated in a fiscal year.

...

(7a) Continuation budget. – That part of the Recommended State Budget necessary to continue the same level of services in the next biennium as is provided in the current fiscal year, including (i) mandated Social Security rate adjustments; (ii) annualization of programs and positions; (iii) enrollment adjustments for public schools and Medicaid; (iv) reductions to adjust for items funded with nonrecurring funds during the prior fiscal biennium; (v) increases to adjust for nonrecurring reductions during the prior fiscal biennium; and (vi) if deemed necessary by the Director, other adjustments such as inflation, building reserves, and equipment replacement."

SECTION 6.12.(i) G.S. 143C-1-1(d)(7) reads as rewritten:

"(7) Certified budget. – The budget as enacted by the General Assembly including adjustments made for (i) distributions to State agencies from statewide reserves appropriated by the General Assembly, (ii) distributions of reserves appropriated to a specific agency by the General Assembly, and

(iii) organizational or budget changes ~~directed~~ mandated by the General ~~Assembly but left to the Director to carry out.~~Assembly."

SECTION 6.12.(j) G.S. 143C-3-3 reads as rewritten:

"§ **143C-3-3. Budget requests from State agencies in the executive branch.**

…

(b) University of North Carolina System Request. – Notwithstanding ~~subsections (c), (d), and (e) of this section, pursuant to~~ the requirement in G.S. 116-11 that the Board of Governors ~~shall~~ prepare a unified budget request for all of the constituent institutions of The University of North Carolina, ~~including~~ repairs and renovations, capital fund requests, and information ~~technology.~~technology requests shall comply with subsections (c), (d), and (e) of this section.

…

(e) Information Technology Request. – In addition to any other information requested by the Director, any State agency requesting significant State resources, as defined by the Director, for the purpose of acquiring or maintaining information technology shall accompany that request with all of the following:

(1) A statement of its needs for information technology and related resources, including expected improvements to programmatic or business operations, together with a review and evaluation of that statement prepared by the State Chief Information Officer.

(2) A statement setting forth the requirements for State resources, together with an evaluation of those requirements by the State Chief Information Officer that takes into consideration the State's current technology, the opportunities for technology sharing, the requirements of Article 3D of Chapter 147 of the General Statutes, and any other factors relevant to the analysis.

(3) A statement by the State Chief Information Officer that sets forth viable alternatives, if any, for meeting the agency needs in an economical and efficient manner.

(4) In the case of an acquisition, an explanation of the method by which the acquisition is to be financed.

This subsection shall not apply to requests submitted by the General ~~Assembly,~~Assembly or the Administrative Office of the ~~Courts, or The University of North Carolina.~~Courts."

SECTION 6.12.(k) G.S. 143C-3-5 reads as rewritten:

"§ **143C-3-5. Budget recommendations and budget message.**

…

(b) Odd-Numbered ~~Fiscal~~ Years. – In odd-numbered years the budget recommendations shall include the following components:

(1) A Recommended State Budget setting forth goals for improving the State with recommended expenditure requirements, funding sources, and performance information for each State government program and for each proposed capital improvement. The Recommended State Budget may be presented in a format chosen by the Director, except that the Recommended State Budget shall clearly distinguish program continuation requirements, program reductions, program eliminations, program expansions, and new programs, and shall explain all proposed capital improvements in the context of the Six-Year Capital Improvements Plan and as required by G.S. 143C-8-6. ~~The Director shall include as continuation requirements the amounts the Director proposes to fund for the enrollment increases in public schools, community colleges, and the university system.~~

(1a) The Governor's Recommended State Budget shall include a continuation budget, which shall be presented in the budget support document pursuant to subdivision (2) of this subsection.

…

(5) A list of budget adjustments made during the prior fiscal year pursuant to G.S. 143C-6-4 that are included in the proposed continuation budget for the upcoming fiscal year.

(c) Even-Numbered ~~Fiscal~~ Years. – In even-numbered years, the Governor may recommend changes in the enacted budget for the second year of the biennium. These recommendations shall be presented as amendments to the enacted budget and shall be incorporated in a recommended Current Operations Appropriation Act and a recommended Capital Improvements Appropriations Act as necessary. Any recommended changes shall clearly distinguish program reductions, program eliminations, program expansions, and new programs, and shall explain all proposed capital improvements in the context of the Six-Year Capital Improvements Plan and as required by G.S. 143C-8-6. The Governor shall provide sufficient supporting documentation and accounting detail, consistent with that required by G.S. 143C-3-5(b), corresponding to the recommended amendments to the enacted budget.

(d) Funds Included in Budget. – Consistent with requirements of the North Carolina Constitution, Article 5, Section 7(1), the Governor's Recommended State Budget, together with the Budget Support Document, shall include recommended expenditures of State funds from all Governmental and Proprietary Funds, as those funds are described in ~~G.S. 143C-1-3.~~ G.S. 143C-1-3, and all funds established for The University of North Carolina and its constituent institutions that are subject to this Chapter. Except where provided otherwise by federal law, funds received from the federal government become State funds when deposited in the State treasury and shall be classified and accounted for in the Governor's budget recommendations no differently than funds from other sources.

…."

SECTION 6.12.(l) G.S. 143C-4-3 reads as rewritten:

"§ **143C-4-3. Repairs and Renovations ~~Reserve Account.~~Reserve.**

(a) Creation and Source of Funds. – The Repairs and Renovations Reserve ~~Account~~ is established as a reserve in the General Fund. The State Controller shall reserve to the Repairs and Renovations Reserve ~~Account~~ one-fourth of any unreserved fund balance, as determined on a cash basis, remaining in the General Fund at the end of each fiscal year.

(b) Use of Funds. – The funds in the Repairs and Renovations Reserve ~~Account~~ shall be used only for the repair and renovation of State facilities and related infrastructure that are supported from the General Fund. Funds from the Repairs and Renovations Reserve ~~Account~~ shall be used only for the following types of projects:

(1) Roof repairs and replacements;
(2) Structural repairs;
(3) Repairs and renovations to meet federal and State standards;
(4) Repairs to electrical, plumbing, and heating, ventilating, and air-conditioning systems;
(5) Improvements to meet the requirements of the Americans with Disabilities Act, 42 U.S.C. § 12101, et seq., as amended;
(6) Improvements to meet fire safety needs;
(7) Improvements to existing facilities for energy efficiency;
(8) Improvements to remove asbestos, lead paint, and other contaminants, including the removal and replacement of underground storage tanks;
(9) Improvements and renovations to improve use of existing space;
(10) Historical restoration;
(11) Improvements to roads, walks, drives, utilities infrastructure; and
(12) Drainage and landscape improvements.

Funds from the Repairs and Renovations Reserve ~~Account~~ shall not be used for new construction or the expansion of the building area (sq. ft.) of an existing facility unless required in order to comply with federal or State codes or standards.

(c) Use of Funds. – Funds Available Only Upon Appropriation. – Funds reserved to the Repairs and Renovations Reserve ~~Account~~ shall be available for expenditure only upon an act of appropriation by the General Assembly.

(d) ~~Board of Governors May Allocate~~ Allocation and Reallocation of Funds ~~to~~ for Particular Projects. – Any funds in the ~~Reserve for~~ Repairs and Renovations Reserve that are allocated to the Board of Governors of The University of North Carolina or to the Office of State Budget and Management may be allocated or reallocated by ~~the Board~~ those agencies for repairs and renovations projects so long as ~~(i) any project that receives an allocation or reallocation satisfies the requirements of subsection (b) of this section unless the Board determines that sufficient funds are not available from other sources and that conditions warrant General Fund assistance and (ii) the allocation or reallocation is in accordance with guidelines developed in The University of North Carolina Funding Allocation Model for Reserve for Repairs and Renovations, as approved by the Board of Governors of The University of North Carolina. The Board of Governors shall report to the Joint Legislative Commission on Governmental Operations on the allocation or reallocation of funds pursuant to this section within 60 days of any allocation or reallocation under this subsection.~~all of the following conditions are satisfied:

(1) Any project that receives an allocation or reallocation satisfies the requirements of subsection (b) of this section.

(2) If the allocation or reallocation of funds from one project to another under this section is two million five hundred thousand dollars ($2,500,000) or more for a particular project, the Office of State Budget and Management or the Board of Governors, as appropriate, consults with the Joint Legislative Commission on Governmental Operations prior to the expenditure or reallocation.

(3) If the allocation or reallocation of funds from one project to another under this section is less than two million five hundred thousand dollars ($2,500,000) for a particular project, the allocation or reallocation of funds is reported to the Joint Legislative Commission on Governmental Operations within 60 days of the expenditure or reallocation.

~~(e) Office of State Budget and Management May Allocate Funds to Particular Projects. – Any funds in the Reserve for Repairs and Renovations that are allocated to the Office of State Budget and Management may be allocated or reallocated by the State Budget Office for repairs and renovations projects so long as any project that receives an allocation or reallocation satisfies the requirements of subsection (b) of this section. The Office of State Budget and Management shall consult with the Joint Legislative Commission on Governmental Operations prior to the allocation of these funds. The State Budget Office shall report to the Joint Legislative Commission on Governmental Operations on the reallocation of funds pursuant to this section within 60 days of any reallocation under this subsection.~~"

SECTION 6.12.(m) G.S. 143C-6-1 reads as rewritten:

"§ **143C-6-1. Budget enacted by the General Assembly; certified budgets of State agencies.**

…

(b) Departmental Receipts. – Departmental receipts collected to support a program or purpose shall be credited to the fund from which appropriations have been made to support that program or purpose. A State agency shall expend departmental receipts first, including receipts in excess of the amount of receipts budgeted in the certified budget for the program or purpose, and shall expend other funds appropriated for the purpose or program only to the extent that receipts are insufficient to meet the costs anticipated in the certified budget.

Except as authorized in G.S. 143C-6-4, excess departmental receipts shall not be used to increase expenditures for a purpose or program.

(c) Certification of the Budget. – The Director of the Budget shall certify to each State agency the amount appropriated to it for each program and each object from all ~~governmental~~

~~and proprietary funds.~~ funds included in the budget as defined in G.S. 143C-3-5(d). The certified budget for each State agency shall reflect the total of all appropriations enacted for each State agency by the General Assembly in the Current Operations Appropriations Act, the Capital Improvements Appropriations Act, and any other act affecting the State budget. The certified budget for each State agency shall follow the format of the Budget Support Document as modified to reflect changes enacted by the General Assembly."

SECTION 6.12.(n) G.S. 143C-6-4 reads as rewritten:

"§ **143C-6-4. Budget Adjustments Authorized.**

(a) Findings. – The General Assembly recognizes that even the most thorough budget deliberations may be affected by unforeseeable ~~events. Under~~events; therefore, under the limited circumstances set forth in this section, the Director ~~may~~ is authorized to adjust the enacted budget by making transfers among lines of expenditure, purposes, or programs or by increasing expenditures funded by departmental receipts. ~~Under no circumstances, however, shall total General Fund expenditures for a State department exceed the amount appropriated to that department from the General Fund for the fiscal year.~~

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

(1) Line items within programs. – An object or line item within a purpose or program so long as the total amount expended for the purpose or program is no more than was authorized in the certified budget for the purpose or program.

(2) Responses to extraordinary events. – A purpose or program if the overexpenditure of the purpose or program is:

a. Required by a court or Industrial Commission order;

b. Authorized under G.S. 166A-19.40(a) of the North Carolina Emergency Management Act; or

c. Required to call out the North Carolina National Guard.

(3) Responses to unforeseen circumstances. – A purpose or program not subject to the provisions of subdivision (b)(2) of this ~~subsection, but only in accord with the following restrictions: (i) the~~ subsection, if each of the following conditions is satisfied:

a. The overexpenditure is required to continue the purpose or programs due to complications or changes in circumstances that could not have been foreseen when the budget for the fiscal period was ~~enacted, (ii) the~~ enacted.

b. The scope of the purpose or program is not ~~increased, (iii) the~~increased.

c. The overexpenditure is authorized on a ~~nonrecurring basis, and (iv) under no circumstances shall the total requirements for a State department exceed the department's certified budget for the fiscal year by more than three percent (3%) without prior consultation with the Joint Legislative Commission on Governmental Operations~~ one-time nonrecurring basis for one year only, unless the overexpenditure is the result of (i) salary adjustments authorized by law or (ii) the establishment of time-limited positions funded with agency receipts.

(b1) If the overexpenditure would cause a department's total requirements for a fund to exceed the department's certified budget for a fiscal year for that fund by more than three percent (3%), the Director shall consult with the Joint Legislative Commission on Governmental Operations prior to authorizing the overexpenditure.

(b2) Subsection (b) of this section shall not be construed to authorize budget adjustments that cause General Fund expenditures, excluding expenditures from General Fund receipts, to exceed General Fund appropriations for a department.

…."

SECTION 6.12.(o) G.S. 143C-6-21 reads as rewritten:

"§ **143C-6-21. Payments to nonprofits.**

Except as otherwise provided by law, an annual appropriation of one hundred thousand dollars ($100,000) or less to or for the use of a nonprofit corporation ~~shall~~ may be made in a single annual ~~payment.~~ payment, in the discretion of the Director of the Budget. An annual appropriation of more than one hundred thousand dollars ($100,000) to or for the use of a nonprofit corporation shall be made in quarterly or monthly payments, in the discretion of the Director of the Budget."

SECTION 6.12.(p) G.S. 143C-7-2(a) reads as rewritten:

"(a) Plans Submitted and Reviewed. – The Secretary of each State agency that receives and administers federal Block Grant funds shall prepare and submit the agency's Block Grant plans to the Director of the Budget. The Director of the Budget shall submit the Block Grant plans to ~~the Fiscal Research Division of the General Assembly not later than February 28 of each odd-numbered calendar year and not later than April 30 of each even-numbered calendar year.~~the General Assembly as part of the Recommended State Budget submitted pursuant to G.S. 143C-3-5."

SECTION 6.12.(q) G.S. 143C-8-2 reads as rewritten:

"§ **143C-8-2. Capital facilities inventory.**

(a) The Department of Administration shall develop and maintain an automated inventory of all facilities owned by State agencies pursuant to G.S. 143-341(4). The inventory shall include the location, occupying agency, ownership, size, description, condition assessment, maintenance record, parking and employee facilities, and other information to determine maintenance needs and prepare life-cycle cost evaluations of each facility listed in the inventory. The Department of Administration shall update and publish the inventory at least once every three years. The Department shall also record in the inventory acquisitions of new facilities and significant changes in existing facilities as they occur.

(b) No later than October 1 of each even-numbered year, the Department of Administration shall provide a summary of the information maintained in the inventory described in subsection (a) of this section to the Fiscal Research Division of the Legislative Services Commission. This summary shall include all of the following:

(1) A summary of the number, type, square footage or acreage, and condition of facilities allocated to or owned by each State agency.

(2) A summary of the geographical distribution of State facilities.

(3) An estimate of the percentage increase or decrease of square footage or acreage allocated to or owned by each State agency since the last report was submitted pursuant to this subsection.

(4) Any other information requested by the Fiscal Research Division."

SECTION 6.12.(r) G.S. 143C-9-7(b) reads as rewritten:

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

CAP STATE FUNDED PORTION OF NONPROFIT SALARIES

SECTION 6.14. No more than one hundred twenty thousand dollars ($120,000) in State funds may be used for the annual salary of any individual employee of a nonprofit organization receiving State funds. For the purposes of this section, the term "State funds" means funds as defined in G.S. 143C-1-1(d)(25) and any interest earnings that accrue from those funds.

NO STATE FUNDS FOR LOBBYING

SECTION 6.15.(a) No State funds shall be used by a non-State entity to pay for lobbying or lobbyists.

SECTION 6.15.(b) For the purposes of this section, the following definitions apply:

(1) Lobbying. – As defined by G.S. 120C-100(a)(9).
(2) Lobbyist. – As defined by G.S. 120C-100(a)(10).
(3) Non-State entity. – As defined by G.S. 143C-1-1(d)(18).
(4) State funds. – As defined by G.S. 143C-1-1(d)(25) and interest earnings that accrue from those funds.

AVIATION FUEL TAX

SECTION 6.16. Section 3(b) of S.L. 2012-74 reads as rewritten:

"**SECTION 3.(b)** An interstate passenger air carrier is allowed a refund of the sales and use tax paid by it on fuel in excess of one million two hundred fifty thousand dollars ($1,250,000) for the period January 1, 2011, through June 30, 2011. The State portion of the refund is payable in two installments. The first installment, payable in fiscal year 2012-2013, may not exceed three million one hundred fifty thousand dollars ($3,150,000). The remainder of the refund is payable in fiscal year 2013-2014. The amount of sales and use tax paid does not include a refund allowed to the interstate passenger air carrier under G.S. 105-164.14(a). A request for a refund must be in writing and must include any information and documentation required by the Secretary. The request for a refund is due before October 1, 2012. A refund applied for after the due date is barred."

RESTORE LOCAL GOVERNMENT HOLD HARMLESS FOR REPEALED REIMBURSEMENTS

SECTION 6.17. G.S. 105-521 reads as rewritten:

"§ **105-521. Transitional local government hold harmless for repealed reimbursements.**

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

(1) Local government. – A county or municipality that received a distribution of local sales taxes in the most recent fiscal year for which a local sales tax share has been calculated.
(2) Local sales tax share. – A local government's percentage share of the two-cent (2¢) sales taxes distributed during the most recent fiscal year for which data are available.
(3) Repealed reimbursement amount. – The total amount a local government would have been entitled to receive during the 2002-2003 fiscal year under G.S. 105-164.44C, 105-275.1, 105-275.2, 105-277.001, and 105-277.1A, if the Governor had not withheld any distributions under those sections.
(3a) Replacement revenue. – The sum of the following:
  a. Fifty percent (50%) of the amount of sales and use tax revenue distributed under Article 40 of this Chapter, other than revenue from the sale of food that is subject to local tax but is exempt from State tax under G.S. 105-164.13B.
  b. Twenty-five percent (25%) of the amount of sales and use tax revenue distributed under Article 39 of this Chapter or under Chapter

1096 of the 1967 Session Laws, other than revenue from the sale of food that is subject to local tax but is exempt from State tax under G.S. 105-164.13B.

(4) Two-cent (2¢) sales taxes. – The first one-cent (1¢) sales and use tax authorized in Article 39 of this Chapter and in Chapter 1096 of the 1967 Session Laws, the first one-half cent (1/2¢) local sales and use tax authorized in Article 40 of this Chapter, and the second one-half cent (1/2¢) local sales and use tax authorized in Article 42 of this Chapter.

(b) Distributions. – On or before ~~August 15, 2008, and every August 15 through August 15, 2012,~~ September 15, 2013, the Secretary must multiply each local government's local sales tax share by the estimated amount of replacement revenue that all local governments are expected to receive during the current fiscal year. If the resulting amount is less than one hundred percent (100%) of the local government's repealed reimbursement amount, the Secretary must pay the local government fifty percent (50%) of the difference, but not less than ~~one hundred dollars ($100.00).~~fifty dollars ($50.00).

On or before ~~May 1 of each fiscal year through May 1, 2012,~~ August 15, 2013, the Department of Revenue and the Fiscal Research Division of the General Assembly must each submit to the Secretary and to the General Assembly a final projection of the estimated amount of replacement revenue that all local governments would be expected to receive during the upcoming fiscal year. If, after May 1 and before a distribution is made, a law is enacted that would affect the projection, an updated projection must be submitted as soon as practicable. If the Secretary does not use the lower of the two final projections to make the calculation required by this subsection, the Secretary must report the reasons for this decision to the Joint Legislative Commission on Governmental Operations within 60 days after receiving the projections.

(c) Source of Funds. – The Secretary must draw the funds distributed under this section from sales and use tax collections under Article 5 of this Chapter.

(d) Reports. – The Secretary must report to the Revenue Laws Study Committee by ~~January 31, 2004, and each January 31 through January 31, 2013,~~ January 31, 2014, the amount distributed under this section for the current fiscal year."

EUGENICS COMPENSATION PROGRAM

SECTION 6.18.(a) Article 9 of Chapter 143B of the General Statutes is amended by adding a new Part to read:

"Part 30. Eugenics Asexualization and Sterilization Compensation Program.

"§ **143B-426.50. Definitions.**

As used in this Part, the following definitions apply:

(1) Claimant. – An individual on whose behalf a claim is made for compensation as a qualified recipient under this Part. An individual must be alive on June 30, 2013, in order to be a claimant.

(2) Commission. – The North Carolina Industrial Commission.

(3) Involuntarily. – In the case of:

a. A minor child, either with or without the consent of the minor child's parent, guardian, or other person standing in loco parentis.

b. An incompetent adult, with or without the consent of the incompetent adult's guardian or pursuant to a valid court order.

c. A competent adult, without the adult's informed consent, with the presumption being that the adult gave informed consent.

(4) Office. – The Office of Justice for Sterilization Victims.

(5) Qualified recipient. – An individual who was asexualized involuntarily or sterilized involuntarily under the authority of the Eugenics Board of North Carolina in accordance with Chapter 224 of the Public Laws of 1933 or Chapter 221 of the Public Laws of 1937.

"**§ 143B-426.51. Compensation payments.**

(a) A claimant determined to be a qualified recipient under this Part shall receive lump-sum compensation in the amount determined by this subsection from funds appropriated to the Department of State Treasurer for these purposes. Except as provided by the succeeding sentence, the amount of compensation for each qualified recipient is the sum of ten million dollars ($10,000,000) divided by the total number of qualified recipients, and all such payments shall be made on June 30, 2015. The State Treasurer shall reduce the ten million dollars ($10,000,000) by holding out a pro-rata amount per claimant for any cases in which there has not been a final determination of the claim on June 30, 2015. Payments made to persons determined to be qualified claimants after that date shall be made upon such determination, and if after final adjudication of all claims there remains a balance from the funds held out, they shall be paid pro-rata to all qualified claimants.

(a1) If any claimant shall die during the pendency of a claim, or after being determined to be a qualified recipient, any payment shall be made to the estate of the decedent.

(b) A qualified recipient may assign compensation received pursuant to subsection (a) of this section to a trust established for the benefit of the qualified recipient.

"**§ 143B-426.52. Claims for compensation for asexualization or sterilization.**

(a) An individual shall be entitled to compensation as provided for in this Part if a claim is submitted on behalf of that individual in accordance with this Part on or before June 30, 2014, and that individual is subsequently determined by a preponderance of the evidence to be a qualified recipient, except that any competent adult who gave consent is not a qualified recipient unless that individual can show by a preponderance of the evidence that the consent was not informed.

(b) A claim under this section shall be submitted to the Office. The claim shall be in a form and supported by appropriate documentation and information, as required by the Commission. A claim may be submitted on behalf of a claimant by a person lawfully authorized to act on the individual's or the individual's estate's behalf.

(c) The Commission shall determine the eligibility of a claimant to receive the compensation authorized by this Part in accordance with G.S. 143B-426.53. The Commission shall notify the claimant in writing of the Commission's determination regarding the claimant's eligibility.

(d) The Commission shall adopt rules for the determination of eligibility and the processing of claims.

"**§ 143B-426.53. Industrial Commission determination.**

(a) The Commission shall determine whether a claimant is eligible for compensation as a qualified recipient under this Part. The Commission shall have all powers and authority granted under Article 31 of Chapter 143 of the General Statutes with regard to claims filed pursuant to this Part.

(b) A deputy commissioner shall be assigned by the Commission to make initial determinations of eligibility for compensation under this Part. The deputy commissioner shall review the claim and supporting documentation submitted on behalf of a claimant and shall make a determination of eligibility. In any case where the claimant was a competent adult when asexualized or sterilized, the burden is on the claimant to rebut the presumption that the claimant gave informed consent. If the claim is not approved, the deputy commissioner shall set forth in writing the reasons for the disapproval and notify the claimant.

(c) A claimant whose claim is not approved under subsection (b) of this section may submit to the Commission additional documentation in support of the individual's claim and request a redetermination by the deputy commissioner.

(d) A claimant whose claim is not approved under subsection (b) or (c) of this section shall have the right to request a hearing before the deputy commissioner. The hearing shall be conducted in accordance with rules of the Commission. For claimants who are residents of this State, at the request of the claimant, the hearing shall be held in the county of residence of the claimant. For claimants who are not residents of this State, the hearing shall be held in Wake

County or at a location of mutual convenience as determined by the deputy commissioner. The claimant shall have the right to be represented, including the right to be represented by counsel, present evidence, and call witnesses. The deputy commissioner who hears the claim shall issue a written decision of eligibility which shall be sent to the claimant.

(e) Upon the issuance of a decision by the deputy commissioner under subsection (d) of this section, the claimant may file notice of appeal with the Commission within 30 days of the date notice of the deputy commissioner's decision is given. Such appeal shall be heard by the Commission, sitting as the full Commission, on the basis of the record in the matter and upon oral argument. The full Commission may amend, set aside, or strike out the decision of the deputy commissioner and may issue its own findings of fact, conclusions of law, and decision. The Commission shall notify all parties concerned in writing of its decision.

(f) A claimant may appeal the decision of the full Commission to the Court of Appeals within 30 days of the date notice of the decision of the full Commission is given. Appeals under this section shall be in accordance with the procedures set forth in G.S. 143-293 and G.S. 143-294.

(g) If at any stage of the proceedings the claimant is determined to be a qualified recipient, the Commission shall give notice to the claimant and to the Office of the State Treasurer, and the State Treasurer shall make payment of compensation to the qualified recipient or a trust specified under G.S. 143B-426.51(b).

(h) Decisions and determinations by the Commission favorable to the claimant shall be final and not subject to appeal by the State.

(i) Costs under this section shall be taxed to the State.

"**§ 143B-426.54. Office of Justice for Sterilization Victims.**

(a) There is created in the Department of Administration the Office of Justice for Sterilization Victims.

(b) At the request of a claimant or a claimant's legal representative, the Office shall assist an individual who may be a qualified recipient to determine whether the individual qualifies for compensation under this Part. The Office may assist an individual filing a claim under this Part and collect documentation in support of the claim. With the claimant's consent, the Office may represent and advocate for the claimant before the Commission and may assist the claimant with any good-faith further appeal of an adverse decision on a claim.

(c) The Office shall plan and implement an outreach program to attempt to notify individuals who may be possible qualified recipients.

"**§ 143B-426.55. Confidentiality.**

Records of all inquiries of eligibility, claims, and payments under this Part shall be confidential and not public records under Chapter 132 of the General Statutes.

"**§ 143B-426.56. Compensation excluded as income, resources, or assets.**

(a) Any payment made under this section shall not be considered income or assets for purposes of determining the eligibility for, or the amount of, any benefits or assistance under any State or local program financed in whole or in part with State funds.

(b) Pursuant to G.S. 108A-26.1, the Department of Health and Human Services shall do the following:

(1) Provide income, resource, and asset disregard to an applicant for, or recipient of, public assistance who receives compensation under this Part. The amount of the income, resource, and asset disregard shall be equal to the total compensation paid to the individual from the Eugenics Sterilization Compensation Fund.

(2) Provide resource protection by reducing any subsequent recovery by the State under G.S. 108A-70.5 from a deceased recipient's estate for payment of Medicaid-paid services by the amount of resource disregard given under subdivision (1) of this subsection.

(3) Adopt rules to implement the provisions of subdivisions (1) and (2) of this subsection.

"**§ 143B-426.57. Limitation of liability.**

Nothing in this Part shall revive or extend any statute of limitations that may otherwise have expired prior to July 1, 2013. The State's liability arising from any cause of action related to any asexualization or sterilization performed pursuant to an order of the Eugenics Board of North Carolina shall be limited to the compensation authorized by this Part."

SECTION 6.18.(b) If House Bill 998 becomes law, then G.S. 105-153.5(b), as enacted by House Bill 998, reads as rewritten:

"§ **105-153.5. Modifications to adjusted gross income.**

…

(b) Other Deductions. – In calculating North Carolina taxable income, a taxpayer may deduct from the taxpayer's adjusted gross income any of the following items that are included in the taxpayer's adjusted gross income:

…

(9) The amount paid to the taxpayer during the taxable year from the Eugenics Sterilization Compensation Fund as compensation to a qualified recipient under the Eugenics Asexualization and Sterilization Compensation Program under Part 30 of Article 9 of Chapter 143B of the General Statutes. This subdivision expires for taxable years beginning on or after January 1, 2016."

SECTION 6.18.(c) G.S. 132-1.23 reads as rewritten:

"§ **132-1.23. Eugenics program records.**

(a) Records in the custody of the State, including those in the custody of the ~~North Carolina~~Office of Justice for Sterilization ~~Foundation~~Victims, concerning the ~~North Carolina~~Eugenics Board of North Carolina's program are confidential and are not public ~~records to the extent they concern:~~records, including the records identifying (i) ~~persons~~individuals impacted by the program, (ii) ~~persons~~ individuals, or their guardians or authorized ~~agents~~ agents, inquiring about the impact of the program on ~~them,~~the individuals, or (iii) ~~persons~~ individuals, or their guardians or authorized ~~agents~~ agents, inquiring about the potential impact of the program on others.

(b) Notwithstanding subsection (a) of this section, ~~a person~~ an individual impacted by the ~~program may obtain that person's individual records under the program, and a guardian or authorized agent of that person may also obtain them.~~program, or a guardian or authorized agent of that individual, may obtain that individual's records under the program upon execution of a proper release authorization.

(c) Notwithstanding subsections (a) and (b) of this section, minutes or reports of the Eugenics Board of North Carolina, for which identifying information of the individuals impacted by the program have been redacted, may be released to any person. As used in this subsection, "identifying information" shall include the name, street address, birth day and month, and any other information the State believes may lead to the identity of any individual impacted by the program, or of any relative of an individual impacted by the program."

SECTION 6.18.(d) There is established the Eugenics Sterilization Compensation Fund. The Fund shall be designated a special fund and shall be used to pay the compensation authorized under Part 30 of Article 9 of Chapter 143B of the General Statutes. The Fund shall be administered by the Office of Justice for Sterilization Victims established in G.S. 143B-426.54. Monies in the Fund shall not be expended or transferred except in accordance with Part 30 of Article 9 of Chapter 143B of the General Statutes. Monies in the Fund shall remain until all claims timely filed with the Industrial Commission as prescribed in this act have been finally adjudicated and all qualified recipients who timely submit claims are paid. The Office of Justice for Sterilization Victims and the Fund are subject to the oversight of the State Auditor pursuant to Article 5A of Chapter 147 of the General Statutes.

SECTION 6.18.(e) The Department of Health and Human Services shall submit to the Centers for Medicare and Medicaid Services by August 1, 2013, a State Plan Amendment for the Medical Assistance Program and a State Plan Amendment for the Children's Health Insurance Program to allow for income, resource, and asset disregard for compensation

payments under Part 30 of Article 9 of Chapter 143B of the General Statutes, the Eugenics Asexualization and Sterilization Compensation Program, as enacted by this act.

SECTION 6.18.(f) Of the funds appropriated to the Eugenics Sterilization Compensation Fund, the sum of one hundred twenty-three thousand seven hundred forty-eight dollars ($123,748) shall be transferred to the Office of Justice for Sterilization Victims to pay the continued operations of the Justice for Sterilization Victims Foundation for the 2013-2014 fiscal year.

SECTION 6.18.(g) Subsection (b) of this section becomes effective for taxable years beginning on or after January 1, 2015. Subsections (e) and (g) of this section are effective when this act becomes law. The remainder of this section becomes effective July 1, 2013. Except for the provisions of subsections (b) and (c) of this section, and the final adjudication of any claims under subsection (a) of this section that are pending on June 30, 2015, this section expires June 30, 2015.

PART VII. INFORMATION TECHNOLOGY

INFORMATION TECHNOLOGY FUND

SECTION 7.1. The availability used to support appropriations made in this act from the Information Technology Fund established in G.S. 147-33.72H is as follows:

	FY 2013-2014	**FY 2014-2015**
General Fund Appropriation for IT Fund	$6,053,142	$6,055,342
General Fund Appropriation for Government Data Analytics Center	$3,000,000	$4,417,515
Interest	$2,200	$2,200
IT Fund Balance, June 30	$0	$0
Total Funds Available	$9,055,342	$10,475,057

Appropriations are made from the Information Technology Fund for the 2013-2015 fiscal biennium as follows:

Information Technology Operations		
Criminal Justice Information Network	$189,563	$189,563
Center for Geographic Information and Analysis	$495,338	$495,338
Enterprise Security Risk Management	$864,148	$864,148
Enterprise Project Management Office	$1,473,285	$1,473,285
Architecture and Engineering	$851,986	$851,986
State Web Site	$224,741	$224,741
Enterprise Licenses	$33,000	$33,000
Subtotal Information Technology Operations	$4,132,061	$4,132,061
Information Technology Projects		
Government Data Analytics Center	$3,000,000	$4,417,515
IT Consolidation	$1,021,081	$1,021,081
Electronic Forms/Digital Signatures	$900,000	$900,000
Subtotal Information Technology Projects	$4,921,081	$6,338,596
Total	$9,053,142	$10,470,657

Unless a change is approved by the State Chief Information Officer after consultation with the Office of State Budget and Management, funds appropriated to the Information Technology Fund shall be spent only as specified in this section. Changes shall not result in any degradation to the information technology operations or projects listed in this section for which the funds were originally appropriated.

Any changes to the specified uses shall be reported in writing to the Chairs of the Joint Legislative Oversight Committee on Information Technology, the Chair and Cochair of the House Appropriations Subcommittee on Information Technology, and the Fiscal Research Division.

INFORMATION TECHNOLOGY INTERNAL SERVICE FUND

SECTION 7.2.(a) G.S. 147-33.88 reads as rewritten:

"§ **147-33.88. Information technology budget development and reports.**

(a) ~~The Office shall develop an annual budget for review and approval by the Office of State Budget and Management prior to April 1 of each year.~~The Office of Information Technology Services (ITS) shall develop an annual budget for review and approval by the Office of State Budget and Management (OSBM) in accordance with a schedule prescribed by the Director of the Office of State Budget and Management. The approved Information Technology Internal Service Fund budget shall be included in the Governor's budget recommendations to the General Assembly.

The Office of State Budget and Management shall ensure that State agencies have an opportunity to adjust their budgets based on any rate changes proposed by the Office of Information Technology Services and approved by the Office of State Budget and Management.

(b) The Office shall report to the Joint Legislative Oversight Committee on Information Technology and the Fiscal Research Division on the Office's Internal Service Fund on a quarterly basis, no later than the first day of the second month following the end of the quarter. The report shall include current cash balances, line-item detail on expenditures from the previous quarter, and anticipated expenditures and revenues. The Office shall report to the Joint Legislative Oversight Committee on Information Technology and the Fiscal Research Division on expenditures for the upcoming quarter, projected year-end balance, and the status report on personnel position changes including new positions created and existing positions eliminated. The Office spending reports shall comply with the State Accounting System object codes."

SECTION 7.2.(b) IT Internal Service Fund. – For each year of the 2013-2015 fiscal biennium, receipts for the IT Internal Service Fund shall not exceed one hundred ninety million dollars ($190,000,000), excluding a 60-day balance for contingencies. Rates approved by the Office of State Budget and Management (OSBM) to support the IT Internal Service Fund shall be based on this fund limit. In the event the Fund exceeds the required limit, rates shall be adjusted within 30 days. In the event that an increase in receipts for the IT Internal Service Fund is required, the Office of Information Technology services may only implement the increase after consultation with the Joint Legislative Commission on Governmental Operations.

SECTION 7.2.(c) Rate Setting. – By October 31, 2013, the State Chief Information Officer shall establish consistent, fully transparent, easily understandable rates that reflect industry standards for each service for which any agency is charged. A report explaining the rate structure shall be submitted to the Joint Legislative Commission on Governmental Operations, the Chairs of the Joint Legislative Oversight Committee on Information Technology, the House Appropriations Subcommittee on Information Technology, and the Fiscal Research Division. An interim report shall be submitted by July 30, 2013. Overhead charges to agencies shall be consistently applied and shall reflect industry standards for the particular service. Rate increases shall require the approval of OSBM and consultation with the Joint Legislative Commission on Governmental Operations. Rate reductions may be implemented following notification of OSBM.

SECTION 7.2.(d) Agency Billing and Payments. – The State Chief Information Officer shall ensure that bills from the Office of Information Technology Services are easily understandable and fully transparent. If a State agency fails to pay its IT Internal Service Fund bill within 30 days of receipt, the Office of State Budget and Management may transfer funds

from the agency to fully or partially cover the cost of the bill from that agency to the IT Internal Service Fund, following notification of the affected agency.

SECTION 7.2.(e) Unspecified Uses. – Any uses of the IT Internal Service Fund not specifically related to the operation of the Office of Information Technology Services, to include any transfers to other State agencies, shall immediately be reported to the Office of State Budget and Management and the Fiscal Research Division with a detailed explanation as to why it was necessary to use the Fund. The State Chief Information Officer may use the IT Internal Service Fund, and any other available resources, to accelerate desktop remediation and associated software upgrades, if it is in the State's best interest.

INFORMATION TECHNOLOGY RESERVE FUND

SECTION 7.3.(a) Funds in the Reserve for Information Technology for the 2013-2014 fiscal year consist of the sum of twenty-eight million dollars ($28,000,000) appropriated from the General Fund. Funds in the Reserve for Information Technology for the 2014-2015 fiscal year consist of the sum of thirty-one million five hundred eighty-two thousand four hundred eighty-five dollars ($31,582,485) appropriated from the General Fund.

SECTION 7.3.(b) The Information Technology Reserve Fund shall be established in the Office of the State Chief Information Officer (CIO). It shall be interest-bearing and nonreverting. The State CIO shall follow established procedures for project approval. Appropriations are made from the Information Technology Reserve Fund for the 2013-2015 fiscal biennium as follows:

	FY 2013-2014	**FY 2014-2015**
Prepare/Focus	$ 250,000	$ 0
Plan	1,570,806	2,239,512
Build	1,507,353	2,882,254
Remediation	1,100,000	600,000
Security	1,571,394	392,788
Network Simplification	0	4,832,485
Desktop Remediation	17,000,000	13,300,000
Desktop Software Licenses	4,015,000	2,300,000
Operate	985,447	685,446
Customer Data	0	1,000,000
Secure Sign-On	0	3,350,000
Innovation Center	0	0

SECTION 7.3.(c) By September 15, 2013, the State Chief Information Officer shall provide a time line for completing initiatives included in the IT Reserve Fund to the Joint Legislative Oversight Committee on Information Technology, the House Appropriations Subcommittee on Information Technology, and the Fiscal Research Division. The time line shall include the dates for completion of a strategic plan, an enterprise architecture, a new business case methodology, and implementation of a new project management process. Not later than the dates specified in the time line, each of these documents shall be submitted to the Joint Legislative Oversight Committee on Information Technology, the House Appropriations Subcommittee on Information Technology, and the Fiscal Research Division.

INFORMATION TECHNOLOGY OPERATIONS

SECTION 7.4.(a) Server Inventory. – The State Chief Information Officer (State CIO) shall develop an inventory of servers and server locations in State agencies. Based on this inventory, the State CIO shall develop a plan to consolidate agency servers in State-owned data centers. By November 1, 2013, the State CIO shall provide a written plan for accomplishing this to the Joint Legislative Oversight Committee on Information Technology and the Fiscal Research Division.

SECTION 7.4.(b) Hosting/Backups. – The State CIO shall identify information technology applications that are hosted by vendors that are not backed up on State-owned

infrastructure. The State CIO shall work with impacted State agencies to develop a plan to ensure that any State agency application hosted by a vendor is backed up on State-owned infrastructure. By January 1, 2014, the State CIO shall provide a plan for accomplishing this to the Joint Legislative Oversight Committee on Information Technology and the Fiscal Research Division.

SECTION 7.4.(c) Restructuring Plan. – The State CIO shall conduct a comprehensive review of the State's overall information technology operations, including the efficacy of existing exemptions and exceptions from unified State IT governance. Based upon this analysis, the State CIO shall develop a plan to restructure the State's IT operations for the most effective and efficient utilization of resources and capabilities. The plan shall include identifying, documenting, and providing a framework for developing and implementing the education and training required for all State information technology personnel, including information technology contracting professionals. Each State agency, department, and institution, and The University of North Carolina, shall (i) cooperate fully with the Office of the State CIO during the review and assessment phase of restructuring plan development and (ii) provide to the State CIO all information needed to carry out the purposes of this subsection. By May 1, 2014, the State CIO shall present the plan to the Joint Legislative Oversight Committee on Information Technology, along with any recommended legislative proposals for implementation to be considered for introduction during the 2014 Regular Session of the 2013 General Assembly.

SECTION 7.4.(e) Telecommunications Service Clarification. – G.S. 105-164.13(54) reads as rewritten:

"The sale at retail and the use, storage, or consumption in this State of the following tangible personal property, digital property, and services are specifically exempted from the tax imposed by this Article:

…

(54) The following telecommunications services and charges:

a. Telecommunications service that is a component part of or is integrated into a telecommunications service that is resold. This exemption does not apply to service purchased by a pay telephone provider who uses the service to provide pay telephone service. Examples of services that are resold include carrier charges for access to an intrastate or interstate interexchange network, interconnection charges paid by a provider of mobile telecommunications service, and charges for the sale of unbundled network elements. An unbundled network element is a network element, as defined in 47 U.S.C. § 153(29), to which access is provided on an unbundled basis pursuant to 47 U.S.C. § 251(c)(3).

b. Pay telephone service.

c. 911 charges imposed under G.S. 62A-43 and remitted to the 911 Fund under that section.

d. Charges for telecommunications service made by a hotel, motel, or another entity whose gross receipts are taxable under G.S. 105-164.4(a)(3) when the charges are incidental to the occupancy of the entity's accommodations.

e. Telecommunications service purchased or provided by a State agency or a unit of local government for the ~~North Carolina Information Highway~~ State Network or another data network owned or leased by the State or unit of local government."

STATEWIDE INFORMATION TECHNOLOGY PROCUREMENT

SECTION 7.5. Statewide information technology procurement shall be funded through fees charged to agencies using the services of the Statewide Information Technology

Procurement Office. The Office of the State Chief Information Officer (CIO) shall provide to the Office of State Budget and Management (OSBM) a fee schedule to allow cost recovery. If an agency fails to pay for services within 30 days of billing, OSBM shall transfer the unpaid amount to the State Information Technology Procurement Office, following notification of the affected agency.

PUBLIC SCHOOL PROCUREMENT OF INFORMATION TECHNOLOGY

SECTION 7.6.(a) The State Chief Information Officer (CIO) shall work with the North Carolina Department of Public Instruction (DPI) and the Governor's Education Council to implement public school cooperative purchasing agreements for the procurement of information technology (IT) goods and services to support public schools. For purposes of this section, the phrase "public school cooperative purchasing agreement" means an agreement implemented pursuant to this section and available for local school administrative units, regional schools, charter schools, or some combination thereof, providing for collaborative or collective purchases of information technology goods and services in order to leverage economies of scale and to reduce costs.

SECTION 7.6.(b) Each public school cooperative purchasing agreement shall be based on a defined statewide information technology need to support education in the public schools. Each public school cooperative purchasing agreement shall allow for equal access to technology tools and services and shall provide a standard competitive cost throughout North Carolina for each tool or service. Public school cooperative purchasing agreements shall follow State information technology procurement laws, rules, and procedures.

SECTION 7.6.(c) By October 1, 2013, and quarterly thereafter, the Office of the State CIO and DPI shall report on the establishment of public school cooperative purchasing agreements, savings resulting from the establishment of the agreements, and any issues impacting the establishment of the agreements. The reports shall be made to the Joint Legislative Oversight Committee on Information Technology, the Joint Legislative Education Oversight Committee, and the Fiscal Research Division.

INFORMATION TECHNOLOGY CONTRACTS

SECTION 7.7.(a) SCIO Review. – The State Chief Information Officer (State CIO) shall review all State information technology (IT) contracts and shall develop a plan to consolidate duplicate IT contracts and multiple IT contracts with the same vendor.

SECTION 7.7.(b) Bulk Purchasing. – The State CIO shall develop a plan to modify bulk purchasing contracts, while maintaining economies of scale, to provide agencies with the option of purchasing equipment on an "as-needed" basis. By December 15, 2013, the State CIO shall provide the plan to the Joint Legislative Oversight Committee on Information Technology and the Fiscal Research Division. The State CIO may modify the plan based upon input from the Joint Legislative Oversight Committee on Information Technology and, following the review, shall begin implementation of the plan.

SECTION 7.7.(c) Sole Sourcing, Extensions, and Expansions Limited. – State IT contracts, including sole sourcing, extensions of the period of performance, or expansion of the scope of existing contracts, must receive the prior approval of the State CIO who may grant a specific exception. The State CIO shall immediately report any exceptions granted to the Joint Legislative Oversight Committee on Information Technology and the Fiscal Research Division. The report shall explain the reasons why the exception was deemed to be appropriate.

SECTION 7.7.(d) G.S. 147-33.72C(e) reads as rewritten:

"(e) Performance Contracting. – All contracts between a State agency and a private party for information technology projects shall include provisions for vendor performance review and accountability. The State CIO may require that these contract provisions require a performance bond, include monetary ~~penalties~~ penalties, or require other performance assurance measures for projects that are not completed or performed within the specified time period or that involve costs in excess of those specified in the contract. The State CIO may

utilize cost-savings realized on government vendor partnerships, as defined in G.S. 143-135.9, as performance incentives for an information technology project vendor.~~require contract provisions requiring a vendor to provide a performance bond.~~"

SECTION 7.7.(e) Enterprise Contracts. – The State CIO shall consult participating agency chief information officers and obtain approval from the Office of State Budget and Management prior to the initiation of any enterprise project or contract and shall ensure that enterprise project and contract costs are allocated to participating agencies in an equitable manner. Enterprise agreements shall not exceed the participating State agencies' ability to financially support the contracts.

The State CIO shall not enter into any enterprise information technology contracts without obtaining written agreements from participating State agencies regarding the apportionment of the contract cost. State agencies agreeing to participate in a contract shall:

(1) Ensure that sufficient funds are budgeted to support their agreed shares of enterprise contracts throughout the life of the contract.

(2) Transfer the required funding to the Information Technology Internal Service Fund in sufficient time for the Office of Information Technology Services to meet vendor contract requirements.

SECTION 7.7.(f) Three-Year Contracts. – Notwithstanding the cash management provisions of G.S. 147-86.11, the Office of Information Technology Services may procure information technology goods and services for periods up to a total of three years where the terms of the procurement contracts require payment of all or a portion of the contract price at the beginning of the contract agreement. All of the following conditions shall be met before payment for these agreements may be disbursed:

(1) Any advance payment can be accomplished within the IT Internal Service Fund budget.

(2) The State Controller receives conclusive evidence that the proposed agreement would be more cost-effective than a multiyear agreement that complies with G.S. 147-86.11.

(3) The procurement complies in all other aspects with applicable statutes and rules.

(4) The proposed agreement contains contract terms that protect the financial interest of the State against contractor nonperformance or insolvency through the creation of escrow accounts for funds, source codes, or both, or by any other reasonable means that have legally binding effect.

The Office of State Budget and Management shall ensure the savings from any authorized agreement shall be included in the IT Internal Service Fund rate calculations before approving annual proposed rates. Any savings resulting from the agreements shall be returned to agencies included in the contract in the form of reduced rates. Beginning October 1, 2013, ITS shall submit a quarterly written report of any authorizations granted under this section to the Joint Legislative Oversight Committee on Information Technology and the Fiscal Research Division.

INFORMATION TECHNOLOGY PERSONAL SERVICES CONTRACT REQUIREMENTS

SECTION 7.8. Notwithstanding any provision of law to the contrary, no contract for information technology personal services, or that provides personnel to perform information technology functions, may be established or renewed without written approval from the Statewide Information Technology Procurement Office and the Office of State Budget and Management. To facilitate compliance with this requirement, the Statewide Information Technology Procurement Office shall develop and document the following:

(1) Standards for determining whether it is more appropriate for an agency to hire an employee or use the services of a vendor.

(2) A process to monitor all State agency personal services contracts, as well as any other State contracts providing personnel to perform information technology functions.

(3) A process for obtaining approval of contractor positions.

The Statewide Information Technology Procurement Office shall review current personal services contracts and determine if each contractor is performing a function that could more appropriately be performed by a State employee. Where the determination is made that a State employee should be performing the function, the Statewide Information Technology Procurement Office shall work with the impacted agency and the Office of State Personnel to identify or create the position.

Beginning October 1, 2013, the Statewide Information Technology Procurement Office shall report to the Joint Legislative Oversight Committee on Information Technology and the Fiscal Research Division on its progress toward standardizing information technology personal services contracts. In addition, the report shall include detailed information on the number of personal service contractors in each State agency, the cost for each, and the comparable cost (including benefits) of a State employee serving in that capacity rather than a contractor.

PREVENT DUPLICATION OF INFORMATION TECHNOLOGY CAPABILITIES

SECTION 7.9.(a) The Office of the State Chief Information Officer (CIO) shall develop a plan and adopt measures to prevent the duplication of information technology capabilities and resources across State agencies. When multiple agencies require the same, or substantially similar, information technology capabilities, the State CIO shall designate one State agency as the lead to coordinate and manage the capability for all State agencies, with the State CIO maintaining oversight of the effort. By October 1, 2013, the State CIO shall provide this plan to the Joint Legislative Oversight Committee on Information Technology and the Fiscal Research Division.

SECTION 7.9.(b) The Office of the State Chief Information Officer shall do all of the following to carry out the purposes of this section:

(1) Review all current and future information technology projects to determine whether the capabilities required for each project already exist in a planned, ongoing, or completed information technology project developed by another State agency. For projects where the capability already exists, the Office of the State CIO shall assist the agency with implementing the existing capability.

(2) Identify existing projects that can best support a specific information technology capability for multiple agencies and work to transition all agencies requiring the specific capability to the identified projects.

(3) When State agencies request approval for new projects, determine if the information technology project can be implemented using an existing application, or if the new project has the potential to support multiple agencies' requirements.

(4) Provide quarterly reports on progress toward eliminating duplication to the Joint Legislative Oversight Committee on Information Technology and the Fiscal Research Division.

(5) Ensure that contracts for information technology allow the addition of other agencies' requirements within the terms of the existing contracts.

SECTION 7.9.(c) All State agencies shall coordinate any Geographic Information System (GIS) initiatives through the Center for Geographic Information and Analysis (CGIA) in the Office of Information Technology Services, as well as the Office of the State CIO, to ensure that existing capabilities are not being duplicated. The CGIA shall monitor and approve all new GIS-related information technology projects and expansion budget requests. By

January 1 of each year, the CGIA shall submit a written report on GIS duplication to the Joint Legislative Oversight Committee on Information Technology and the Fiscal Research Division.

The CGIA shall conduct a review of all GIS applications in State agencies, identify instances of duplication for existing applications, and develop a plan for consolidating duplicative projects. By November 1, 2013, the CGIA shall provide a report on the review to the Joint Legislative Oversight Committee on Information Technology and the Fiscal Research Division.

GOVERNMENT DATA ANALYTICS/DATA SHARING

SECTION 7.10.(a) G.S. 20-7(b2) reads as rewritten:

"(b2) Disclosure of Social Security Number. – The social security number of an applicant is not a public record. The Division may not disclose an applicant's social security number except as allowed under federal law. A violation of the disclosure restrictions is punishable as provided in 42 U.S.C. § 408, as amended.

In accordance with 42 U.S.C. 405 and 42 U.S.C. 666, as amended, the Division may disclose a social security number obtained under subsection (b1) of this section only as follows:

(1) For the purpose of administering the driver's license laws.

(2) To the Department of Health and Human Services, Child Support Enforcement Program for the purpose of establishing paternity or child support or enforcing a child support order.

(3) To the Department of Revenue for the purpose of verifying taxpayer identity.

(4) To the Office of Indigent Defense Services of the Judicial Department for the purpose of verifying the identity of a represented client and enforcing a court order to pay for the legal services rendered.

(5) To each county jury commission for the purpose of verifying the identity of deceased persons whose names should be removed from jury lists.

(6) To the Office of the State Controller for the purposes of G.S. 143B-426.38A."

SECTION 7.10.(b) G.S. 20-43(a) reads as rewritten:

"(a) All records of the Division, other than those declared by law to be confidential for the use of the Division, shall be open to public inspection during office hours in accordance with G.S. 20-43.1. A ~~photographic image or~~ signature recorded in any format by the Division for a drivers license or a special identification card is confidential and shall not be released except for law enforcement purposes. A photographic image recorded in any format by the Division for a drivers license or a special identification card is confidential and shall not be released except for law enforcement purposes or to the Office of the State Controller for the purposes of G.S. 143B-426.38A."

SECTION 7.10.(c) G.S. 105-259(b) is amended by adding a new subdivision to read:

"(44) To furnish tax information to the Office of the State Controller under G.S. 143B-426.38A. The use and reporting of individual data may be restricted to only those activities specifically allowed by law when potential fraud or other illegal activity is indicated."

SECTION 7.10.(d) Part 28 of Article 9 of Chapter 143B of the General Statutes is amended by adding a new section to read:

"**§ 143B-426.38A. Government Data Analytics Center; State data-sharing requirements.**

(a) State Government Data Analytics. – The State shall initiate across State agencies, departments, and institutions a data integration and data-sharing initiative that is not intended to replace transactional systems but is instead intended to leverage the data from those systems for enterprise-level State business intelligence.

(1) Creation of initiative. – In carrying out the purposes of this section, the Office of the State Controller shall conduct an ongoing, comprehensive

evaluation of State data analytics projects and plans in order to identify data integration and business intelligence opportunities that will generate greater efficiencies in, and improved service delivery by, State agencies, departments, and institutions. The State Controller and State CIO shall continue to utilize public-private partnerships and existing data integration and analytics contracts and licenses as appropriate to continue the implementation of the initiative.

(2) Application to State government. – The initiative shall include all State agencies, departments, and institutions, including The University of North Carolina.

(3) Governance. – The State Controller shall lead the initiative established pursuant to this section. The Chief Justice of the North Carolina Supreme Court and the Legislative Services Commission each shall designate an officer or agency to advise and assist the State Controller with respect to implementation of the initiative in their respective branches of government. The judicial and legislative branches shall fully cooperate in the initiative mandated by this section in the same manner as is required of State agencies.

(b) Government Data Analytics Center. –

(1) GDAC established. – There is established in the Office of the State Controller the Government Data Analytics Center (GDAC). GDAC shall assume the work, purpose, and resources of the current data integration effort in the Office of the State Controller and shall otherwise advise and assist the State Controller in the management of the initiative. The State Controller shall make any organizational changes necessary to maximize the effectiveness and efficiency of GDAC.

(2) Powers and duties of the GDAC. – The State Controller shall, through the GDAC, do all of the following:

a. Continue and coordinate ongoing enterprise data integration efforts, including:

1. The deployment, support, technology improvements, and expansion for the Criminal Justice Law Enforcement Automated Data System (CJLEADS).
2. The pilot and subsequent phase initiative for the North Carolina Financial Accountability and Compliance Technology System (NCFACTS).
3. Individual-level student data and workforce data from all levels of education and the State workforce.
4. Other capabilities developed as part of the initiative.

b. Identify technologies currently used in North Carolina that have the capability to support the initiative.

c. Identify other technologies, especially those with unique capabilities, that could support the State's business intelligence effort.

d. Compare capabilities and costs across State agencies.

e. Ensure implementation is properly supported across State agencies.

f. Ensure that data integration and sharing is performed in a manner that preserves data privacy and security in transferring, storing, and accessing data, as appropriate.

g. Immediately seek any waivers and enter into any written agreements that may be required by State or federal law to effectuate data sharing and to carry out the purposes of this section.

h. Coordinate data requirements and usage for State business intelligence applications in a manner that (i) limits impacts on participating State agencies as those agencies provide data and

business knowledge expertise and (ii) assists in defining business rules so the data can be properly used.

i. Recommend the most cost-effective and reliable long-term hosting solution for enterprise-level State business intelligence as well as data integration, notwithstanding Section 6A.2(f) of S.L. 2011-145.

(c) Implementation of the Enterprise-Level Business Intelligence Initiative. –

(1) Phases of the initiative. – The initiative shall cycle through these phases on an ongoing basis:

a. Phase I requirements. – In the first phase, the State Controller through GDAC shall:

1. Inventory existing State agency business intelligence projects, both completed and under development.
2. Develop a plan of action that does all of the following:
   I. Defines the program requirements, objectives, and end state of the initiative.
   II. Prioritizes projects and stages of implementation in a detailed plan and benchmarked time line.
   III. Includes the effective coordination of all of the State's current data integration initiatives.
   IV. Utilizes a common approach that establishes standards for business intelligence initiatives for all State agencies and prevents the development of projects that do not meet the established standards.
   V. Determines costs associated with the development efforts and identifies potential sources of funding.
   VI. Includes a privacy framework for business intelligence consisting of adequate access controls and end user security requirements.
   VII. Estimates expected savings.
3. Inventory existing external data sources that are purchased by State agencies to determine whether consolidation of licenses is appropriate for the enterprise.
4. Determine whether current, ongoing projects support the enterprise-level objectives.
5. Determine whether current applications are scalable or are applicable for multiple State agencies or both.

b. Phase II requirements. – In the second phase, the State Controller through the GDAC shall:

1. Identify redundancies and recommend to the State CIO any projects that should be discontinued.
2. Determine where gaps exist in current or potential capabilities.

c. Phase III requirements. – In the third phase:

1. The State Controller through GDAC shall incorporate or consolidate existing projects, as appropriate.
2. The State Controller shall, notwithstanding G.S. 147-33.76 or any rules adopted pursuant thereto, eliminate redundant business intelligence projects, applications, software, and licensing.
3. The State Controller through GDAC shall complete all necessary steps to ensure data integration in a manner that adequately protects privacy.

(2) Project management. – The State CIO shall ensure that all current and new business intelligence/data analytics projects are in compliance with all State laws, policies, and rules pertaining to information technology procurement, project management, and project funding and that they include quantifiable and verifiable savings to the State. The State CIO shall report to the Joint Legislative Oversight Committee on Information Technology on projects that are not achieving projected savings. The report shall include a proposed corrective action plan for the project.

The Office of the State CIO, with the assistance of the Office of State Budget and Management, shall identify potential funding sources for expansion of existing projects or development of new projects. No GDAC project shall be initiated, extended, or expanded:

a. Without the specific approval of the General Assembly unless the project can be implemented within funds appropriated for GDAC projects.

b. Without prior consultation to the Joint Legislative Commission on Governmental Operations and a report to the Joint Legislative Oversight Committee on Information Technology if the project can be implemented within funds appropriated for GDAC projects.

(d) Funding. – The Office of the State Controller, with the support of the Office of State Budget and Management, shall identify and make all efforts to secure any matching funds or other resources to assist in funding this initiative. Savings resulting from the cancellation of projects, software, and licensing, as well as any other savings from the initiative, shall be returned to the General Fund and shall remain unexpended and unencumbered until appropriated by the General Assembly in a subsequent fiscal year. It is the intent of the General Assembly that expansion of the initiative in subsequent fiscal years be funded with these savings and that the General Assembly appropriate funds for projects in accordance with the priorities identified by the Office of the State Controller in Phase I of the initiative.

(d1) Appropriations. – Of the funds appropriated to the Information Technology Fund, the sum of three million dollars ($3,000,000) for the 2013-2014 fiscal year and the sum of four million four hundred seventeen thousand five hundred fifteen dollars ($4,417,515) for the 2014-2015 fiscal year shall be used to support the GDAC and NCFACTS. Of these funds, the sum of one million four hundred seventeen thousand five hundred fifteen dollars ($1,417,515) shall be used in each fiscal year of the 2013-2015 biennium for OSC internal costs. For fiscal year 2014-2015, of the funds generated by GDAC and NCFACTS projects and returned to the General Fund, the sum of up to five million dollars ($5,000,000) is appropriated to fund GDAC and NCFACTS, to include vendor payments. Prioritization for the expenditure of these funds shall be for State costs associated with GDAC first, then vendor costs second. Funds in the 2013-2015 fiscal year budgets for GDAC and NCFACTS shall be used solely to support the continuation for these priority project areas.

(e) Reporting. – The Office of the State Controller shall:

(1) Submit and present quarterly reports on the implementation of Phase I of the initiative and the plan developed as part of that phase to the Chairs of the House of Representatives Appropriations and Senate Base Budget/Appropriations Committees, to the Joint Legislative Oversight Committee on Information Technology, and to the Fiscal Research Division of the General Assembly. The State Controller shall submit a report prior to implementing any improvements, expending funding for expansion of existing business intelligence efforts, or establishing other projects as a result of its evaluations, and quarterly thereafter, a written report detailing progress on, and identifying any issues associated with, State business intelligence efforts.

(2) Report the following information as needed:

a. Any failure of a State agency to provide information requested pursuant to this section. The failure shall be reported to the Joint Legislative Oversight Committee on Information Technology and to the Chairs of the House of Representatives Appropriations and Senate Base Budget/Appropriations Committees.

b. Any additional information to the Joint Legislative Commission on Governmental Operations and the Joint Legislative Oversight Committee on Information Technology that is requested by those entities.

(f) Data Sharing. –

(1) General duties of all State agencies. – The head of each State agency, department, and institution shall do all of the following:

a. Grant the Office of the State Controller access to all information required to develop and support State business intelligence applications pursuant to this section. The State Controller and the GDAC shall take all necessary actions and precautions, including training, certifications, background checks, and governance policy and procedure, to ensure the security, integrity, and privacy of the data in accordance with State and federal law and as may be required by contract.

b. Provide complete information on the State agency's information technology, operational, and security requirements.

c. Provide information on all of the State agency's information technology activities relevant to the State business intelligence effort.

d. Forecast the State agency's projected future business intelligence information technology needs and capabilities.

e. Ensure that the State agency's future information technology initiatives coordinate efforts with the GDAC to include planning and development of data interfaces to incorporate data into the initiative and to ensure the ability to leverage analytics capabilities.

f. Provide technical and business resources to participate in the initiative by providing, upon request and in a timely and responsive manner, complete and accurate data, business rules and policies, and support.

g. Identify potential resources for deploying business intelligence in their respective State agencies and as part of the enterprise-level effort.

h. Immediately seek any waivers and enter into any written agreements that may be required by State or federal law to effectuate data sharing and to carry out the purposes of this section, as appropriate.

(2) Specific requirements. – The State Controller and the GDAC shall enhance the State's business intelligence through the collection and analysis of data relating to workers' compensation claims for the purpose of preventing and detecting fraud, as follows:

a. The North Carolina Industrial Commission shall release to GDAC, or otherwise provide electronic access to, all data requested by GDAC relating to workers' compensation insurance coverage, claims, appeals, compliance, and enforcement under Chapter 97 of the General Statutes.

b. The North Carolina Rate Bureau (Bureau) shall release to GDAC, or otherwise provide electronic access to, all data requested by GDAC relating to workers' compensation insurance coverage, claims, business ratings, and premiums under Chapter 58 of the General

Statutes. The Bureau shall be immune from civil liability for releasing information pursuant to this subsection, even if the information is erroneous, provided the Bureau acted in good faith and without malicious or willful intent to harm in releasing the information.

c. The Department of Commerce, Division of Employment Security (DES), shall release to GDAC, or otherwise provide access to, all data requested by GDAC relating to unemployment insurance coverage, claims, and business reporting under Chapter 96 of the General Statutes.

d. The Department of Labor shall release to GDAC, or otherwise provide access to, all data requested by GDAC relating to safety inspections, wage and hour complaints, and enforcement activities under Chapter 95 of the General Statutes.

e. The Department of Revenue shall release to GDAC, or otherwise provide access to, all data requested by GDAC relating to the registration and address information of active businesses, business tax reporting, and aggregate federal tax Form 1099 data for comparison with information from DES, the Rate Bureau, and the Department of the Secretary of State for the evaluation of business reporting. Additionally, the Department of Revenue shall furnish to the GDAC, upon request, other tax information, provided that the information furnished does not impair or violate any information-sharing agreements between the Department and the United States Internal Revenue Service. Notwithstanding any other provision of law, a determination of whether furnishing the information requested by GDAC would impair or violate any information-sharing agreements between the Department of Revenue and the United States Internal Revenue Service shall be within the sole discretion of the State Chief Information Officer. The Department of Revenue and the Office of the State Controller shall work jointly to assure that the evaluation of tax information pursuant to this subdivision is performed in accordance with applicable federal law.

(3) All information shared with GDAC and the State Controller under this subdivision is protected from release and disclosure in the same manner as any other information is protected under this section.

(g) Provisions on Privacy and Confidentiality of Information. –

(1) Status with respect to certain information. – The State Controller and the GDAC shall be deemed to be all of the following for the purposes of this section:

a. With respect to criminal information, and to the extent allowed by federal law, a criminal justice agency (CJA), as defined under Criminal Justice Information Services (CJIS) Security Policy. The State CJIS Systems Agency (CSA) shall ensure that CJLEADS receives access to federal criminal information deemed to be essential in managing CJLEADS to support criminal justice professionals.

b. With respect to health information covered under the Health Insurance Portability and Accountability Act of 1996 (HIPAA), as amended, and to the extent allowed by federal law:

1. A business associate with access to protected health information acting on behalf of the State's covered entities in

support of data integration, analysis, and business intelligence.

2. Authorized to access and view individually identifiable health information, provided that the access is essential to the enterprise fraud, waste, and improper payment detection program or required for future initiatives having specific definable need for the data.

c. Authorized to access all State and federal data, including revenue and labor information, deemed to be essential to the enterprise fraud, waste, and improper payment detection program or future initiatives having specific definable need for the data.

d. Authorized to develop agreements with the federal government to access data deemed to be essential to the enterprise fraud, waste, and improper payment detection program or future initiatives having specific definable need for such data.

(2) Release of information. – The following limitations apply to (i) the release of information compiled as part of the initiative, (ii) data from State agencies that is incorporated into the initiative, and (iii) data released as part of the implementation of the initiative:

a. Information compiled as part of the initiative. – Notwithstanding the provisions of Chapter 132 of the General Statutes, information compiled by the State Controller and the GDAC related to the initiative may be released as a public record only if the State Controller, in that officer's sole discretion, finds that the release of information is in the best interest of the general public and is not in violation of law or contract.

b. Data from State agencies. – Any data that is not classified as a public record under G.S. 132-1 shall not be deemed a public record when incorporated into the data resources comprising the initiative. To maintain confidentiality requirements attached to the information provided to the State Controller and GDAC, each source agency providing data shall be the sole custodian of the data for the purpose of any request for inspection or copies of the data under Chapter 132 of the General Statutes.

c. Data released as part of implementation. – Information released to persons engaged in implementing the State's business intelligence strategy under this section that is used for purposes other than official State business is not a public record pursuant to Chapter 132 of the General Statutes.

d. Data from North Carolina Rate Bureau. – Notwithstanding any other provision of this section, any data released by or obtained from the North Carolina Rate Bureau under this initiative relating to workers' compensation insurance claims, business ratings, or premiums are not public records and public disclosure of such data, in whole or in part, by the GDAC or State Controller, or by any State agency, is prohibited."

SECTION 7.10.(e) G.S. 143B-426.39 is amended by adding a new subdivision to read:

"(17) Coordinate data integration and data sharing pursuant to G.S. 143B-426.38A across State agencies, departments, and institutions to support the State's enterprise-level business intelligence initiative."

SECTION 7.10.(f) The Office of State Controller, in consultation with the State CIO, shall continue the management and implementation of the GDAC and shall continue to

manage the ongoing enterprise data integration efforts under the GDAC, including CJLEADS and NC FACTS. The Office of the State CIO, in consultation with OSC, shall develop a plan for a cooperative transition of the GDAC and all of its programs to the Office of the SCIO, effective July 1, 2014. The plan shall include provisions for a governance structure for GDAC that includes participation by the State Controller. The plan shall also include milestones for the transition. The State CIO shall report the plan details and any associated costs to the Joint Legislative Oversight Committee on Information Technology and the Fiscal Research Division by no later than October 1, 2013. The State CIO shall also report on a quarterly basis to the Joint Legislative Oversight Committee on Information Technology and the Fiscal Research Division on progress toward achieving milestones set out in the plan.

SECTION 7.10.(g) Effective July 1, 2014, the GDAC and all of its programs are hereby transferred to the Office of the SCIO. This transfer shall have all of the elements of a Type I transfer, as defined in G.S. 143A-6. The Office of State Budget and Management shall determine the personnel, property, unexpended balances of appropriations, allocations, or other funds, including the functions of budgeting and purchasing, to be included in the transfer.

SECTION 7.10.(h) The purpose of this section is to codify provisions of Section 6A.7A of S.L. 2012-142, and to the extent that any provision of that section conflicts with G.S. 143B-426.38A, as enacted by this act, the provisions of the statute shall be construed to prevail over any conflicting uncodified provisions.

SECTION 7.10.(i) This section is effective when it becomes law.

STATE INFORMATION TECHNOLOGY DATA ARCHIVING

SECTION 7.11.(a) The State Chief Information Officer (CIO) shall investigate the feasibility of creating an enterprise data archiving system for State agencies that will (i) allow for the effective management of data from multiple sources; (ii) provide for efficient, timely responses to discovery requests and investigations; and (iii) ensure real-time State agency access to and use of archived files. The system shall be financed only by savings accrued as a result of the project.

SECTION 7.11.(b) By December 1, 2013, the State CIO shall report to the Joint Legislative Oversight Committee on Information Technology and the Fiscal Research Division on the results of the feasibility assessment.

SECTION 7.11.(c) Subsequent to making the report required by this section, and only if the State CIO has developed a business case that is validated by the Office of State Budget and Management, then the State CIO may initiate the development of an enterprise data archiving system.

INFORMATION TECHNOLOGY/PRIVACY PROTECTION OF CITIZEN DATA

SECTION 7.12. The Joint Legislative Oversight Committee on Information Technology (the Committee), in collaboration with the State Chief Information Officer (CIO), shall study establishing State requirements to safeguard the personal data of individuals collected and managed by all branches of State government. The study shall be conducted with the participation and assistance of agency CIOs selected jointly by the Committee and State CIO. The Committee may report any legislative proposals to the 2014 Regular Session of the 2013 General Assembly.

STATE INFORMATION TECHNOLOGY INNOVATION CENTER

SECTION 7.13. The State Chief Information Officer (CIO) may operate a State Information Technology Innovation Center (Center) to develop and demonstrate technology solutions with potential benefit to the State and its citizens. The Center may facilitate the piloting of potential solutions to State technology requirements. In operating the Center, the State CIO shall ensure that all State laws, rules, and policies are followed. Vendor participation in the Center shall not be construed to (i) create any type of preferred status for vendors or (ii) abrogate the requirement that the State CIO ensure that agency and statewide requirements for

information technology support (including those for the Office of the State CIO and the Office of Information Technology Services) are awarded based on a competitive process that follows information technology procurement guidelines. Beginning July 1, 2013, the State CIO shall report to the Joint Legislative Oversight Committee on Information Technology on a quarterly basis on initiatives being developed and implemented within the Center, as well as on the sources and amounts of resources used to support the Center.

ENTERPRISE GRANTS MANAGEMENT

SECTION 7.14.(a) Effective August 1, 2013, the State Chief Information Officer (CIO) shall oversee the development and implementation of the enterprise grants management system. The State CIO shall review progress on the implementation of the enterprise grants management system and update the plan for its development and implementation. This plan shall include an updated inventory of current agency grants management systems and a detailed process for consolidating grants management within the State, to include a time line for implementation. By October 1, 2013, the State CIO shall provide the updated plan to the Joint Legislative Oversight Committee on Information Technology and the Fiscal Research Division.

SECTION 7.14.(b) There is established a Grants Management Oversight Committee to coordinate the development of an enterprise grants management system. The Committee shall be chaired by the State Chief Information Officer. Committee membership shall include the Director of the Office of State Budget and Management, the State Auditor, the Department of Transportation Chief Information Officer, and the State Controller. The State Auditor shall serve as a nonvoting member. The Committee shall:

(1) Establish priorities for moving agencies to the enterprise system.
(2) Establish priorities for development and implementation of system capabilities.
(3) Define system requirements.
(4) Approve plans associated with system development and implementation.
(5) Review costs and approve funding sources for system development and implementation.
(6) Ensure any system benefits are realistic and realized.

SECTION 7.14.(c) Beginning September 1, 2013, the Office of the State CIO shall report quarterly to the Joint Legislative Oversight Committee on Information Technology and the Fiscal Research Division on the status of the system, including the following information:

(1) Agencies currently participating in the system.
(2) Specific requirements for each agency project included in the system development.
(3) Cost and funding sources for each agency participating in the system.
(4) Status of each agency project included in the system.
(5) Comparison of the status of each project to the project's time line, with an explanation of any differences.
(6) Detailed descriptions of milestones completed that quarter and to be completed the next quarter.
(7) Any changes in project cost for any participating agency, the reason for the change, and the source of funding, if there is a cost increase.
(8) Actual project expenditures by agency, to date, and during that quarter.
(9) Any potential funding shortfalls, and their impact.
(10) Any issues identified during the quarter, with a corrective action plan and a time line for resolving each issue.
(11) Impact of any issues on schedule or cost.
(12) Any changes to agency projects, or the system as a whole.
(13) Any change requests and their costs.

ENTERPRISE ELECTRONIC FORMS AND DIGITAL SIGNATURES

SECTION 7.15.(a) The State's enterprise electronic forms and digital signatures project shall be transferred from the Office of the State Controller to the Office of the State Chief Information Officer (CIO) as a Type I transfer, as defined in G.S. 143A-6. The State CIO shall continue the planning, development, and implementation of a coordinated enterprise electronic forms and digital signatures capability, as well as the use of digital certificates. As part of the process, the Office of the State CIO shall include the capability to allow one-time data entry for multiple applications.

SECTION 7.15.(b) The State CIO shall continue to integrate executive branch agencies developing, or identifying the need to develop, electronic forms or digital signatures projects, or both. The State CIO shall also review existing electronic forms and digital signatures capabilities and develop a plan to consolidate them. The State CIO may consolidate current agency electronic forms and digital signature capabilities, and cancel ongoing projects, and may redirect the resources associated with the capabilities and projects to the enterprise electronic forms and digital signatures project. Beginning November 1, 2013, the State CIO shall submit quarterly reports on the status of the project to the Joint Legislative Oversight Committee on Information Technology and the Fiscal Research Division.

VEHICLE MANAGEMENT

SECTION 7.16.(a) The Office of the State Chief Information Officer (CIO) shall develop an implementation plan for establishing a statewide motor fleet management system. The plan shall consider consolidating individual agency and institution motor fleet management systems and include an implementation time line, a cost estimate, and a continuing funding strategy to create and operate a statewide fleet management information system to which all State agencies and institutions would be required to provide vehicle identification, utilization, and direct cost data. In formulating an implementation plan, the Office of the State Chief Information Officer shall do the following:

(1) Consult with State agencies that own vehicles.
(2) Review the existing fleet management information systems used by State agencies.
(3) Examine fleet management information systems used by other state governments.
(4) Determine whether the State should (i) expand a fleet management information system currently used by a State agency for statewide use, (ii) develop a new in-house system, or (iii) purchase a new system from an outside vendor.
(5) Determine fees or other methods to pay the initial and ongoing costs for the system.

SECTION 7.16.(b) The Office of State Budget and Management shall assist and advise the Office of the State Chief Information Officer in developing the implementation plan and work with State agencies and institutions to identify funding from current and proposed projects and applications that could be used to support the development and implementation of the statewide motor fleet management system. The Office of State Controller shall assist and advise the Office of the State Chief Information Officer in developing the implementation plan for the statewide motor fleet management information system, including how the system interfaces with the statewide accounting system.

SECTION 7.16.(c) Beginning October 1, 2013, the State CIO shall report to the Joint Legislative Oversight Committee on Information Technology and the Fiscal Research Division on the implementation plan for the statewide motor fleet management information system including progress toward the development of the enterprise system, the associated costs, identified sources of funding, and any issues associated with the project.

SECTION 7.16.(d) The State CIO shall also study the feasibility of implementing a tracking system for State vehicles, based on recommendations from the Program Evaluation

Division, and report the results of the study to the Joint Legislative Oversight Committee on Information Technology, the Joint Legislative Program Evaluation Oversight Committee, and the Fiscal Research Division by November 15, 2013.

SECTION 7.16.(e) Until July 1, 2015, no State or local governmental entity or officer may procure or operate an unmanned aircraft system or disclose personal information about any person acquired through the operation of an unmanned aircraft system unless the State CIO approves an exception specifically granting disclosure, use, or purchase. Any exceptions to the prohibition in this subsection shall be reported immediately to the Joint Legislative Oversight Committee on Information Technology and the Fiscal Research Division. The following definitions apply in this section:

(1) "Unmanned aircraft" means an aircraft that is operated without the possibility of human intervention from within or on the aircraft.

(2) "Unmanned aircraft system" means an unmanned aircraft and associated elements, including communication links and components that control the unmanned aircraft that are required for the pilot in command to operate safely and efficiently in the national airspace system.

SECTION 7.16.(f) If the State Chief Information Officer determines that there is a requirement for unmanned aircraft systems for use by State or local agencies, planning may begin for the possible development, implementation, and operation of an unmanned aircraft system program within the State of North Carolina. This planning effort shall be accomplished in coordination with the Chief Information Officer for the Department of Transportation and the DOT Aviation Division Director. If the State CIO decides to plan for an unmanned aircraft system program, a proposal for the implementation of the program shall be provided by March 1, 2014, to the Joint Legislative Oversight Committee on Information Technology, the Joint Transportation Legislative Oversight Committee, and the Fiscal Research Division. At a minimum, the proposal shall include the following:

(1) Governance structure to include the appropriate use at each level of government.

(2) Guidelines for program implementation to include limitations on unmanned aircraft system use.

(3) Potential participants.

(4) Costs associated with establishing a program.

(5) Potential sources of funding.

(6) Issues associated with establishing a program to include limitations on entities that may already have purchased unmanned aircraft systems.

(7) Recommendations for legislative proposals.

TAX INFORMATION MANAGEMENT SYSTEM/ADDITIONAL PUBLIC-PRIVATE PARTNERSHIP AUTHORIZED

SECTION 7.17.(a) Additional Public-Private Partnership. – The Secretary of Revenue may enter into an additional public-private arrangement in order to expand the implementation of the Tax Information Management System (TIMS). All such arrangements will terminate June 30, 2018. The public-private arrangement may include terms necessary to implement additional revenue-increasing or cost-savings components if all of the following conditions are met:

(1) The funding of the project under the arrangement comes from revenue generated by or cost-savings resulting from the project.

(2) The funding of the project is dependent on increased revenue or cost-savings streams that are different from the existing benefits stream for the implementation of TIMS.

(3) The project involves additional identified initiatives that will be integrated into the TIMS solution.

SECTION 7.17.(b) Contracts. – Work under an additional public-private arrangement that is authorized by this section may be contracted by requests for proposals, modifications to the existing contracts, purchases using existing contracts, or other related contract vehicles.

SECTION 7.17.(c) Management/Performance Measurement. – The Secretary of Revenue shall follow the existing model for public-private arrangement oversight and shall establish a measurement process to determine the increased revenue or cost-savings attributed to the additional public-private arrangement authorized by this section. To accomplish this, the Secretary shall consult subject matter experts in the Department of Revenue, in other governmental units, and in the private sector, as necessary. At a minimum, the measurement process shall include all of the following:

(1) Calculation of a revenue baseline against which the increased revenue attributable to the project is measured and a cost-basis baseline against which the cost-savings resulting from the project are measured.

(2) Periodic evaluation to determine whether the baselines need to be modified based on significant measurable changes in the economic environment.

(3) Monthly calculation of increased revenue and cost-savings attributable to contracts executed under this section.

SECTION 7.17.(d) Funding. – Of funds generated from increased revenues or cost-savings, as compared to the baselines established by subdivision (1) of subsection (c) of this section, in the General Fund, the Highway Fund, and that State portion of the Unauthorized Substance Tax collections of the Special Revenue Fund, the sum of up to a total of sixteen million dollars ($16,000,000) may be authorized by the Office of State Budget and Management to make purchases related to the implementation of the additional public-private arrangement authorized by this section, including payments for services from non-State entities.

SECTION 7.17.(e) Internal Costs. – For the 2013-2015 fiscal biennium the Department of Revenue may retain an additional sum of eight million eight hundred seventy-four thousand three hundred nineteen dollars ($8,874,319) from benefits generated for the General Fund since the beginning of the public-private partnership described under Section 6A.5(a) of S.L. 2011-145. These funds shall be used as payment of internal costs for the fiscal biennium, and such funds are hereby appropriated for this purpose.

SECTION 7.17.(f) Expert Counsel Required. – Notwithstanding G.S. 114-2.3, the Department of Revenue shall engage the services of private counsel with the pertinent information technology and computer law expertise to negotiate and review contracts associated with an additional public-private arrangement authorized under this section.

SECTION 7.17.(g) Oversight Committee. – The Oversight Committee established under Section 6A.5(c) of S.L. 2011-145 shall have the same responsibilities and duties with respect to an additional public-private arrangement authorized by this section as it does with respect to public-private arrangements to implement TIMS and the additional Planning and Design Project (PDP) components.

SECTION 7.17.(h) Reporting. – Beginning August 1, 2013, and quarterly thereafter, the Department of Revenue shall submit detailed written reports to the Chairs of the House of Representatives Appropriations Committee, to the Chairs of the Senate Committee on Appropriations/Base Budget, to the Joint Legislative Oversight Committee on Information Technology, and to the Fiscal Research Division of the General Assembly. The report shall include an explanation of all of the following:

(1) Details of each public-private contract.

(2) The benefits from each contract.

(3) A comprehensive forecast of the benefits of using public-private agreements to implement TIMS, the additional PDP components, and additional components authorized by this section, including cost-savings and the acceleration of the project time line.

(4) Any issues associated with the operation of the public-private partnership.

SECTION 7.17.(i) Information Technology Project Oversight. – In addition to the oversight provided by the Oversight Committee established in Section 6A.5(c) of S.L. 2011-145, the additional public-private arrangement authorized by this section shall be subject to existing State information technology project oversight laws and statutes, and the project management shall comply with all statutory requirements and other criteria established by the State Chief Information Officer and the Office of State Budget and Management for information technology projects. The State Chief Information Officer and the Office of State Budget and Management shall immediately report any failure to do so to the Joint Legislative Oversight Committee on Information Technology, the Chairs of the House of Representatives and Senate Committees on Appropriations, and the Fiscal Research Division.

SECTION 7.17.(j) Section 6A.5(c) of S.L. 2011-145, as amended by Section 6A.3(j) of S.L. 2012-142, reads as rewritten:

"**SECTION 6A.5.(c)** There is established within the Department of Revenue the Oversight Committee for reviewing and approving the benefits measurement methodology and calculation process. The Oversight Committee shall review and approve in writing all contracts, including change orders, amendments to contracts, and addendums to contracts, before they are executed under this section. This shall include (i) details of each public-private contract, (ii) the benefits from each contract, and (iii) a comprehensive forecast of the benefits of using public-private agreements to implement TIMS and the additional PDP components, including the measurement process established for the Secretary of Revenue. The Oversight Committee shall approve all of the fund transfers for this project. Within five days of entering into a contract, the Department shall provide copies of each contract and all associated information to the Joint Legislative Oversight Committee on Information Technology, the Chairs of the House of Representatives and Senate Committees on Appropriations, and the Fiscal Research Division.

The members of the Committee shall include the following:

(1) The ~~State Budget Director;~~Director of the Office of State Budget and Management;
(2) The Secretary of the Department of Revenue;
(3) The State Chief Information Officer;
(4) Two persons appointed by the Governor;
(5) One member of the general public having expertise in information technology appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives; and
(6) One member of the general public having expertise in economic and revenue forecasting appointed by the General Assembly upon recommendation of the President Pro Tempore of the Senate.

The State Budget Director shall serve as chair of the Committee. The Committee shall set its meeting schedule and adopt its rules of operation by majority vote. A majority of the members constitutes a quorum. Vacancies shall be filled by the appointing authority. Administrative support staff shall be provided by the Department of Revenue. Members of the Committee shall receive reimbursements for subsistence and travel expenses as provided by Chapter 138 of the General Statutes. The Committee shall terminate on June 30, 2018.

The Department shall provide copies of the minutes of each meeting and all associated information to the Joint Legislative Oversight Committee on Information Technology, the Chairs of the House of Representatives Appropriations Committee, the Chairs of the Senate Committee on Appropriations/Base Budget, and the Fiscal Research Division."

USE OF MOBILE COMMUNICATIONS DEVICES

SECTION 7.18.(a) By October 1, 2013, every State agency shall submit to the Joint Legislative Oversight Committee on Information Technology and the Fiscal Research Division a copy of the agency policy on the use of mobile communications devices. This

reporting requirement is continuous such that any time a change is made to an existing policy, the agency shall submit an update immediately.

SECTION 7.18.(b) Beginning October 1, 2013, each State agency shall submit a quarterly report to the Joint Legislative Oversight Committee on Information Technology, the Fiscal Research Division, and the Office of the State Chief Information Officer (CIO) on the use of mobile electronic communications devices within the agency. The report shall include the following information:

(1) The total number of devices issued by the agency.
(2) The total cost of mobile devices issued by the agency.
(3) The number and cost of new devices issued since the last report.
(4) The contracts used to obtain the devices.

SECTION 7.18.(c) The Office of the State Chief Information Officer shall review current enterprise, and any individual agency mobile electronic communications contracts, to develop a plan to consolidate the contracts. By October 1, 2013, the Office of the State CIO shall submit a report on progress toward consolidating State agency mobile communications device contracts to the Joint Legislative Oversight Committee on Information Technology and the Fiscal Research Division.

SECTION 7.18.(d) The Office of the State CIO shall develop a policy for implementing a "bring your own device" plan for State employees. By September 1, 2013, the State CIO shall report to the Joint Legislative Oversight Committee on Information Technology and the Fiscal Research Division on how the plan is to be implemented, as well as on potential issues and costs. Following consultation with the Joint Legislative Oversight Committee on Information Technology, the State CIO may implement the "bring your own device" plan.

NEXT GENERATION SECURE DRIVER LICENSE SYSTEM

SECTION 7.19.(a) By August 1, 2013, the Chief Information Officer of the Department of Transportation shall provide a detailed report on the status of the Next Generation Secure Driver License System (NGSDLS) to the Joint Legislative Oversight Committee on Information Technology, the Joint Legislative Transportation Oversight Committee, and the Fiscal Research Division. At a minimum, the report on the NGSDLS shall include the following information:

(1) Original project scope, deliverables, and milestones, including descriptions of any subsequent modifications and basis for each.
(2) Contractual status and amendments.
(3) Initial and current estimated costs for system development, implementation, and maintenance.
(4) Remaining deliverables and cost to complete by phase.
(5) Any issues, including vendor performance, identified during project development and implementation and planned corrective actions for each issue.
(6) Programmatic impacts for Division of Motor Vehicles driver license services.
(7) Requirements and costs to implement a process to allow persons who are homebound to apply for or renew a special photo identification card, with a color photo, and similar in size, shape, design, and background to a drivers license, by means other than personal appearance.

SECTION 7.19.(b) In the event of any changes in the NGSDLS project status occurring after submission of the report required by subsection (a) of this section, the Chief Information Officer of the Department of Transportation shall ensure that the Joint Legislative Oversight Committee on Information Technology, the Joint Legislative Transportation Oversight Committee, and the Fiscal Research Division are notified immediately of the changes.

STATE TITLING AND REGISTRATION SYSTEM/STATE AUTOMATED DRIVER LICENSE SYSTEM/LIABILITY INSURANCE TRACKING AND ENFORCEMENT SYSTEM

SECTION 7.20.(a) The Chief Information Officer of the Department of Transportation shall continue the replacement of the State Titling and Registration System (STARS), the State Automated Driver License System (SADLS), and the Liability Insurance Tracking and Enforcement System (LITES).

SECTION 7.20.(b) By August 1, 2013, and quarterly thereafter, the Chief Information Officer of the Department of Transportation shall report to the Joint Legislative Oversight Committee on Information Technology, the Joint Legislative Transportation Oversight Committee, and the Fiscal Research Division on the status of each of the projects listed in subsection (a) of this section. At a minimum, the report shall include the following information for each project:

(1) Project scope, milestones, and anticipated business process improvements.
(2) Estimated development, implementation, and maintenance costs.
(3) Project status, including any modifications to the project scope or revisions to baseline cost estimates.
(4) Project accomplishments and changes in status for the previous quarter.
(5) Actual costs incurred, by purpose and funding source, for the previous quarter.
(6) Remaining cost to complete by project phase for the next two fiscal years.
(7) Any issues, including vendor performance, identified during project development and implementation and planned corrective actions.

GDAC/LOCAL GOVERNMENTS/OPTIONAL COLLECTION AGREEMENTS

SECTION 7.21.(a) A city or county may enter into an interagency agreement with the Department of Revenue and the Government Data Analytics Center (GDAC) to manage the collection of outstanding unpaid parking fines and penalties. The scope and manner of such collections services shall be determined by the agreement. A county or city that exercises the option to enter into such an arrangement may agree to the following, which are required terms in the agreement with the Department of Revenue and the GDAC:

(1) That the city or county agrees to:
    a. Comply with State and federal law regarding data sharing, as appropriate.
    b. Provide for technical and business resources to support the analytics development.
    c. Provide for timely and responsive access to complete and accurate data, business rules, policies, and technical support.
(2) That the GDAC be given access to all required information necessary to develop and support analytics allowing the identification of the owners of vehicles with associated unpaid parking fines and penalties.

SECTION 7.21.(b) In carrying out the purposes of this section and the agreements made under its provisions, the State Controller and the GDAC shall:

(1) Ensure the security, integrity, and privacy of the data in accordance with State and federal law and as may be required by contract.
(2) Leverage enterprise data sources, as allowed by State and federal law, and GDAC governance agreements, to provide analytics to integrate and match data to identify owner information associated with vehicles with unpaid parking fines and penalties.
(3) Provide access to analytics reporting and information to the participating city or municipality and the Department of Revenue.
(4) Provide data to the Department of Revenue for use in the withholding of tax refunds of persons that have unpaid parking fines and penalties.

SECTION 7.21.(c) The Department of Transportation, Division of Motor Vehicles, shall provide the GDAC with access to historical and current information required to identify owners associated with vehicles with unpaid parking fines and penalties.

SECTION 7.21.(d) The Department of Revenue shall (i) receive data from the GDAC associated with persons that have unpaid parking fines and penalties; (ii) withhold tax refunds for the purpose of the collection of those fines and penalties as allowed by law; and (iii) from the withholdings, pay to the appropriate city or county the amounts due.

SECTION 7.21.(e) Any fee imposed by the Department of Revenue or the GDAC to cover the administrative costs of withholding for the collection of unpaid parking fines and penalties shall be borne by the city or county and shall be negotiated as part of the agreements authorized by this section.

STATE PORTAL

SECTION 7.22. The State Chief Information Officer (SCIO) shall develop a plan to implement an electronic portal that makes obtaining information, conducting online transactions, and communicating with State agencies more convenient for members of the public. The SCIO shall report to the Joint Legislative Oversight Committee on Information Technology on the details of the plan prior to implementation. The plan shall contain all of the following:

(1) A detailed description for development and implementation of the portal, to include a list of anticipated applications to be implemented during the State fiscal years of 2013-2017.

(2) A description of how the portal will be implemented, including the use of outside vendors, detailed information on vendor participation, and potential costs.

(3) Detailed information on the anticipated total cost of ownership of the portal and any applications proposed for implementation during the State fiscal years of 2013-2017, including the amount of any payments to be made to any vendors supporting the project for each application and the portal as a whole.

(4) A funding model that limits the costs to the State.

(5) If outsourced, a detailed, fully executable plan to return portal operations to the State, with associated costs and a detailed analysis that demonstrates that it is more cost-effective to use a vendor than to develop an application internally.

(6) A provision requiring that any fees to support the operation of the portal must be authorized by the General Assembly.

PART VIII. PUBLIC SCHOOLS

FUNDS FOR CHILDREN WITH DISABILITIES

SECTION 8.1. The State Board of Education shall allocate additional funds for children with disabilities on the basis of three thousand seven hundred forty-three dollars and forty-eight cents ($3,743.48) per child. Each local school administrative unit shall receive funds for the lesser of (i) all children who are identified as children with disabilities or (ii) twelve and one-half percent (12.5%) of its 2013-2014 allocated average daily membership in the local school administrative unit. The dollar amounts allocated under this section for children with disabilities shall also adjust in accordance with legislative salary increments, retirement rate adjustments, and health benefit adjustments for personnel who serve children with disabilities.

FUNDS FOR ACADEMICALLY GIFTED CHILDREN

SECTION 8.2. The State Board of Education shall allocate additional funds for academically or intellectually gifted children on the basis of one thousand two hundred

thirty-three dollars and one cent ($1,233.01) per child for fiscal year 2013-2014 and 2014-2015. A local school administrative unit shall receive funds for a maximum of four percent (4%) of its 2013-2014 allocated average daily membership, regardless of the number of children identified as academically or intellectually gifted in the unit. The dollar amounts allocated under this section for academically or intellectually gifted children shall also adjust in accordance with legislative salary increments, retirement rate adjustments, and health benefit adjustments for personnel who serve academically or intellectually gifted children.

USE OF SUPPLEMENTAL FUNDING IN LOW-WEALTH COUNTIES

SECTION 8.3.(a) Use of Funds for Supplemental Funding. – All funds received pursuant to this section shall be used only (i) to provide instructional positions, instructional support positions, teacher assistant positions, clerical positions, school computer technicians, instructional supplies and equipment, staff development, and textbooks and (ii) for salary supplements for instructional personnel and instructional support personnel. Local boards of education are encouraged to use at least twenty-five percent (25%) of the funds received pursuant to this section to improve the academic performance of children who are performing at Level I or II on either reading or mathematics end-of-grade tests in grades three through eight.

SECTION 8.3.(b) Definitions. – As used in this section, the following definitions apply:

(1) "Anticipated county property tax revenue availability" means the county-adjusted property tax base multiplied by the effective State average tax rate.

(2) "Anticipated total county revenue availability" means the sum of the following:
   a. Anticipated county property tax revenue availability.
   b. Local sales and use taxes received by the county that are levied under Chapter 1096 of the 1967 Session Laws or under Subchapter VIII of Chapter 105 of the General Statutes.
   c. Sales tax hold harmless reimbursement received by the county under G.S. 105-521.
   d. Fines and forfeitures deposited in the county school fund for the most recent year for which data are available.

(3) "Anticipated total county revenue availability per student" means the anticipated total county revenue availability for the county divided by the average daily membership of the county.

(4) "Anticipated State average revenue availability per student" means the sum of all anticipated total county revenue availability divided by the average daily membership for the State.

(5) "Average daily membership" means average daily membership as defined in the North Carolina Public Schools Allotment Policy Manual, adopted by the State Board of Education. If a county contains only part of a local school administrative unit, the average daily membership of that county includes all students who reside within the county and attend that local school administrative unit.

(6) "County-adjusted property tax base" shall be computed as follows:
   a. Subtract the present-use value of agricultural land, horticultural land, and forestland in the county, as defined in G.S. 105-277.2, from the total assessed real property valuation of the county.
   b. Adjust the resulting amount by multiplying by a weighted average of the three most recent annual sales assessment ratio studies.
   c. Add to the resulting amount the following:
      1. Present-use value of agricultural land, horticultural land, and forestland, as defined in G.S. 105-277.2.

2. Value of property of public service companies, determined in accordance with Article 23 of Chapter 105 of the General Statutes.
3. Personal property value for the county.

(7) "County-adjusted property tax base per square mile" means the county-adjusted property tax base divided by the number of square miles of land area in the county.

(8) "County wealth as a percentage of State average wealth" shall be computed as follows:

a. Compute the percentage that the county per capita income is of the State per capita income and weight the resulting percentage by a factor of five-tenths.
b. Compute the percentage that the anticipated total county revenue availability per student is of the anticipated State average revenue availability per student and weight the resulting percentage by a factor of four-tenths.
c. Compute the percentage that the county-adjusted property tax base per square mile is of the State-adjusted property tax base per square mile and weight the resulting percentage by a factor of one-tenth.
d. Add the three weighted percentages to derive the county wealth as a percentage of the State average wealth.

(9) "Effective county tax rate" means the actual county tax rate multiplied by a weighted average of the three most recent annual sales assessment ratio studies.

(10) "Effective State average tax rate" means the average of effective county tax rates for all counties.

(11) "Local current expense funds" means the most recent county current expense appropriations to public schools, as reported by local boards of education in the audit report filed with the Secretary of the Local Government Commission pursuant to G.S. 115C-447.

(12) "Per capita income" means the average for the most recent three years for which data are available of the per capita income according to the most recent report of the United States Department of Commerce, Bureau of Economic Analysis, including any reported modifications for prior years as outlined in the most recent report.

(13) "Sales assessment ratio studies" means sales assessment ratio studies performed by the Department of Revenue under G.S. 105-289(h).

(14) "State average current expense appropriations per student" means the most recent State total of county current expense appropriations to public schools, as reported by local boards of education in the audit report filed with the Secretary of the Local Government Commission pursuant to G.S. 115C-447.

(15) "State average adjusted property tax base per square mile" means the sum of the county-adjusted property tax bases for all counties divided by the number of square miles of land area in the State.

(16) "Supplant" means to decrease local per student current expense appropriations from one fiscal year to the next fiscal year.

(17) "Weighted average of the three most recent annual sales assessment ratio studies" means the weighted average of the three most recent annual sales assessment ratio studies in the most recent years for which county current expense appropriations and adjusted property tax valuations are available. If real property in a county has been revalued one year prior to the most recent sales assessment ratio study, a weighted average of the two most recent sales assessment ratios shall be used. If property has been revalued the year of the

most recent sales assessment ratio study, the sales assessment ratio for the year of revaluation shall be used.

SECTION 8.3.(c) Eligibility for Funds. – Except as provided in subsection (g) of this section, the State Board of Education shall allocate these funds to local school administrative units located in whole or in part in counties in which the county wealth as a percentage of the State average wealth is less than one hundred percent (100%).

SECTION 8.3.(d) Allocation of Funds. – Except as provided in subsection (f) of this section, the amount received per average daily membership for a county shall be the difference between the State average current expense appropriations per student and the current expense appropriations per student that the county could provide given the county's wealth and an average effort to fund public schools. (To derive the current expense appropriations per student that the county could be able to provide given the county's wealth and an average effort to fund public schools, multiply the county's wealth as a percentage of State average wealth by the State average current expense appropriations per student.) The funds for the local school administrative units located in whole or in part in the county shall be allocated to each local school administrative unit located in whole or in part in the county based on the average daily membership of the county's students in the school units. If the funds appropriated for supplemental funding are not adequate to fund the formula fully, each local school administrative unit shall receive a pro rata share of the funds appropriated for supplemental funding.

SECTION 8.3.(e) Formula for Distribution of Supplemental Funding Pursuant to This Section Only. – The formula in this section is solely a basis for distribution of supplemental funding for low-wealth counties and is not intended to reflect any measure of the adequacy of the educational program or funding for public schools. The formula is also not intended to reflect any commitment by the General Assembly to appropriate any additional supplemental funds for low-wealth counties.

SECTION 8.3.(f) Minimum Effort Required. – A county that (i) maintains an effective county tax rate that is at least one hundred percent (100%) of the effective State average tax rate in the most recent year for which data are available or (ii) maintains a county appropriation per student to the school local current expense fund of at least one hundred percent (100%) of the current expense appropriations per student to the school local current expense fund that the county could provide given the county's wealth and an average effort to fund public schools shall receive full funding under this section. A county that maintains a county appropriation per student to the school local current expense fund of less than one hundred percent (100%) of the current expense appropriations per student to the school local current expense fund that the county could provide given the county's wealth and an average effort to fund public schools shall receive funding under this section at the same percentage that the county's appropriation per student to the school local current expense fund is of the current expense appropriations per student to the school local current expense fund that the county could provide given the county's wealth and an average effort to fund public schools.

SECTION 8.3.(g) Nonsupplant Requirement. – A county in which a local school administrative unit receives funds under this section shall use the funds to supplement local current expense funds and shall not supplant local current expense funds. For the 2013-2015 fiscal biennium, the State Board of Education shall not allocate funds under this section to a county found to have used these funds to supplant local per student current expense funds. The State Board of Education shall make a finding that a county has used these funds to supplant local current expense funds in the prior year, or the year for which the most recent data are available, if all of the following criteria apply:

(1) The current expense appropriation per student of the county for the current year is less than ninety-five percent (95%) of the average of local expenditures per student for the three prior fiscal years.

(2) The county cannot show (i) that it has remedied the deficiency in funding or (ii) that extraordinary circumstances caused the county to supplant local current expense funds with funds allocated under this section.

The State Board of Education shall adopt rules to implement the requirements of this subsection.

SECTION 8.3.(h) Counties Containing a Base of the Armed Forces. – Notwithstanding any other provision of this section, for the 2013-2015 fiscal biennium, counties containing a base of the Armed Forces of the United States that have an average daily membership of more than 23,000 students shall receive the same amount of supplemental funding for low-wealth counties as received in the 2012-2013 fiscal year.

SECTION 8.3.(i) Funds for EVAAS Data. – Notwithstanding the requirements of subsection (a) of this section, local school administrative units may utilize funds allocated under this section to purchase services that allow for extraction of data from the Education Value-Added Assessment System (EVAAS).

SECTION 8.3.(j) Reports. – For the 2013-2015 fiscal biennium, the State Board of Education shall report to the Fiscal Research Division prior to May 1 of each year if it determines that counties have supplanted funds.

SECTION 8.3.(k) Department of Revenue Reports. – The Department of Revenue shall provide to the Department of Public Instruction a preliminary report for the current fiscal year of the assessed value of the property tax base for each county prior to March 1 of each year and a final report prior to May 1 of each year. The reports shall include for each county the annual sales assessment ratio and the taxable values of (i) total real property, (ii) the portion of total real property represented by the present-use value of agricultural land, horticultural land, and forestland, as defined in G.S. 105-277.2, (iii) property of public service companies determined in accordance with Article 23 of Chapter 105 of the General Statutes, and (iv) personal property.

SMALL SCHOOL SYSTEM SUPPLEMENTAL FUNDING

SECTION 8.4.(a) Funds for Small School Systems for the 2013-2014 Fiscal Year. – Except as provided in subsection (g) of this section, the State Board of Education shall allocate funds appropriated for small school system supplemental funding for the 2013-2014 fiscal year (i) to each county school administrative unit with an average daily membership of fewer than 3,175 students and (ii) to each county school administrative unit with an average daily membership from 3,175 to 4,000 students if the county in which the local school administrative unit is located has a county-adjusted property tax base per student that is below the State-adjusted property tax base per student and if the total average daily membership of all local school administrative units located within the county is from 3,239 to 4,080 students. The allocation formula shall do all of the following:

(1) Round all fractions of positions to the next whole position.

(2) Provide five and one-half additional regular classroom teachers in counties in which the average daily membership per square mile is greater than four and provide seven additional regular classroom teachers in counties in which the average daily membership per square mile is four or fewer.

(3) Provide additional program enhancement teachers adequate to offer the standard course of study.

(4) Change the duty-free period allocation to one teacher assistant per 400 average daily membership.

(5) Provide a base for the consolidated funds allotment of at least seven hundred seventeen thousand three hundred sixty dollars ($717,360), excluding textbooks, for the 2013-2014 fiscal year.

(6) Allot vocational education funds for grade six as well as for grades seven through 12. If funds appropriated for each fiscal year for small school system supplemental funding are not adequate to fully fund the program, the

State Board of Education shall reduce the amount allocated to each county school administrative unit on a pro rata basis. This formula is solely a basis for distribution of supplemental funding for certain county school administrative units and is not intended to reflect any measure of the adequacy of the educational program or funding for public schools. The formula also is not intended to reflect any commitment by the General Assembly to appropriate any additional supplemental funds for such county administrative units.

SECTION 8.4.(b) Phase-Out Provisions for the 2013-2014 Fiscal Year. – If a local school administrative unit becomes ineligible for funding under the formula in subsection (a) of this section in the 2013-2014 fiscal year because of (i) an increase in the population of the county in which the local school administrative unit is located or (ii) an increase in the county-adjusted property tax base per student of the county in which the local school administrative unit is located, funding for that unit shall be continued for the 2013-2014 fiscal year.

SECTION 8.4.(c) Eligibility for Funds for Small School Systems for the 2014-2015 Fiscal Year. – For the 2014-2015 fiscal year, if the total average daily membership of all local school administrative units located in the county is less than 3,200, the county school administrative unit within that county shall be eligible for small school system supplemental funding.

SECTION 8.4.(d) Allotment Formula for the 2014-2015 Fiscal Year. – Except as otherwise provided in subsection (g) of this section, for the 2014-2015 fiscal year, each eligible county school administrative unit shall receive a dollar allotment equal to the product of the following:

(1) A per student funding factor, equal to the product of the following:
   a. One, minus the local school administrative unit's average daily membership divided by the maximum small school system average daily membership.
   b. The maximum small school system dollars per student.

(2) The average daily membership of the eligible county school administrative unit.

SECTION 8.4.(e) Phase-Out Provisions for the 2014-2015 Fiscal Year. – If a local school administrative unit becomes ineligible for funding under the formula in subsection (d) of this section in the 2014-2015 fiscal year, funding for that unit shall be phased out over a five-year period. Funding for such local administrative units shall be reduced in equal increments in each of the five years after the local administrative unit becomes ineligible. Funding shall be eliminated in the fifth fiscal year after the local administrative unit becomes ineligible.

Allotments for eligible local school administrative units shall not be reduced by more than twenty percent (20%) of the amount received in fiscal year 2013-2014 in any fiscal year.

SECTION 8.4.(f) Maximum Allotments for the 2014-2015 Fiscal Year. – For the 2014-2015 fiscal year, the maximum small school system dollars per student shall be two thousand ninety-four dollars ($2,094).

SECTION 8.4.(g) Nonsupplant Requirement for the 2013-2015 Fiscal Biennium. – A county in which a local school administrative unit receives funds under this section shall use the funds to supplement local current expense funds and shall not supplant local current expense funds. For the 2013-2015 fiscal biennium, the State Board of Education shall not allocate funds under this section to a county found to have used these funds to supplant local per student current expense funds. The State Board of Education shall make a finding that a county has used these funds to supplant local current expense funds in the prior year, or the year for which the most recent data are available, if all of the following criteria apply:

(1) The current expense appropriation per student of the county for the current year is less than ninety-five percent (95%) of the average of local expenditures per student for the three prior fiscal years.

(2) The county cannot show (i) that it has remedied the deficiency in funding or (ii) that extraordinary circumstances caused the county to supplant local current expense funds with funds allocated under this section.

The State Board of Education shall adopt rules to implement the requirements of this subsection.

SECTION 8.4.(h) Definitions. – As used in this section, the following definitions apply for the 2013-2014 fiscal year:

(1) "Average daily membership" means within two percent (2%) of the average daily membership as defined in the North Carolina Public Schools Allotment Policy Manual adopted by the State Board of Education.

(2) "County-adjusted property tax base per student" means the total assessed property valuation for each county, adjusted using a weighted average of the three most recent annual sales assessment ratio studies, divided by the total number of students in average daily membership who reside within the county.

(3) "Sales assessment ratio studies" means sales assessment ratio studies performed by the Department of Revenue under G.S. 105-289(h).

(4) "State-adjusted property tax base per student" means the sum of all county-adjusted property tax bases divided by the total number of students in average daily membership who reside within the State.

(5) "Weighted average of the three most recent annual sales assessment ratio studies" means the weighted average of the three most recent annual sales assessment ratio studies in the most recent years for which county current expense appropriations and adjusted property tax valuations are available. If real property in a county has been revalued one year prior to the most recent sales assessment ratio study, a weighted average of the two most recent sales assessment ratios shall be used. If property has been revalued during the year of the most recent sales assessment ratio study, the sales assessment ratio for the year of revaluation shall be used.

SECTION 8.4.(i) Reports. – For the 2013-2015 fiscal biennium, the State Board of Education shall report to the Fiscal Research Division prior to May 1 of each fiscal year if it determines that counties have supplanted funds.

SECTION 8.4.(j) Use of Funds. – Local boards of education are encouraged to use at least twenty percent (20%) of the funds they receive pursuant to this section to improve the academic performance of children who are performing at Level I or II on either reading or mathematics end-of-grade tests in grades three through eight.

Local school administrative units may also utilize funds allocated under this section to purchase services that allow for extraction of data from the Education Value-Added Assessment System (EVAAS).

DISADVANTAGED STUDENT SUPPLEMENTAL FUNDING (DSSF)

SECTION 8.5.(a) Funds appropriated for disadvantaged student supplemental funding shall be used, consistent with the policies and procedures adopted by the State Board of Education, only to:

(1) Provide instructional positions or instructional support positions and/or professional development;

(2) Provide intensive in-school and/or after-school remediation;

(3) Purchase diagnostic software and progress-monitoring tools; and

(4) Provide funds for teacher bonuses and supplements. The State Board of Education shall set a maximum percentage of the funds that may be used for this purpose.

The State Board of Education may require local school administrative units receiving funding under the Disadvantaged Student Supplemental Fund to purchase the Education Value-Added Assessment System (EVAAS) in order to provide in-depth analysis of student performance and help identify strategies for improving student achievement. This data shall be used exclusively for instructional and curriculum decisions made in the best interest of children and for professional development for their teachers and administrators.

SECTION 8.5.(b) Funds appropriated to a local school administrative unit for disadvantaged student supplemental funding (DSSF) shall be allotted based on (i) the unit's eligible DSSF population and (ii) the difference between a teacher-to-student ratio of 1:21 and the following teacher-to-student ratios:

(1) For counties with wealth greater than ninety percent (90%) of the statewide average, a ratio of 1:19.9.

(2) For counties with wealth not less than eighty percent (80%) and not greater than ninety percent (90%) of the statewide average, a ratio of 1:19.4.

(3) For counties with wealth less than eighty percent (80%) of the statewide average, a ratio of 1:19.1.

(4) For local school administrative units receiving DSSF funds in fiscal year 2005-2006, a ratio of 1:16. These local school administrative units shall receive no less than the DSSF amount allotted in fiscal year 2006-2007.

For the purpose of this subsection, wealth shall be calculated under the low-wealth supplemental formula as provided for in this act.

SECTION 8.5.(c) If a local school administrative unit's wealth increases to a level that adversely affects the unit's disadvantaged student supplemental funding (DSSF) allotment ratio, the DSSF allotment for that unit shall be maintained at the prior year level for one additional fiscal year.

BUDGET REDUCTIONS/DEPARTMENT OF PUBLIC INSTRUCTION

SECTION 8.6. Notwithstanding G.S. 143C-6-4, the Department of Public Instruction may, after consultation with the Office of State Budget and Management and the Fiscal Research Division, reorganize, if necessary, to implement the budget reductions set out in this act. Consultation shall occur prior to requesting budgetary and personnel changes through the budget revision process. The Department shall provide a current organization chart in the consultation process and shall report to the Joint Legislative Commission on Governmental Operations on any reorganization.

LITIGATION RESERVE FUNDS

SECTION 8.7. The State Board of Education may expend up to five hundred thousand dollars ($500,000) each year for the 2013-2014 and 2014-2015 fiscal years from unexpended funds for licensed employees' salaries to pay expenses related to litigation.

UNIFORM EDUCATION REPORTING SYSTEM (UERS) FUNDS

SECTION 8.8.(a) Funds appropriated for the Uniform Education Reporting System (UERS) shall not revert at the end of the 2012-2013 fiscal year. Funds appropriated for UERS for the 2013-2015 fiscal biennium shall not revert at the end of each fiscal year but shall remain available until expended.

SECTION 8.8.(b) This section becomes effective June 30, 2013.

REVISE NC VIRTUAL PUBLIC SCHOOLS (NCVPS) COST CALCULATION DATE

SECTION 8.9.(a) Section 7.22(d)(6) of S.L. 2011-145 is repealed.

SECTION 8.9.(b) In implementing the allotment formula for the North Carolina Virtual Public Schools (NCVPS) program, the State Board of Education shall calculate, no later than February 28 of each year, the actual instructional cost for each local school administrative unit and charter school based upon actual NCVPS enrollment as of that date.

NC CENTER FOR THE ADVANCEMENT OF TEACHING

SECTION 8.10. It is the intent of the General Assembly to systematically review the North Carolina Center for the Advancement of Teaching (NCCAT). This review is intended to assist the General Assembly in determining whether to continue, reduce, or eliminate funding for the program. NCCAT shall report the following information to the Fiscal Research Division no later than February 1, 2014:

(1) A description of the program's mission, goals, and objectives.

(2) An examination of the program's governance structure and an assessment of whether the existing governance structure adequately supports the program's mission, goals, and objectives.

(3) The extent to which NCCAT's fund, agency, division, and program objectives complement General Assembly policies in the areas of digital learning and early grades literacy.

(4) Performance measures for determining whether the program is meeting its mission, goals, and objectives.

(5) Recommendations for statutory, budgetary, or administrative changes needed to improve the efficiency and effectiveness of the program.

SCHOOL BUS REPLACEMENT

SECTION 8.11.(a) G.S. 115C-249 reads as rewritten:

"§ **115C-249. Purchase and maintenance of school buses, materials and supplies.**

(a) To the extent that the funds shall be made available to it for such purpose, a local board of education is authorized to purchase from time to time such additional school buses and service vehicles or replacements for school buses and service vehicles, as may be deemed by such board to be necessary for the safe and efficient transportation of pupils enrolled in the schools within such local school administrative unit. Any school bus so purchased shall be constructed and equipped as prescribed by the provisions of this Article and by the regulations of the State Board of Education issued pursuant thereto. Any school bus so purchased that is capable of operating on diesel fuel shall be capable of operating on diesel fuel with a minimum biodiesel concentration of B-20, as defined in G.S. 143-58.4. At least two percent (2%) of the total volume of fuel purchased annually by local school districts statewide for use in school bus diesel engine motor vehicles shall be biodiesel fuel of a minimum blend of B-20, to the extent that biodiesel blend is available and compatible with the technology of the vehicles or equipment used.

(b) The tax-levying authorities of any county are hereby authorized to make provision from time to time in the capital outlay budget of the county for the purchase of such school buses or service vehicles.

(c) Any funds appropriated from time to time by the General Assembly for the purchase of school buses or service vehicles shall be allocated by the State Board of Education to the respective local boards of education in accordance with the requirements of such boards as determined by the State Board of Education, and thereupon shall be paid over to the respective local boards of education in accordance with such allocation.

(c1) In determining which school buses in the statewide fleet are to be replaced with State funds in a given year, the State Board of Education shall give highest priority to safety concerns.

A bus is eligible for replacement with State funds based on its age and mileage when it is either 20 years old by model year or has been operated for 250,000 miles, except as follows:

(1) A bus that has been operated for less than 150,000 miles is not eligible for replacement regardless of its model year.

(2) A bus that is less than 15 years old by model year is not eligible for replacement until the bus has been operated for 300,000 miles.

(c2) The State Board of Education may authorize the replacement of up to 30 buses each year due to safety concerns regarding the bus or mechanical or structural problems that would place an undue burden on a local school administrative unit.

(c3) A local school administrative unit shall receive an incentive payment of two thousand dollars ($2,000) at the beginning of each school year for each bus that it continues to operate although the bus is eligible for replacement, until the bus is 23 years old by model year. The local school administrative unit may use these bonus funds for the additional maintenance costs of operating buses with higher mileage or for any other school purpose.

(d) The title to any additional or replacement school bus or service vehicle purchased pursuant to the provisions of this section, shall be taken in the name of the board of education of such local school administrative unit, and such bus shall in all respects be maintained and operated pursuant to the provisions of this Article in the same manner as any other public school bus.

(e) It shall be the duty of the county board of education to provide adequate buildings and equipment for the storage and maintenance of all school buses and service vehicles owned or operated by the board of education of any local school administrative unit in such county. It shall be the duty of the tax-levying authorities of such county to provide in its capital outlay budget for the construction or acquisition of such buildings and equipment as may be required for this purpose.

(f) In the event of the damage or destruction of any school bus or service vehicle by fire, collision, or otherwise, the board of education of the local school administrative unit which shall own or operate such bus or service vehicle may apply to the State Board of Education for funds with which to replace it. If the State Board of Education finds that such bus or service vehicle has been destroyed or damaged to the extent that it cannot be made suitable for further use, and if the State Board of Education finds that the replacement of such bus or service vehicle is necessary in order to enable such local school administrative unit to operate properly its school bus transportation system, the State Board of Education shall allot to the board of education of such local school administrative unit from the funds now held by the State Board of Education for the replacement of school buses or service vehicles, or from funds hereafter appropriated by the General Assembly for that purpose, a sum sufficient to purchase a new school bus or service vehicle to be used as a replacement for such damaged or destroyed bus or service vehicle and upon such allocation such sum shall be paid over to or for the account of the board of education of such local school administrative unit for such purpose.

(g) Repealed by Session Laws 2003-147, s. 3, effective for a local school administrative unit when the unit is certified as being E-Procurement compliant, or April 1, 2004, whichever occurs first.

(h) Appropriations by the General Assembly for the purchase of public school buses shall not revert to the General Fund. Any unexpended portion of those appropriations shall at the end of each fiscal year be transferred to a reserve account and be held, together with any other funds appropriated for the purpose, for the purchase of public school buses."

SECTION 8.11.(b) For the 2013-2015 fiscal biennium only, State funds shall be used, at the request of the local school administrative unit, to replace (i) all buses that are 20 years old by model year and (ii) all other buses eligible for replacement under G.S. 115C-249, as rewritten by subsection (a) of this section.

EVAAS SCHOOL PERFORMANCE GRADES

SECTION 8.13. The State Board of Education shall not be subject to the requirements of Section 7.7(c) of this act for the development of school performance scores and grades in accordance with G.S. 115C-12(9)c1.

LEA BUDGETARY FLEXIBILITY

SECTION 8.14. G.S. 115C-105.25 reads as rewritten:

"§ **115C-105.25. Budget flexibility.**

(a) Consistent with improving student performance, a local board shall provide maximum flexibility to schools in the use of funds to enable the schools to accomplish their goals.

(b) Subject to the following limitations, local boards of education may transfer and may approve transfers of funds between funding allotment categories:

~~(1)~~ ~~In accordance with a school improvement plan accepted under G.S. 115C-105.27, State funds allocated for teacher assistants may be transferred only for personnel (i) to serve students only in kindergarten through third grade, or (ii) to serve students primarily in kindergarten through third grade when the personnel are assigned to an elementary school to serve the whole school. Funds allocated for teacher assistants may be transferred to reduce class size or to reduce the student-teacher ratio in kindergarten through third grade so long as the affected teacher assistant positions are not filled when the plan is amended or approved by the building-level staff entitled to vote on the plan or the affected teacher assistant positions are not expected to be filled on the date the plan is to be implemented. Any State funds appropriated for teacher assistants that were converted to certificated teachers before July 1, 1995, in accordance with Section 1 of Chapter 986 of the 1991 Session Laws, as rewritten by Chapter 103 of the 1993 Session Laws, may continue to be used for certificated teachers.~~

(1a) Funds for children with disabilities, career and technical education, and other purposes may be transferred only as permitted by federal law and the conditions of federal grants or as provided through any rules that the State Board of Education adopts to ensure compliance with federal regulations.

~~(2)~~ ~~In accordance with a school improvement plan accepted under G.S. 115C-105.27, (i) State funds allocated for classroom materials/instructional supplies/equipment may be transferred only for the purchase of textbooks; (ii) State funds allocated for textbooks may be transferred only for the purchase of instructional supplies, instructional equipment, or other classroom materials; and (iii) State funds allocated for noninstructional support personnel may be transferred only for teacher positions.~~

~~(2a)~~ ~~Up to three percent (3%) of State funds allocated for noninstructional support personnel may be transferred for staff development.~~

(3) No funds shall be transferred into the central office administration allotment category.

~~(4)~~ ~~Funds allocated for children with disabilities, for students with limited English proficiency, and for driver's education shall not be transferred.~~

~~(5)~~ ~~Funds allocated for classroom teachers may be transferred only for teachers of exceptional children, for teachers of at-risk students, and for authorized purposes under the textbooks allotment category and the classroom materials/instructional supplies/equipment allotment category.~~

(5a) Positions allocated for classroom teachers may be converted to dollar equivalents to contract for visiting international exchange teachers. These positions shall be converted at the statewide average salary for classroom teachers, including benefits. The converted funds shall be used only to cover the costs associated with bringing visiting international exchange teachers to the local school administrative unit through a State-approved visiting

international exchange teacher program and supporting the visiting exchange teachers.

(5b) Except as provided in subdivision (5a) of this subsection, positions allocated for classroom teachers and instructional support personnel may be converted to dollar equivalents for any purpose authorized by the policies of the State Board of Education. These positions shall be converted at the salary on the first step of the "A" Teachers Salary Schedule. Certified position allotments shall not be transferred to dollars to hire the same type of position.

(5c) Funds allocated for school building administration may be converted for any purpose authorized by the policies of the State Board of Education. For funds related to principal positions, the salary transferred shall be based on the first step of the Principal III Salary Schedule. For funds related to assistant principal months of employment, the salary transferred shall be based on the first step of the Assistant Principal Salary Schedule. Certified position allotments shall not be transferred to dollars to hire the same type of position.

~~(6) Funds allocated for vocational education may be transferred only in accordance with any rules that the State Board of Education considers appropriate to ensure compliance with federal regulations.~~

~~(7) Funds allocated for career development shall be used in accordance with Section 17.3 of Chapter 324 of the 1995 Session Laws.~~

~~(8) Funds allocated for academically or intellectually gifted students may be used only (i) for academically or intellectually gifted students; (ii) to implement the plan developed under G.S. 115C-150.7; or (iii) in accordance with an accepted school improvement plan, for any purpose so long as that school demonstrates it is providing appropriate services to academically or intellectually gifted students assigned to that school in accordance with the local plan developed under G.S. 115C-150.7.~~

~~(9) Funds allocated in the Alternative Schools/At-Risk Student allotment shall be spent only for alternative learning programs, at-risk students, and school safety programs.~~

(10) Funds to carry out the elements of the Excellent Public Schools Act that are contained in Section 7A.1 of S.L. 2012-142 shall not be transferred.

(c) To ensure that parents, educators, and the general public are informed on how State funds have been used to address local educational priorities, each local school administrative unit shall publish the following information on its Web site by October 15 of each year:

(1) A description of each program report code, written in plain English, and a summary of the prior fiscal year's expenditure of State funds within each program report code.

(2) A description of each object code within a program report code, written in plain English, and a summary of the prior fiscal year's expenditure of State funds for each object code.

(3) A description of each allotment transfer that increased or decreased the initial allotment amount by more than five percent (5%) and the educational priorities that necessitated the transfer."

RESIDENTIAL SCHOOLS

SECTION 8.15.(a) The Department of Public Instruction shall not transfer any school-based personnel from the State's residential schools to central office administrative positions.

SECTION 8.15.(b) Notwithstanding G.S. 146-30 or any other provision of law, the Department of Public Instruction shall retain all proceeds generated from the rental of building space on the residential school campuses. The Department of Public Instruction shall use all

receipts generated from these leases to staff and operate the North Carolina School for the Deaf, the Eastern North Carolina School for the Deaf, and the Governor Morehead School. These receipts shall not be used to support administrative functions within the Department.

EXCELLENT PUBLIC SCHOOLS ACT/SUMMER READING CAMPS

SECTION 8.16. Funds appropriated for the 2013-2015 fiscal biennium for summer reading camps as defined in G.S. 115C-83.3(9) shall not revert at the end of each fiscal year but shall remain available until expended.

PARTICIPATION IN COMMUNITIES IN SCHOOLS LEARNING INITIATIVE

SECTION 8.17.(a) The purpose of the Harvard University Reads for Summer Learning Initiative, which is conducted in concert with Communities In Schools of North Carolina, Inc. (CISNC), is to help at-risk children in grades two through four read at grade level by the fourth grade and to maintain their reading competency. Students who are enrolled in this initiative shall be exempt from mandatory retention requirements set out in G.S. 115C-83.7 and G.S. 115C-238.29F. Any student participating in this initiative and in need of more intensive intervention shall, however, be placed in a summer reading program as determined by the local school administrative unit and as approved by the child's parent or guardian.

SECTION 8.17.(b) CISNC shall report to the Joint Legislative Education Oversight Committee on the initiative by November 1, 2015. This report shall include reading competency outcome data for all participating students.

SECTION 8.17.(c) Subsection (a) of this section expires at the end of the 2014-2015 school year.

INSTRUCTIONAL IMPROVEMENT SYSTEM

SECTION 8.18.(a) It is the intent of the General Assembly that the optional portions of the Home Base Instructional Improvement System (System) shall be receipt-supported. The State Board of Education shall establish a cost not to exceed four dollars ($4.00) per average daily membership for local school administrative units and charter schools that elect to participate in the optional portions of the System. A local school administrative unit or charter school may identify budget reductions to State Public School Fund allotments to cover the required payment.

SECTION 8.18.(b) If funds collected pursuant to subsection (a) of this section are not sufficient to cover the cost of the optional portions of the System, the State Board of Education may use funds appropriated to the Department of Public Instruction or State Aid for Public Schools for this purpose.

SECTION 8.18.(c) If funds collected pursuant to subsection (a) of this section exceed the cost of the optional portions of the System, such funds shall not revert and shall be used to reduce the per-student cost in the subsequent fiscal years.

SECTION 8.18.(d) This section becomes effective July 1, 2014.

STUDY OF GPA CALCULATIONS

SECTION 8.19. The Joint Legislative Education Oversight Committee shall study the State Board of Education's policy on calculating the weighted grade point average and class rank on high school transcripts, especially the proper weights for courses taken through community colleges, independent colleges, and universities. The Committee shall report the results of its study to the General Assembly prior to the convening of the 2014 Regular Session of the 2013 General Assembly.

REGIONAL SCHOOL BOARDS

SECTION 8.20. G.S. 115C-238.63(a) reads as rewritten:

"(a) Appointment. – A board of directors for a regional school shall consist of the following members. Appointed members of the board of directors shall be selected for their

interest in and commitment to the importance of public education to regional economic development and to the purposes of the regional school.

(1) Local boards of education. – Each participating unit shall appoint one member to the board of directors from among the membership of the local board of education. Members appointed by local boards of education shall serve terms of four years.

(2) Local superintendents. – The local superintendent of the local school administrative unit identified as the finance agent for the regional school shall serve as an ex officio member of the board of directors. One additional superintendent shall be selected from among the superintendents of the participating units by those superintendents. The additional superintendent shall serve an initial term of two years. Subsequent appointees shall serve a term of four years.

(3) ~~Economic development region.~~ Business community. – The ~~Economic Development Regional Partnership for the economic development region~~ board of directors for the chamber of commerce of the county in which the regional school is ~~located~~ located, in consultation with the North Carolina Economic Developers Association, shall appoint at least three members as representatives of the business community. At least fifty percent (50%) of the members of the board of directors for the regional school shall be representatives of the business community appointed in accordance with this subdivision. At least one of the appointees shall be a resident of the county in which the regional school is located. The appointees shall serve an initial term of two years. Subsequent appointees shall serve a term of four years.

(4) Parent Advisory Council. – The Parent Advisory Council established by G.S. 115C-238.69 shall appoint a member to the board of directors from among the Council membership. The member appointed by the Council shall serve a term of four years or until the child of the parent no longer attends the regional school.

(5) Higher education partners. – Any institution of higher education partner may appoint a representative of the institution of higher education to serve as an ex officio member of the board of directors."

TEACH FOR AMERICA EXPANSION AND NC TEACHER CORPS

SECTION 8.21.(a) Teach for America, Inc. (TFA), shall use a portion of the funds available to it for the 2013-2015 fiscal biennium to recruit, train, support, and retain teachers to work in the North Carolina public schools. TFA shall leverage State funds to raise additional funding to achieve the purposes set out in this section and shall expand its current programs and initiate new programs as follows:

(1) TFA shall establish a program in the Piedmont Triad region (the area within and surrounding the three major cities of Greensboro, Winston-Salem, and High Point) and expand its current program in the southeast region of the State. TFA shall establish the following goals for the number of teacher candidates accepted to these programs:

a. In the Piedmont Triad region, at least 50 candidates who will be recruited in the 2013-2014 school year to begin teaching in the 2014-2015 school year.

b. In the southeast region of the State, at least 50 candidates to begin teaching in the 2013-2014 school year.

c. Combined for the southeast and northeast regions of the State, a total of at least 175 candidates beginning with the 2013-2014 school year.

(2) TFA shall develop and establish a new program, Teach Back Home, to increase the recruitment of candidates who are residents of North Carolina.

(3) TFA shall develop and establish two new programs, Teach Beyond Two and Make it Home, to increase the number of candidates who remain working in North Carolina public schools beyond their initial two-year TFA commitment by developing innovative strategies to work with both TFA participants and local school administrators and board of education members to extend the service commitment of TFA participants.

(4) TFA shall increase targeted recruitment efforts of candidates who are (i) working in areas related to STEM education, (ii) mid-career level and lateral entry industry professionals, and (iii) veterans of the United States Armed Forces.

SECTION 8.21.(b) By March 1, 2014, and by January 1, 2015, and annually thereafter, TFA shall report to the Joint Legislative Education Oversight Committee on the operation of its programs under subsection (a) of this section, including at least all of the following information:

(1) The total number of applications received nationally from candidates seeking participation in the program.

(2) The total number of applications received from candidates who are residents of North Carolina and information on the source of these candidates, including the number of (i) recent college graduates and the higher institution the candidates attended, (ii) mid-career level and lateral entry industry professionals, and (iii) veterans of the United States Armed Forces.

(3) The total number of North Carolina candidates accepted by TFA.

(4) The total number of accepted candidates placed in North Carolina, including the number of accepted candidates who are residents of North Carolina.

(5) The regions in which accepted candidates have been placed, the number of candidates in each region, and the number of students impacted by placement in those regions.

(6) Success of recruitment efforts, including the Teach Back Home program and targeting of candidates who are (i) working in areas related to STEM education, (ii) mid-career level and lateral entry industry professionals, and (iii) veterans of the United States Armed Forces.

(7) Success of retention efforts, including the Teach Beyond Two and Make it Home programs, and the percentage of accepted candidates working in their placement communities beyond the initial TFA two-year commitment period and the number of years those candidates teach beyond the initial commitment.

(8) A financial accounting of how the State funds appropriated to TFA were expended in the previous year, including at least the following information:

a. Funds expended by region of the State.

b. Details on program costs, including at least the following:

1. Recruitment, candidate selection, and placement.

2. Preservice training and preparation costs.

3. Operational and administrative costs, including development and fundraising, alumni support, management costs, and marketing and outreach.

c. Funds received through private fundraising, specifically by sources in each region of the State.

SECTION 8.21.(c) Effective July 1, 2014, G.S. 115C-296.7 is amended by adding a new subsection to read:

"(h) The State Board of Education is authorized to contract for the administration of the NC Teacher Corps."

SECTION 8.21.(c1) The State Board of Education shall enter into a contract, effective July 1, 2014, with Teach for America, Inc., (TFA) to administer provisions of

G.S. 115C-296.7. The contract shall require that TFA make publicly available all documents related to the execution of this program and the expenditure of State funds.

SECTION 8.21.(d) Beginning with the 2014-2015 fiscal year, TFA shall use a portion of the funds available to it to administer the NC Teacher Corps program in accordance with subsection (c1) of this section. TFA may also use a portion of the funds available to it for the 2013-2014 fiscal year to recruit a cohort of NC Teacher Corps members for the 2014-2015 school year. TFA shall include information regarding the operation of the NC Teacher Corps in its annual report to the Joint Legislative Education Oversight Committee by January 1, 2015, and annually thereafter, as required under subsection (b) of this section.

SECTION 8.21.(e) TFA shall submit quarterly updates on the information contained in the annual report required by this section to the offices of the President Pro Tempore of the Senate and the Speaker of the House of Representatives, the Chairs of the Senate Appropriations/Base Budget Committee, the House Appropriations Committee, the Senate Appropriations Committee on Education/Higher Education, the House Appropriations Subcommittee on Education, and the Fiscal Research Division.

SECTION 8.21.(f) The State Board of Education shall provide ongoing support through coaching, mentoring, and continued professional development to NC Teacher Corps members who were placed in North Carolina public schools in accordance with G.S. 115C-296.7 for the 2012-2013 and 2013-2014 school years.

PHASE OUT CERTAIN TEACHER SALARY SUPPLEMENTS

SECTION 8.22. Notwithstanding Section 35.11 of this act, no teachers or instructional support personnel, except for certified school nurses and instructional support personnel in positions for which a master's degree is required for licensure, shall be paid on the "M" salary schedule or receive a salary supplement for academic preparation at the six-year degree level or at the doctoral degree level for the 2014-2015 school year, unless they were paid on that salary schedule or received that salary supplement prior to the 2014-2015 school year.

PUBLIC-PRIVATE PARTNERSHIPS FOR THE READ TO ACHIEVE PROGRAM

SECTION 8.23. Local school administrative units shall consider the utilization of public-private partnerships in implementing the requirements of the North Carolina Read to Achieve Program. The Department of Public Instruction may recommend nonprofit organizations with expertise in literacy training in low-performing schools and the ability to leverage private resources to partner with the local school administrative units in implementing the program.

INVESTING IN INNOVATION GRANT

SECTION 8.25.(a) Section 7.17 of S.L. 2012-142 is repealed.

SECTION 8.25.(b) The federal Investing in Innovation Fund Grant: Validating Early College Strategies for Traditional Comprehensive High Schools awarded to the North Carolina New Schools Project for 2012-2017 requires students to enroll in a community college course in the 10th grade. Notwithstanding any other provision of law, specified local school administrative units may offer one community college course to participating sophomore (10th grade) students. Participating local school administrative units are Alleghany, Beaufort, Hertford, Jones, Madison, Richmond, Rutherford, Surry, Warren, Wilkes, and Yancey County Schools.

SECTION 8.25.(c) Grant funds shall be used to pay for all costs incurred by the local school administrative units and the community college partners to implement the grant, including community college FTE. Community colleges shall not earn budget FTE for student course enrollments supported with this grant.

SECTION 8.25.(d) Research for the project shall address the effects of early college strategies in preparing students for college completion. The North Carolina New

Schools Project shall report on the implementation of the grant to the State Board of Education, State Board of Community Colleges, Office of the Governor, and the Joint Legislative Education Oversight Committee no later than March 15, 2014, and annually thereafter until the end of the grant period.

BROADEN SUCCESSFUL PARTICIPATION IN ADVANCED COURSES

SECTION 8.27.(a) G.S. 115C-12(9)c1. reads as rewritten:

"c1. To issue an annual "report card" for the State and for each local school administrative unit, assessing each unit's efforts to improve student performance based on the growth in performance of the students in each school and taking into account progress over the previous years' level of performance and the State's performance in comparison with other states. This assessment shall take into account factors that have been shown to affect student performance and that the State Board considers relevant to assess the State's efforts to improve student performance. As a part of the annual "report card" for each local school administrative unit, the State Board shall award an overall numerical school performance score on a scale of zero to 100 and a corresponding letter grade of A, B, C, D, or F earned by each school within the local school administrative unit. The school performance score and grade shall reflect student performance on annual subject-specific assessments, college and workplace readiness measures, and graduation rates. For schools serving students in any grade from kindergarten to eighth grade, separate performance scores and grades shall also be awarded based on the school performance in reading and mathematics respectively. The annual "report card" for schools serving students in third grade also shall include the number and percentage of third grade students who (i) take and pass the alternative assessment of reading comprehension; (ii) were retained in third grade for not demonstrating reading proficiency as indicated in G.S. 115C-83.7(a); and (iii) were exempt from mandatory third grade retention by category of exemption as listed in G.S. 115C-83.7(b). The annual "report card" for high schools shall also include measures of Advanced Placement course participation and International Baccalaureate Diploma Programme participation and Advanced Placement and International Baccalaureate examination participation and performance."

SECTION 8.27.(b) Article 8 of Chapter 115C of the General Statutes is amended by adding a new section to read:

"**§ 115C-83.4A. Advanced courses.**

(a) It is the intent of the State to enhance accessibility and encourage students to enroll in and successfully complete more rigorous advanced courses to enable success in postsecondary education for all students. For the purposes of this section, an advanced course is an Advanced Placement or International Baccalaureate Diploma Programme course. To attain this goal, to the extent funds are made available for this purpose, students enrolled in public schools shall be exempt from paying any fees for administration of examinations for advanced courses and registration fees for advanced courses in which the student is enrolled regardless of the score the student achieves on an examination.

(b) Eligible secondary students shall be encouraged to enroll in advanced courses to expose them to more rigorous coursework while still in secondary school. Successfully completing advanced courses will increase the quality and level of students' preparation for postsecondary career paths and their pursuit of higher education.

(c) The results of student diagnostic tests administered pursuant to G.S. 115C-174.18 and G.S. 115C-174.22, such as the Preliminary SAT/National Merit Scholarship Qualifying Test (PSAT/NMSQT) and ACT, shall be used to identify students who are prepared or who need additional work to be prepared to enroll and be successful in advanced courses. Students may also be identified for potential enrollment in advanced courses based on other criteria established by schools to increase access to those courses for their students.

(d) Local boards of education shall provide information to students and parents on available opportunities and the enrollment process for students to take advanced courses. The information shall explain the value of advanced courses in preparing students for postsecondary level coursework, enabling students to gain access to postsecondary opportunities, and qualifying for scholarships and other financial aid opportunities.

(e) Local boards of education shall ensure that all high school students have access to advanced courses in language arts, mathematics, science, and social studies. Such access may be provided through enrollment in courses offered through or approved by the North Carolina Virtual Public School.

(f) The State Board of Education shall seek a partner, such as the College Board, to form the North Carolina Advanced Placement Partnership, hereinafter referred to as Partnership, to assist in improving college readiness of secondary students and to assist secondary schools to ensure that students have access to high-quality, rigorous academics with a focus on access to Advanced Placement courses.

In order to implement its responsibilities under this section, the partner selected by the State Board of Education shall provide staff to do the following:

(1) Provide professional development in the form of support and training to enable teachers of Advanced Placement courses to have the necessary content knowledge, instructional skills, and materials to prepare students for success in Advanced Placement courses and examinations and mastery of postsecondary course content.

(2) Provide administrators, including principals and counselors, with professional development that will enable them to create strong and effective Advanced Placement courses in their schools.

(3) Provide teachers of students in grades seven through 12 with preadvanced course professional development and materials that prepare students for success in Advanced Placement courses.

(4) Provide consulting expertise and technical assistance to support implementation.

(5) Prioritize assistance to schools designated as low-performing by the State Board of Education and provide for frequent visits to the schools targeted by the Partnership.

(g) The Partnership shall report annually to the Department of Public Instruction on the Partnership's implementation of its responsibilities under subsection (f) of this section.

(h) Beginning October 1, 2014, the State Board of Education shall report annually to the Joint Legislative Education Oversight Committee on advanced courses in North Carolina. The report shall include, at a minimum, the following information:

(1) The North Carolina Advanced Placement Partnership's report to the Department of Public Instruction as required by subsection (g) of this section and the State Board's assessment of that report.

(2) Number of students enrolled in advanced courses and participating in advanced course examinations, including demographic information by gender, race, and free and reduced-price lunch status.

(3) Student performance on advanced course examinations, including information by course, local school administrative unit, and school.

(4) Number of students participating in 10th grade PSAT/NMSQT testing.

(5) Number of teachers attending summer institutes offered by the North Carolina Advanced Placement Partnership.

(6) Distribution of funding appropriated for advanced course testing fees and professional development by local school administrative unit and school.

(7) Status and efforts of the North Carolina Advanced Placement Partnership.

(8) Other trends in advanced courses and examinations."

SECTION 8.27.(c) G.S. 115C-174.18 reads as rewritten:

"§ **115C-174.18. Opportunity to take ~~Preliminary Scholastic Aptitude Test.~~Preliminary SAT/National Merit Scholarship Qualifying Test (PSAT/NMSQT).**

Every student in the eighth through tenth grades who has completed Algebra I or who is in the last month of Algebra I shall be given an opportunity to take a version of ~~the Preliminary Scholastic Aptitude Test (PSAT)~~ either the Preliminary SAT/National Merit Scholarship Qualifying Test (PSAT/NMSQT) or the ACT, at the discretion of the local school administrative unit, one time at ~~State expense.~~no cost to the student. The maximum amount of State funds used for this purpose shall be the cost of the PSAT/NMSQT."

SECTION 8.27.(d) Of the funds appropriated to the Department of Public Instruction to implement the requirements of this section, ten million eight hundred thirty-one thousand one hundred eighty-four dollars ($10,831,184) for the 2014-2015 fiscal year shall be used to fund fees for testing in advanced courses and one million five hundred thousand dollars ($1,500,000) for each fiscal year shall be used by the North Carolina Advanced Placement Partnership to carry out its responsibilities as set forth in this section. Funding appropriated for professional development may be used by the State Board of Education to contract with an independent evaluator to assess the implementation and impact of advanced course programs in North Carolina. For the purposes of this section, the term "advanced courses" means an Advanced Placement or International Baccalaureate Diploma Programme course.

SECTION 8.27.(e) Beginning with the 2014-2015 school year, the State Board of Education shall use funds allocated in subsection (d) of this section to do all of the following:

(1) Provide funds to local school administrative units to pay testing fees for advanced courses for all students.

(2) Provide funds to the North Carolina Advanced Placement Partnership for professional development for teachers of Advanced Placement courses.

SECTION 8.27.(f) Except as otherwise provided in this section, this section applies beginning with the 2013-2014 school year.

INCREASE SUCCESSFUL CAREER AND TECHNICAL EDUCATION (CTE) PARTICIPATION

SECTION 8.28.(a) G.S. 115C-12 is amended by adding a new subdivision to read:

"(41) To Establish Career and Technical Education Incentives. – The State Board of Education shall establish, implement, and determine the impact of a career and technical education incentive program as provided under G.S. 115C-156.2."

SECTION 8.28.(b) Article 10 of Chapter 115C of the General Statutes is amended by adding a new section to read:

"**§ 115C-156.2. Industry certifications and credentials program.**

(a) It is the intent of the State to encourage students to enroll in and successfully complete rigorous coursework and credentialing processes in career and technical education to enable success in the workplace. To attain this goal, to the extent funds are made available for this purpose, students shall be supported to earn approved industry certifications and credentials.

(1) Students enrolled in public schools and in career and technical education courses shall be exempt from paying any fees for one administration of examinations leading to industry certifications and credentials pursuant to rules adopted by the State Board of Education.

(2) Each school year, at such time as agreed to by the Department of Commerce and the State Board of Education, the Department of Commerce shall provide the State Board of Education with a list of those occupations in high need of additional skilled employees. If the occupations identified in such list are not substantially the same as those occupations identified in the list from the prior year, reasonable notice of such changes shall be provided to local school administrative units.

(3) Local school administrative units shall consult with their local industries, employers, and workforce development boards to identify industry certification and credentials that the local school administrative unit may offer to best meet State and local workforce needs.

(b) Beginning in 2014, the State Board of Education shall report to the Joint Legislative Education Oversight Committee by September 1 of each year on the number of students in career and technical education courses who earned (i) community college credit and (ii) related industry certifications and credentials."

SECTION 8.28.(c) This section applies beginning with the 2013-2014 school year.

OPPORTUNITY SCHOLARSHIPS

SECTION 8.29.(a) Article 39 of Chapter 115C of the General Statutes is amended by adding a new Part to read:

"Part 2A. Scholarship Grants.

"**§ 115C-562.1. Definitions.**

The following definitions apply in this Part:

(1) Authority. – The State Education Assistance Authority.

(2) Eligible students. – A student who has not yet received a high school diploma and who meets all of the following requirements:

a. Meets one of the following criteria:

1. Was a full-time student assigned to and attending a public school pursuant to G.S. 115C-366 during the previous semester.
2. Received a scholarship grant during the previous school year.
3. Is entering either kindergarten or the first grade.
4. Is a child in foster care as defined in G.S. 131D-10.2(9).
5. Is a child whose adoption decree was entered not more than one year prior to submission of the scholarship grant application.

b. Resides in a household with an income level not in excess of one hundred thirty-three percent (133%) of the amount required for the student to qualify for the federal free or reduced-price lunch program.

(3) Division. – The Division of Nonpublic Education, Department of Administration.

(4) Local school administrative unit. – A local school administrative unit, charter school, or regional school.

(5) Nonpublic school. – A school that meets the requirements of Part 1 or Part 2 of this Article as identified by the Division.

(6) Scholarship grants. – Grants awarded annually by the Authority to eligible students.

"**§ 115C-562.2. Scholarship grants.**

(a) The Authority shall make available no later than February 1 annually applications to eligible students for the award of scholarship grants to attend any nonpublic school. Information about scholarship grants and the application process shall be made available on the

Authority's Web site. Beginning March 1, the Authority shall begin awarding scholarship grants according to the following criteria:

(1) First priority shall be given to eligible students who received a scholarship grant during the previous school year if those students have applied by March 1.

(2) After scholarship grants have been awarded to prior recipients as provided in subdivision (1) of this subsection, scholarships shall be awarded with remaining funds as follows:

a. At least fifty percent (50%) of the remaining funds shall be used to award scholarship grants to eligible students residing in households with an income level not in excess of the amount required for the student to qualify for the federal free or reduced-price lunch program.

b. No more than thirty-five percent (35%) of the remaining funds shall be used to award scholarship grants to eligible students entering either kindergarten or first grade.

c. Any remaining funds shall be used to award scholarship grants to all other eligible students.

(b) Scholarship grants awarded to eligible students residing in households with an income level not in excess of the amount required for the student to qualify for the federal free or reduced-price lunch program shall be for amounts of up to four thousand two hundred dollars ($4,200) per year. Scholarship grants awarded to eligible students residing in households with an income level in excess of the amount required for the student to qualify for the federal free or reduced-price lunch program shall be for amounts of not more than ninety percent (90%) of the required tuition and fees for the nonpublic school the eligible child will attend. Tuition and fees for a nonpublic school may include tuition and fees for books, transportation, equipment, or other items required by the nonpublic school. No scholarship grant shall exceed four thousand two hundred dollars ($4,200) per year per eligible student, and no scholarship grant shall exceed the required tuition and fees for the nonpublic school the eligible student will attend.

(c) The Authority shall permit an eligible student receiving a scholarship grant to enroll in a different nonpublic school and remain eligible. An eligible student receiving a scholarship grant who transfers to another nonpublic school during the year may be eligible to receive a pro rata share of any unexpended portion of the scholarship grant for tuition and fees at the nonpublic school to which the student transfers.

(d) The Authority shall establish rules and regulations for the administration and awarding of scholarship grants and may include in those rules a lottery process for selection of scholarship grant recipients within the criteria established by this section.

"**§ 115C-562.3. Verification of eligibility.**

(a) The Authority may seek verification of information on any application for scholarship grants from eligible students. The Authority shall select and verify a random sample of no less than six percent (6%) of applications annually. The Authority shall establish rules for the verification process and may use the federal verification requirements process for free and reduced-price lunch applications as guidance for those rules. If a household fails to cooperate with verification efforts, the Authority shall revoke the award of the scholarship grant to the eligible student.

(b) Household members of applicants for scholarship grants shall authorize the Authority to access information needed for verification efforts held by other State agencies, including the Department of Revenue, the Department of Health and Human Services, and the Department of Public Instruction.

"**§ 115C-562.4. Identification of nonpublic schools and distribution of scholarship grant information.**

(a) The Division shall provide annually by February 1 to the Authority a list of all nonpublic schools operating in the State that meet the requirements of Part 1 or Part 2 of this Article. The Division shall notify the Authority of any schools included in the list that the Division has determined to be ineligible within five business days of the determination of ineligibility.

(b) The Authority shall provide information about the scholarship grant program to the Division, including applications and the obligations of nonpublic schools accepting eligible students receiving scholarship grants. The Division shall ensure that information about the scholarship grant program is provided to all qualified nonpublic schools on an annual basis.

"**§ 115C-562.5. Obligations of nonpublic schools accepting eligible students receiving scholarship grants.**

(a) A nonpublic school that accepts eligible students receiving scholarship grants shall comply with the following:

(1) Provide to the Authority documentation for required tuition and fees charged to the student by the nonpublic school.

(2) Conduct a criminal background check for the staff member with the highest decision-making authority, as defined by the bylaws, articles of incorporation, or other governing document, to ensure that person has not been convicted of any crime listed in G.S. 115C-332.

(3) Provide to the parent or guardian of an eligible student, whose tuition and fees are paid in whole or in part with a scholarship grant, an annual written explanation of the student's progress, including the student's scores on standardized achievement tests.

(4) Administer, at least once in each school year, a nationally standardized test or other nationally standardized equivalent measurement selected by the chief administrative officer of the nonpublic school to all eligible students whose tuition and fees are paid in whole or in part with a scholarship grant enrolled in grades three and higher. The nationally standardized test or other equivalent measurement selected must measure achievement in the areas of English grammar, reading, spelling, and mathematics. Test performance data shall be submitted to the Authority by July 15 of each year. Test performance data reported to the Authority under this subdivision is not a public record under Chapter 132 of the General Statutes.

(5) Provide to the Authority graduation rates of the students receiving scholarship grants in a manner consistent with nationally recognized standards.

(6) Contract with a certified public accountant to perform a financial review, consistent with generally accepted accounting principles, for each school year in which the school accepts students receiving more than three hundred thousand dollars ($300,000) in scholarship grants awarded under this Part.

(b) A nonpublic school that accepts students receiving scholarship grants shall not require any additional fees based on the status of the student as a scholarship grant recipient.

(c) A nonpublic school enrolling more than 25 students whose tuition and fees are paid in whole or in part with a scholarship grant shall report to the Authority on the aggregate standardized test performance of eligible students. Aggregate test performance data reported to the Authority which does not contain personally identifiable student data shall be a public record under Chapter 132 of the General Statutes. Test performance data may be shared with public or private institutions of higher education located in North Carolina and shall be provided to an independent research organization selected by the Authority for research purposes as permitted by the Federal Education Rights and Privacy Act, 20 U.S.C. § 1232g.

(d) A nonpublic school accepting students receiving scholarship grants that fails to comply with the requirements of this section shall be ineligible to receive future scholarship grants if the Authority determines that the nonpublic school is not in compliance with the

requirements of this section. The nonpublic school shall notify the parent or guardian of any enrolled student receiving a scholarship grant that the nonpublic school is no longer eligible to receive future scholarship grants. A nonpublic school may appeal for reconsideration of eligibility after one year.

"**§ 115C-562.6. Scholarship endorsement.**

The Authority shall remit, at least two times each school year, scholarship grant funds awarded to eligible students to the nonpublic school for endorsement by at least one of the student's parents or guardians. The parent or guardian shall restrictively endorse the scholarship grant funds awarded to the eligible student to the nonpublic school for deposit into the account of the nonpublic school. The parent or guardian shall not designate any entity or individual associated with the nonpublic school as the parent's attorney-in-fact to endorse the scholarship grant funds but shall endorse the scholarship grant funds in person at the site of the nonpublic school. A parent's or guardian's failure to comply with this section shall result in forfeit of the scholarship grant. A scholarship grant forfeited for failure to comply with this section shall be returned to the Authority to be awarded to another student.

"**§ 115C-562.7. Authority reporting requirements.**

(a) The Authority shall report to the Department of Public Instruction annually, no later than September 1, the number and names of students who have received scholarship grants for the current school year and who were enrolled the prior semester in a local school administrative unit by the previously attended local school administrative unit. By September 15 of each year, the State Board of Education shall determine the amount of the reduction for each local school administrative unit by multiplying the students who have received scholarship grants for the current school year and who were enrolled the prior semester in a local school administrative unit by the per pupil allocation for average daily membership from the local school administrative unit. Local school administrative units shall identify to the Department of Public Instruction the reductions to State General Fund appropriations for Opportunity Scholarships by October 1 of each year.

(b) The Authority shall report annually, no later than March 1, to the Joint Legislative Education Oversight Committee on the following:

(1) Total number, grade level, race, ethnicity, and sex of eligible students receiving scholarship grants.

(2) Total amount of scholarship grant funding awarded.

(3) Number of students previously enrolled in local school administrative units or charter schools in the prior semester by the previously attended local school administrative unit or charter school.

(4) Nonpublic schools in which scholarship grant recipients are enrolled, including numbers of scholarship grant students at each nonpublic school.

(5) Nonpublic schools deemed ineligible to receive scholarships.

(c) The Authority shall report annually, no later than December 1, to the Department of Public Instruction and the Joint Legislative Education Oversight Committee on the following:

(1) Learning gains or losses of students receiving scholarship grants. The report shall include learning gains of participating students on a statewide basis and shall compare, to the extent possible, the learning gains or losses of eligible students by nonpublic school to the statewide learning gains or losses of public school students with similar socioeconomic backgrounds, using aggregate standardized test performance data provided to the Authority by nonpublic schools and by the Department of Public Instruction.

(2) Competitive effects on public school performance on standardized tests as a result of the scholarship grant program. The report shall analyze the impact of the availability of scholarship grants on public school performance on standardized tests by local school administrative units to the extent possible, and shall provide comparisons of the impact by geographic region and between rural and urban local school administrative units.

This report shall be conducted by an independent research organization to be selected by the Authority, which may be a public or private entity or university. The independent research organization shall report to the Authority on the results of its research. The Joint Legislative Education Oversight Committee shall review reports from the Authority and shall make ongoing recommendations to the General Assembly as needed regarding improving administration and accountability for nonpublic schools accepting students receiving scholarship grants."

SECTION 8.29.(b) G.S. 110-86(2) reads as rewritten:

"(2) Child care. – A program or arrangement where three or more children less than 13 years old, who do not reside where the care is provided, receive care on a regular basis of at least once per week for more than four hours but less than 24 hours per day from persons other than their guardians or full-time custodians, or from persons not related to them by birth, marriage, or adoption. Child care does not include the following:

…

f. Nonpublic schools described in Part 2 of Article 39 of Chapter 115C of the General Statutes that are accredited by national or regional accrediting agencies with early childhood standards ~~the Southern Association of Colleges and Schools~~ and that operate a child care facility as defined in subdivision (3) of this section for less than six and one-half hours per day either on or off the school site;

…."

SECTION 8.29.(c) G.S. 115C-555 reads as rewritten:

"§ **115C-555. Qualification of nonpublic schools.**

The provisions of this Part shall apply to any nonpublic school which has one or more of the following characteristics:

(1) It is accredited by the State Board of Education.

(2) It is accredited by ~~the Southern Association of Colleges and Schools.~~a national or regional accrediting agency.

(3) It is an active member of the North Carolina Association of Independent Schools.

(4) It receives no funding from the State of North Carolina. For the purposes of this Article, scholarship grant funds awarded pursuant to Part 2A of this Article to eligible students attending a nonpublic school shall not be considered funding from the State of North Carolina."

SECTION 8.29.(d) G.S. 116-204 reads as rewritten:

"§ **116-204. Powers of Authority.**

The Authority is hereby authorized and empowered:

…

(11) To administer the awarding of scholarship grants to students attending nonpublic schools as provided in Part 2A of Article 39 of Chapter 115C of the General Statutes."

SECTION 8.29.(e) Notwithstanding the awards criteria in G.S. 115C-562.2(a)(1) and (2), as enacted by this section, and the definition of eligible student in G.S. 115C-562.1(2), as enacted by this section, for the 2014-2015 school year, to be eligible to receive a scholarship grant, a student shall meet both of the following criteria:

(1) Reside in a household with an income level not in excess of the amount required for the student to qualify for the federal free or reduced-price lunch program.

(2) Be a full-time student who has not yet received a high school diploma and is assigned to and attending a public school pursuant to G.S. 115C-366 during the 2014 spring semester.

The Authority shall establish temporary rules and regulations for the administration and awarding of scholarship grants in 2014-2015, which may include a process for awarding grants using a random lottery system.

SECTION 8.29.(f) The Authority may retain up to four hundred thousand dollars ($400,000) annually for administrative costs associated with the scholarship grant program.

SECTION 8.29.(g) The Authority shall select an independent research organization, as required by G.S. 115C-562.7, as enacted by this section, beginning with the 2017-2018 school year. The first learning gains report required by G.S. 115C-562.7, as enacted by this section, shall not be due until December 1, 2018. The first financial review for a nonpublic school that accepts scholarship grant funds, as required by G.S. 115C-562.5(a)(6), as enacted by this section, shall not be required until the 2015-2016 school year.

SECTION 8.29.(h) This section applies beginning with the 2014-2015 school year. In accordance with G.S. 115C-562.2, as enacted by this section, the Authority shall make applications available for the 2014-2015 school year no later than February 1, 2014, and shall begin awarding grants no later than March 1, 2014. Information about scholarship grants and the application process shall be made available on the Authority's Web site. In accordance with G.S. 115C-562.4, as enacted by this section, the Division of Nonpublic Education, Department of Administration, shall make available to the Authority a list of all nonpublic schools operating in the State that meet the requirements of Part 1 or Part 2 of Article 39 of Chapter 115C of the General Statutes no later than February 1, 2014.

REPEAL REQUIREMENT THAT SCHOOLS PROVIDE READING WORKSHOPS FOR PARENTS OF STUDENTS WHO HAVE BEEN RETAINED

SECTION 8.30. G.S. 115C-83.8(d) is repealed.

TASK FORCE TO STUDY TEACHER AND SCHOOL ADMINISTRATOR EFFECTIVENESS AND COMPENSATION

SECTION 8.31.(a) Establishment. – The North Carolina Educator Effectiveness and Compensation Task Force is established.

SECTION 8.31.(b) Membership. – The Task Force shall be composed of 18 members as follows:

(1) Nine members appointed by the Speaker of the House of Representatives as follows:
   a. Four persons who are members of the House of Representatives at the time of appointment, at least two of whom represent the minority party.
   b. A representative of the Department of Public Instruction.
   c. A classroom teacher, as recommended by the North Carolina Association of Educators.
   d. A school principal, as recommended by the North Carolina Association of School Administrators.
   e. A representative of a North Carolina institution of higher education that offers a teacher education program and a master's degree program in education or school administration.
   f. A representative from the Professional Educators of North Carolina.

(2) Nine members appointed by the President Pro Tempore of the Senate as follows:
   a. Four persons who are members of the Senate at the time of appointment, at least two of whom represent the minority party.
   b. A parent of a public school student.
   c. Two classroom teachers.
   d. A school system superintendent or public school principal.
   e. A local school board member.

The Task Force shall have two cochairs, one designated by the President Pro Tempore of the Senate and one designated by the Speaker of the House of Representatives from among their appointees. The Task Force shall meet upon the call of the cochairs. Vacancies shall be filled by the appointing authority. A quorum of the Task Force shall be a majority of the members.

SECTION 8.31.(c) Duties. – The Task Force shall make recommendations on whether to create a statewide model of incentives to encourage the recruitment and retention of highly effective educators and to consider the transition to an alternative compensation system for educators. In developing recommendations, the Task Force shall consider at least the following factors:

(1) Alternatives to or simplification of the current teacher and school principal salary schedules, including the need for "hold harmless" options or a choice in compensation structure to avoid reduction in pay for current educators.
(2) Incorporating the feedback of educators in order to maximize buy-in.
(3) The integration of school-level performance measures in an alternative compensation system.
(4) Whether local school administrative units may create their own customized alternative compensation systems in lieu of or in addition to a statewide system, including necessary parameters such as funding flexibility and guidelines for local boards of education.
(5) The use of incentive pay to recruit and retain educators to teach in hard to staff areas.
(6) The recognition of educator responsibilities and leadership roles such as mentoring of beginning teachers and instructional coaching.
(7) Methods for identifying effective teaching and its relationship to an alternative compensation system, including:
    a. The correlation of student outcomes with effective teaching.
    b. The use of multiple teacher evaluation measures and feedback methods to recognize effective teaching such as classroom observations, student surveys, video training for teachers, and standard measures of student achievement.
    c. The use of multiple teacher observations, including at least one observer from outside of the teacher's school.
    d. The correlation to annual student growth and performance data, evaluations, effectiveness levels, and a three-year average of student growth.
(8) Barriers to the implementation of alternative compensation systems.
(9) Educator compensation reform in other states and North Carolina pilot programs currently utilizing alternative compensation.
(10) Effective strategies for retaining effective teachers.

SECTION 8.31.(d) Compensation; Administration. – Members of the Task Force shall receive subsistence and travel allowances at the rates set forth in G.S. 120-3.1, 138-5, or 138-6, as appropriate. With the prior approval of the Legislative Services Commission, the Legislative Services Officer shall assign professional and clerical staff to assist in the work of the Task Force. With the prior approval of the Legislative Services Commission, the Task Force may hold its meetings in the State Legislative Building or the Legislative Office Building. The Task Force may also meet at various locations around the State in order to promote greater public participation in its deliberations. The Task Force, while in the discharge of its official duties, may exercise all the powers provided under the provisions of G.S. 120-19 and G.S. 120-19.1 through G.S. 120-19.4, including the power to request all officers, agents, agencies, and departments of the State to provide any information, data, or documents within their possession, ascertainable from their records or otherwise available to them, and the power to subpoena witnesses.

SECTION 8.31.(e) Transfer of Funds. – The Department of Public Instruction shall transfer all funds appropriated in this act for the Task Force to Budget Code 11000 in the General Assembly to support its operations in accordance with the requirements of this section.

SECTION 8.31.(f) Report. – The Task Force shall report its findings and recommendations to the 2014 Regular Session of the 2013 General Assembly no later than April 15, 2014. The Task Force shall terminate on April 15, 2014, or upon the filing of its final report, whichever occurs first.

EDUCATION AND WORKFORCE INNOVATION PROGRAM

SECTION 8.34.(a) Chapter 115C of the General Statutes is amended by adding a new Article to read:

"Article 6C.

"Education and Workforce Innovation Program.

"**§ 115C-64.10. North Carolina Education and Workforce Innovation Commission.**

(a) There is created the North Carolina Education and Workforce Innovation Commission (Commission). The Commission shall be located administratively in the Department of Public Instruction but shall exercise all its prescribed powers independently of the Department of Public Instruction. Of the funds appropriated for the Education and Workforce Innovation Program established under G.S. 115C-64.11, up to two hundred thousand dollars ($200,000) each fiscal year may be used by the Department of Public Instruction to provide technical assistance and administrative assistance, including staff, to the Commission and reimbursements and expenses for the Commission.

(b) The Commission shall consist of the following 11 members:

(1) The Secretary of Commerce.

(2) The State Superintendent of Public Instruction.

(3) The Chair of the State Board of Education.

(4) The President of The University of North Carolina.

(5) The President of the North Carolina Community College System.

(6) Two members appointed by the Governor who have experience in education.

(7) Two members appointed by the General Assembly upon recommendation of the Speaker of the House of Representatives, as provided in G.S. 120-121, who have experience in businesses operating in North Carolina.

(8) Two members appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate, as provided in G.S. 120-121, who have experience in businesses operating in North Carolina.

(c) The Commission members shall elect a chair from the membership of the Commission. The Commission shall meet at least three times annually on the call of the Chair or as additionally provided by the Commission. A quorum is six members of the Commission. Members may not send designees to Commission meetings nor may they vote by proxy.

(d) The Commission shall develop and administer the Education and Workforce Innovation Program, as established under G.S. 115C-64.11, and make awards of grants under the Program. The Commission shall work closely with the North Carolina New Schools in administering the program.

(e) The Commission shall publish a report on the Education and Workforce Innovation Program on or before April 30 of each year. The report shall be submitted to the Joint Legislative Education Oversight Committee, the State Board of Education, the State Board of Community Colleges, and the Board of Governors of The University of North Carolina. The report shall include at least all of the following information:

(1) An accounting of how funds and personnel resources were utilized and their impact on student achievement, retention, and employability.

(2) Recommended statutory and policy changes.

(3) Recommendations for improvement of the program.

"**§ 115C-64.11. The Education and Workforce Innovation Program.**

(a) Program Establishment. – There is established the Education and Workforce Innovation Program (Program) to foster innovation in education that will lead to more students graduating career and college ready. Funds appropriated to the Program shall be used to award competitive grants to an individual school, a local school administrative unit, or a regional partnership of more than one local school administrative unit to advance comprehensive, high-quality education that equips teachers with the knowledge and skill required to succeed with all students. Before receiving a grant, applicants must meet all of the following conditions:

(1) Form a partnership, for the purposes of the grant, with either a public or private university or a community college.

(2) Form a partnership, for the purposes of the grant, with regional businesses and business leaders.

(3) Demonstrate the ability to sustain innovation once grant funding ends.

(b) Applicant Categories and Specific Requirements. –

(1) Individual schools. – Individual public schools must demonstrate all of the following in their applications:

a. Partnerships with business and industry to determine the skills and competencies needed for students' transition into growth sectors of the regional economy.

b. Aligned pathways to employment, including students' acquisition of college credit or industry recognized credentials.

c. Development of systems, infrastructure, capacity, and culture to enable teachers and school leaders to continuously focus on improving individual student achievement.

(2) Local school administrative units. – Local school administrative units must demonstrate all of the following in their applications:

a. Implementation of comprehensive reform and innovation.

b. Appointment of a senior leader to manage and sustain the change process with a specific focus on providing parents with a portfolio of meaningful options among schools.

(3) Regional partnerships of two or more local school administrative units. – Partnerships of two or more local school administrative units must demonstrate all of the following in their applications:

a. Implementation of resources of partnered local school administrative units in creating a tailored workforce development system for the regional economy and fostering innovation in each of the partnered local school administrative units.

b. Promotion of the development of knowledge and skills in career clusters of critical importance to the region.

c. Benefits of the shared strengths of local businesses and higher education.

d. Usage of technology to deliver instruction over large geographic regions and build networks with industry.

e. Implementation of comprehensive reform and innovation that can be replicated in other local school administrative units.

(c) Consideration of Factors in Awarding of Grants. – All applications must include information on at least the following in order to be considered for a grant:

(1) Describe the aligned pathways from school to high-growth careers in regional economies.

(2) Leverage technology to efficiently and effectively drive teacher and principal development, connect students and teachers to online courses and resources, and foster virtual learning communities among faculty, higher education partners, and business partners.

(3) Establish a comprehensive approach to enhancing the knowledge and skills of teachers and administrators to successfully implement the proposed innovative program and to graduate all students ready for work and college.

(4) Link to a proven provider of professional development services for teachers and administrators capable of providing evidence-based training and tools aligned with the goals of the proposed innovative program.

(5) Form explicit partnerships with businesses and industry, which may include business advisory councils, internship programs, and other customized projects aligned with relevant workforce skills.

(6) Partner with community colleges or public or private universities to enable communities to challenge every student to graduate with workplace credentials or college credit.

(7) Align K-12 and postsecondary instruction and performance expectations to reduce the need for college remediation courses.

(8) Secure input from parents to foster broad ownership for school choice options and to foster greater understanding of the need for continued education beyond high school.

(9) Provide a description of the funds that will be used and a proposed budget for five years.

(10) Describe the source of matching funds required in subsection (d) of this section.

(11) Establish a strategy to achieve meaningful analysis of program outcomes due to the receipt of grant funds under this section.

(d) Matching Private and Local Funds. – All funds appropriated by the State must be matched by a combination of private and local funds. All grant applicants must fund twenty-five percent (25%) of program costs through local funds. An additional twenty-five percent (25%) of program costs must be raised by private funds.

(e) Grants. – Any grants awarded by the Commission may be spent over a five-year period from the initial award.

(f) Reporting Requirements. – No later than March 1 of each year, a grant recipient shall submit to the Commission an annual report for the preceding grant year that describes the academic progress made by the students and the implementation of program initiatives."

SECTION 8.34.(b) The North Carolina Education and Workforce Innovation Commission (Commission), as established by G.S. 115C-64.10, as enacted by this section, shall conduct a study to determine the most efficient way to fund dual enrollment for high school students in college coursework. The Commission shall report the results of this study to the Joint Legislative Education Oversight Committee by October 1, 2014.

SECTION 8.34.(c) The appointments to the Commission as set forth in G.S. 115C-64.10, as enacted by this section, shall be made by the appointing entities no later than September 1, 2013. The Commission shall hold its first meeting no later than October 1, 2013.

SCHOOL PSYCHOLOGISTS, SCHOOL COUNSELORS, AND SCHOOL SOCIAL WORKERS

SECTION 8.35.(a) Article 21 of Chapter 115C of the General Statutes is amended by adding a new section to read:

"**§ 115C-316.1. Duties of school counselors.**

(a) School counselors shall implement a comprehensive developmental school counseling program in their schools. Counselors shall spend at least eighty percent (80%) of their work time providing direct services to students. Direct services do not include the coordination of standardized testing. Direct services shall consist of:

(1) Delivering the school guidance curriculum through large group guidance, interdisciplinary curriculum development, group activities, and parent workshops.

(2) Guiding individual student planning through individual or small group assistance and individual or small group advisement.

(3) Providing responsive services through consultation with students, families, and staff; individual and small group counseling; crisis counseling; referrals; and peer facilitation.

(4) Performing other student services listed in the Department of Public Instruction school counselor job description that has been approved by the State Board of Education.

(b) During the remainder of their work time, counselors shall spend adequate time on school counseling program support activities that consist of professional development; consultation, collaboration, and training; and program management and operations. School counseling program support activities do not include the coordination of standardized testing. However, school counselors may assist other staff with the coordination of standardized testing."

SECTION 8.35.(b) Each local board of education shall develop a transition plan for implementing subsection (a) of this section within existing resources by reassigning duties within its schools.

The State Board of Education shall develop and distribute guidelines to all local school administrative units to assist with the implementation of subsection (a) of this section.

GRANTS FOR SCHOOL RESOURCE OFFICERS IN ELEMENTARY AND MIDDLE SCHOOLS

SECTION 8.36. Grants to local school administrative units, regional schools, and charter schools for school resource officers in elementary and middle schools shall be matched on the basis of two dollars ($2.00) in State funds for every one dollar ($1.00) in local funds and shall be used to supplement and not to supplant State, local, and federal funds for school resource officers.

The State Board of Education shall include need-based considerations in its criteria for awarding these grants to local school administrative units, regional schools, and charter schools.

Local school administrative units, regional schools, and charter schools may use these funds to employ school resource officers in elementary and middle schools, to train them, or both. Any such training shall include instruction on research into the social and cognitive development of elementary school and middle school children.

PANIC ALARM SYSTEMS

SECTION 8.37.(a) G.S. 115C-47(40) reads as rewritten:

"(40) To adopt emergency response plans. – Local boards of education ~~may~~shall, in coordination with local law enforcement agencies, adopt emergency response plans relating to incidents of school violence. These plans are not a public record as the term "public record" is defined under G.S. 132-1 and shall not be subject to inspection and examination under G.S. 132-6."

SECTION 8.37.(b) Grants to local school administrative units, regional schools, and charter schools for panic alarm systems in schools shall be matched on the basis of one dollar ($1.00) in State funds for every one dollar ($1.00) in local funds and shall be used to supplement and not to supplant State, local, and federal funds for panic alarm systems.

The State Board of Education shall include need-based considerations in its criteria for awarding these grants to local school administrative units, regional schools, and charter schools.

SECTION 8.37.(c) Effective July 1, 2015, every public school shall have a panic alarm system that connects with the nearest local law enforcement agency in the local board of education's emergency response plan.

SCHOOL SAFETY EXERCISES

SECTION 8.38. Article 8C of Chapter 115C of the General Statutes is amended by adding a new section to read:

"**§ 115C-105.49. School safety exercises.**

(a) At least every two years, each local school administrative unit is encouraged to hold a full systemwide school safety and school lockdown exercise with the local law enforcement agencies that are part of the local board of education's emergency response plan. The purpose of the exercise shall be to permit participants to (i) discuss simulated emergency situations in a low-stress environment, (ii) clarify their roles and responsibilities and the overall logistics of dealing with an emergency, and (iii) identify areas in which the emergency response plan needs to be modified.

(b) As part of a local board of education's emergency response plan, at least once a year, each school is encouraged to hold a full schoolwide school safety and lockdown exercise with local law enforcement agencies."

SCHEMATIC DIAGRAMS OF SCHOOL FACILITIES

SECTION 8.39.(a) Beginning with the 2013-2014 school year, each local school administrative unit that currently maintains schematic diagrams of its school facilities shall provide those schematic diagrams to local law enforcement agencies. The local school administrative unit shall provide updates of the schematic diagrams to local law enforcement agencies when substantial modifications such as new facilities or modifications to doors and windows are made to school facilities. The local school administrative unit shall also provide keys to the main entrance of all school facilities to local law enforcement agencies.

SECTION 8.39.(b) Each local school administrative unit that does not currently maintain schematic diagrams of its school facilities as of the effective date of this act shall report to the Department of Public Instruction by March 1, 2014, on whether it intends to prepare schematic diagrams of its school facilities to provide to local law enforcement agencies and if any obstacles exist in preparing such schematic diagrams. Local school administrative units are encouraged to prepare schematic diagrams and provide keys to the main entrance of all school facilities to local law enforcement agencies prior to the beginning of the 2014-2015 school year.

SECTION 8.39.(c) The Department of Public Instruction, in consultation with the Department of Public Safety, may develop standards and guidelines to assist local school administrative units in developing and providing schematic diagrams to local law enforcement agencies.

SECTION 8.39.(d) Schematic diagrams are not considered a public record as the term "public record" is defined under G.S. 132-1 and shall not be subject to inspection and examination under G.S. 132-6.

ANONYMOUS TIP LINE

SECTION 8.40. Article 8C of Chapter 115C of the General Statutes is amended by adding a new section to read:

"**§ 115C-105.51. Anonymous tip lines.**

(a) Each local school administrative unit is encouraged to develop and operate an anonymous tip line, in coordination with local law enforcement and social services agencies, to receive anonymous information on internal or external risks to school buildings and school-related activities.

(b) The Department of Public Instruction, in consultation with the Department of Public Safety, may develop standards and guidelines for the development, operation, and staffing of tip lines.

(c) The Department of Public Instruction may provide information to local school administrative units on federal, State, local, and private grants available for this purpose."

SCHOOL SAFETY COMPONENT OF SCHOOL IMPROVEMENT PLANS

SECTION 8.41.(a) G.S. 115C-105.27, as rewritten by Section 11(a) of S.L. 2013-226, reads as rewritten:

"§ **115C-105.27. Development and approval of school improvement plans.**

(a) School Improvement Team. – ~~In order to improve student performance, each school shall develop a school improvement plan that takes into consideration the annual performance goal for that school that is set by the State Board under G.S. 115C-105.35 and the goals set out in the mission statement for the public schools adopted by the State Board of Education.~~ The principal of each school, representatives of the assistant principals, instructional personnel, instructional support personnel, and teacher assistants assigned to the school building, and parents of children enrolled in the school shall constitute a school improvement ~~team to~~ team. The team shall develop a school improvement plan to improve student performance.

Representatives of the assistant principals, instructional personnel, instructional support personnel, and teacher assistants shall be elected by their respective groups by secret ballot.

Unless the local board of education has adopted an election policy, parents shall be elected by parents of children enrolled in the school in an election conducted by the parent and teacher organization of the school or, if none exists, by the largest organization of parents formed for this purpose. Parents serving on school improvement teams shall reflect the racial and socioeconomic composition of the students enrolled in that school and shall not be members of the building-level staff.

Parental involvement is a critical component of school success and positive student achievement; therefore, it is the intent of the General Assembly that parents, along with teachers, have a substantial role in developing school improvement plans. To this end, school improvement team meetings shall be held at a convenient time to assure substantial parent participation.

~~All school improvement plans shall be, to the greatest extent possible, data-driven. School improvement teams shall use the Education Value-Added Assessment System (EVAAS) or a compatible and comparable system approved by the State Board of Education, to analyze student data to identify root causes for problems, to determine actions to address them, and to appropriately place students in courses such as Algebra I. School improvement plans shall contain clear, unambiguous targets, explicit indicators and actual measures, and expeditious time frames for meeting the measurement standards.~~

(a1) Open Meetings. – School improvement team meetings are subject to the open meetings requirements of Article 33C of Chapter 143 of the General Statutes. Deliberations on the school safety components of the plan shall be in closed session in accordance with G.S. 143-318.11(a)(8). The principal shall ensure that these requirements are met.

(a2) Public Records. – The school improvement plan, except for the school safety components of the plan, is a public record subject to Chapter 132 of the General Statutes and shall be posted on the school Web site. The names of the members of the school improvement team, their positions, and the date of their election to the school improvement team shall also be posted on the Web site.

The school safety components of the plan are not public records subject to Chapter 132 of the General Statutes.

(b) School Improvement Plan. – In order to improve student performance, the school improvement team at each school shall develop a school improvement plan that takes into consideration the annual performance goal for that school that is set by the State Board under G.S. 115C-105.35 and the goals set out in the mission statement for the public schools adopted

by the State Board of Education. All school improvement plans shall be, to the greatest extent possible, data-driven. School improvement teams shall use the Education Value-Added Assessment System (EVAAS) or a compatible and comparable system approved by the State Board of Education to (i) analyze student data and identify root causes for problems, (ii) determine actions to address them, and (iii) appropriately place students in courses such as Algebra I. School improvement plans shall contain clear, unambiguous targets, explicit indicators and actual measures, and expeditious time frames for meeting the measurement standards.

The strategies for improving student performance:

(1) Shall include a plan for the use of staff development funds that may be made available to the school by the local board of education to implement the school improvement plan. The plan may provide that a portion of these funds is used for mentor training and for release time and substitute teachers while mentors and teachers mentored are meeting;

(1a) Repealed by Session Laws 2012-142, s. 7A.1(c), effective July 2, 2012.

(2) Shall include a plan to address school safety and discipline concerns;

(3) May include a decision to use State funds in accordance with G.S. 115C-105.25;

(4) Shall include a plan that specifies the effective instructional practices and methods to be used to improve the academic performance of students identified as at risk of academic failure or at risk of dropping out of school;

(5) May include requests for waivers of State laws, rules, or policies for that school. A request for a waiver shall meet the requirements of G.S. 115C-105.26;

(6) Shall include a plan to provide a duty-free lunch period for every teacher on a daily basis or as otherwise approved by the school improvement team; and

(7) Shall include a plan to provide duty-free instructional planning time for every teacher under G.S. 115C-301.1, with the goal of providing an average of at least five hours of planning time per week.

(8) Shall include a plan to identify and eliminate unnecessary and redundant reporting requirements for teachers and, to the extent practicable, streamline the school's reporting system and procedures, including requiring forms and reports to be in electronic form when possible and incorporating relevant documents into the student accessible components of the Instructional Improvement System.

(c) School Vote on the Plan. – Support among affected staff members is essential to successful implementation of a school improvement plan to address improved student performance at that school. The principal of the school shall present the proposed school improvement plan to all of the principals, assistant principals, instructional personnel, instructional support personnel, and teacher assistants assigned to the school building for their review and vote. The vote shall be by secret ballot. The principal shall submit the school improvement plan to the local board of education only if the proposed school improvement plan has the approval of a majority of the staff who voted on the plan.

(c1) Consideration of the School Safety Components of the Plan. – The superintendent shall review the school safety components of the school improvement plans and make written recommendations on them to the local board of education. Prior to a vote to accept a school's improvement plan in accordance with G.S. 115C-105.27(d), the local board of education shall review the school safety components of the plan for that school in closed session. The board shall make findings on the safety components of the plan. Neither the safety components of the plan nor the board's findings on the safety components of the plan shall be set out in the minutes of the board.

(d) Adoption of the Plan. – The local board of education shall accept or reject the school improvement plan. The local board shall not make any substantive changes in any

school improvement plan that it accepts. If the local board rejects a school improvement plan, the local board shall state with specificity its reasons for rejecting the plan; the school improvement team may then prepare another plan, present it to the principals, assistant principals, instructional personnel, instructional support personnel, and teacher assistants assigned to the school building for a vote, and submit it to the local board to accept or reject. If no school improvement plan is accepted for a school within 60 days after its initial submission to the local board, the school or the local board may ask to use the process to resolve disagreements recommended in the guidelines developed by the State Board under G.S. 115C-105.20(b)(5). If this request is made, both the school and local board shall participate in the process to resolve disagreements. If there is no request to use that process, then the local board may develop a school improvement plan for the school. The General Assembly urges the local board to utilize the school's proposed school improvement plan to the maximum extent possible when developing such a plan.

(e) Effective Period of the Plan. – A school improvement plan shall remain in effect for no more than two years; however, the school improvement team may amend the plan as often as is necessary or appropriate. If, at any time, any part of a school improvement plan becomes unlawful or the local board finds that a school improvement plan is impeding student performance at a school, the local board may vacate the relevant portion of the plan and may direct the school to revise that portion. The procedures set out in this subsection shall apply to amendments and revisions to school improvement plans.

(f) Elimination of Other Unnecessary Plans. – If a local board of education finds that a school improvement plan adequately covers another plan that the local school administrative unit is otherwise required to prepare, the local school administrative unit shall not be required to prepare an additional plan on the matter.

(g) Compliance With Requirements. – Any employee, parent, or other interested individual or organization is encouraged to notify the principal of any concerns regarding compliance with this section. In addition, any employee, parent, or other interested individual or organization may submit in writing to the superintendent concerns regarding compliance with this section. The superintendent shall make a good-faith effort to investigate the concern. The superintendent shall upon request provide a written response to the concern."

SECTION 8.41.(b) G.S. 143-318.11(a)(8) reads as rewritten:

"(a) Permitted Purposes. – It is the policy of this State that closed sessions shall be held only when required to permit a public body to act in the public interest as permitted in this section. A public body may hold a closed session and exclude the public only when a closed session is required:

…

(8) To formulate plans by a local board of education relating to emergency response to incidents of school violence or to formulate and adopt the school safety components of school improvement plans by a local board of education or a school improvement team."

SECTION 8.41.(c) This section applies beginning with the 2013-2014 school year.

CRISIS KITS

SECTION 8.42. Article 8C of Chapter 115C of the General Statutes is amended by adding a new section to read:

"**§ 115C-105.52. School crisis kits.**

The Department of Public Instruction, in consultation with the Department of Public Safety through the North Carolina Center for Safer Schools, may develop and adopt policies on the placement of school crisis kits in schools and on the contents of those kits. The kits should include, at a minimum, basic first-aid supplies, communications devices, and other items recommended by the International Association of Chiefs of Police.

The principal of each school, in coordination with the law enforcement agencies that are part of the local board of education's emergency response plan, may place one or more crisis kits at appropriate locations in the school."

SCHOOL SAFETY FOR CHARTER SCHOOLS AND REGIONAL SCHOOLS

SECTION 8.43.(a) G.S. 115C-238.29F is amended by adding a new subsection to read:

"(a1) Emergency Response Plan. – A charter school, in coordination with local law enforcement agencies, is encouraged to adopt an emergency response plan relating to incidents of school violence. These plans are not considered a public record as the term "public record" is defined under G.S. 132-1 and shall not be subject to inspection and examination under G.S. 132-6.

Charter schools are encouraged to provide schematic diagrams and keys to the main entrance of school facilities to local law enforcement agencies, in addition to implementing the provisions in G.S. 115C-105.49(b) and G.S. 115C-105.52."

SECTION 8.43.(b) G.S. 115C-238.66 is amended by adding a new subdivision to read:

"(7a) Emergency Response Plan. – A regional school, in coordination with local law enforcement agencies, is encouraged to adopt an emergency response plan relating to incidents of school violence. These plans are not considered a public record as the term "public record" is defined under G.S. 132-1 and shall not be subject to inspection and examination under G.S. 132-6. Regional schools are encouraged to provide schematic diagrams and keys to the main entrance of school facilities to local law enforcement agencies, in addition to implementing the provisions in G.S. 115C-105.49(b) and G.S. 115C-105.52."

EMERGENCY AND CRISIS TRAINING

SECTION 8.44. The Department of Public Safety, through the North Carolina Center for Safer Schools and in conjunction with the Department of Justice and the Department of Public Instruction, is encouraged to develop school emergency and crisis training modules for school employees and provide them to schools as soon as practicable.

VOLUNTEER SCHOOL SAFETY RESOURCE OFFICER PROGRAM

SECTION 8.45.(a) G.S. 14-269.2(a) is amended by adding a new subdivision to read:

"(3a) Volunteer school safety resource officer. – A person who volunteers as a school safety resource officer as provided by G.S. 162-26 or G.S. 160A-288.4."

SECTION 8.45.(b) G.S. 14-269.2(g) is amended by adding a new subdivision to read:

"(g) This section shall not apply to any of the following:

…

(7) A volunteer school safety resource officer providing security at a school pursuant to an agreement as provided in G.S. 115C-47(61) and either G.S. 162-26 or G.S. 160A-288.4, provided that the volunteer school safety resource officer is acting in the discharge of the person's official duties and is on the educational property of the school that the officer was assigned to by the head of the appropriate local law enforcement agency."

SECTION 8.45.(c) G.S. 115C-47 is amended by adding a new subdivision to read:

"§ **115C-47. Powers and duties generally.**

In addition to the powers and duties designated in G.S. 115C-36, local boards of education shall have the power or duty:

…

(61) To Provide a Safe School Environment. – Local boards of education may enter into an agreement with the sheriff, chief of police of a local police department, or chief of police of a county police department to provide security at the schools by assigning volunteer school safety resource officers who meet the selection standards and criteria developed by the head of the appropriate local law enforcement agency and the criteria set out in G.S. 162-26 or G.S. 160A-288.4, as appropriate."

SECTION 8.45.(d) G.S. 160A-282(c) reads as rewritten:

"(c) The board of commissioners of any county may provide that persons who are deputized by the sheriff of the county as special deputy sheriffs or persons who are serving as volunteer law-enforcement officers at the request of the sheriff and under his authority, while undergoing official training and while performing duties on behalf of the county pursuant to orders or instructions of the sheriff, shall be entitled to benefits under the North Carolina Workers' Compensation Act and to any fringe benefits for which such persons qualify.

This subsection shall not apply to volunteer school safety resource officers as described in G.S. 162-26."

SECTION 8.45.(e) Article 3 of Chapter 162 of the General Statutes is amended by adding a new section to read:

"**§ 162-26. Sheriff may establish volunteer school safety resource officer program.**

(a) The sheriff may establish a volunteer school safety resource officer program to provide nonsalaried special deputies to serve as school safety resource officers in public schools. To be a volunteer in the program, a person must have prior experience as either (i) a sworn law enforcement officer or (ii) a military police officer with a minimum of two years' service. If a person with experience as a military police officer is no longer in the armed services, the person must also have an honorable discharge. A program volunteer must receive training on research into the social and cognitive development of elementary, middle, and high school children and must also meet the selection standards and any additional criteria established by the sheriff.

(b) Each volunteer shall report to the sheriff and shall work under the direction and supervision of the sheriff or the sheriff's designee when carrying out the volunteer's duties as a school safety resource officer. No volunteer may be assigned to a school as a school safety resource officer until the volunteer has updated or renewed the volunteer's law enforcement training and has been certified by the North Carolina Sheriff's Education and Training Standards Commission as meeting the educational and firearms proficiency standards required of persons serving as special deputy sheriffs. A volunteer is not required to meet the physical standards required by the North Carolina Sheriff's Education and Training Standards Commission but must have a standard medical exam to ensure the volunteer is in good health. A person selected by the sheriff to serve as a volunteer under this section shall have the power of arrest while performing official duties as a volunteer school safety resource officer.

(c) The sheriff may enter into an agreement with the local board of education to provide volunteer school safety resource officers who meet both the criteria established by this section and the selection and training requirements set by the sheriff of the county for the schools. The sheriff shall be responsible for the assignment of any volunteer school safety resource officer assigned to a public school and for the supervision of the officer.

(d) There shall be no liability on the part of and no cause of action shall arise against a volunteer school safety resource officer, the Sheriff or employees of the sheriff supervising a volunteer school safety officer, or the public school system or its employees for any good-faith action taken by them in the performance of their duties with regard to the volunteer school safety resource officer program established pursuant to this section."

SECTION 8.45.(f) Article 13 of Chapter 160A of the General Statutes is amended by adding a new section to read:

"**§ 160A-288.4. Police chief may establish volunteer school safety resource officer program.**

(a) The chief of police of a local police department or of a county police department may establish a volunteer school safety resource officer program to provide nonsalaried special law enforcement officers to serve as school safety resource officers in public schools. To be a volunteer in the program, a person must have prior experience as either (i) a sworn law enforcement officer or (ii) a military police officer with a minimum of two years' service. If a person with experience as a military police officer is no longer in the armed services, the person must also have an honorable discharge. A program volunteer must receive training on research into the social and cognitive development of elementary, middle, and high school children and must also meet the selection standards and any additional criteria established by the chief of police.

(b) Each volunteer shall report to the chief of police and shall work under the direction and supervision of the chief of police or the chief's designee when carrying out the volunteer's duties as a school safety resource officer. No volunteer may be assigned to a school as a school safety resource officer until the volunteer has updated or renewed the volunteer's law enforcement training and has been certified by the North Carolina Criminal Justice Education and Training Standards Commission as meeting the educational and firearms proficiency standards required of persons serving as criminal justice officers. A volunteer is not required to meet the physical standards required by the North Carolina Criminal Justice Education and Training Standards Commission but must have a standard medical exam to ensure the volunteer is in good health. A person selected by the chief of police to serve as a volunteer under this section shall have the power of arrest while performing official duties as a volunteer school safety resource officer.

(c) The chief of police may enter into an agreement with the local board of education to provide volunteer school safety resource officers who meet both the criteria established by this section and the selection and training requirements set by the chief of police of the municipality or county in which the schools are located. The chief of police shall be responsible for the assignment of any volunteer school safety resource officer assigned to a public school and for the supervision of the officer.

(d) There shall be no liability on the part of and no cause of action shall arise against a volunteer school safety resource officer, the chief of police or employees of the local law enforcement agency supervising a volunteer school safety officer, or the public school system or its employees for any good-faith action taken by them in the performance of their duties with regard to the volunteer school safety resource officer program established pursuant to this section."

SECTION 8.45.(g) This section becomes effective December 1, 2013.

INFORMATION TECHNOLOGY OVERSIGHT CAPACITY

SECTION 8.46. Notwithstanding G.S. 143C-6-4 and subject to the direction, control, and approval of the State Board of Education, the State Superintendent of Public Instruction shall realign existing resources within the Department of Public Instruction to increase the information technology oversight capacity of the Department. The Superintendent shall identify two positions for this purpose in order to establish a Chief Information Officer and a Project Management Officer. The realignment of the positions and resources is subject to the approval of the Office of State Budget and Management.

STUDY VIRTUAL CHARTER SCHOOLS

SECTION 8.48. The State Board of Education shall study and determine needed modifications for authorization and oversight of virtual charter schools, including application requirements, enrollment growth, and funding allocations, and shall prepare these recommendations in the form of draft rules and proposed statutory changes. The State Board

shall present the draft rules and the proposed statutory changes to the Joint Legislative Education Oversight Committee by February 1, 2014.

This section shall not be construed to affect litigation pending as of the date of the enactment of this section.

PILOT PROGRAM TO RAISE THE HIGH SCHOOL DROPOUT AGE FROM SIXTEEN TO EIGHTEEN

SECTION 8.49.(a) Notwithstanding G.S. 7B-1501(27), 115C-378, 115C-238.66(3), 116-235(b)(2), and 143B-805(20), the State Board of Education shall authorize the Hickory Public Schools and the Newton-Conover City Schools to establish and implement a pilot program to increase the high school dropout age from 16 years of age to the completion of the school year coinciding with the calendar year in which a student reaches 18 years of age, unless the student has previously graduated from high school.

SECTION 8.49.(b) Each local school administrative unit may use any funds available to it to implement the pilot program in accordance with this section to (i) employ up to three additional teachers and (ii) fund additional student-related costs, such as transportation and technology costs, including additional computers, to serve a greater number of students as a result of the pilot program. Each local school administrative unit may also use any funds available to it to operate a night school program for students at risk of dropping out of high school. To the extent possible, the local school administrative units shall partner with Catawba Valley Community College in administering the pilot program.

SECTION 8.49.(c) The local school administrative units, in collaboration with the State Board of Education, shall report to the Joint Legislative Education Oversight Committee, the House Appropriations Subcommittee on Education, and the Senate Appropriations Committee on Education/Higher Education on or before January 1, 2016. The report shall include at least all of the following information:

(1) An analysis of the graduation rate in each local school administrative unit and the impact of the pilot program on the graduation rate.
(2) The teen crime statistics for Catawba County.
(3) The number of reported cases of violations of compulsory attendance laws in Catawba County and the disposition of those cases.
(4) The number of at-risk students served in any night programs established as part of the pilot program and student graduation and performance outcomes for those students.
(5) All relevant data to assist in determining the effectiveness of the program and specific legislative recommendations, including the continuation, modification, or expansion of the program statewide.

SECTION 8.49.(d) The State Board of Education shall not authorize a pilot program under subsection (a) of this section except upon receipt of a copy of a joint resolution adopted by the boards of education for the Hickory Public Schools and the Newton-Conover City Schools setting forth a date to begin establishment and implementation of the pilot program.

PART IX. THE EXCELLENT PUBLIC SCHOOLS ACT OF 2013

STATE EMPLOYEE LITERACY VOLUNTEER LEAVE TIME

SECTION 9.1. G.S. 126-4 reads as rewritten:

"§ **126-4. Powers and duties of State Personnel Commission.**

Subject to the approval of the Governor, the State Personnel Commission shall establish policies and rules governing each of the following:

…

(5b) A leave program that allows employees to volunteer in a literacy program in a public school for up to five hours each month.

…."

MAXIMIZE INSTRUCTIONAL TIME

SECTION 9.2.(a) G.S. 115C-174.12(a) reads as rewritten:

"(a) The State Board of Education shall establish policies and guidelines necessary for minimizing the time students spend taking tests administered through State and local testing programs, for minimizing the frequency of field testing at any one school, and for otherwise carrying out the provisions of this Article. These policies and guidelines shall include the following:

(1) Schools shall devote no more than two days of instructional time per year to the taking of practice tests that do not have the primary purpose of assessing current student learning;

(2) Students in a school shall not be subject to field tests or national tests during the two-week period preceding the administration of end-of-grade tests, end-of-course tests, or the school's regularly scheduled final exams; and

(3) No school shall participate in more than two field tests at any one grade level during a school ~~year unless that school volunteers, through a vote of its school improvement team, to participate in an expanded number of field tests.~~year.

(4) All annual assessments of student achievement adopted by the State Board of Education pursuant to G.S. 115C-174.11(c)(1) and (3) and all final exams for courses shall be administered within the final 10 instructional days of the school year for year-long courses and within the final five instructional days of the semester for semester courses. Exceptions shall be permitted to accommodate a student's individualized education program and section 504 (29 U.S.C. § 794) plans and for the administration of final exams for courses with national or international curricula required to be held at designated times.

These policies shall reflect standard testing practices to insure reliability and validity of the sample testing. The results of the field tests shall be used in the final design of each test. The State Board of Education's policies regarding the testing of children with disabilities shall (i) provide broad accommodations and alternate methods of assessment that are consistent with a ~~child's~~ student's individualized education program and section 504 (29 U.S.C. § 794) plans, (ii) prohibit the use of statewide tests as the sole determinant of decisions about a ~~child's~~student's graduation or promotion, and (iii) provide parents with information about the Statewide Testing Program and options for ~~students~~children with disabilities. The State Board shall report its proposed policies and proposed changes in policies to the Joint Legislative Education Oversight Committee prior to adoption.

The State Board of Education may appoint an Advisory Council on Testing to assist in carrying out its responsibilities under this Article."

SECTION 9.2.(b) Notwithstanding the provisions of G.S. 115C-174.11(c), the State Board of Education shall report to the Joint Legislative Education Oversight Committee prior to the purchase and implementation of a new assessment instrument to assess student achievement on the Common Core State Standards, including the Common Core Smarter Balance Consortium Assessments. The State Board shall not purchase such an assessment instrument without the enactment of legislation by the General Assembly authorizing the purchase.

SECTION 9.2.(c) This section applies beginning with the 2013-2014 school year.

STRENGTHEN TEACHER LICENSURE AND MODIFY LICENSURE FEES

SECTION 9.3.(a) G.S. 115C-296, as amended by Section 5(b) of S.L. 2013-226, reads as rewritten:

"§ **115C-296. Board sets licensure requirements; reports; lateral entry and mentor programs.**

…

(a2) The State Board of Education shall ~~impose the following~~ establish a schedule of fees for teacher licensure and administrative ~~changes:~~changes. The fees established under this subsection shall not exceed the actual cost of providing the service. The schedule may include fees for any of the following services:

(1) Application for demographic or administrative changes to a ~~license, $30.00.~~license.

(2) Application for a duplicate license or for copies of documents in the licensure ~~files, $30.00.~~files.

(3) Application for a renewal, extension, addition, upgrade, reinstatement, and variation to a ~~license, $55.00.~~license.

(4) Initial application for a New, In-State Approved Program ~~Graduate, $55.00.~~Graduate.

(5) Initial application for an Out-of-State ~~license, $85.00.~~license.

(6) All other ~~applications, $85.00.~~applications.

~~The~~An applicant must pay ~~the fee~~any nonrefundable service fees at the time ~~the~~an application is submitted.

(a3) The State Board of Education shall report to the Joint Legislative Education Oversight Committee by March 15 in any year that the amount of fees in the fee schedule established under subsection (a2) of this section has been modified during the previous 12 months. The report shall include the number of personnel paid from licensure receipts, any change in personnel paid from receipts, other related costs covered by the receipts, and the estimated unexpended receipts as of June 30 of the year reported.

…."

SECTION 9.3.(b) G.S. 115C-296, as amended by Section 5(b) of S.L. 2013-226, reads as rewritten:

"§ **115C-296. Board sets licensure requirements; reports; lateral entry and mentor programs.**

…

(b) It is the policy of the State of North Carolina to maintain the highest quality teacher education programs and school administrator programs in order to enhance the competence of professional personnel licensed in North Carolina. To the end that teacher preparation programs are upgraded to reflect a more rigorous course of study, the State Board of Education, as lead agency in coordination and cooperation with the University Board of Governors, the Board of Community Colleges and such other public and private agencies as are necessary, shall continue to refine the several licensure requirements, standards for approval of institutions of teacher education, standards for institution-based innovative and experimental programs, standards for implementing consortium-based teacher education, and standards for improved efficiencies in the administration of the approved programs.

(1) Licensure Standards. –

a. The licensure program shall provide for initial licensure after completion of preservice training, continuing licensure after three years of teaching experience, and license renewal every five years thereafter, until the retirement of the teacher. The last license renewal received prior to retirement shall remain in effect for five years after retirement. The licensure program shall also provide for lifetime licensure after 50 years of teaching.

b. The State Board of Education, in consultation with the Board of Governors of The University of North Carolina, shall evaluate and develop enhanced requirements for continuing licensure. The new requirements shall reflect more rigorous standards for continuing

licensure and shall be aligned with high-quality professional development programs that reflect State priorities for improving student achievement. Standards for continuing licensure shall include at least eight continuing education credits with at least three credits required in a teacher's academic subject area.

…

(b2) An undergraduate student seeking a degree in teacher education must attain passing scores on a preprofessional skills test prior to admission to an approved teacher education program in a North Carolina college or university. The State Board of Education shall permit students to fulfill this requirement by achieving the prescribed minimum scores set by the State Board of Education for the Praxis I tests or by achieving the appropriate required score, as determined by the State Board of Education, on the verbal and mathematics portions of the ~~SAT.~~SAT or ACT. The minimum combined verbal and mathematics score set by the State Board of Education for the SAT shall be ~~between 900 and 1,200.~~1,100 or greater. The minimum composite score set by the State Board of Education for the ACT shall be 24 or greater.

(c) It is the policy of the State of North Carolina to encourage lateral entry into the profession of teaching by skilled individuals from the private sector. To this end, before the 1985-86 school year begins, the State Board of Education shall develop criteria and procedures to accomplish the employment of such individuals as classroom teachers. Beginning with the 2006-2007 school year, the criteria and procedures shall include preservice training in (i) the identification and education of children with disabilities and (ii) positive management of student behavior, effective communication for defusing and deescalating disruptive or dangerous behavior, and safe and appropriate use of seclusion and restraint. Skilled individuals who choose to enter the profession of teaching laterally may be granted a ~~provisional~~lateral entry teaching license for no more than three years and shall be required to obtain licensure before contracting for a fourth year of service with any local administrative unit in this State.

…."

SECTION 9.3.(c) G.S. 115C-296, as amended by Section 5(b) of S.L. 2013-226, and as rewritten by subsections (a) and (b) of this section, reads as rewritten:

"§ **115C-296. Board sets licensure requirements; reports; lateral entry and mentor programs.**

(a) The State Board of Education shall have entire control of licensing all applicants for teaching positions in all public ~~elementary and high~~ schools of North Carolina; and it shall prescribe the rules and regulations for the renewal and extension of all licenses and shall determine and fix the salary for each grade and type of license which it authorizes.

The State Board of Education ~~may~~shall require an applicant for an initial bachelors degree ~~certificate~~license or graduate degree ~~certificate~~license to demonstrate the applicant's academic and professional preparation by achieving a prescribed minimum score on a standard examination appropriate and adequate for that purpose. Elementary Education (K-6) and special education general curriculum teachers shall also achieve a prescribed minimum score on subtests or standard examinations specific to teaching reading and mathematics. The State Board of Education shall permit an applicant to fulfill any such testing requirement before or during the applicant's second year of teaching provided the applicant took the examination at least once during the first year of teaching. The State Board of Education shall make any required standard initial licensure exam ~~sufficiently~~ rigorous and raise the prescribed minimum score as necessary to ensure that each applicant has ~~adequate~~ received high-quality academic and professional preparation to ~~teach.~~teach effectively.

(a1) The State Board shall adopt policies that establish the minimum scores for any required standard examinations and other measures necessary to assess the qualifications of professional personnel as required under subsection (a) of this section. For purposes of this subsection, the State Board shall not be subject to Article 2A of Chapter 150B of the General Statutes. At least 30 days prior to changing any policy adopted under this subsection, the State

Board shall provide written notice to all North Carolina schools of education and to all local boards of education. The written notice shall include the proposed revised policy.

(a2) The State Board of Education shall establish a schedule of fees for teacher licensure and administrative changes. The fees established under this subsection shall not exceed the actual cost of providing the service. The schedule may include fees for any of the following services:

(1) Application for demographic or administrative changes to a license.
(2) Application for a duplicate license or for copies of documents in the licensure files.
(3) Application for a renewal, extension, addition, upgrade, reinstatement, and variation to a license.
(4) Initial application for a New, In-State Approved Program Graduate.
(5) Initial application for an Out-of-State license.
(6) All other applications.

An applicant must pay any nonrefundable service fees at the time an application is submitted.

(a3) The State Board of Education shall report to the Joint Legislative Education Oversight Committee by March 15 in any year that the amount of fees in the fee schedule established under subsection (a2) of this section has been modified during the previous 12 months. The report shall include the number of personnel paid from licensure receipts, any change in personnel paid from receipts, other related costs covered by the receipts, and the estimated unexpended receipts as of June 30 of the year reported.

(b) It is the policy of the State of North Carolina to maintain the highest quality teacher education programs and school administrator programs in order to enhance the competence of professional personnel licensed in North Carolina. To the end that teacher preparation programs are upgraded to reflect a more rigorous course of study, the State Board of Education, as lead agency in coordination and cooperation with the University Board of Governors, the Board of Community Colleges and such other public and private agencies as are necessary, shall continue to refine the several licensure requirements, standards for approval of institutions of teacher education, standards for institution-based innovative and experimental programs, standards for implementing consortium-based teacher education, and standards for improved efficiencies in the administration of the approved programs.

(1) Licensure standards. –
  a. The licensure program shall provide for initial licensure after completion of preservice training, continuing licensure after three years of teaching experience, and license renewal every five years thereafter, until the retirement of the teacher. The last license renewal received prior to retirement shall remain in effect for five years after retirement. The licensure program shall also provide for lifetime licensure after 50 years of teaching.
  b. The State Board of Education, in consultation with the Board of Governors of The University of North Carolina, shall evaluate and develop enhanced requirements for continuing licensure. The new requirements shall reflect more rigorous standards for continuing licensure and shall be aligned with high-quality professional development programs that reflect State priorities for improving student achievement. Standards for continuing licensure shall include at least eight continuing education credits, with at least three credits required in the teacher's academic subject areas. Standards for continuing licensure for elementary and middle school teachers shall include at least three continuing education credits related to literacy. Literacy renewal credits shall include evidence-based assessment, diagnosis, and intervention strategies for students not demonstrating

reading proficiency. Oral language, phonemic and phonological awareness, phonics, vocabulary, fluency, and comprehension shall be addressed in literacy-related activities leading to license renewal for elementary school teachers.

c. The State Board of Education, in consultation with local boards of education and the Board of Governors of The University of North Carolina, shall (i) reevaluate and enhance the requirements for renewal of teacher licenses and (ii) consider modifications in the license renewal achievement and to make it a mechanism for teachers to renew continually their knowledge and professional skills.

(2) Teacher education programs. –

a. The State Board of Education, as lead agency in coordination with the Board of Governors of The University of North Carolina, the North Carolina Independent Colleges and Universities, and any other public and private agencies as necessary, shall continue to raise standards for entry into teacher education programs.

b. **Reserved for future codification.**

c. To further ensure that teacher preparation programs remain current and reflect a rigorous course of study that is aligned to State and national standards, the State Board of Education, in consultation with the Board of Governors of The University of North Carolina, shall do all of the following to ensure that students are prepared to teach in elementary schools:

1. Provide students with adequate coursework in the teaching of reading and mathematics.
2. Assess students prior to licensure to determine that they possess the requisite knowledge in scientifically based reading and mathematics instruction that is aligned with the State Board's expectations.
3. Continue to provide students with preparation in applying formative and summative assessments within the school and classroom setting through technology-based assessment systems available in North Carolina schools that measure and predict expected student improvement.
4. Prepare students to integrate arts across the curriculum.

d. The State Board of Education, in consultation with local boards of education and the Board of Governors of The University of North Carolina, shall evaluate and modify, as necessary, the academic requirements of teacher preparation programs for students preparing to teach science in middle and high schools to ensure that there is adequate preparation in issues related to science laboratory safety.

e. The standards for approval of institutions of teacher education shall require that teacher education programs for all students include the following demonstrated ~~competencies~~competencies:

1. ~~in~~All teacher education programs. –
   I. ~~(i) the~~The identification and education of children with ~~disabilities and~~disabilities.
   II. ~~(ii) positive~~Positive management of student behavior and effective communication techniques for defusing and deescalating disruptive or dangerous behavior.
2. Elementary and special education general curriculum teacher education programs. –

I. Teaching of reading, including a substantive understanding of reading as a process involving oral language, phonological and phonemic awareness, phonics, fluency, vocabulary, and comprehension.

II. Evidence-based assessment and diagnosis of specific areas of difficulty with reading development and of reading deficiencies.

III. Appropriate application of instructional supports and services and reading interventions to ensure reading proficiency for all students.

f. The State Board of Education shall incorporate the criteria developed in accordance with G.S. 116-74.21 for assessing proposals under the School Administrator Training Program into its school administrator program approval standards.

...."

SECTION 9.3.(d) For the 2013-2014 fiscal year only and notwithstanding Article 2A of Chapter 150B of the General Statutes, the State Board of Education shall be exempt from rulemaking in establishing a schedule of fees for teacher licensure and administrative changes pursuant to G.S. 115C-296(a2), as amended by this section.

SECTION 9.3.(e) The State Board of Education shall develop a plan to require the schools of education to measure performance and provide an annual report on the demonstrated competencies included in their elementary and special education general curriculum teacher education programs on (i) teaching of reading, including a substantive understanding of reading as a process involving oral language, phonological and phonemic awareness, phonics, fluency, vocabulary, and comprehension; (ii) evidence-based assessment and diagnosis of specific areas of difficulty with reading development and of reading deficiencies; and (iii) appropriate application of instructional supports and services and reading interventions to ensure reading proficiency for all students. The plan shall address requiring this information to be included in the annual performance reports to the State Board and the higher education educator preparation program report cards required by G.S. 115C-296, as enacted by this section. The State Board shall report to the Joint Legislative Education Oversight Committee on or before March 15, 2014, on the plan to include this information in the performance reports required for the 2014-2015 school year.

SECTION 9.3.(f) Subsection (b) of this section applies beginning with the 2013-2014 school year. Subsection (c) of this section applies beginning with the 2014-2015 school year.

For teachers who are in their fourth or fifth year of their current five-year license renewal cycle, the changes required by G.S. 115C-296(b)(1)b., as enacted by subsections (b) and (c) of this section, shall apply beginning with the first year of their next five-year license renewal cycle.

SCHOOL PERFORMANCE GRADES

SECTION 9.4.(a) Section 7A.3(e) of S.L. 2012-142 is repealed.

SECTION 9.4.(b) Article 8 of Chapter 115C of the General Statutes is amended by adding a new Part to read:

"Part 1B. School Performance.

"**§ 115C-83.11. School achievement, growth, performance scores, and grades.**

(a) School Scores and Grades. – The State Board of Education shall award school achievement, growth, and performance scores and an associated performance grade as required by G.S. 115C-12(9)c1., and calculated as provided in this section. The State Board of Education shall enter all necessary data into the Education Value-Added Assessment System (EVAAS) in order to calculate school performance scores and grades.

(b) Calculation of the School Achievement Score. – In calculating the overall school achievement score earned by schools, the State Board of Education shall total the sum of points earned by a school on all of the following indicators that are measured for that school:

(1) One point for each percent of students who score at or above proficient on annual assessments for mathematics in grades three through eight.

(2) One point for each percent of students who score at or above proficient on annual assessments for reading in grades three through eight.

(3) One point for each percent of students who score at or above proficient on annual assessments for science in grades five and eight.

(4) One point for each percent of students who score at or above proficient on the Algebra I or Integrated Math I end-of-course test.

(5) One point for each percent of students who score at or above proficient on the English II end-of-course test.

(6) One point for each percent of students who score at or above proficient on the Biology end-of-course test.

(7) One point for each percent of students who complete the Algebra II or Integrated Math III end-of-course test with a passing grade.

(8) One point for each percent of students who achieve the minimum score required for admission into a constituent institution of The University of North Carolina on a nationally normed test of college readiness.

(9) One point for each percent of students enrolled in Career and Technical Education courses who meet the standard when scoring at Silver, Gold, or Platinum levels on a nationally normed test of workplace readiness.

(10) One point for each percent of students who graduate within four years of entering high school.

Each school achievement indicator shall be of equal value when used to determine the overall school achievement score. The overall school achievement score shall be translated to a 100-point scale and used for school reporting purposes as provided in G.S. 115C-12(9)c1., 115C-238.29F, and 115C-238.66.

(c) Calculation of the School Growth Score. – Using EVAAS, the State Board shall calculate the overall growth score earned by schools. In calculating the total growth score earned by schools, the State Board of Education shall weight student growth on the achievement indicators as provided in subsection (b) of this section that have available growth values. The numerical values used to determine whether a school has met, exceeded, or has not met expected growth shall be translated to a 100-point scale and used for school reporting purposes as provided in G.S. 115C-12(9)c1., 115C-238.29F, and 115C-238.66.

(d) Calculation of the School Performance Scores and Grades. – For schools exceeding or not meeting expected school growth, the State Board of Education shall use EVAAS to calculate the school performance score by adding the school achievement score, as provided in subsection (b) of this section, and the school growth score, as provided in subsection (c) of this section, earned by a school. The school achievement score shall account for eighty percent (80%), and the school growth score shall account for (20%) of the total sum. For schools meeting expected growth, and with a school achievement score of eighty percent (80%) or higher, the school performance score shall solely reflect the achievement score. For schools meeting expected growth, and with a school achievement score below eighty percent (80%), the school achievement score shall account for eighty percent (80%), and the school growth score shall account for twenty percent (20%) of the total sum. For all schools, the total school performance score shall be converted to a 100-point scale and used to determine a school performance grade based on the following scale:

(1) A school performance score of at least 90 is equivalent to an overall school performance grade of A.

(2) A school performance score of at least 80 is equivalent to an overall school performance grade of B.

(3) A school performance score of at least 70 is equivalent to an overall school performance grade of C.

(4) A school performance score of at least 60 is equivalent to an overall school performance grade of D.

(5) A school performance score of less than 60 points is equivalent to an overall school performance grade of F.

(e) Elementary and Middle School Reading and Math Achievement Scores. – For schools serving students in kindergarten through eighth grade, the school achievement scores in reading and mathematics, respectively, shall be reported separately on the annual school report card provided under G.S. 115C-12(9)c1., 115C-238.29F, and 115C-238.66.

(f) Indication of Growth. – In addition to awarding the overall school scores for achievement, growth, and performance and the performance grade, using EVAAS, the State Board shall designate that a school has met, exceeded, or has not met expected growth. The designation of student growth shall be clearly displayed in the annual school report card provided under G.S. 115C-12(9)c1., 115C-238.29F, and 115C-238.66."

SECTION 9.4.(c) G.S. 115C-12(9)c1. reads as rewritten:

"c1. To issue an annual "report card" for the State and for each local school administrative unit, assessing each unit's efforts to improve student performance based on the growth in performance of the students in each school and taking into account progress over the previous years' level of performance and the State's performance in comparison with other states. This assessment shall take into account factors that have been shown to affect student performance and that the State Board considers relevant to assess the State's efforts to improve student performance. As a part of the annual "report card" for each local school administrative unit, the State Board shall ~~award~~award, in accordance with G.S. 115C-83.11, an overall numerical school achievement, growth, and performance score on a scale of zero to 100 and a corresponding performance letter grade of A, B, C, D, or F earned by each school within the local school administrative unit. The school performance score and grade shall reflect student performance on annual subject-specific assessments, college and workplace readiness measures, and graduation rates. For schools serving students in any grade from kindergarten to eighth grade, separate performance scores and grades shall also be awarded based on the school performance in reading and mathematics respectively. The annual "report card" for schools serving students in third grade also shall include the number and percentage of third grade students who (i) take and pass the alternative assessment of reading comprehension; (ii) were retained in third grade for not demonstrating reading proficiency as indicated in G.S. 115C-83.7(a); and (iii) were exempt from mandatory third grade retention by category of exemption as listed in G.S. 115C-83.7(b)."

SECTION 9.4.(d) G.S. 115C-12(24) reads as rewritten:

"(24) Duty to Develop Standards for Alternative Learning Programs, Provide Technical Assistance on Implementation of Programs, and Evaluate Programs. – The State Board of Education shall adopt standards for assigning students to alternative learning programs. These standards shall include (i) a description of the programs and services that are recommended to be provided in alternative learning programs and (ii) a process for ensuring that an assignment is appropriate for the student and that the student's parents are involved in the decision. The State Board also shall

adopt policies that define what constitutes an alternative school and an alternative learning program.

The State Board of Education shall also adopt standards to require that local school administrative units shall use (i) the teachers allocated for students assigned to alternative learning programs pursuant to the regular teacher allotment and (ii) the teachers allocated for students assigned to alternative learning programs only to serve the needs of these students.

The State Board of Education shall provide technical support to local school administrative units to assist them in developing and implementing plans and proposals for alternative learning programs.

The State Board shall evaluate the effectiveness of alternative learning programs and, in its discretion, of any other programs funded from the Alternative Schools/At-Risk Student allotment. Local school administrative units shall report to the State Board of Education on how funds in the Alternative Schools/At-Risk Student allotment are spent and shall otherwise cooperate with the State Board of Education in evaluating the alternative learning programs. As part of its evaluation of the effectiveness of these programs, the State Board shall, through the application of the accountability system developed under G.S. 115C-83.11 and G.S. 115C-105.35, measure the educational performance and growth of students placed in alternative schools and alternative programs. If appropriate, the Board may modify this system to adapt to the specific characteristics of these schools. Also as part of its evaluation, the State Board shall evaluate its standards adopted under this subdivision and make any necessary changes to those standards based on strategies that have been proven successful in improving student achievement and shall report to the Joint Legislative Education Oversight Committee by April 15, 2006 to determine if any changes are necessary to improve the implementation of successful alternative learning programs and alternative schools."

SECTION 9.4.(e) It is the intent of the General Assembly to provide clear information to the public regarding school performance. To this end, the State Board of Education shall do the following when providing information on school report cards as required by G.S. 115C-12(9)c1.:

(1) Solely use the school performance grade calculation method and resulting scores and grades as provided under G.S. 115C-83.11, as enacted by this section.

(2) Include a description understandable by members of the general public of the school performance grade calculation method and resulting scores and grades.

SECTION 9.4.(f) The State Board of Education shall issue the first annual report cards under G.S. 115C-12(9)c1., as amended by this section, no earlier than August 1, 2014.

SECTION 9.4.(g) This section applies beginning with the 2013-2014 school year.

PAY FOR EXCELLENCE

SECTION 9.5. When a robust evaluation instrument and process that accurately assesses and evaluates the effectiveness of teachers, especially in the area of student growth, is wholly implemented in North Carolina, it is the intent of the General Assembly that the evaluation instrument and process be utilized in the implementation of a plan of performance pay for teachers in this State.

TEACHER CONTRACTS

SECTION 9.6.(a) G.S. 115C-325 is repealed.

SECTION 9.6.(b) Part 3 of Article 22 of Chapter 115C of the General Statutes is amended by adding new sections to read:

"**§ 115C-325.1. Definitions.**

As used in this Part, the following definitions apply:

(1) "Day" means calendar day. In computing any period of time, Rule 6 of the North Carolina Rules of Civil Procedure shall apply.

(2) "Demote" means to reduce the salary of a person who is classified or paid by the State Board of Education as a classroom teacher or as a school administrator during the time of the contract. The word "demote" does not include (i) a suspension without pay pursuant to G.S. 115C-325.5(a); (ii) the elimination or reduction of bonus payments, including merit-based supplements or a systemwide modification in the amount of any applicable local supplement; (iii) any reduction in salary that results from the elimination of a special duty, such as the duty of an athletic coach or a choral director; or (iv) any reduction of pay as compared to a prior term of contract.

(3) "Disciplinary suspension" means a final decision to suspend a teacher or school administrator without pay for no more than 60 days under G.S. 115C-325.5(b).

(4) "Residential school" means a school operated by the Department of Health and Human Services that provides residential services to students pursuant to Part 3A of Article 3 of Chapter 143B of the General Statutes or a school operated pursuant to Article 9C of Chapter 115C of the General Statutes.

(5) "School administrator" means a principal, assistant principal, supervisor, or director whose major function includes the direct or indirect supervision of teaching or any other part of the instructional program, as provided in G.S. 115C-287.1(a)(3).

(6) "Teacher" means a person meeting each of the following requirements:

a. Who holds at least one of the following licenses issued by the State Board of Education:

1. A current standard professional educator's license.
2. A current lateral entry teaching license.
3. A regular, not expired, vocational license.

b. Whose major responsibility is to teach or directly supervise teaching or who is classified by the State Board of Education or is paid either as a classroom teacher or instructional support personnel.

c. Who is employed to fill a full-time, permanent position.

(7) "Year" means a calendar year beginning July 1 and ending June 30.

"**§ 115C-325.2. Personnel files.**

(a) Maintenance of Personnel File. – The superintendent shall maintain in his or her office a personnel file for each teacher that contains any complaint, commendation, or suggestion for correction or improvement about the teacher's professional conduct, except that the superintendent may elect not to place in a teacher's file (i) a letter of complaint that contains invalid, irrelevant, outdated, or false information or (ii) a letter of complaint when there is no documentation of an attempt to resolve the issue. The complaint, commendation, or suggestion shall be signed by the person who makes it and shall be placed in the teacher's file only after five days' notice to the teacher. Any denial or explanation relating to such complaint, commendation, or suggestion that the teacher desires to make shall be placed in the file. Any teacher may petition the local board of education to remove any information from the teacher's personnel file that the teacher deems invalid, irrelevant, or outdated. The board may order the superintendent to remove said information if it finds the information is invalid, irrelevant, or outdated.

(b) Inspection of Personnel Files. – The personnel file shall be open for the teacher's inspection at all reasonable times but shall be open to other persons only in accordance with

such rules and regulations as the board adopts. Any preemployment data or other information obtained about a teacher before the teacher's employment by the board may be kept in a file separate from the teacher's personnel file and need not be made available to the teacher. No data placed in the preemployment file may be introduced as evidence at a hearing on the dismissal or demotion of a teacher, except the data may be used to substantiate G.S. 115C-325.4(a)(7) or G.S. 115C-325.4(a)(14) as grounds for dismissal or demotion.

"**§ 115C-325.3. Teacher contracts.**

(a) Length of Contract. – A contract between the local board of education and a teacher who has been employed by the local board of education for less than three years shall be for a term of one school year. A contract or renewal of contract between the local board of education and a teacher who has been employed by the local board of education for three years or more shall be for a term of one, two, or four school years.

(b) Superintendent Recommendation to Local Board. – Local boards of education shall employ teachers upon the recommendation of the superintendent. If a superintendent intends to recommend to the local board of education that a teacher be offered a new or renewed contract, the superintendent shall submit the recommendation to the local board for action and shall include in the recommendation the length of the term of contract. A superintendent shall only recommend a teacher for a contract of a term longer than one school year if the teacher has shown effectiveness as demonstrated by proficiency on the evaluation instrument. The local board may approve the superintendent's recommendation, may decide not to offer the teacher a new or renewed contract, or may decide to offer the teacher a renewed contract for a different term than recommended by the superintendent.

(c) Dismissal During Term of Contract. – A teacher shall not be dismissed or demoted during the term of the contract except for the grounds and by the procedure set forth in G.S. 115C-325.4.

(d) Recommendation on Nonrenewal. – If a superintendent decides not to recommend that the local board of education offer a renewed contract to a teacher, the superintendent shall give the teacher written notice of the decision no later than June 1.

(e) Right to Petition for Hearing. – A teacher shall have the right to petition the local board of education for a hearing no later than 10 days after receiving written notice. The local board may, in its discretion, grant a hearing regarding the superintendent's recommendation for nonrenewal. The local board of education shall notify the teacher making the petition of its decision whether to grant a hearing. If the request for a hearing is granted, the local board shall conduct a hearing pursuant to the provisions of G.S. 115C-45(c) and make a final decision on whether to offer the teacher a renewed contract. The board shall notify a teacher whose contract will not be renewed for the next school year of its decision by June 15; provided, however, if a teacher submits a request for a hearing, the board shall provide the nonrenewal notification within 10 days of the hearing or such later date upon the written consent of the superintendent and teacher. A decision not to offer a teacher a renewed contract shall not be arbitrary, capricious, discriminatory, for personal or political reasons, or on any basis prohibited by State or federal law.

(f) Failure to Offer Contract or Notify on Nonrenewal of Contract. – If a teacher fails to receive a contract offer but does not receive written notification from the superintendent of a recommendation of nonrenewal, and the teacher continues to teach in the local school administrative unit without entering into a contract with the local board, upon discovery of the absence of contract, the board by majority vote shall do one of the following:

(1) Offer the teacher a one-year contract expiring no later than June 30 of the current school year.

(2) Dismiss the teacher and provide the teacher with the equivalent of one additional month's pay. A teacher dismissed as provided in this section shall be considered an at-will employee and shall not be entitled to a hearing or appeal of the dismissal.

(g) Local boards of education and teachers employed by the local board may mutually modify the terms of the contract to permit part-time employment. An individual that mutually modifies a full-time contract to permit part-time employment or enters into a part-time contract is not a teacher as defined in G.S. 115C-325.1(6).

"**§ 115C-325.4. Dismissal or demotion for cause.**

(a) Grounds. – No teacher shall be dismissed, demoted, or reduced to employment on a part-time basis for disciplinary reasons during the term of the contract except for one or more of the following:

(1) Inadequate performance. In determining whether the professional performance of a teacher is adequate, consideration shall be given to regular and special evaluation reports prepared in accordance with the published policy of the employing local school administrative unit and to any published standards of performance which shall have been adopted by the board. Inadequate performance for a teacher shall mean (i) the failure to perform at a proficient level on any standard of the evaluation instrument or (ii) otherwise performing in a manner that is below standard.

(2) Immorality.

(3) Insubordination.

(4) Neglect of duty.

(5) Physical or mental incapacity.

(6) Habitual or excessive use of alcohol or nonmedical use of a controlled substance as defined in Article 5 of Chapter 90 of the General Statutes.

(7) Conviction of a felony or a crime involving moral turpitude.

(8) Advocating the overthrow of the government of the United States or of the State of North Carolina by force, violence, or other unlawful means.

(9) Failure to fulfill the duties and responsibilities imposed upon teachers or school administrators by the General Statutes of this State.

(10) Failure to comply with such reasonable requirements as the board may prescribe.

(11) Any cause which constitutes grounds for the revocation of the teacher's teaching license or the school administrator's administrator license.

(12) Failure to maintain his or her license in a current status.

(13) Failure to repay money owed to the State in accordance with the provisions of Article 60 of Chapter 143 of the General Statutes.

(14) Providing false information or knowingly omitting a material fact on an application for employment or in response to a preemployment inquiry.

(15) A justifiable decrease in the number of positions due to district reorganization, decreased enrollment, or decreased funding.

(b) Dismissal Procedure. – The procedures provided in G.S. 115C-325.6 shall be followed for dismissals, demotions, or reductions to part-time employment for disciplinary reasons for any reason specified in subsection (a) of this section.

"**§ 115C-325.5. Teacher suspension.**

(a) Immediate Suspension Without Pay. – If a superintendent believes that cause exists for dismissing a teacher for any reason specified in G.S. 115C-325.4 and that immediate suspension of the teacher is necessary, the superintendent may suspend the teacher without pay. Before suspending a teacher without pay, the superintendent shall meet with the teacher and give him or her written notice of the charges against the teacher, an explanation of the basis for the charges, and an opportunity to respond. Within five days after a suspension under this subsection, the superintendent shall initiate a dismissal, demotion, or disciplinary suspension without pay as provided in this section. If it is finally determined that no grounds for dismissal, demotion, or disciplinary suspension without pay exist, the teacher shall be reinstated immediately, shall be paid for the period of suspension, and all records of the suspension shall be removed from the teacher's personnel file.

(b) Disciplinary Suspension Without Pay. – A teacher recommended for disciplinary suspension without pay may request a hearing before the board. The hearing shall be conducted as provided in G.S. 115C-325.7. If no request is made within 15 days, the superintendent may file his or her recommendation with the board. If, after considering the recommendation of the superintendent and the evidence adduced at the hearing if one is held, the board concludes that the grounds for the recommendation are true and substantiated by a preponderance of the evidence, the board, if it sees fit, may by resolution order such suspension.

(c) Suspension With Pay. – If a superintendent believes that cause may exist for dismissing or demoting a teacher for any reasons specified in G.S. 115C-325.4 but that additional investigation of the facts is necessary and circumstances are such that the teacher should be removed immediately from the teacher's duties, the superintendent may suspend the teacher with pay for a reasonable period of time, not to exceed 90 days. The superintendent shall notify the board of education within two days of the superintendent's action and shall notify the teacher within two days of the action and the reasons for it. If the superintendent has not initiated dismissal or demotion proceedings against the teacher within the 90-day period, the teacher shall be reinstated to the teacher's duties immediately, and all records of the suspension with pay shall be removed from the teacher's personnel file at the teacher's request. However, if the superintendent and the teacher agree to extend the 90-day period, the superintendent may initiate dismissal or demotion proceedings against the teacher at any time during the period of the extension.

"**§ 115C-325.6. Procedure for dismissal or demotion of a teacher for cause.**

(a) Recommendation of Dismissal or Demotion. – A teacher may not be dismissed, demoted, or reduced to part-time employment for disciplinary reasons during the term of the contract except upon the superintendent's recommendation based on one or more of the grounds in G.S. 115C-325.4.

(b) Notice of Recommendation. – Before recommending to a board the dismissal or demotion of a teacher, the superintendent shall give written notice to the teacher by certified mail or personal delivery of the superintendent's intention to make such recommendation and shall set forth as part of the superintendent's recommendation the grounds upon which he or she believes such dismissal or demotion is justified. The superintendent also shall meet with the teacher and provide written notice of the charges against the teacher, an explanation of the basis for the charges, and an opportunity to respond if the teacher has not done so under G.S. 115C-325.5(a). The notice shall include a statement to the effect that the teacher, within 14 days after the date of receipt of the notice, may request a hearing before the board on the superintendent's recommendation. A copy of Part 3 of Article 22 of Chapter 115C of the General Statutes shall also be sent to the teacher.

(c) Request for Hearing. – Within 14 days after receipt of the notice of recommendation, the teacher may file with the superintendent a written request for a hearing before the board on the superintendent's recommendation. The superintendent shall submit his or her recommendation to the board. Within five days after receiving the superintendent's recommendation and before taking any formal action, the board shall set a time and place for the hearing and shall notify the teacher by certified mail or personal delivery of the date, time, and place of the hearing. The time specified shall not be less than 10 nor more than 30 days after the board has notified the teacher, unless both parties agree to an extension. The hearing shall be conducted as provided in G.S. 115C-325.7.

(d) No Request for Hearing. – If the teacher does not request a hearing before the board within the 14 days provided, the superintendent may submit his or her recommendation to the board. The board, if it sees fit, may by resolution (i) reject the superintendent's recommendation or (ii) accept or modify the superintendent's recommendation and dismiss, demote, reinstate, or suspend the teacher without pay.

"**§ 115C-325.7. Hearing before board.**

(a) The following procedures shall apply for a board hearing for dismissal, demotion, reduction to part-time employment for disciplinary reasons, or disciplinary suspension without pay:

(1) The hearing shall be private.

(2) The hearing shall be conducted in accordance with reasonable rules adopted by the State Board of Education to govern such hearings.

(3) At the hearing, the teacher and the superintendent shall have the right to be present and to be heard, to be represented by counsel, and to present through witnesses any competent testimony relevant to the issue of whether grounds exist for a dismissal, demotion, reduction to part-time employment for disciplinary reasons, or disciplinary suspension without pay.

(4) Rules of evidence shall not apply to a hearing under this subsection, and the board may give probative effect to evidence that is of a kind commonly relied on by reasonably prudent persons in the conduct of serious affairs.

(5) At least five days before the hearing, the superintendent shall provide to the teacher a list of witnesses the superintendent intends to present, a brief statement of the nature of the testimony of each witness, and a copy of any documentary evidence the superintendent intends to present.

(6) At least three days before the hearing, the teacher shall provide the superintendent a list of witnesses the teacher intends to present, a brief statement of the nature of the testimony of each witness, and a copy of any documentary evidence the teacher intends to present.

(7) No new evidence may be presented at the hearing except upon a finding by the board that the new evidence is critical to the matter at issue and the party making the request could not, with reasonable diligence, have discovered and produced the evidence according to the schedule provided in this section.

(8) The board may subpoena and swear witnesses and may require them to give testimony and to produce records and documents relevant to the grounds for dismissal, demotion, reduction to part-time employment for disciplinary reasons, or disciplinary suspension without pay.

(9) The board shall decide all procedural issues, including limiting cumulative evidence, necessary for a fair and efficient hearing.

(10) The superintendent shall provide for making a transcript of the hearing. The teacher may request and shall receive at no charge a transcript of the proceedings.

"**§ 115C-325.8. Right of appeal.**

(a) A teacher who (i) has been dismissed, demoted, or reduced to employment on a part-time basis for disciplinary reasons during the term of the contract as provided in G.S. 115C-325.4, or has received a disciplinary suspension without pay as provided in G.S. 115C-325.5, and (ii) requested and participated in a hearing before the local board of education, shall have a further right of appeal from the final decision of the local board of education to the superior court of the State on one or more of the following grounds that the decision:

(1) Is in violation of constitutional provisions.

(2) Is in excess of the statutory authority or jurisdiction of the board.

(3) Was made upon unlawful procedure.

(4) Is affected by other error of law.

(5) Is unsupported by substantial evidence in view of the entire record as submitted.

(6) Is arbitrary or capricious.

(b) An appeal pursuant to this section must be filed within 30 days of notification of the final decision of the local board of education and shall be decided on the administrative record.

The superior court shall have authority to affirm or reverse the local board's decision or remand the matter to the local board of education. The superior court shall not have authority to award monetary damages or to direct the local board of education to enter into an employment contract of more than one year, ending June 30.

"**§ 115C-325.9. Teacher resignation.**

(a) Teacher Resignation Following Recommendation for Dismissal. – If a teacher has been recommended for dismissal under G.S. 115C-325.4 and the teacher chooses to resign without the written agreement of the superintendent, then:

(1) The superintendent shall report the matter to the State Board of Education.

(2) The teacher shall be deemed to have consented to (i) the placement in the teacher's personnel file of the written notice of the superintendent's intention to recommend dismissal and (ii) the release of the fact that the superintendent has reported this teacher to the State Board of Education to prospective employers, upon request. The provisions of G.S. 115C-321 shall not apply to the release of this particular information.

(3) The teacher shall be deemed to have voluntarily surrendered his or her license pending an investigation by the State Board of Education in a determination whether or not to seek action against the teacher's license. This license surrender shall not exceed 45 days from the date of resignation. Provided further that the cessation of the license surrender shall not prevent the State Board of Education from taking any further action it deems appropriate. The State Board of Education shall initiate investigation within five working days of the written notice from the superintendent and shall make a final decision as to whether to revoke or suspend the teacher's license within 45 days from the date of resignation.

(b) Thirty Days' Notice Resignation Requirement. – A teacher who is not recommended for dismissal should not resign during the term of the contract without the consent of the superintendent unless he or she has given at least 30 days' notice. If a teacher who is not recommended for dismissal does resign during the term of the contract without giving at least 30 days' notice, the board may request that the State Board of Education revoke the teacher's license for the remainder of that school year. A copy of the request shall be placed in the teacher's personnel file.

"**§ 115C-325.10. Application to certain institutions.**

Notwithstanding any law or regulation to the contrary, this Part shall apply to all persons employed in teaching and related educational classes in the schools and institutions of the Departments of Health and Human Services and Public Instruction and the Divisions of Juvenile Justice and Adult Correction of the Department of Public Safety, regardless of the age of the students.

"**§ 115C-325.11. Dismissal of school administrators and teachers employed in low-performing residential schools.**

(a) Notwithstanding any other provision of this section or any other law, this section shall govern the dismissal by the State Board of Education of teachers, principals, assistant principals, directors, supervisors, and other licensed personnel assigned to a residential school that the State Board has identified as low-performing and to which the State Board has assigned an assistance team. The State Board shall dismiss a teacher, principal, assistant principal, director, supervisor, or other licensed personnel when the State Board receives two consecutive evaluations that include written findings and recommendations regarding that person's inadequate performance from the assistance team. These findings and recommendations shall be substantial evidence of the inadequate performance of the teacher or school administrator.

(b) The State Board may dismiss a teacher, principal, assistant principal, director, supervisor, or other licensed personnel when:

(1) The State Board determines that the school has failed to make satisfactory improvement after the State Board assigned an assistance team to that school.

(2) That assistance team makes the recommendation to dismiss the teacher, principal, assistant principal, director, supervisor, or other licensed personnel for one or more grounds established in G.S. 115C-325.4 for dismissal or demotion of a teacher.

Within 30 days of any dismissal under this subsection, a teacher, principal, assistant principal, director, supervisor, or other licensed personnel may request a hearing before a panel of three members designated by the State Board. The State Board shall adopt procedures to ensure that due process rights are afforded to persons recommended for dismissal under this subsection. Decisions of the panel may be appealed on the record to the State Board.

(c) Notwithstanding any other provision of this section or any other law, this subsection shall govern the dismissal by the State Board of licensed staff members who have engaged in a remediation plan under G.S. 115C-105.38A(c) but who, after one retest, fail to meet the general knowledge standard set by the State Board. The failure to meet the general knowledge standard after one retest shall be substantial evidence of the inadequate performance of the licensed staff member.

Within 30 days of any dismissal under this subsection, a licensed staff member may request a hearing before a panel of three members designated by the State Board. The State Board shall adopt procedures to ensure that due process rights are afforded to licensed staff members recommended for dismissal under this subsection. Decisions of the panel may be appealed on the record to the State Board.

(d) The State Board or the superintendent of a residential school may terminate the contract of a school administrator dismissed under this section. Nothing in this section shall prevent the State Board from refusing to renew the contract of any person employed in a school identified as low-performing.

(e) Neither party to a school administrator or teacher contract is entitled to damages under this section.

(f) The State Board shall have the right to subpoena witnesses and documents on behalf of any party to the proceedings under this section.

"**§ 115C-325.12. Procedure for dismissal of principals employed in low-performing schools.**

(a) Dismissal of Principals Assigned to Low-Performing Schools With Assistance Teams. – Notwithstanding any other provision of this Part or any other law, this section governs the State Board's dismissal of principals assigned to low-performing schools to which the State Board has assigned an assistance team.

(b) Authority of State Board to Dismiss Principal. – The State Board through its designee may, at any time, recommend the dismissal of any principal who is assigned to a low-performing school to which an assistance team has been assigned. The State Board through its designee shall recommend the dismissal of any principal when the State Board receives from the assistance team assigned to that principal's school two consecutive evaluations that include written findings and recommendations regarding the principal's inadequate performance.

(c) Procedures for Dismissal of Principal. –

(1) If the State Board through its designee recommends the dismissal of a principal under this section, the principal shall be suspended with pay pending a hearing before a panel of three members of the State Board. The purpose of this hearing, which shall be held within 60 days after the principal is suspended, is to determine whether the principal shall be dismissed.

(2) The panel shall order the dismissal of the principal if it determines from available information, including the findings of the assistance team, that the

low performance of the school is due to the principal's inadequate performance.

(3) The panel may order the dismissal of the principal if (i) it determines that the school has not made satisfactory improvement after the State Board assigned an assistance team to that school and (ii) the assistance team makes the recommendation to dismiss the principal for one or more grounds established in G.S. 115C-325.4 for dismissal or demotion of a teacher.

(4) If the State Board or its designee recommends the dismissal of a principal before the assistance team assigned to the principal's school has evaluated that principal, the panel may order the dismissal of the principal if the panel determines from other available information that the low performance of the school is due to the principal's inadequate performance.

(5) In all hearings under this section, the burden of proof is on the principal to establish that the factors leading to the school's low performance were not due to the principal's inadequate performance. In all hearings under this section, the burden of proof is on the State Board to establish that the school failed to make satisfactory improvement after an assistance team was assigned to the school and to establish one or more of the grounds established for dismissal or demotion of a teacher under G.S. 115C-325.4.

(6) In all hearings under this section, two consecutive evaluations that include written findings and recommendations regarding that principal's inadequate performance from the assistance team are substantial evidence of the inadequate performance of the principal.

(7) The State Board shall adopt procedures to ensure that due process rights are afforded to principals under this section. Decisions of the panel may be appealed on the record to the State Board.

(d) The State Board of Education or a local board may terminate the contract of a principal dismissed under this section.

(e) Neither party to a school administrator contract is entitled to damages under this section.

(f) The State Board shall have the right to subpoena witnesses and documents on behalf of any party to the proceedings under this section.

"**§ 115C-325.13. Procedure for dismissal of teachers employed in low-performing schools.**

(a) Notwithstanding any other provision of this Part or any other law, this section shall govern the State Board's dismissal of teachers, assistant principals, directors, and supervisors assigned to schools that the State Board has identified as low-performing and to which the State Board has assigned an assistance team under Article 8B of this Chapter. The State Board shall dismiss a teacher, assistant principal, director, or supervisor when the State Board receives two consecutive evaluations that include written findings and recommendations regarding that person's inadequate performance from the assistance team. These findings and recommendations shall be substantial evidence of the inadequate performance of the teacher, assistant principal, director, or supervisor.

(b) The State Board may dismiss a teacher, assistant principal, director, or supervisor when:

(1) The State Board determines that the school has failed to make satisfactory improvement after the State Board assigned an assistance team to that school under G.S. 115C-105.38; and

(2) That assistance team makes the recommendation to dismiss the teacher, assistant principal, director, or supervisor for one or more grounds established in G.S. 115C-325.4 for dismissal or demotion for cause.

A teacher, assistant principal, director, or supervisor may request a hearing before a panel of three members of the State Board within 30 days of any dismissal under this section. The State Board shall adopt procedures to ensure that due process rights are afforded to persons

recommended for dismissal under this section. Decisions of the panel may be appealed on the record to the State Board.

(c) Notwithstanding any other provision of this Part or any other law, this section shall govern the State Board's dismissal of licensed staff members who have engaged in a remediation plan under G.S. 115C-105.38A(c) but who, after one retest, fail to meet the general knowledge standard set by the State Board. The failure to meet the general knowledge standard after one retest shall be substantial evidence of the inadequate performance of the licensed staff member.

(d) A licensed staff member may request a hearing before a panel of three members of the State Board within 30 days of any dismissal under this section. The State Board shall adopt procedures to ensure that due process rights are afforded to licensed staff members recommended for dismissal under this section. Decisions of the panel may be appealed on the record to the State Board.

(e) The State Board of Education or a local board may terminate the contract of a teacher, assistant principal, director, or supervisor dismissed under this section.

(f) Neither party to a school administrator or teacher contract is entitled to damages under this section.

(g) The State Board shall have the right to subpoena witnesses and documents on behalf of any party to the proceedings under this section."

SECTION 9.6.(c) G.S. 115C-45(c) reads as rewritten:

"(c) Appeals to Board of Education and to Superior Court. – An appeal shall lie to the local board of education from any final administrative decision in the following matters:

(1) The discipline of a student under G.S. 115C-390.7, 115C-390.10, or 115C-390.11;

(2) An alleged violation of a specified federal law, State law, State Board of Education policy, State rule, or local board policy, including policies regarding grade retention of students;

(3) The terms or conditions of employment or employment status of a school employee; and

(4) Any other decision that by statute specifically provides for a right of appeal to the local board of education and for which there is no other statutory appeal procedure.

As used in this subsection, the term "final administrative decision" means a decision of a school employee from which no further appeal to a school administrator is available.

Any person aggrieved by a decision not covered under subdivisions (1) through (4) of this subsection shall have the right to appeal to the superintendent and thereafter shall have the right to petition the local board of education for a hearing, and the local board may grant a hearing regarding any final decision of school personnel within the local school administrative unit. The local board of education shall notify the person making the petition of its decision whether to grant a hearing.

In all appeals to the board it is the duty of the board of education to see that a proper notice is given to all parties concerned and that a record of the hearing is properly entered in the records of the board conducting the hearing.

The board of education may designate hearing panels composed of not less than two members of the board to hear and act upon such appeals in the name and on behalf of the board of education.

An appeal of right brought before a local board of education under subdivision (1), (2), ~~(3),~~ or (4) of this subsection may be further appealed to the superior court of the State on the grounds that the local board's decision is in violation of constitutional provisions, is in excess of the statutory authority or jurisdiction of the board, is made upon unlawful procedure, is affected by other error of law, is unsupported by substantial evidence in view of the entire record as submitted, or is arbitrary or capricious. ~~However, the right of a noncertified employee to appeal decisions of a local board under subdivision (3) of this subsection shall only apply to decisions~~

~~concerning the dismissal, demotion, or suspension without pay of the noncertified employee. A noncertified employee may request and shall be entitled to receive written notice as to the reasons for the employee's dismissal, demotion, or suspension without pay. The notice shall be provided to the employee prior to any local board of education hearing on the issue. This subsection shall not alter the employment status of a noncertified employee.~~"

SECTION 9.6.(d) G.S. 115C-287.1 reads as rewritten:

"§ **115C-287.1. Method of employment of principals, assistant principals, supervisors, and directors.**

(a) (1) ~~Beginning July 1, 1995, all~~All persons employed as school administrators shall be employed pursuant to this section.

~~(2) Notwithstanding G.S. 115C-287.1(a)(1), the following school administrators shall be employed pursuant to G.S. 115C-325:~~

~~a. School administrators who, as of July 1, 1995, are serving in a principal or supervisor position with career status in that position; and~~

~~b. School administrators who, as of July 1, 1995, are serving in a principal or supervisor position and who are eligible to achieve career status on or before June 30, 1997.~~

~~A school administrator shall cease to be employed pursuant to G.S. 115C-325 if the school administrator: (i) voluntarily relinquishes career status or the opportunity to achieve career status through promotion, resignation, or otherwise; or (ii) is dismissed or demoted or whose contract is not renewed pursuant to G.S. 115C-325.~~

(3) For purposes of this section, school administrator means a:

a. Principal;

b. Assistant principal;

c. Supervisor; or

d. Director,

whose major function includes the direct or indirect supervision of teaching or of any other part of the instructional program.

~~(4) Nothing in this section shall be construed to confer career status on any assistant principal or director, or to make an assistant principal eligible for career status as an assistant principal or a director eligible for career status as a director.~~

(b) Local boards of education shall employ school administrators ~~who are ineligible for career status as provided in G.S. 115C-325(c)(3),~~ upon the recommendation of the superintendent. The initial contract between a school administrator and a local board of education shall be for two to four years, ending on June 30 of the final 12 months of the contract. In the case of a subsequent contract between a principal or assistant principal and a local board of education, the contract shall be for a term of four years. In the case of an initial contract between a school administrator and a local board of education, the first year of the contract may be for a period of less than 12 months provided the contract becomes effective on or before September 1. A local board of education may, with the written consent of the school administrator, extend, renew, or offer a new school administrator's contract at any time after the first 12 months of the contract so long as the term of the new, renewed, or extended contract does not exceed four years. Rolling annual contract renewals are not allowed. Nothing in this section shall be construed to prohibit the filling of an administrative position on an interim or temporary basis.

(c) The term of employment shall be stated in a written contract that shall be entered into between the local board of education and the school administrator. The school administrator shall not be dismissed or demoted during the term of the contract except for the grounds and by the procedure by which a ~~career~~ teacher may be dismissed or demoted for cause as set forth in ~~G.S. 115C-325.~~G.S. 115C-325.4.

(d) If a superintendent intends to recommend to the local board of education that the school administrator be offered a new, renewed, or extended contract, the superintendent shall submit the recommendation to the local board for action. The local board may approve the superintendent's recommendation or decide not to offer the school administrator a new, renewed, or extended school administrator's contract.

If a superintendent decides not to recommend that the local board of education offer a new, renewed, or extended school administrator's contract to the school administrator, the superintendent shall give the school administrator written notice of his or her decision ~~and the reasons for his or her decision~~ no later than May 1 of the final year of the contract. The superintendent's reasons may not be arbitrary, capricious, discriminatory, personal, ~~or political.~~political, or prohibited by State or federal law. No action by the local board or further notice to the school administrator shall be necessary unless the school administrator files with the superintendent a written request, within 10 days of receipt of the superintendent's decision, for a hearing before the local board. Failure to file a timely request for a hearing shall result in a waiver of the right to appeal the superintendent's decision. If a school administrator files a timely request for a hearing, the local board shall conduct a hearing pursuant to the provisions of G.S. 115C-45(c) and make a final decision on whether to offer the school administrator a new, renewed, or extended school administrator's contract.

If the local board decides not to offer the school administrator a new, renewed, or extended school administrator's contract, the local board shall notify the school administrator of its decision by June 1 of the final year of the contract. A decision not to offer the school administrator a new, renewed, or extended contract may be for any cause that is not arbitrary, capricious, discriminatory, personal, ~~or political.~~political, or prohibited by State or federal law. ~~The local board's decision not to offer the school administrator a new, renewed, or extended school administrator's contract is subject to judicial review in accordance with Article 4 of Chapter 150B of the General Statutes.~~

(e) Repealed by Session Laws 1995, c. 369, s. 1.

(f) If the superintendent or the local board of education fails to notify a school administrator by June 1 of the final year of the contract that the school administrator will not be offered a new school administrator's contract, the school administrator shall be entitled to 30 days of additional employment or severance pay beyond the date the school administrator receives written notice that a new contract will not be offered.

~~(g) If, prior to appointment as a school administrator, the school administrator held career status as a teacher in the local school administrative unit in which he or she is employed as a school administrator, a school administrator shall retain career status as a teacher if the school administrator is not offered a new, renewed, or extended contract by the local board of education, unless the school administrator voluntarily relinquished that right or is dismissed or demoted pursuant to G.S. 115C-325.~~

(h) An individual who holds a provisional assistant principal's ~~certificate~~license and who is employed as an assistant principal under G.S. 115C-284(c) shall be considered a school administrator for purposes of this section. Notwithstanding subsection (b) of this section, a local board may enter into one-year contracts with a school administrator who holds a provisional assistant principal's ~~certificate.~~license. ~~If the school administrator held career status as a teacher in the local school administrative unit prior to being employed as an assistant principal and the State Board for any reason does not extend the school administrator's provisional assistant principal's certificate, the school administrator shall retain career status as a teacher unless the school administrator voluntarily relinquished that right or is dismissed or demoted under G.S. 115C-325.~~ Nothing in this subsection or G.S. 115C-284(c) shall be construed to require a local board to extend or renew the contract of a school administrator who holds a provisional assistant principal's ~~certificate.~~license."

SECTION 9.6.(e) The State Board of Education shall develop by rule as provided in Article 2A of Chapter 150B of the General Statutes a model contract for use by local boards of education in awarding teacher contracts. The State Board may adopt a temporary rule for a

model contract as provided in G.S. 150B-21.1 to provide a contract to local boards of education no later than January 1, 2014, but shall replace the temporary rule with a permanent rule as soon as practicable.

SECTION 9.6.(f) G.S. 115C-325(c)(1) through (c)(3) and G.S. 115-325(c)(5) and (c)(6) are repealed effective August 1, 2013. Individuals who have not received career status prior to the 2013-2014 school year shall not be granted career status during the 2013-2014 school year. All teachers who have not been granted career status prior to the 2013-2014 school year shall be offered only one-year contracts, except for qualifying teachers offered a four-year contract as provided in subsection (g) of this section, until the 2018-2019 school year.

SECTION 9.6.(g) Beginning September 1, 2013, to June 30, 2014, all superintendents shall review the performance and evaluations of all teachers who have been employed by the local board for at least three consecutive years. Based on these reviews, the superintendent shall identify and recommend to the local board twenty-five percent (25%) of those teachers employed by the local board for at least three consecutive years to be awarded four-year contracts beginning with the 2014-2015 school year. The superintendent shall not recommend to the local board any teacher for a four-year contract unless that teacher has shown effectiveness as demonstrated by proficiency on the teacher evaluation instrument. The local board of education shall review the superintendent's recommendation and may approve that recommendation or may select other teachers as part of the twenty-five percent (25%) to offer four-year contracts, but the local board shall not offer any teacher a four-year contract unless that teacher has shown effectiveness as demonstrated by proficiency on the teacher evaluation instrument. Contract offers shall be made and accepted no later than June 30, 2014. A teacher shall cease to be employed pursuant to G.S. 115C-325 and voluntarily relinquishes career status or any claim of career status by acceptance of a four-year contract as provided in this section.

SECTION 9.6.(h) Teachers employed by a local board of education on a four-year contract beginning with the 2014-2015 school year shall receive a five hundred dollar ($500.00) annual pay raise for each year of the four-year contract.

SECTION 9.6.(i) Subsection (a) of this section becomes effective June 30, 2018, and no teacher employed by a local board of education on or after that date shall have career status. G.S. 115C-325 applies only to teachers with career status after June 30, 2014.

SECTION 9.6.(j) Subsection (b) of this section becomes effective July 1, 2014. G.S. 115C-325.1 through G.S. 115C-325.13, as enacted by this section, shall apply to all teachers on one- or four-year contracts beginning July 1, 2014. G.S. 115C-325.1 through G.S. 115C-325.13, as enacted by this section, shall apply to all teachers employed by local boards of education or the State on or after July 1, 2018.

SECTION 9.6.(k) Subsections (c) and (d) of this section become effective July 1, 2014, and apply to all employees employed on or after that date.

SECTION 9.6.(l) Except as otherwise provided in this section, this section is effective when this act becomes law.

TEACHER CONTRACT CONFORMING CHANGES

SECTION 9.7.(a) G.S. 115C-105.26(b)(2) reads as rewritten:

"(2) State rules and policies, except those pertaining to public school State salary schedules and employee benefits for school employees, the instructional program that must be offered under the Basic Education Program, the system of employment for public school teachers and administrators set out in G.S. 115C-287.1 and ~~G.S. 115C-325,~~in Part 3 of Article 22 of this Chapter, health and safety codes, compulsory attendance, the minimum lengths of the school day and year, and the Uniform Education Reporting System."

SECTION 9.7.(b) G.S. 115C-105.37B(a)(2) reads as rewritten:

"(2) Restart model, in which the State Board of Education would authorize the local board of education to operate the school with the same exemptions from statutes and rules as a charter school authorized under Part 6A of

Article 16 of this Chapter, or under the management of an educational management organization that has been selected through a rigorous review process. A school operated under this subdivision remains under the control of the local board of education, and employees assigned to the school are employees of the local school administrative unit with the protections provided by ~~G.S. 115C-325.~~Part 3 of Article 22 of this Chapter."

SECTION 9.7.(c) G.S. 115C-105.38A reads as rewritten:

"§ **115C-105.38A. Teacher competency assurance.**

…

(d) Retesting; Dismissal. – Upon completion of the remediation plan required under subsection (c) of this section, the ~~certified~~licensed staff member shall take the general knowledge test a second time. If the ~~certified~~licensed staff member fails to acquire a passing score on the second test, the State Board shall begin a dismissal proceeding under ~~G.S. 115C-325(q)(2a).~~G.S. 115C-325(q)(2a) or G.S. 115C-325.13.

…

(f) Other Actions Not Precluded. – Nothing in this section shall be construed to restrict or postpone the following actions:

(1) The dismissal of a principal under ~~G.S. 115C-325(q)(1);~~G.S. 115C-325.12.

(2) The dismissal of a teacher, assistant principal, director, or supervisor under ~~G.S. 115C-325(q)(2);~~G.S. 115C-325(q)(2) or G.S. 115C-325.13.

(3) The dismissal or demotion of ~~a career~~ an employee for any of the grounds listed under ~~G.S. 115C-325(e);~~G.S. 115C-325(e) or G.S. 115C-325.4.

(4) The nonrenewal of a school administrator's or ~~probationary~~ teacher's contract of ~~employment; or~~employment.

~~(5) The decision to grant career status.~~

…."

SECTION 9.7.(d) G.S. 115C-105.39 reads as rewritten:

"§ **115C-105.39. Dismissal or removal of personnel; appointment of interim superintendent.**

(a) Within 30 days of the initial identification of a school as low-performing, whether by the local school administrative unit under G.S. 115C-105.37(a1) or by the State Board under G.S. 115C-105.37(a), the superintendent shall take one of the following actions concerning the school's principal: (i) recommend to the local board that the principal be retained in the same position, (ii) recommend to the local board that the principal be retained in the same position and a plan of remediation should be developed, (iii) recommend to the local board that the principal be transferred, or (iv) proceed under ~~G.S. 115C-325~~G.S. 115C-325.4 to dismiss or demote the principal. The principal may be retained in the same position without a plan for remediation only if the principal was in that position for no more than two years before the school is identified as low-performing. The principal shall not be transferred to another principal position unless (i) it is in a school classification in which the principal previously demonstrated at least 2 years of success, (ii) there is a plan to evaluate and provide remediation to the principal for at least one year following the transfer to assure the principal does not impede student performance at the school to which the principal is being transferred; and (iii) the parents of the students at the school to which the principal is being transferred are notified. The principal shall not be transferred to another low-performing school in the local school administrative unit. If the superintendent intends to recommend demotion or dismissal, the superintendent shall notify the local board. Within 15 days of (i) receiving notification that the superintendent intends to proceed under ~~G.S. 115C-325,~~G.S. 115C-325.4 or (ii) its decision concerning the superintendent's recommendation, but no later than September 30, the local board shall submit to the State Board a written notice of the action taken and the basis for that action. If the State Board does not assign an assistance team to that school or if the State Board assigns an assistance team to that school and the superintendent proceeds under ~~G.S. 115C-325~~G.S. 115C-325.4 to dismiss or demote the principal, then the State Board shall

take no further action. If the State Board assigns an assistance team to the school and the superintendent is not proceeding under ~~G.S. 115C-325~~G.S. 115C-325.4 to dismiss or demote the principal, then the State Board shall vote to accept, reject, or modify the local board's recommendations. The State Board shall notify the local board of its action within five days. If the State Board rejects or modifies the local board's recommendations and does not recommend dismissal of the principal, the State Board's notification shall include recommended action concerning the principal's assignment or terms of employment. Upon receipt of the State Board's notification, the local board shall implement the State Board's recommended action concerning the principal's assignment or terms of employment unless the local board asks the State Board to reconsider that recommendation. The State Board shall provide an opportunity for the local board to be heard before the State Board acts on the local board's request for a reconsideration. The State Board shall vote to affirm or modify its original recommended action and shall notify the local board of its action within five days. Upon receipt of the State Board's notification, the local board shall implement the State Board's final recommended action concerning the principal's assignment or terms of employment. If the State Board rejects or modifies the local board's action and recommends dismissal of the principal, the State Board shall proceed under ~~G.S. 115C-325(q)(1).~~G.S. 115C-325.12.

(b) The State Board shall proceed under G.S. 115C-325(q)(2) or G.S. 115C-325.13 for the dismissal of teachers, assistant principals, directors, and supervisors assigned to a school identified as low-performing in accordance with ~~G.S. 115C-325(q)(2).~~G.S. 115C-325(q)(2) or G.S. 115C-325.13.

…."

SECTION 9.7.(e) G.S. 115C-238.68(3) reads as rewritten:

"(3) ~~Career status.~~Leave of absence from local school administrative unit. – ~~Employees of the board of directors shall not be eligible for career status.~~ If a teacher employed by a local school administrative unit makes a written request for a leave of absence to teach at the regional school, the local school administrative unit shall grant the leave for one year. For the initial year of the regional school's operation, the local school administrative unit may require that the request for a leave of absence be made up to 45 days before the teacher would otherwise have to report for duty. After the initial year of the regional school's operation, the local school administrative unit may require that the request for a leave of absence be made up to 90 days before the teacher would otherwise have to report for duty. A local board of education is not required to grant a request for a leave of absence or a request to extend or renew a leave of absence for a teacher who previously has received a leave of absence from that school board under this subdivision. A teacher who has career status under G.S. 115C-325 prior to receiving a leave of absence to teach at the regional school may return to a public school in the local school administrative unit with career status at the end of the leave of absence or upon the end of employment at the regional school if an appropriate position is available. If an appropriate position is unavailable, the teacher's name shall be placed on a list of available teachers in accordance with G.S. 115C-325(e)(2)."

SECTION 9.7.(f) G.S. 115C-276(l) reads as rewritten:

"(l) To Maintain Personnel Files and to Participate in Firing and Demoting of Staff. – The superintendent shall maintain in his or her office a personnel file for each teacher that contains complaints, commendations, or suggestions for correction or improvement about the teacher and shall participate in the firing and demoting of staff, as provided in ~~G.S. 115C-325.~~Part 3 of Article 22 of this Chapter."

SECTION 9.7.(g) G.S. 115C-285(a)(7) reads as rewritten:

"(7) All persons employed as principals in the schools and institutions listed in ~~subsection (p) of G.S. 115C-325~~ G.S. 115C-325.10 shall be compensated at

the same rate as are teachers in the public schools in accordance with the salary schedule adopted by the State Board of Education."

SECTION 9.7.(h) G.S. 115C-304 is repealed.

SECTION 9.7.(i) G.S. 115C-333 reads as rewritten:

"§ **115C-333. Evaluation of licensed employees including certain superintendents; mandatory improvement plans; State board notification upon dismissal of employees.**

(a) Annual Evaluations; Low-Performing Schools. – Local school administrative units shall evaluate at least once each year all licensed employees assigned to a school that has been identified as low-performing. The evaluation shall occur early enough during the school year to provide adequate time for the development and implementation of a mandatory improvement plan if one is recommended under subsection (b) of this section. If the employee is a teacher with career status as defined under G.S. 115C-325(a)(6), or a teacher as defined under G.S. 115C-325.1(6), either the principal, the assistant principal who supervises the teacher, or an assistance team assigned under G.S. 115C-105.38 shall conduct the evaluation. If the employee is a school administrator as defined under G.S. 115C-287.1(a)(3), either the superintendent or the superintendent's designee shall conduct the evaluation.

All teachers in low-performing schools who have ~~not attained career status~~been employed for less than three consecutive years shall be observed at least three times annually by the principal or the principal's designee and at least once annually by a teacher and shall be evaluated at least once annually by a principal. This section shall not be construed to limit the duties and authority of an assistance team assigned to a low-performing school under G.S. 115C-105.38.

A local board shall use the performance standards and criteria adopted by the State Board and may adopt additional evaluation criteria and standards. All other provisions of this section shall apply if a local board uses an evaluation other than one adopted by the State Board.

(b) Mandatory Improvement Plans. –

…

(2a) If a licensed employee in a low-performing school receives a rating on any standard on an evaluation that is below proficient or otherwise represents unsatisfactory or below standard performance in an area that the licensed employee was expected to demonstrate, the individual or team that conducted the evaluation shall recommend to the superintendent that (i) the employee receive a mandatory improvement plan designed to improve the employee's ~~performance or~~ performance, (ii) the superintendent recommend to the local board that if the employee is a career status teacher the employee be dismissed or demoted and if the employee is a teacher on contract the teacher's contract not be recommended for renewal, or (iii) if the employee engaged in inappropriate conduct or performed inadequately to such a degree that such conduct or performance causes substantial harm to the educational environment that a proceeding for immediate dismissal or demotion be instituted. If the individual or team that conducted the evaluation elects not to make ~~either~~ any of the above recommendations, the said individual or team shall notify the superintendent of this decision. The superintendent shall determine whether to develop a mandatory improvement ~~plan~~plan, to not recommend renewal of the employee's contract, or to recommend a dismissal proceeding.

…

(c) Reassessment of Employee in a Low-Performing School. – After the expiration of the time period for the mandatory improvement plan under subdivision (2a) of subsection (b) of this section, the superintendent, the superintendent's designee, or the assistance team shall assess the performance of the employee of the low-performing school a second time. If the superintendent, superintendent's designee, or assistance team determines that the employee has

failed to become proficient in any of the performance standards articulated in the mandatory improvement plan or demonstrate sufficient improvement toward such standards, the superintendent shall recommend that if the employee is a teacher with career status the teacher be dismissed or demoted under G.S. 115C-325, or if the employee is a teacher on contract ~~the employee~~ the employee's contract not be renewed or if the employee has engaged in inappropriate conduct or performed inadequately to such a degree that such conduct or performance causes substantial harm to the educational environment, that the employee be immediately dismissed or demoted under ~~G.S. 115C-325.~~G.S. 115C-325.4. The results of the second assessment shall constitute substantial evidence of the employee's inadequate performance.

(d) State Board Notification. – If a local board dismisses an employee of a low-performing school who is a teacher with career status for any reason except a reduction in force under G.S. 115C-325(e)(1)l., or dismisses an employee who is a teacher on contract for cause or elects to not renew an employee's contract as a result of a superintendent's recommendation under subsection (b) or (c) of this section, it shall notify the State Board of the action, and the State Board annually shall provide to all local boards the names of those individuals. If a local board hires one of these individuals, within 60 days the superintendent or the superintendent's designee shall observe the employee, develop a mandatory improvement plan to assist the employee, and submit the plan to the State Board. The State Board shall review the mandatory improvement plan and may provide comments and suggestions to the superintendent. If on the next evaluation the employee receives a rating on any standard that was identified as an area of concern on the mandatory improvement plan that is again below proficient or otherwise represents unsatisfactory or below standard performance, the local board shall notify the State Board and the State Board shall initiate a proceeding to revoke the employee's license under G.S. 115C-296(d). If on this next evaluation the employee receives at least a proficient rating on all of the performance standards that were identified as areas of concern on the mandatory improvement plan, the local board shall notify the State Board that the employee is in good standing and the State Board shall not continue to provide the individual's name to local boards under this subsection unless the employee is a teacher with career status and is subsequently dismissed under G.S. 115C-325 except for a reduction in ~~force.~~force, or the employee is a teacher on contract subsequently dismissed under G.S. 115C-325.4.

…."

SECTION 9.7.(j) G.S. 115C-333.1 reads as rewritten:

"§ **115C-333.1. Evaluation of teachers in schools not identified as low-performing; mandatory improvement plans; State Board notification upon dismissal of teachers.**

(a) Annual Evaluations. – All teachers who are assigned to schools that are not designated as low-performing and who have not ~~attained career status~~been employed for at least three consecutive years shall be observed at least three times annually by the principal or the principal's designee and at least once annually by a teacher and shall be evaluated at least once annually by a principal. All teachers with career status or on a four-year contract who are assigned to schools that are not designated as low-performing shall be evaluated annually unless a local board adopts rules that allow teachers with career status or on a four-year contract to be evaluated more or less frequently, provided that such rules are not inconsistent with State or federal requirements. Local boards also may adopt rules requiring the annual evaluation of nonlicensed employees. A local board shall use the performance standards and criteria adopted by the State Board and may adopt additional evaluation criteria and standards. All other provisions of this section shall apply if a local board uses an evaluation other than one adopted by the State Board.

…

(d) Reassessment of the Teacher. – Upon completion of a mandatory improvement plan under subsection (b) of this section, the principal shall assess the performance of the teacher a

second time. The principal shall also review and consider any report provided by the qualified observer under subsection (c) of this section if one has been submitted before the end of the mandatory improvement plan period. If, after the second assessment of the teacher and consideration of any report from the qualified observer, the superintendent or superintendent's designee determines that the teacher has failed to become proficient in any of the performance standards identified as deficient in the mandatory improvement plan or demonstrate sufficient improvement toward such standards, the superintendent may recommend that a teacher with career status be dismissed or demoted under G.S. 115C-325, or if the teacher is on contract that the teacher's contract not be renewed or if the teacher has engaged in inappropriate conduct or performed inadequately to such a degree that such conduct or performance causes substantial harm to the educational environment, that the teacher be immediately dismissed or demoted under ~~G.S. 115C-325.~~G.S. 115C-325.4. The results of the second assessment produced pursuant to the terms of this subsection shall constitute substantial evidence of the teacher's inadequate performance.

(e) Dismissal Proceedings Without a Mandatory Improvement Plan. – The absence of a mandatory improvement plan as described in this section shall not prohibit a superintendent from initiating a dismissal proceeding against a teacher under the provisions of ~~G.S. 115C-325.~~ G.S. 115C-325 or G.S. 115C-325.4. However, the superintendent shall not be entitled to the substantial evidence provision in subsection (d) of this section if such mandatory improvement plan is not utilized.

(f) State Board Notification. – If a local board dismisses a teacher with career status for any reason except a reduction in force under G.S. 115C-325(e)(1)l., or dismisses a teacher on contract for cause or elects to not renew a teacher's contract as a result of a superintendent's recommendation under subsection (d) of this section, it shall notify the State Board of the action, and the State Board annually shall provide to all local boards the names of those teachers. If a local board hires one of these teachers, within 60 days the superintendent or the superintendent's designee shall observe the teacher, develop a mandatory improvement plan to assist the teacher, and submit the plan to the State Board. The State Board shall review the mandatory improvement plan and may provide comments and suggestions to the superintendent. If on the next evaluation the teacher receives a rating on any standard that was an area of concern on the mandatory improvement plan that is again below proficient or a rating that otherwise represents unsatisfactory or below standard performance, the local board shall notify the State Board, and the State Board shall initiate a proceeding to revoke the teacher's license under G.S. 115C-296(d). If on the next evaluation the teacher receives at least a proficient rating on all of the overall performance standards that were areas of concern on the mandatory improvement plan, the local board shall notify the State Board that the teacher is in good standing, and the State Board shall not continue to provide the teacher's name to local boards under this subsection unless the teacher has career status and is subsequently dismissed under G.S. 115C-325 except for a reduction in ~~force.~~force or is a teacher on contract who is subsequently dismissed under G.S. 115C-325.4. If, however, on this next evaluation the teacher receives a developing rating on any standards that were areas of concern on the mandatory improvement plan, the teacher shall have one more year to bring the rating to ~~proficient. If,~~proficient if the local board elects to renew the teacher's contract. If by the end of this second ~~year,~~year the teacher is not proficient in all standards that were areas of concern on the mandatory improvement plan, the local board shall notify the State Board, and the State Board shall initiate a proceeding to revoke the teacher's license under G.S. 115C-296(d).

…."

SECTION 9.7.(k) G.S. 115C-335(b) reads as rewritten:

"(b) Training. – The State Board, in collaboration with the Board of Governors of The University of North Carolina, shall develop programs designed to train principals and superintendents in the proper administration of the employee evaluations developed by the State Board. The Board of Governors shall use the professional development programs for public school employees that are under its authority to make this training available to all

principals and superintendents at locations that are geographically convenient to local school administrative units. The programs shall include methods to determine whether an employee's performance has improved student learning, the development and implementation of appropriate professional growth and mandatory improvement plans, the process for contract nonrenewal, and the dismissal process under ~~G.S. 115C-325.~~Part 3 of Article 22 of this Chapter. The Board of Governors shall ensure that the subject matter of the training programs is incorporated into the masters in school administration programs offered by the constituent institutions. The State Board, in collaboration with the Board of Governors, also shall develop in-service programs for licensed public school employees that may be included in a mandatory improvement plan created under G.S. 115C-333(b) or G.S. 115C-333.1(b). The Board of Governors shall use the professional development programs for public school employees that are under its authority to make this training available at locations that are geographically convenient to local school administrative units."

SECTION 9.7.(l) G.S. 115C-404(b) reads as rewritten:

"(b) Documents received under this section shall be used only to protect the safety of or to improve the education opportunities for the student or others. Information gained in accordance with G.S. 7B-3100 shall not be the sole basis for a decision to suspend or expel a student. Upon receipt of each document, the principal shall share the document with those individuals who have (i) direct guidance, teaching, or supervisory responsibility for the student, and (ii) a specific need to know in order to protect the safety of the student or others. Those individuals shall indicate in writing that they have read the document and that they agree to maintain its confidentiality. Failure to maintain the confidentiality of these documents as required by this section is grounds for the dismissal of an employee who is not employed on contract, grounds for dismissal of an employee on contract ~~not a career employee~~in accordance with G.S. 115C-325.4(a)(9), and ~~is~~ grounds for dismissal of an employee who is a career ~~employee,~~teacher in accordance with G.S. 115C-325(e)(1)i."

SECTION 9.7.(m) G.S. 143B-146.7(b) reads as rewritten:

"(b) At any time after the State Board identifies a school as low-performing under this Part, the ~~Secretary~~ State Board shall proceed under G.S. 115C-325(p1) or G.S. 115C-325.11 for the dismissal of ~~certificated~~licensed instructional personnel assigned to that school."

SECTION 9.7.(n) G.S. 143B-146.8 reads as rewritten:

"§ **143B-146.8. Evaluation of ~~certificated~~ licensed personnel and principals; action plans; State Board notification.**

(a) Annual Evaluations; Low-Performing Schools. – The principal shall evaluate at least once each year all ~~certificated~~ licensed personnel assigned to a participating school that has been identified as low-performing but has not received an assistance team. The evaluation shall occur early enough during the school year to provide adequate time for the development and implementation of an action plan if one is recommended under subsection (b) of this section. If the employee is a teacher as defined under ~~G.S. 115C-325(a)(6),~~ G.S. 115C-325(a)(6) with career status or a teacher as defined in G.S. 115C-325.1(6) on contract, either the principal or an assessment team assigned under G.S. 143B-146.9 shall conduct the evaluation. If the employee is a school administrator as defined under G.S. 115C-287.1(a)(3), the Superintendent shall conduct the evaluation.

Notwithstanding this subsection or any other law, the principal shall observe at least three times annually, a teacher shall observe at least once annually, and the principal shall evaluate at least once annually, all teachers who have ~~not attained career status.~~been employed for less than three consecutive years. All other employees defined as teachers under G.S. 115C-325(a)(6) with career status or teachers as defined in G.S. 115C-325.1(6) on a four-year contract who are assigned to participating schools that are not designated as low-performing shall be evaluated annually unless the ~~Secretary~~ State Board adopts rules that allow specified categories of teachers with career status or on four-year contracts to be evaluated more or less frequently. The ~~Secretary~~ State Board also may adopt rules requiring the

annual evaluation of ~~noncertificated~~ nonlicensed personnel. This section shall not be construed to limit the duties and authority of an assistance team assigned to a low-performing school.

~~The Secretary shall use the State Board's performance standards and criteria unless the Secretary develops an alternative evaluation that is properly validated and that includes standards and criteria similar to those adopted by the State Board. All other provisions of this section shall apply if an evaluation is used other than one adopted by the State Board.~~

(b) Action Plans. – If a ~~certificated~~ licensed employee in a participating school that has been identified as low-performing receives an unsatisfactory or below standard rating on any function of the evaluation that is related to the employee's instructional duties, the individual or team that conducted the evaluation shall recommend to the principal that: (i) the employee receive an action plan designed to improve the employee's performance; or (ii) the principal recommend ~~to the Secretary~~ that the employee who is a career teacher be dismissed or demoted as provided in G.S. 115C-325 or the employee who is a teacher on contract not be recommended for renewal; or (iii) if the employee who is a teacher on contract engages in inappropriate conduct or performs inadequately to such a degree that such conduct or performance causes substantial harm to the educational environment that a proceeding for immediate dismissal or demotion under G.S. 115C-325.4 be instituted. The principal shall determine whether to develop an action ~~plan~~plan, to not recommend renewal of the employee's contract, or to recommend a dismissal proceeding. The person who evaluated the employee or the employee's supervisor shall develop the action plan unless an assistance team or assessment team conducted the evaluation. If an assistance team or assessment team conducted the evaluation, that team shall develop the action plan in collaboration with the employee's supervisor. Action plans shall be designed to be completed within 90 instructional days or before the beginning of the next school year. The State ~~Board, in consultation with the Secretary,~~Board shall develop guidelines that include strategies to assist in evaluating ~~certificated~~ licensed personnel and developing effective action plans within the time allotted under this section. The ~~Secretary~~ State Board may adopt policies for the development and implementation of action plans or professional development plans for personnel who do not require action plans under this section.

(c) Reevaluation. – Upon completion of an action plan under subsection (b) of this section, the principal or the assessment team shall evaluate the employee a second time. If on the second evaluation the employee receives one unsatisfactory or more than one below standard rating on any function that is related to the employee's instructional duties, the principal shall recommend that the employee with career status be dismissed or demoted under G.S. 115C-325, or that an employee's contract not be renewed or if the employee engages in inappropriate conduct or performs inadequately to such a degree that such conduct or performance causes substantial harm to the educational environment, that the employee be dismissed or demoted under ~~G.S. 115C-325.~~G.S. 115C-325.4. The results of the second evaluation shall constitute substantial evidence of the employee's inadequate performance.

(d) State Board Notification. – If ~~the Secretary dismisses~~ an employee is dismissed for ~~any reason except a reduction in force under G.S. 115C-325(e)(1)l.,~~cause or an employee's contract is not renewed as a result of a superintendent's recommendation under subsection (b) or (c) of this section, the ~~Secretary shall notify the~~ State Board shall be notified of the action, and the State Board annually shall provide to all local boards of education the names of those individuals. If a local board hires one of these individuals, that local board shall proceed under G.S. 115C-333(d).

…."

SECTION 9.7.(o) G.S. 115C-105.38A, as amended by subsection (c) of this section, reads as rewritten:

"§ **115C-105.38A. Teacher competency assurance.**

…

(d) Retesting; Dismissal. – Upon completion of the remediation plan required under subsection (c) of this section, the licensed staff member shall take the general knowledge test a

second time. If the licensed staff member fails to acquire a passing score on the second test, the State Board shall begin a dismissal proceeding under ~~G.S. 115C-325(q)(2a) or~~ G.S. 115C-325.13.

…

(f) Other Actions Not Precluded. – Nothing in this section shall be construed to restrict or postpone the following actions:

(1) The dismissal of a principal under G.S. 115C-325.12.

(2) The dismissal of a teacher, assistant principal, director, or supervisor under ~~G.S. 115C-325(q)(2) or~~ G.S. 115C-325.13.

(3) The dismissal or demotion of an employee for any of the grounds listed under ~~G.S. 115C-325(e) or~~ G.S. 115C-325.4.

(4) The nonrenewal of a school administrator's or teacher's contract of employment.

…."

SECTION 9.7.(p) G.S. 115C-105.39(b), as amended by subsection (d) of this section, reads as rewritten:

"(b) The State Board shall proceed under ~~G.S. 115C-325(q)(2) or~~ G.S. 115C-325.13 for the dismissal of teachers, assistant principals, directors, and supervisors assigned to a school identified as low-performing in accordance with ~~G.S. 115C-325(q)(2) or~~ G.S. 115C-325.13.

…."

SECTION 9.7.(q) G.S. 115C-238.29F(e)(3) reads as rewritten:

"(3) If a teacher employed by a local school administrative unit makes a written request for a leave of absence to teach at a charter school, the local school administrative unit shall grant the leave for one year. For the initial year of a charter school's operation, the local school administrative unit may require that the request for a leave of absence be made up to 45 days before the teacher would otherwise have to report for duty. After the initial year of a charter school's operation, the local school administrative unit may require that the request for a leave of absence be made up to 90 days before the teacher would otherwise have to report for duty. A local board of education is not required to grant a request for a leave of absence or a request to extend or renew a leave of absence for a teacher who previously has received a leave of absence from that school board under this subdivision. A teacher who has ~~career status under G.S. 115C-325 prior to receiving~~<u>received</u> a leave of absence to teach at a charter school may return to a public school in the local school administrative unit ~~with career status~~ at the end of the leave of absence or upon the end of employment at the charter school if an appropriate position is available.~~If an appropriate position is unavailable, the teacher's name shall be placed on a list of available teachers and that teacher shall have priority on all positions for which that teacher is qualified in accordance with G.S. 115C-325(e)(2).~~"

SECTION 9.7.(r) G.S. 115C-238.68(3), as amended by subsection (e) of this section, reads as rewritten:

"(3) Leave of absence from local school administrative unit. – If a teacher employed by a local school administrative unit makes a written request for a leave of absence to teach at the regional school, the local school administrative unit shall grant the leave for one year. For the initial year of the regional school's operation, the local school administrative unit may require that the request for a leave of absence be made up to 45 days before the teacher would otherwise have to report for duty. After the initial year of the regional school's operation, the local school administrative unit may require that the request for a leave of absence be made up to 90 days before the teacher would otherwise have to report for duty. A local board of

education is not required to grant a request for a leave of absence or a request to extend or renew a leave of absence for a teacher who previously has received a leave of absence from that school board under this subdivision. A teacher who has ~~career status under G.S. 115C-325 prior to receiving~~ received a leave of absence to teach at the regional school may return to a public school in the local school administrative unit ~~with career status~~ at the end of the leave of absence or upon the end of employment at the regional school if an appropriate position is available. ~~If an appropriate position is unavailable, the teacher's name shall be placed on a list of available teachers in accordance with G.S. 115C-325(e)(2).~~"

SECTION 9.7.(s) G.S. 115C-333, as amended by subsection (i) of this section, reads as rewritten:

"§ **115C-333. Evaluation of licensed employees including certain superintendents; mandatory improvement plans; State board notification upon dismissal of employees.**

(a) Annual Evaluations; Low-Performing Schools. – Local school administrative units shall evaluate at least once each year all licensed employees assigned to a school that has been identified as low-performing. The evaluation shall occur early enough during the school year to provide adequate time for the development and implementation of a mandatory improvement plan if one is recommended under subsection (b) of this section. If the employee is a teacher ~~with career status as defined under G.S. 115C-325(a)(6), or a teacher~~ as defined under ~~G.S. 115C-325.1(6),~~ G.S. 115C-325.1(6) either the principal, the assistant principal who supervises the teacher, or an assistance team assigned under G.S. 115C-105.38 shall conduct the evaluation. If the employee is a school administrator as defined under G.S. 115C-287.1(a)(3), either the superintendent or the superintendent's designee shall conduct the evaluation.

All teachers in low-performing schools who have been employed for less than three consecutive years shall be observed at least three times annually by the principal or the principal's designee and at least once annually by a teacher and shall be evaluated at least once annually by a principal. This section shall not be construed to limit the duties and authority of an assistance team assigned to a low-performing school under G.S. 115C-105.38.

A local board shall use the performance standards and criteria adopted by the State Board and may adopt additional evaluation criteria and standards. All other provisions of this section shall apply if a local board uses an evaluation other than one adopted by the State Board.

(b) Mandatory Improvement Plans. –

…

(2a) If a licensed employee in a low-performing school receives a rating on any standard on an evaluation that is below proficient or otherwise represents unsatisfactory or below standard performance in an area that the licensed employee was expected to demonstrate, the individual or team that conducted the evaluation shall recommend to the superintendent that (i) the employee receive a mandatory improvement plan designed to improve the employee's performance, (ii) the superintendent recommend to the local board that ~~if the employee is a career status teacher the employee be dismissed or demoted and if the employee is a teacher on contract the teacher's~~ employee's contract not be recommended for renewal, or (iii) if the employee engaged in inappropriate conduct or performed inadequately to such a degree that such conduct or performance causes substantial harm to the educational environment that a proceeding for immediate dismissal or demotion be instituted. If the individual or team that conducted the evaluation elects not to make any of the above recommendations, the said individual or team shall notify the superintendent of this decision. The superintendent shall determine whether to develop a mandatory

improvement plan, to not recommend renewal of the employee's contract, or to recommend a dismissal proceeding.

…

(c) Reassessment of Employee in a Low-Performing School. – After the expiration of the time period for the mandatory improvement plan under subdivision (2a) of subsection (b) of this section, the superintendent, the superintendent's designee, or the assistance team shall assess the performance of the employee of the low-performing school a second time. If the superintendent, superintendent's designee, or assistance team determines that the employee has failed to become proficient in any of the performance standards articulated in the mandatory improvement plan or demonstrate sufficient improvement toward such standards, the superintendent shall recommend that ~~if the employee is a teacher with career status the teacher be dismissed or demoted under G.S. 115C-325, or if the employee is a teacher on contract~~ the employee's contract not be renewed or if the employee has engaged in inappropriate conduct or performed inadequately to such a degree that such conduct or performance causes substantial harm to the educational environment, that the employee be immediately dismissed or demoted under G.S. 115C-325.4. The results of the second assessment shall constitute substantial evidence of the employee's inadequate performance.

(d) State Board Notification. – If a local board dismisses an employee of a low-performing school ~~who is a teacher with career status for any reason except a reduction in force under G.S. 115C-325(e)(1)l., or dismisses an employee who is a teacher on contract~~ for cause or elects to not renew an employee's contract as a result of a superintendent's recommendation under subsection (b) or (c) of this section, it shall notify the State Board of the action, and the State Board annually shall provide to all local boards the names of those individuals. If a local board hires one of these individuals, within 60 days the superintendent or the superintendent's designee shall observe the employee, develop a mandatory improvement plan to assist the employee, and submit the plan to the State Board. The State Board shall review the mandatory improvement plan and may provide comments and suggestions to the superintendent. If on the next evaluation the employee receives a rating on any standard that was identified as an area of concern on the mandatory improvement plan that is again below proficient or otherwise represents unsatisfactory or below standard performance, the local board shall notify the State Board and the State Board shall initiate a proceeding to revoke the employee's license under G.S. 115C-296(d). If on this next evaluation the employee receives at least a proficient rating on all of the performance standards that were identified as areas of concern on the mandatory improvement plan, the local board shall notify the State Board that the employee is in good standing and the State Board shall not continue to provide the individual's name to local boards under this subsection unless the employee is ~~a teacher with career status and is subsequently dismissed under G.S. 115C-325 except for a reduction in force, or the employee is a teacher on contract~~ subsequently dismissed under G.S. 115C-325.4.

…."

SECTION 9.7.(t) G.S. 115C-333.1, as amended by subsection (j) of this section, reads as rewritten:

"§ **115C-333.1. Evaluation of teachers in schools not identified as low-performing; mandatory improvement plans; State Board notification upon dismissal of teachers.**

(a) Annual Evaluations. – All teachers who are assigned to schools that are not designated as low-performing and who have not been employed for at least three consecutive years shall be observed at least three times annually by the principal or the principal's designee and at least once annually by a teacher and shall be evaluated at least once annually by a principal. All teachers ~~with career status or on a four-year contract~~<u>who have been employed for three or more years</u> who are assigned to schools that are not designated as low-performing shall be evaluated annually unless a local board adopts rules that allow teachers ~~with career status or on a four-year contract~~<u>employed for three or more years</u> to be evaluated more or less frequently, provided that such rules are not inconsistent with State or federal requirements.

Local boards also may adopt rules requiring the annual evaluation of nonlicensed employees. A local board shall use the performance standards and criteria adopted by the State Board and may adopt additional evaluation criteria and standards. All other provisions of this section shall apply if a local board uses an evaluation other than one adopted by the State Board.

…

(d) Reassessment of the Teacher. – Upon completion of a mandatory improvement plan under subsection (b) of this section, the principal shall assess the performance of the teacher a second time. The principal shall also review and consider any report provided by the qualified observer under subsection (c) of this section if one has been submitted before the end of the mandatory improvement plan period. If, after the second assessment of the teacher and consideration of any report from the qualified observer, the superintendent or superintendent's designee determines that the teacher has failed to become proficient in any of the performance standards identified as deficient in the mandatory improvement plan or demonstrate sufficient improvement toward such standards, the superintendent may recommend that ~~a teacher with career status be dismissed or demoted under G.S. 115C-325, or if the teacher is on contract that~~ the teacher's contract not be ~~renewed~~ renewed, or if the teacher has engaged in inappropriate conduct or performed inadequately to such a degree that such conduct or performance causes substantial harm to the educational environment, that the teacher be immediately dismissed or demoted under G.S. 115C-325.4. The results of the second assessment produced pursuant to the terms of this subsection shall constitute substantial evidence of the teacher's inadequate performance.

(e) Dismissal Proceedings Without a Mandatory Improvement Plan. – The absence of a mandatory improvement plan as described in this section shall not prohibit a superintendent from initiating a dismissal proceeding against a teacher under the provisions of ~~G.S. 115C-325 or~~ G.S. 115C-325.4. However, the superintendent shall not be entitled to the substantial evidence provision in subsection (d) of this section if such mandatory improvement plan is not utilized.

(f) State Board Notification. – If a local board dismisses a teacher~~with career status for any reason except a reduction in force under G.S. 115C-325(e)(1)l., or dismisses a teacher on contract~~ for cause or elects to not renew a teacher's contract as a result of a superintendent's recommendation under subsection (d) of this section, it shall notify the State Board of the action, and the State Board annually shall provide to all local boards the names of those teachers. If a local board hires one of these teachers, within 60 days the superintendent or the superintendent's designee shall observe the teacher, develop a mandatory improvement plan to assist the teacher, and submit the plan to the State Board. The State Board shall review the mandatory improvement plan and may provide comments and suggestions to the superintendent. If on the next evaluation the teacher receives a rating on any standard that was an area of concern on the mandatory improvement plan that is again below proficient or a rating that otherwise represents unsatisfactory or below standard performance, the local board shall notify the State Board, and the State Board shall initiate a proceeding to revoke the teacher's license under G.S. 115C-296(d). If on the next evaluation the teacher receives at least a proficient rating on all of the overall performance standards that were areas of concern on the mandatory improvement plan, the local board shall notify the State Board that the teacher is in good standing, and the State Board shall not continue to provide the teacher's name to local boards under this subsection unless the teacher has career status and is subsequently dismissed ~~under G.S. 115C-325 except for a reduction in force or is a teacher on contract who is subsequently dismissed~~ under G.S. 115C-325.4. If, however, on this next evaluation the teacher receives a developing rating on any standards that were areas of concern on the mandatory improvement plan, ~~the teacher shall have one more year to bring the rating to proficient~~ if the local board elects to renew the teacher's contract. If by the end of this second year the teacher is not proficient in all standards that were areas of concern on the mandatory improvement plan, the local board shall notify the State Board, and the State Board shall initiate a proceeding to revoke the teacher's license under G.S. 115C-296(d).

…."

SECTION 9.7.(u) Article 23 of Chapter 115C of the General Statutes is amended by adding a new section to read:

"§ **115C-344. Employment benefits for exchange teachers.**

An exchange teacher is a nonimmigrant alien teacher participating in an exchange visitor program designated by the United States Department of State pursuant to 22 C.F.R. Part 62 or by the United States Department of Homeland Security pursuant to 8 C.F.R. Part 214.2(q). For purposes of determining eligibility to receive employment benefits under this Chapter, including personal leave, annual vacation leave, and sick leave, an exchange teacher shall be considered a permanent teacher if employed with the expectation of at least six full consecutive monthly pay periods of employment and if employed at least 20 hours per week. An exchange teacher is not a teacher for purposes of the Teachers' and State Employees' Retirement System of North Carolina as provided in G.S. 135-1(25)."

SECTION 9.7.(v) G.S. 115C-404(b), as amended by subsection (n) of this section, reads as rewritten:

"(b) Documents received under this section shall be used only to protect the safety of or to improve the education opportunities for the student or others. Information gained in accordance with G.S. 7B-3100 shall not be the sole basis for a decision to suspend or expel a student. Upon receipt of each document, the principal shall share the document with those individuals who have (i) direct guidance, teaching, or supervisory responsibility for the student, and (ii) a specific need to know in order to protect the safety of the student or others. Those individuals shall indicate in writing that they have read the document and that they agree to maintain its confidentiality. Failure to maintain the confidentiality of these documents as required by this section is grounds for the dismissal of an employee who is not employed on ~~contract,~~contract and grounds for dismissal of an employee on contract in accordance with G.S. 115C-325.4(a)(9).~~G.S. 115C-325.4(a)(9), and grounds for dismissal of an employee who is a career teacher in accordance with G.S. 115C-325(e)(1)i.~~"

SECTION 9.7.(w) G.S. 143B-146.7(b), as amended by subsection (m) of this section, reads as rewritten:

"(b) At any time after the State Board identifies a school as low-performing under this Part, the State Board shall proceed under ~~G.S. 115C-325(p1) or~~ G.S. 115C-325.11 for the dismissal of licensed instructional personnel assigned to that school."

SECTION 9.7.(x) G.S. 143B-146.8, as amended by subsection (n) of this section, reads as rewritten:

"§ **143B-146.8. Evaluation of licensed personnel and principals; action plans; State Board notification.**

(a) Annual Evaluations; Low-Performing Schools. – The principal shall evaluate at least once each year all licensed personnel assigned to a participating school that has been identified as low-performing but has not received an assistance team. The evaluation shall occur early enough during the school year to provide adequate time for the development and implementation of an action plan if one is recommended under subsection (b) of this section. If the employee is a ~~teacher as defined under G.S. 115C-325(a)(6) with career status or a~~ teacher as defined in ~~G.S. 115C-325.1(6) on contract,~~G.S. 115C-325.1(6), either the principal or an assessment team assigned under G.S. 143B-146.9 shall conduct the evaluation. If the employee is a school administrator as defined under G.S. 115C-287.1(a)(3), the Superintendent shall conduct the evaluation.

Notwithstanding this subsection or any other law, the principal shall observe at least three times annually, a teacher shall observe at least once annually, and the principal shall evaluate at least once annually, all teachers who have been employed for less than three consecutive years. All other employees who have been employed for three or more years and are defined as teachers under ~~G.S. 115C-325(a)(6) with career status or teachers as defined in G.S. 115C-325.1(5) on a four-year contract~~ G.S. 115C-325.1(6) who are assigned to participating schools that are not designated as low-performing shall be evaluated annually

unless the State Board adopts rules that allow specified categories of teachers with ~~career status or on four year contracts~~three or more years employment to be evaluated more or less frequently. The State Board also may adopt rules requiring the annual evaluation of nonlicensed personnel. This section shall not be construed to limit the duties and authority of an assistance team assigned to a low-performing school.

(b) Action Plans. – If a licensed employee in a participating school that has been identified as low-performing receives an unsatisfactory or below standard rating on any function of the evaluation that is related to the employee's instructional duties, the individual or team that conducted the evaluation shall recommend to the principal that: (i) the employee receive an action plan designed to improve the employee's performance; or (ii) ~~the principal recommend that the employee who is a career teacher be dismissed or demoted as provided in G.S. 115C-325 or the employee who is a teacher on contract~~the employee's contract not be recommended for renewal; or (iii) if the employee who is a teacher on contract engages in inappropriate conduct or performs inadequately to such a degree that such conduct or performance causes substantial harm to the educational environment that a proceeding for immediate dismissal or demotion under G.S. 115C-325.4 be instituted. The principal shall determine whether to develop an action plan, to not recommend renewal of the employee's contract, or to recommend a dismissal proceeding. The person who evaluated the employee or the employee's supervisor shall develop the action plan unless an assistance team or assessment team conducted the evaluation. If an assistance team or assessment team conducted the evaluation, that team shall develop the action plan in collaboration with the employee's supervisor. Action plans shall be designed to be completed within 90 instructional days or before the beginning of the next school year. The State Board shall develop guidelines that include strategies to assist in evaluating licensed personnel and developing effective action plans within the time allotted under this section. The State Board may adopt policies for the development and implementation of action plans or professional development plans for personnel who do not require action plans under this section.

(c) Reevaluation. – Upon completion of an action plan under subsection (b) of this section, the principal or the assessment team shall evaluate the employee a second time. If on the second evaluation the employee receives one unsatisfactory or more than one below standard rating on any function that is related to the employee's instructional duties, the principal shall recommend that the ~~employee with career status be dismissed or demoted under G.S. 115C-325, or that an employee on~~employee's contract not be ~~renewed~~ renewed, or if the employee engages in inappropriate conduct or performs inadequately to such a degree that such conduct or performance causes substantial harm to the educational environment, that the employee be dismissed or demoted under G.S. 115C-325.4. The results of the second evaluation shall constitute substantial evidence of the employee's inadequate performance.

…."

SECTION 9.7.(y) Subsection (u) of this section becomes effective August 1, 2013. Subsections (a) through (n) of this section become effective July 1, 2014. Subsections (o) through (t) and (v) through (x) become effective June 30, 2018.

PART X. COMMUNITY COLLEGES

REORGANIZATION OF THE COMMUNITY COLLEGES SYSTEM OFFICE

SECTION 10.1.(a) Notwithstanding any other provision of law, and consistent with the authority established in G.S. 115D-3, the President of the North Carolina Community College System may reorganize the System Office in accordance with recommendations and plans submitted to and approved by the State Board of Community Colleges.

SECTION 10.1.(b) This section expires June 30, 2014.

CARRYFORWARD OF COLLEGE INFORMATION SYSTEM FUNDS

SECTION 10.2. Of the funds appropriated to the Community Colleges System Office for the 2013-2015 fiscal biennium for the College Information System, up to one million two hundred fifty thousand dollars ($1,250,000) shall not revert at the end of each fiscal year but shall remain available until expended. These funds may be used only to purchase periodic system upgrades.

BASIC SKILLS PLUS

SECTION 10.3.(a) Notwithstanding any other provision of law, the State Board of Community Colleges may authorize a local community college to use up to twenty percent (20%) of the State Literacy Funds allocated to it to provide employability skills, job-specific occupational and technical skills, and developmental education instruction to students concurrently enrolled in a community college course leading to a high school diploma or equivalent certificate.

SECTION 10.3.(b) Notwithstanding any other provision of law, if a community college is authorized by the State Board to provide employability skills, job-specific occupational or technical skills, or developmental education instruction to students concurrently enrolled in a community college course leading to a high school diploma or equivalent certificate, the college may waive the tuition and registration fees associated with this instruction.

ENROLLMENT FUNDING

SECTION 10.4.(a) Beginning with the 2013-2015 fiscal biennium, community colleges shall receive funding based on the number of full-time equivalent (FTE) students enrolled in curriculum, continuing education, and Basic Skills courses, by tiered funding level. Community colleges shall calculate this enrollment as the higher of the current year's total enrollment or the average enrollment of the last two academic years.

The State Board of Community Colleges shall report to the Joint Legislative Education Oversight Committee by February 1, 2014, on the use of nonrecurring funds appropriated to it to phase in this new enrollment funding model.

SECTION 10.4.(b) G.S. 115D-5 is amended by adding a new subsection to read:

"(v) Community colleges may teach technical education, health care, developmental education, and STEM-related courses at any time during the year, including the summer term. Student membership hours from these courses shall be counted when computing full-time equivalent students (FTE) for use in budget funding formulas at the State level."

SECTION 10.4.(c) The State Board of Community Colleges shall report to the Joint Legislative Education Oversight Committee by October 1, 2014, on FTE for the 2014 summer term.

SECTION 10.4.(d) Subsection (b) of this section is effective when it becomes law and applies beginning with the summer 2014 term.

TIERED ENROLLMENT FUNDING

SECTION 10.4A.(a) It is the intent of the General Assembly that, beginning with the 2014-2015 fiscal year, the State Board of Community Colleges shall implement a fourth tier in the Tiered Funding Formula adopted by the State Board to allocate funds to community colleges based on the number of full-time equivalent (FTE) students enrolled in curriculum, continuing education, and Basic Skills courses in order to fund curriculum programs leading to immediate employment at the highest available funding level.

SECTION 10.4A.(b) By March 15, 2014, the State Board of Community Colleges shall report to the House Appropriations Committee, the Senate Appropriations/Base Budget Committee, the House Appropriations Subcommittee on Education, and the Senate Appropriations Committee on Education/Higher Education on a plan for implementation of the additional funding level for curriculum programs leading to immediate employment and the

feasibility of beginning implementation of an additional funding level for these programs in the 2014-2015 fiscal year. The State Board shall also include in its report the specific curriculum programs that would be eligible for the additional funding level, the types of immediate employment available for graduates of these programs, and the funding necessary or recommended to adequately implement the programs.

PERFORMANCE FUNDING

SECTION 10.5.(a) G.S. 115D-31.3 reads as rewritten:

"§ **115D-31.3. Institutional performance accountability.**

(a) ~~Creation~~Implementation of Accountability Measures and Performance Standards. – The State Board of Community Colleges shall ~~create new~~ adopt and implement a system of accountability measures and performance standards for the Community College System. ~~The~~At least once every three years, the State Board of Community Colleges shall ~~review~~ review, and revise if necessary, ~~annually~~ the accountability measures and performance standards to ensure that they are appropriate for use in recognition of successful institutional performance. If the State Board determines that accountability measures and performance standards must be revised following a review required by this subsection, the State Board shall report to the Joint Legislative Education Oversight Committee prior to the implementation of any proposed revisions.

(b) through (d) Repealed by Session Laws 2000-67, s. 9.7, effective July 1, 2000.

(e) Mandatory Performance Measures. – The State Board of Community Colleges shall evaluate each college on the following eight performance measures:

(1) Progress of basic skills students.

(2) ~~Passing rate for~~Attainment of General Educational Development (GED) ~~diploma examinations.~~diplomas by students.

(3) Performance of students who transfer to a four-year institution.

(4) Success ~~rates~~ of developmental students in subsequent college-level English courses.

(5) Success ~~rates~~ of developmental students in subsequent college-level math courses.

(5a) Progress of first-year curriculum students.

(6) Repealed by Session Laws 2012-142, s. 8.5, effective July 1, 2012.

(7) Curriculum student retention and graduation.

(8) Repealed by Session Laws 2012-142, s. 8.5, effective July 1, 2012.

(9) ~~Passing rate for~~ Attainment of licensure and ~~certification examinations.~~certifications by students.

The State Board may also evaluate each college on additional performance measures.

(f) Publication of Performance Ratings. – Each college shall publish its performance on the eight measures set out in subsection (e) of this section (i) annually in its electronic catalog or on the Internet and (ii) in its printed catalog each time the catalog is reprinted.

The Community Colleges System Office shall publish the performance of all colleges on all eight measures.

(g) Recognition ~~for~~ of Successful Institutional Performance. – For the purpose of recognition ~~for~~ of successful institutional performance, the State Board of Community Colleges shall evaluate each college on the eight performance ~~measures.~~ measures set out in subsection (e) of this section. ~~For each of these eight performance measures on which a college performs successfully, the college may retain and carry forward into the next fiscal year one-fourth of one percent (1/4 of 1%) of its final fiscal year General Fund appropriations.~~Subject to the availability of funds, the State Board may allocate funds among colleges based on the evaluation of each institution's performance, including at least the following components:

(1) Program quality evaluated by determining a college's rate of student success on each measure as compared to a systemwide performance baseline and goal.

(2) Program impact on student outcomes evaluated by the number of students succeeding on each measure.

(g1) Carryforward of Funds Allocated Based on Performance. – A college that receives funds under subsection (g) of this section may retain and carry forward an amount up to or equal to its performance-based funding allocation for that year into the next fiscal year.

~~(h) Recognition for Exceptional Institutional Performance. – Funds not allocated to colleges in accordance with subsection (g) of this section shall be used to reward exceptional institutional performance. A college is deemed to have achieved exceptional institutional performance if it succeeds on all eight performance measures. After all State aid budget obligations have been met, the State Board of Community Colleges shall distribute the remainder of these funds to colleges that achieve exceptional institutional performance status based on the pro rata share of total full time equivalent (FTE) students served at each college. The State Board may withhold the portion of funds for which a college may qualify as an exceptional institution while the college is under investigation by a State or federal agency or if its performance does not meet the standards established by the Southern Association of Colleges and Schools, the State Auditor's Office, or the State Board of Community Colleges. The State Board may release the funds at such time as the investigations are complete and the issues are resolved.~~

~~(i) Permissible Uses of Funds. – Funds retained by colleges or distributed to colleges pursuant to this section shall be used for the purchase of equipment, initial program start-up costs including faculty salaries for the first year of a program, and one-time faculty and staff bonuses. These funds shall not be used for continuing salary increases or for other obligations beyond the fiscal year into which they were carried forward. These funds shall be encumbered within 12 months of the fiscal year into which they were carried forward.~~

~~(j) Use of funds in low-wealth counties. – Funds retained by colleges or distributed to colleges pursuant to this section may be used to supplement local funding for maintenance of plant if the college does not receive maintenance of plant funds pursuant to G.S. 115D-31.2, and if the county in which the main campus of the community college is located meets all of the following:~~

~~(1) Is designated as a Tier 1 county in accordance with G.S. 143B-437.08.~~

~~(2) Had an unemployment rate of at least two percent (2%) above the State average or greater than seven percent (7%), whichever is higher, in the prior calendar year.~~

~~(3) Is a county whose wealth, as calculated under the formula for distributing supplemental funding for schools in low-wealth counties, is eighty percent (80%) or less of the State average.~~

~~Funds may be used for this purpose only after all local funds appropriated for maintenance of plant have been expended.~~"

SECTION 10.5.(b) Section 9.2(b) of S.L. 1999-237 is repealed.

SECTION 10.5.(c) Section 8.6 of S.L. 2012-142 is repealed.

SECTION 10.5.(d) Effective only for the 2011-2012 reporting year, and notwithstanding G.S. 115D-31.3, the State Board of Community Colleges shall not require a college to report its performance on the progress of basic skills students as part of the mandatory performance standards prescribed by G.S. 115D-31.3(e), as amended by this section. In distributing performance-based funding allocations for the 2013-2014 fiscal year, notwithstanding G.S. 115D-31.3, the State Board of Community Colleges shall not consider the progress of basic skills students or the attainment of GED diplomas for the purpose of recognizing successful institutional performance. However, the State Board of Community Colleges shall distribute a portion of the Basic Skills block grant appropriated under this act for the 2013-2014 fiscal year based on the number of GED diplomas awarded by each college.

SECTION 10.5.(e) Beginning with the 2012-2013 reporting year, the State Board of Community Colleges shall require a college to report its performance on all eight of the

mandatory performance standards prescribed by G.S. 115D-31.3(e), as amended by this section.

REPEAL OF SENIOR CITIZEN TUITION WAIVER

SECTION 10.6. G.S. 115D-5(b)(11) is repealed.

STUDY OF THE APPROVAL PROCESS FOR MULTICAMPUS CENTERS

SECTION 10.7. The State Board of Community Colleges shall develop a process for approval of community college multicampus centers. The Board shall report to the Joint Legislative Education Oversight Committee by January 1, 2014, on its plan for a multicampus approval process and any statutory changes necessary to implement the plan.

COOPERATION BY THE MANUFACTURING SOLUTIONS CENTER AND THE TEXTILE TECHNOLOGY CENTER

SECTION 10.8.(a) The General Assembly finds that the missions of both the Manufacturing Solutions Center at Catawba Valley Community College and the Textile Technology Center at Gaston College are to help North Carolina manufacturers create and maintain jobs and increase sales.

The Manufacturing Solutions Center accomplishes this mission by (i) enhancing and improving products through research and development; (ii) creating prototypes for new products; (iii) analyzing new materials to enhance structure; (iv) testing products for reliability and quality; (v) training personnel in Lean Manufacturing and Supply Chain strategies; (vi) providing a forum for rollout of new technologies; (vii) providing hands-on assistance to companies in the areas of international sales and government procurement; and (viii) advocating for industry.

The Textile Technology Center accomplishes this mission by (i) developing a world-class workforce for the textile industry in North Carolina; (ii) identifying and solving problems confronting the textile industry; and (iii) serving as a statewide center of excellence that serves all components of the textile industry.

SECTION 10.8.(b) The General Assembly further finds that the strategies of the Manufacturing Solutions Center and the Textile Technology Center are complementary and that cooperation by the Centers is in the best interest of the State; therefore, the General Assembly directs the Centers to work cooperatively whenever possible to maximize the State's ability to help North Carolina manufacturers create and maintain jobs and increase sales.

EXPAND INDUSTRIAL AND ENGINEERING TECHNOLOGIES EDUCATION TO FRESHMAN AND SOPHOMORE HIGH SCHOOL STUDENTS

SECTION 10.9.(a) G.S. 115D-20(4)a.2. reads as rewritten:

"§ **115D-20. Powers and duties of trustees.**

The trustees of each institution shall constitute the local administrative board of such institution, with such powers and duties as are provided in this Chapter and as are delegated to it by the State Board of Community Colleges. The powers and duties of trustees shall include the following:

...

(4) To apply the standards and requirements for admission and graduation of students and other standards established by the State Board of Community Colleges. Notwithstanding any law or administrative rule to the contrary, local community colleges are permitted to offer the following programs:

a. Subject to the approval of the State Board of Community Colleges, local community colleges may collaborate with local school administrative units to offer courses through the following programs:

...

2. Academic transition pathways for qualified junior and senior high school students that lead to a career technical education certificate or ~~diploma.~~diploma and academic transition pathways for qualified freshmen and sophomore high school students that lead to a career technical education certificate or diploma in industrial and engineering technologies."

SECTION 10.9.(b) The Community Colleges System Office shall report to the Joint Legislative Education Oversight Committee by October 1, 2014, and October 1, 2015, on freshmen and sophomore students served under G.S. 115D-20(4)a.2., as amended by subsection (a) of this section. The report shall include the number of and budget FTE for freshmen students and the number of and budget FTE for sophomore students.

CLARIFY EMPLOYEE ACADEMIC ASSISTANCE

SECTION 10.12. G.S. 115D-5(b1) reads as rewritten:

"(b1) The State Board of Community Colleges shall not waive tuition and registration fees for community college faculty or staff members. Community colleges may, however, use State or local funds to pay tuition and registration fees for one course per semester for full-time community college faculty or staff members employed for a nine-, ten-, eleven-, or twelve-month term. Community colleges may also use State and local funds to pay tuition and registration fees for professional development courses and for other courses consistent with the academic assistance program authorized by the State Personnel Commission."

REVISE TARGETED ASSISTANCE CRITERIA

SECTION 10.13. G.S. 115D-40.1(b) reads as rewritten:

"(b) Targeted Assistance. – Notwithstanding subsection (a) of this section, the State Board may allocate ~~no more than~~ up to ten percent (10%) of the funds appropriated for Financial Assistance for Community College Students ~~to:~~to the following students:

(1) Students who ~~do not qualify for need-based assistance but who~~ enroll in low-enrollment programs that prepare students for high-demand ~~occupations, and~~occupations.

(2) Students with disabilities who have been referred by the Department of Health and Human Services, Division of Vocational ~~Rehabilitation~~Rehabilitation, and are enrolled in a community college."

REPURPOSE OF FUNDS

SECTION 10.14.(a) Of the funds appropriated to Forsyth Technical Community College in fiscal year 2005-2006 for the construction of the Center for Emerging Technologies at Forsyth Technical Community College, the sum of three million dollars ($3,000,000) for fiscal year 2013-2014 shall be transferred by the Office of State Budget and Management to Budget Code 26800 to be administered by the North Carolina Community Colleges System Office. The Community Colleges System Office shall allocate up to three hundred thousand dollars ($300,000) of these funds each fiscal year to Forsyth Technical Community College for the operating costs and lease expenses for the community college's biotechnology, nanotechnology, design, and advanced information technology programs; Small Business Center; and Corporate and Industrial Training programs. The Community Colleges System Office shall continue to allocate these funds to Forsyth Technical Community College for this purpose until those funds are expended. No additional State funds shall be made available to Forsyth Technical Community College to be used for the purposes described in this section.

SECTION 10.14.(b) The Office of State Budget and Management shall transfer all funds in Budget Codes 40520 and 40620 that are unencumbered as of July 1, 2013, except those funds to be transferred in accordance with subsection (a) of this section, to Budget Code 16800. Of the funds transferred to Budget Code 16800 under this subsection, the State Board of

Community Colleges shall allocate those funds to the community colleges to which the funds were appropriated. These funds shall be used for community college equipment.

CLARIFY COMMUNITY COLLEGE AUDITS

SECTION 10.15.(a) Effective July 1, 2015, G.S. 115D-5(m) is repealed.

SECTION 10.15.(b) G.S. 115D-58.16 reads as rewritten:

"§ **115D-58.16. Audits.**

(a) Each community college shall be ~~audited~~subject to a financial audit a minimum of once every two years. Community colleges may use State funds to contract with the State Auditor or with a certified public accountant to perform the audits. The colleges shall submit the results of the audits to the State Board of Community Colleges.

The State Board of Community Colleges shall ensure that all colleges are audited in accordance with this section.

(b) Notwithstanding the provisions of Chapter 143D of the General Statutes, a community college shall not be subject to the EAGLE program administered by the Office of the State Controller unless (i) there is a finding of internal control problems in the most recent financial audit of the college or (ii) the State Board of Community Colleges determines that a college should be subject to the program."

SECTION 10.15.(c) A study of the program audit function under G.S. 115D-5(m) shall be conducted by a committee, located administratively in the Community Colleges System Office, composed of the following 12 members:

(1) The Community Colleges System Office Chief Financial Officer.

(2) Three State Board of Community College members appointed by the chair of the State Board of Community Colleges.

(3) Three college presidents appointed by the North Carolina Association of Community College Presidents.

(4) Three college board of trustee members appointed by the chair of the North Carolina Association of Community College Trustees.

(5) The State Chief Information Officer or designee.

(6) The State Auditor or designee shall serve as a nonvoting member.

The Community Colleges System Office Chief Financial Officer shall chair the committee. The committee shall meet upon the call of the chair. A quorum of the committee shall be a majority of the members.

The committee shall determine how program audit procedures may be streamlined to minimize the administrative burden on the institutions being audited and how funding mechanisms may be changed to reduce reliance on contact hours. The committee shall seek input from community college staff members who are responsible for assistance with the program audits to study the problems associated with the program audit function and potential resolutions for those issues. The committee shall report the results of its study and recommendations to the Joint Legislative Education Oversight Committee by January 1, 2015.

NC BACK-TO-WORK FUNDS

SECTION 10.16.(a) Of the funds appropriated in this act to the Community Colleges System Office for the 2013-2014 fiscal year, the sum of four million eight hundred eight thousand dollars ($4,808,000) shall be used for the North Carolina Back-to-Work Program, a retraining program focused on unemployed and underemployed North Carolinians, military veterans, and North Carolina National Guard members. The program shall provide students with occupational skills, employability skills, including a Career Readiness Certificate, and opportunities to earn third-party, industry recognized credentials. Funds may only be allocated to community colleges whose training plans include support for one or more of the following: (i) employers who have committed to assist colleges with the design and implementation of their training plans and to interview program completers for available jobs; (ii) companies with registered apprenticeship programs with the North Carolina Department of

Labor; (iii) coordinated projects among two or more colleges that focus on serving the needs of an industry cluster; or (iv) programs developed in collaboration with the North Carolina National Guard or veterans' organizations. Funds may only be used for the following activities: student instruction, student support and coaching, and targeted financial assistance for students, including assistance with tuition, registration fees, books, and certification costs.

SECTION 10.16.(b) Funds appropriated for the North Carolina Back-to-Work Program for the 2012-2013 fiscal year shall not revert at the end of the fiscal year but shall remain available for the Program.

SECTION 10.16.(c) Subsection (b) of this section becomes effective June 30, 2013.

PART XI. UNIVERSITIES

USE OF ESCHEAT FUND FOR NEED-BASED FINANCIAL AID PROGRAMS/STUDY SCHOLARSHIPS FOR CHILDREN OF WAR VETERANS PROGRAM

SECTION 11.1.(a) There is appropriated from the Escheat Fund income to the Board of Governors of The University of North Carolina the sum of sixty-four million two hundred eighty-seven thousand two hundred forty-two dollars ($64,287,242) for the 2013-2014 fiscal year and the sum of thirty-seven million two hundred eighty-seven thousand two hundred forty-two dollars ($37,287,242) for the 2014-2015 fiscal year to be used for The University of North Carolina Need-Based Financial Aid Program.

SECTION 11.1.(b) There is appropriated from the Escheat Fund income to the State Board of Community Colleges the sum of fifteen million two hundred forty-six thousand three hundred seventy-three dollars ($15,246,373) for the 2013-2014 fiscal year and the sum of sixteen million three hundred thirty-five thousand dollars ($16,335,000) for the 2014-2015 fiscal year to be used for community college grants.

SECTION 11.1.(c) There is appropriated from the Escheat Fund income to the Department of Administration, Division of Veterans Affairs, the sum of seven million six hundred nine thousand five hundred ninety-one dollars ($7,609,591) for the 2013-2014 fiscal year and the sum of six million five hundred twenty thousand nine hundred sixty-four dollars ($6,520,964) for the 2014-2015 fiscal year to be used for need-based student financial aid.

SECTION 11.1.(d) The funds appropriated by this section shall be allocated by the State Education Assistance Authority (SEAA) for need-based student financial aid in accordance with G.S. 116B-7. If the interest income generated from the Escheat Fund is less than the amounts referenced in this section, the difference may be taken from the Escheat Fund principal to reach the appropriations referenced in this section; however, under no circumstances shall the Escheat Fund principal be reduced below the sum required in G.S. 116B-6(f). If any funds appropriated under this section remain uncommitted for need-based financial aid as of the end of a fiscal year, the funds shall be returned to the Escheat Fund, but only to the extent the funds exceed the amount of the Escheat Fund income for that fiscal year.

SECTION 11.1.(e) The State Education Assistance Authority shall perform all of the administrative functions necessary to implement this program of financial aid. The SEAA shall conduct periodic evaluations of expenditures of the scholarship programs to determine if allocations are utilized to ensure access to institutions of higher learning and to meet the goals of the respective programs. SEAA may make recommendations for redistribution of funds to The University of North Carolina, Department of Administration, and the President of the Community College System regarding their respective scholarship programs, who then may authorize redistribution of unutilized funds for a particular fiscal year.

SECTION 11.1.(f) G.S. 116B-7(a) reads as rewritten:

"(a) The income derived from the investment or deposit of the Escheat Fund shall be distributed annually on or before ~~July 15~~ August 15 to the State Education Assistance Authority

for grants and loans to aid worthy and needy students who are residents of this State and are enrolled in public institutions of higher education in this State. Such grants and loans shall be made upon terms, consistent with the provisions of this Chapter, pursuant to which the State Education Assistance Authority makes grants and loans to other students under G.S. 116-201 to 116-209.23, Article 23 of Chapter 116 of the General Statutes, policies of the Board of Governors of The University of North Carolina regarding need-based grants for students of The University of North Carolina, and policies of the State Board of Community Colleges regarding need-based grants for students of the community colleges."

SECTION 11.1.(g) The Joint Legislative Education Oversight Committee shall study the Scholarships for Children of War Veterans Program in the Department of Administration and no later than March 1, 2014, shall report its findings to the Chairs of the House of Representatives Appropriations Subcommittee on General Government, to the Chairs of the Senate Appropriations Committee on General Government and Information Technology, and to the General Assembly. The report shall include findings and recommendations regarding all of the following:

(1) Which State agency is the appropriate entity to administer the program.

(2) Ways in which the Program could be redesigned so as to increase cost predictability. This part of the report shall specifically include recommendations regarding the desirability of imposing time limits and scholarship award maximums on scholarships made available under the Program.

(3) Methods of coordinating with other scholarship programs so as to ensure that non-State resources are maximized before Program resources are used.

(4) Feasibility of setting a lower tuition rate for recipients of the scholarships who attend a constituent institution of The University of North Carolina or a community college in the North Carolina Community College System.

UNC NEED-BASED FINANCIAL AID FORWARD FUNDING RESERVE/PROVIDE FUNDS FOR UNC NEED-BASED GRANTS

SECTION 11.2.(a) It is the intent of the General Assembly to move the UNC Need-Based Financial Aid Program grant funding into a reserve in the North Carolina Student Loan Fund designated for that purpose so that funds appropriated for grants in a fiscal year are awarded to students for the following academic year. This change will provide additional program stability.

SECTION 11.2.(b) The UNC Need-Based Financial Aid Forward Funding Reserve (Reserve) is established as a reserve in the North Carolina Student Loan Fund. The funds in the UNC Need-Based Financial Aid Forward Funding Reserve shall be held in reserve for the 2013-2014 fiscal year and for the 2014-2015 fiscal year. Beginning with the 2015-2016 fiscal year, the funds in the Reserve shall be used to fund grants from the UNC Need-Based Financial Aid Program for the 2015-2016 program year and each subsequent program year.

SECTION 11.2.(c) Section 6.11(e) of this act appropriates funds from the Education Lottery Fund in the amount of thirty-two million five hundred thirty thousand three hundred fifty-nine dollars ($32,530,359) for the 2013-2014 fiscal year and in the amount of nineteen million one hundred thirty thousand seven hundred twenty-eight dollars ($19,130,728) for the 2014-2015 fiscal year to the Reserve. The following funds shall also be transferred to the Reserve:

(1) The sum of fifty-nine million eight hundred fifty-nine thousand five hundred sixty-two dollars ($59,859,562) shall be transferred from the North Carolina Student Loan Fund to the Reserve.

(2) Of the funds appropriated by this act to the Board of Governors of The University of North Carolina for the 2013-2015 fiscal biennium, the sum of three million four hundred seventy-five thousand five hundred thirty-eight dollars ($3,475,538) for the 2013-2014 fiscal year and the sum of three

million four hundred fifty-four thousand six hundred fifty-six dollars ($3,454,656) for the 2014-2015 fiscal year shall be transferred to the Reserve.

(3) Notwithstanding G.S. 115C-296.2, the sum of three million five hundred twenty-five thousand dollars ($3,525,000) shall be transferred from the fund balance of the National Board Certification Loan program to the Reserve.

(4) The sum of five hundred thousand dollars ($500,000) shall be transferred from the John B. McLendon Scholarship Fund established in G.S. 116-209.40 to the Reserve.

SECTION 11.2.(d) G.S. 116-209.40 is repealed.

COORDINATED RESIDENCY DETERMINATION PROCESS

SECTION 11.3.(a) The General Assembly finds that it is in the best interest of the State for the University System, the Community College System, and the State Education Assistance Authority to apply the criteria in G.S. 116-143.1 to determine residency for tuition purposes in a coordinated and similar manner. Therefore, The University of North Carolina, the North Carolina Community College System, and the State Education Assistance Authority shall jointly develop and implement a coordinated and centralized process to be used by those three entities when determining the residency for tuition purposes of students who apply for admission and are admitted to a constituent institution of The University of North Carolina or a community college under the jurisdiction of the State Board of Community Colleges and for private college students receiving State-funded financial aid. In developing a centralized residency determination process, The University of North Carolina General Administration, the North Carolina Community College System, and the State Education Assistance Authority shall consult with the North Carolina Independent Colleges and Universities.

SECTION 11.3.(b) No later than January 1, 2014, The University of North Carolina, the North Carolina Community College System, and the State Education Assistance Authority shall report to the Joint Legislative Education Oversight Committee regarding the progress in developing and implementing a coordinated and centralized process and any necessary statutory changes.

UNC MANAGEMENT FLEXIBILITY REDUCTION

SECTION 11.5.(a) The management flexibility reduction for The University of North Carolina shall not be allocated by the Board of Governors to the constituent institutions and affiliated entities using an across-the-board method but shall be done in a manner that recognizes the importance of the academic missions and differences among The University of North Carolina entities.

Before taking reductions in instructional budgets, the Board of Governors and the campuses of the constituent institutions shall consider all of the following:

(1) Reducing State funding for centers and institutes, speaker series, and other nonacademic activities.

(2) Faculty workload adjustments.

(3) Restructuring of research activities.

(4) Implementing cost-saving span of control measures.

(5) Reducing the number of senior and middle management positions.

(6) Eliminating low-performing, redundant, or low-enrollment programs.

(7) Using alternative funding sources.

(8) Protecting direct classroom services.

The Board of Governors and the campuses of the constituent institutions also shall review the institutional trust funds and the special funds held by or on behalf of The University of North Carolina and its constituent institutions to determine whether there are monies available in those funds that can be used to assist with operating costs. In addition, the

campuses of the constituent institutions also shall require their faculty to have a teaching workload equal to the national average in their Carnegie classification.

SECTION 11.5.(b) In allocating the management flexibility reduction, no reduction in State funds shall be allocated in either fiscal year of the 2013-2015 biennium to any of the following:

(1) UNC Need-Based Financial Aid.

(2) North Carolina Need-Based Scholarship.

(3) Any special responsibility constituent institution which has been granted a basic type designation of "Special Focus Institution" under the Carnegie Classification of Institutions of Higher Education.

(4) Any special responsibility constituent institution which has been granted a basic type designation of "Baccalaureate Colleges–Arts & Sciences" under the Carnegie Classification of Institutions of Higher Education.

(5) Any constituent high school of The University of North Carolina.

SECTION 11.5.(c) The University of North Carolina shall report on the implementation of the management flexibility reduction in subsection (a) of this section to the Office of State Budget and Management and the Fiscal Research Division no later than October 1, 2013. This report shall identify both of the following by campus:

(1) The total number of positions eliminated by type (faculty/nonfaculty).

(2) The low-performing, redundant, and low-enrollment programs that were eliminated.

UNC BOARD OF GOVERNORS REPORT ON OVERHEAD RECEIPTS

SECTION 11.6.(a) G.S. 116-11 is amended by adding a new subdivision to read:

"(9a) The Board of Governors shall report to the Joint Legislative Education Oversight Committee and the Office of State Budget and Management by March 1 of each year regarding the sum of facilities and administrative fees and overhead receipts for The University of North Carolina that are collected and expended by each constituent institution. The report shall include all of the following information:

a. The collection of facilities and administrative fees and overhead receipts by grant or program.

b. The use of facilities and administrative fees and overhead receipts showing expenditures by grant or program.

c. The sum of facilities and administrative fees and overhead receipts collected or expended by each constituent institution for maintenance and operation of facilities that were constructed with or at any time operated by funds from the General Fund."

SECTION 11.6.(b) Section 31.14 of S.L. 2001-424 is repealed.

STUDENT CHARGES AT THE NORTH CAROLINA SCHOOL OF SCIENCE AND MATH

SECTION 11.7.(a) G.S. 116-40.22 reads as rewritten:

"§ **116-40.22. Management flexibility.**

…

(c) Tuition and Fees. – Notwithstanding any provision in Chapter 116 of the General Statutes to the contrary, in addition to any tuition and fees set by the Board of Governors pursuant to G.S. 116-11(7), the Board of Trustees of the institution may recommend to the Board of Governors tuition and fees for program-specific and institution-specific needs at that institution without regard to whether an emergency situation exists and not inconsistent with the actions of the General Assembly. Any tuition and fees set pursuant to this subsection are appropriated for use by the institution. Notwithstanding this subsection, neither the Board of Governors of The University of North Carolina nor its Board of Trustees shall impose any

tuition or mandatory fee at the North Carolina School of Science and Mathematics without the approval of the General ~~Assembly.~~Assembly, except as provided in subsection (f) of this section.

…

(f) The Board of Governors of The University of North Carolina may approve, upon the recommendation of the Board of Trustees of the North Carolina School of Science and Mathematics, the imposition of fees not inconsistent with actions of the General Assembly for distance education services provided by the North Carolina School of Science and Mathematics to nonresidents and for students participating in extracurricular enrichment programs sponsored by the School."

SECTION 11.7.(b) G.S. 116-143 reads as rewritten:

"§ **116-143. State-supported institutions of higher education required to charge tuition and fees.**

…

(b) In the event that said students are unable to pay the cost of tuition and required academic fees as the same may become due, in cash, the said several boards of trustees are hereby authorized and empowered, in their discretion, to accept the obligation of the student or students together with such collateral or security as they may deem necessary and proper, it being the purpose of this Article that all students in State institutions of higher learning shall be required to pay tuition, and that free tuition is hereby abolished. Notwithstanding this section, neither the Board of Governors of The University of North Carolina nor its Board of Trustees shall impose any tuition or mandatory fee at the North Carolina School of Science and Mathematics without the approval of the General ~~Assembly.~~Assembly, except as provided in subsection (e) of this section.

…

(e) The Board of Governors of The University of North Carolina may approve, upon the recommendation of the Board of Trustees of the North Carolina School of Science and Mathematics, the imposition of fees not inconsistent with actions of the General Assembly for distance education services provided by the North Carolina School of Science and Mathematics to nonresidents and for students participating in extracurricular enrichment programs sponsored by the School."

SECTION 11.7.(c) This section applies to the 2013-2014 spring academic semester and each subsequent academic semester.

STUDENT CHARGES AT THE UNC SCHOOL OF THE ARTS

SECTION 11.8.(a) Article 4 of Chapter 116 of the General Statutes is amended by adding a new section to read:

"**§ 116-68.1. Fees.**

The Board of Governors of The University of North Carolina may set fees, not inconsistent with the actions of the General Assembly, to be paid by in-State high school students enrolled at the University of North Carolina School of the Arts to assist with expenses of the institution. The Board of Trustees may recommend to the Board of Governors of The University of North Carolina that fees be set, not inconsistent with actions of the General Assembly, to be paid by in-State high school students enrolled at the University of North Carolina School of the Arts to assist with expenses of the institution. The University of North Carolina School of the Arts may charge and collect fees established as provided by this section from in-State high school students enrolled at the University of North Carolina School of the Arts."

SECTION 11.8.(b) This section applies to the 2014-2015 academic year and each subsequent academic year.

AUTHORIZE STATE EDUCATION ASSISTANCE AUTHORITY TO CONTINUE TO COLLECT NORTH CAROLINA TEACHING FELLOWS REPAYMENTS

SECTION 11.9. Subsection (b) of Section 1.38 of S.L. 2011-266 is repealed.

UNC DISPOSITION AND ACQUISITION OF REAL PROPERTY

SECTION 11.10.(a) G.S. 116-198.34(5) reads as rewritten:

"§ **116-198.34. General powers of Board of Governors.**

The Board may exercise any one or more of the following powers:

…

(5) To acquire, hold, lease, and dispose of real and personal property in the exercise of its powers and the performance of its duties hereunder and to lease all or any part of any project or projects and any existing facilities upon such terms and conditions as the Board determines, subject to the provisions of G.S. 143-341 and Chapter 146 of the General Statutes.

Notwithstanding G.S. 143-341 and Chapter 146 of the General Statutes, an acquisition for a period of 10 years or less or a disposition of 65 years or less by easement, lease, or rental agreement of real property or space in any building on the Centennial Campus, on the Horace Williams Campus, on a Millennial Campus, or on a Kannapolis Research Campus ~~made for a period of 10 years or less~~ shall not require the approval of the Governor and the Council of State. The Board shall report the acquisitions or dispositions described in this paragraph of this subdivision to the Department of Administration for inclusion in the inventory maintained by Department pursuant to G.S. 143-341(4)a. and b. and the information regarding those transactions that is required by G.S. 143-341(4)a. and b. All other acquisitions and dispositions made under this subdivision for a period in excess of ~~10 years~~ the terms described in this paragraph of this subdivision are subject to the provisions of G.S. 143-341 and Chapter 146 of the General Statutes.

…."

SECTION 11.10.(b) Subsection (d) of Section 9.10 of S.L. 2012-142 is repealed.

UNC/WAKE FOREST INSTITUTE FOR REGENERATIVE MEDICINE/PROFIT SHARING WITH STATE

SECTION 11.12.(a) Of the funds appropriated by this act for the 2013-2015 fiscal biennium to the Board of Governors of The University of North Carolina the sum of seven million dollars ($7,000,000) for the 2013-2014 fiscal year and the sum of seven million dollars ($7,000,000) for the 2014-2015 fiscal year shall be allocated to Wake Forest University Health Sciences (hereinafter "Wake Forest") in support of the Wake Forest Institute for Regenerative Medicine (hereinafter "Institute") and its Department of Defense Armed Forces Institute for Regenerative Medicine and current good manufacturing practices (cGMP) facility.

SECTION 11.12.(b) Wake Forest shall reimburse the State for State funds appropriated for the Institute under subsection (a) of this section and in prior fiscal years by returning to the State five percent (5%) of the royalty revenue received by the Institute from commercialized projects arising under those research projects supported by the State funds, either through direct research support or through substantial utilization of the cGMP facility not reimbursed through other funds ("Subject Projects"). Royalty revenue reimbursed to the State shall be subject to all of the following:

(1) The total amount to be reimbursed to the State shall be limited to the aggregate amount of State funds allocated to Wake Forest for the Institute plus simple interest at the rate of four percent (4%) annually from the time of disbursement until reimbursement commences.

(2) Wake Forest shall be entitled to deduct the expenses reasonably incurred in prosecuting, defending, and enforcing patent rights for the Subject Projects, except to the extent the expenses are recovered from a third party, before calculating the amount to be paid to the State.

(3) Calculation of the payments to the State shall be based upon the formula provided in subsection (c) of this section.

(4) Payments shall be made to the State and used by the State in a manner consistent with federal law.

SECTION 11.12.(c) Wake Forest on behalf of the Institute shall annually calculate and remit reimbursement payments to the State based upon the following formula:

(1) Payments to the State shall be based on that share of royalty revenue proportional to the State funds used for the Subject Project, which shall be calculated as the ratio of State funds to total funds used to support the Subject Project, based on budgets developed consistent with federal research funding accounting guidelines and including the fair market value of unreimbursed cGMP facility utilization.

(2) Wake Forest shall calculate net royalty revenue on a Subject Project-by-Subject-Project basis by deducting any expenses authorized under subsection (b)(2) of this section from the total royalty revenue received from the Subject Project.

(3) Wake Forest shall multiply net royalty revenue by the support ratio calculated in subsection (c)(1) of this section and then multiply the product by five percent (5%) to determine the State royalty share ("State Royalty Share").

(4) The State Royalty Share shall be remitted to the State unless the cumulative State Royalty Share payments have satisfied the total aggregate amount to be reimbursed as provided in subsection (b)(1) of this section.

SECTION 11.12.(d) Wake Forest on behalf of the Institute shall comply with the following reporting requirements:

(1) By September 1 of each year, and more frequently as requested, report to the Joint Legislative Commission on Governmental Operations, the Fiscal Research Division, and the Board of Governors of The University of North Carolina on prior State fiscal year program activities, objectives, and accomplishments and prior State fiscal year itemized expenditures and fund sources. The annual report shall include a report of royalty revenues generated from the Subject Projects.

(2) Provide to the Fiscal Research Division a copy of the Institute's annual audited financial statement within 30 days of issuance of the statement.

SECTION 11.12.(e) Remaining allotments after September 1 shall not be released to the Institute if the reporting requirements provided in subsection (d) of this section are not satisfied.

SECTION 11.12.(f) No more than one hundred twenty thousand dollars ($120,000) in State funds shall be used for the annual salary of any one employee of the Institute. For purposes of this subsection, the term "State funds" means funds appropriated by the State to the Institute and interest earned on those funds.

SECTION 11.12.(g) No State funds shall be used by the Institute (i) to hire or facilitate the hiring of a lobbyist or any person performing the duties or activities of a lobbyist, without regard to the person's title; or (ii) to facilitate any lobbying efforts.

UNC/STRATEGIC PLAN FUNDS

SECTION 11.13. Of the funds appropriated by this act to the Board of Governors of The University of North Carolina for the 2013-2015 fiscal biennium, the Board of Governors may spend a sum of up to fifteen million dollars ($15,000,000) for the 2013-2014 fiscal year and a sum of up to fifteen million dollars ($15,000,000) for the 2014-2015 fiscal year to implement provisions of The University of North Carolina Strategic Plan as set out in the report "Our Time, Our Future: The University of North Carolina Compact with North Carolina."

STUDENT FINANCIAL AID/SEMESTER LIMIT

SECTION 11.15.(a) G.S. 115C-499.2(6) is repealed.

SECTION 11.15.(b) Article 35A of Chapter 115C of the General Statutes is amended by adding a new section to read:

"**§ 115C-499.2A. Semester limitation on eligibility for scholarship.**

(a) Except as otherwise provided by subsection (c) of this section, a student with a matriculated status at a constituent institution of The University of North Carolina shall not receive a scholarship for more than 10 full-time academic semesters, or its equivalent if enrolled part-time, unless the student is enrolled in a program officially designated by the Board of Governors as a five-year degree program. If a student is enrolled in such a five-year degree program, then the student shall not receive a scholarship for more than 12 full-time academic semesters or the equivalent if enrolled part-time.

(b) Except as otherwise provided by subsection (c) of this section, a student with a matriculated status at a community college shall not receive a scholarship for more than six full-time academic semesters, or the equivalent if enrolled part-time.

(c) Upon application by a student, the appropriate postsecondary institution may grant a waiver to the student who may then receive a scholarship for the equivalent of one additional full-time academic semester if the student demonstrates that any of the following have substantially disrupted or interrupted the student's pursuit of a degree, diploma, or certificate: (i) a military service obligation, (ii) serious medical debilitation, (iii) a short-term or long-term disability, or (iv) other extraordinary hardship. The Board of Governors or the State Board of Community Colleges, as appropriate, shall establish policies and procedures to implement the waiver provided by this subsection."

SECTION 11.15.(c) Article 3 of Chapter 115D of the General Statutes is amended by adding a new section to read:

"**§ 115D-40.2. Semester limitation on eligibility for North Carolina Community College grants.**

(a) Except as otherwise provided by this section, a student shall not receive a need-based grant from the North Carolina Community College Grant Program for more than six full-time academic semesters, or the equivalent if enrolled part-time.

(b) Upon application by a student, the community college may grant a waiver to the student who may then receive a grant from the North Carolina Community College Grant Program for the equivalent of one additional full-time academic semester if the student demonstrates that any of the following have substantially disrupted or interrupted the student's pursuit of a degree, diploma, or certificate: (i) a military service obligation, (ii) serious medical debilitation, (iii) a short-term or long-term disability, or (iv) other extraordinary hardship. The State Board shall establish policies and procedures to implement the waiver provided by this subsection."

SECTION 11.15.(d) G.S. 116-25.1 reads as rewritten:

"**§ 116-25.1. ~~Limit receipt of~~ Semester limitation on eligibility for The University of North Carolina need-based financial aid ~~grants to traditional time period required to earn baccalaureate degree.~~grants.**

(a) Except as otherwise provided by this section, a student shall not receive a grant from The University of North Carolina Need-Based Financial Aid Program for more than ~~nine~~ 10 full-time academic semesters, or its equivalent if enrolled part-time, unless the student is enrolled in a program officially designated by the Board of Governors as a five-year degree program. If a student is enrolled in such a five-year degree program, then the student shall not receive a need-based grant from The University of North Carolina Need-Based Financial Aid Program for more than ~~11~~ 12 full-time academic semesters or its equivalent if enrolled part-time.

(b) Upon application by a student, ~~the student may receive a grant for one additional part-time or full-time academic semester as appropriate,~~ the constituent institution may grant a waiver to the student who may then receive a grant for the equivalent of one additional

full-time academic semester if the student demonstrates that any of the following have substantially disrupted or interrupted the student's pursuit of a degree: (i) a military service obligation, (ii) serious medical debilitation, (iii) a short-term or long-term disability, or (iv) other extraordinary ~~hardship, including inability to enroll in the appropriate courses due to reduced course offerings.~~ hardship. The Board of Governors shall establish ~~the appropriate~~policies and procedures to implement the ~~additional semester extension~~waiver provided by this subsection."

SECTION 11.15.(e) G.S. 116-281(6) is repealed.

SECTION 11.15.(f) Article 34 of Chapter 116 of the General Statutes is amended by adding a new section to read:

"**§ 116-281.1. Semester limitation on eligibility for scholarship.**

(a) A student shall not receive a scholarship under this Article for more than 10 full-time academic semesters, or the equivalent if enrolled part-time, unless the student is enrolled in a program officially designated by the eligible private postsecondary institution as a five-year degree program. If a student is enrolled in such a five-year degree program, then the student shall not receive a scholarship under this Article for more than 12 full-time academic semesters or the equivalent if enrolled part-time.

(b) Upon application by a student, the eligible private postsecondary institution may grant a waiver to the student who may then receive a scholarship for the equivalent of one additional full-time academic semester if the student demonstrates that any of the following have substantially disrupted or interrupted the student's pursuit of a baccalaureate degree: (i) a military service obligation, (ii) serious medical debilitation, (iii) a short-term or long-term disability, or (iv) other extraordinary hardship. The eligible private postsecondary institution shall establish policies and procedures to implement the waiver provided by this subsection."

SECTION 11.15.(g) Article 23 of Chapter 116 of the General Statutes is amended by adding a new section to read:

"**§ 116-209.19A. Limit semesters eligible for need-based grants and scholarships.**

The Authority administers the following need-based grant and scholarship programs: the Education Lottery Scholarships, North Carolina Community College Grant Program, The University of North Carolina Need-Based Financial Aid Program, and Need-Based Scholarships for Students Attending Private Institutions of Higher Education. G.S. 115C-499.2A, 115D-40.2, 116-25.1, and 116-281.1 limit the number of semesters that a student may receive a grant or scholarship from any of those programs and also provide the circumstances in which a waiver to those limits may be granted by the appropriate postsecondary institution. The Authority shall enforce these limitations in administering these programs so that unless a waiver is granted by the appropriate postsecondary institution, no student shall receive a grant or scholarship from any of those programs or any combination of those financial aid programs while pursuing a degree, diploma, or certificate for more than any of the following time periods: (i) 10 full-time academic semesters or its equivalent if enrolled part-time or (ii) 12 full-time academic semesters or its equivalent if the student is enrolled in a program officially designated as a five-year degree program.

A postsecondary institution that grants a waiver under G.S. 115C-499.2A, 115D-40.2, 116-25.1, or 116-281.1 shall certify the granting of the waiver in a manner acceptable to the Authority and shall also maintain documentation substantiating the reason for the waiver."

SECTION 11.15.(h) The State Education Assistance Authority shall structure its payment schedule to encourage students to complete an average of 30 credit hours per academic year. The State Education Assistance Authority shall report to the Joint Legislative Education Oversight Committee by March 1, 2014, regarding the measures implemented by the Authority pursuant to this subsection.

SECTION 11.15.(i) This section applies to the 2014-2015 academic year and each subsequent academic year.

STUDY SCHOOL OF SCIENCE AND MATHEMATICS/MORGANTON CAMPUS

SECTION 11.16.(a) The Board of Governors of The University of North Carolina, the North Carolina School of Science and Mathematics (School of Science and Math), and the Department of Public Instruction shall jointly study the feasibility of establishing a western campus for the School of Science and Math at the School for the Deaf in Morganton. In its study, the Board of Governors, the School of Science and Math, and the Department of Public Instruction shall consider the number of students with excellent academic records who apply to the School of Science and Math but are not accepted because of the School's lack of physical space to accommodate additional students. They may also consult with the Department of Administration regarding what, if any, renovations would be required at the School for the Deaf if a western campus for the School of Science and Math were located at that facility.

If it is determined that the School for the Deaf is not a suitable site for the location of a western campus, the Board of Governors, School of Science and Math, and the Department of Public Instruction in consultation with the Department of Administration may consider other sites in western North Carolina that are available as a site.

SECTION 11.16.(b) The Department of Administration shall, upon request by the Board of Governors, the North Carolina School of Science and Math, and the Department of Public Instruction, provide information regarding renovations that may be required to locate a western campus for the School of Science and Math at the School for the Deaf and shall also provide, upon request, information regarding other State-owned real property that may be available for such a purpose.

SECTION 11.16.(c) The Board of Governors, the School of Science and Math, and the Department of Public Instruction shall report their findings and recommendations to the House of Representatives and Senate Appropriations Subcommittees on Education by February 1, 2014.

STUDY NC GUARANTEED ADMISSION PROGRAM

SECTION 11.17.(a) The Board of Governors of The University of North Carolina and the State Board of Community Colleges shall jointly study the feasibility of establishing an alternative undergraduate admission program to be known as the North Carolina Guaranteed Admission Program (NC GAP). The goals of NC GAP shall be to encourage and assist more students to obtain a baccalaureate degree within a shorter time period; to provide students with a college education at significantly lower costs for both the student and the State; to help decrease the amount of debt resulting from loans that a student may owe upon graduation; to provide a student with an interim degree that may increase a student's job opportunities if the student chooses not to continue postsecondary education; and to provide easier access to academic counseling that will assist a student in selecting coursework that reflects the student's educational and career goals and helps the student succeed academically.

NC GAP shall be designed as an alternative admission program for students who apply for admission to a constituent institution and satisfy the admission criteria but whose academic credentials are not as competitive as other students admitted to the institution. A student admitted to a constituent institution through NC GAP must agree to defer enrollment at the institution until the student earns an associate degree from one of the State's community colleges. Counseling and assistance shall be provided by the community college to any student in NC GAP to help the student in selecting coursework that reflects the student's educational and career goals and that provides a smooth transition from the community college to the constituent institution.

Once awarded the associate degree from the community college, the student is entitled to admission as a junior at the constituent institution.

Each constituent institution of higher education would be directed to establish NC GAP as part of its undergraduate admission program.

SECTION 11.17.(b) The Board of Governors of The University of North Carolina and the State Board of Community Colleges shall report their findings and recommendations

regarding NC GAP to the Joint Legislative Education Oversight Committee by March 1, 2014. The report shall include a comprehensive description of the proposed program, including the criteria that would be used to determine which students would be required to participate in the program as a condition of enrollment and the academic counseling that would need to be available to help students in NC GAP succeed academically.

UNC ISCHOOL/CAREER AND COLLEGE PROMISE PROGRAM

SECTION 11.18. The University of North Carolina at Greensboro and the Department of Public Instruction shall jointly study the feasibility of restarting the UNC-G iSchool by incorporating it as a part of the Career and College Promise Program. As part of the study, the University of North Carolina at Greensboro and the Department of Public Instruction shall consider the cost of incorporating the iSchool within the existing structure of the Career and College Promise Program. The University of North Carolina at Greensboro and the Department of Public Instruction shall report to the Joint Legislative Education Oversight Committee by March 1, 2014, regarding their findings and recommendations.

PART XII. DEPARTMENT OF HEALTH AND HUMAN SERVICES

SUBPART XII-A. CENTRAL MANAGEMENT AND SUPPORT

DEPARTMENT FLEXIBILITY TO ACHIEVE DEPARTMENTAL PRIORITIES AND ENHANCE FISCAL OVERSIGHT AND ACCOUNTABILITY

SECTION 12A.1.(a) Notwithstanding any other provision of law to the contrary and consistent with G.S. 143B-10, the Secretary of the Department of Health and Human Services may reorganize positions and related operational costs within the Department (i) upon a demonstration by the Department of cost-effectiveness and (ii) after approval by the Office of State Budget and Management (OSBM) of a written proposal submitted by the Department to OSBM. Proposals submitted to OSBM under this section shall, at a minimum, identify the positions involved and the strategies to be implemented in order to achieve efficiencies.

SECTION 12A.1.(b) In order to enhance fiscal oversight and accountability, the Secretary of the Department of Health and Human Services may realign existing resources to expand its internal audit capacity. The Secretary may identify up to 32 existing positions for this purpose. Any realignment of resources and positions pursuant to this subsection is subject to the prior approval of OSBM. Notwithstanding any provision of law to the contrary, these realignments shall be reflected in the authorized budget. The expanded Office of Internal Audit shall provide the Department's management personnel with independent reviews and analyses of various functions and services within the Department, including operational audits, performance audits, compliance audits, financial audits, and other special reviews.

SECTION 12A.1.(c) By no later than June 30, 2014, the Department shall report any actions undertaken pursuant to this section to the Joint Legislative Oversight Committee on Health and Human Services and the Fiscal Research Division. The report shall, at a minimum, identify the positions involved and the strategies implemented to achieve efficiencies, to expand internal audit capacity, or both.

FUNDING FOR NONPROFIT ORGANIZATIONS/ESTABLISH COMPETITIVE GRANTS PROCESS

SECTION 12A.2.(a) Of the funds appropriated in this act to the Department of Health and Human Services, Division of Central Management and Support, the sum of nine million five hundred twenty-nine thousand one hundred thirty-four dollars ($9,529,134) in recurring funds for each year of the 2013-2015 fiscal biennium, the sum of three hundred seventeen thousand four hundred dollars ($317,400) in nonrecurring funds for each year of the 2013-2015 fiscal biennium, and the sum of three million eight hundred fifty-two thousand five

hundred dollars ($3,852,500) appropriated in Section 12J.1 of this act for each year of the 2013-2015 fiscal biennium shall be used to allocate funds for nonprofit organizations.

SECTION 12A.2.(b) For fiscal year 2013-2014 only, from funds appropriated under subsection (a) of this section, the Department shall allocate the designated amounts to the following nonprofit organizations:

(1)	North Carolina Senior Games, Inc.	$ 121,481
(2)	ARC of North Carolina	305,598
(3)	ARC of North Carolina – Wilmington	51,048
(4)	Autism Society of North Carolina	2,941,818
(5)	The Mariposa School for Children with Autism	339,879
(6)	Easter Seals UCP of North Carolina	1,619,439
(7)	ABC of North Carolina Child Development Center	366,703
(8)	Residential Services, Inc.	246,424
(9)	Oxford House, Inc.	200,000
(10)	Brain Injury Association of North Carolina	225,223
(11)	Food Bank of Central and Eastern North Carolina, Inc.	500,001
(12)	Food Bank of the Albemarle	500,001
(13)	Manna Food Bank	500,001
(14)	Second Harvest Food Bank of Metrolina, Inc.	500,001
(15)	Second Harvest Food Bank of Northwest North Carolina, Inc.	500,001
(16)	Second Harvest Food Bank of Southeast North Carolina	499,999
(17)	Prevent Blindness NC	458,163
(18)	Maternity Homes	375,000
(19)	NC High School Athletic Association (NCHSAA)	332,491
(20)	Work First – Boys & Girls Clubs	2,452,500
(21)	Vocational Rehabilitation Services – Easter Seal Society/UCP North Carolina	188,263
(22)	ALS Jim "Catfish" Hunter	400,000
(23)	Accessible Electronic Information for Blind and Disabled Persons	75,000

SECTION 12A.2.(c) No later than December 1, 2013, each nonprofit organization receiving funding pursuant to subsection (b) of this section shall submit to the Division of Central Management and Support a written report of all activities funded by State appropriations. The report shall include the following information about the fiscal year preceding the year in which the report is due:

(1) The entity's mission, purpose, and governance structure.

(2) A description of the types of programs, services, and activities funded by State appropriations.

(3) Statistical and demographical information on the number of persons served by these programs, services, and activities, including the counties in which services are provided.

(4) Outcome measures that demonstrate the impact and effectiveness of the programs, services, and activities.

(5) A detailed program budget and list of expenditures, including all positions funded and funding sources.

(6) The source and amount of any matching funds received by the entity.

SECTION 12A.2.(d) It is the intent of the General Assembly that, beginning fiscal year 2014-2015, the Department implement a competitive grants process for nonprofit funding. To that end, the Department shall develop a plan that establishes a competitive grants process to be administered by the Division of Central Management and Support. The Department shall develop a plan that, at a minimum, includes each of the following:

(1) A request for application (RFA) process to allow nonprofits to apply for and receive State funds on a competitive basis.
(2) A requirement that nonprofits match a minimum of ten percent (10%) of the total amount of the grant award.
(3) A requirement that the Secretary prioritize grant awards to those nonprofits that are able to leverage non-State funds in addition to the grant award.
(4) A process that awards grants to nonprofits dedicated to providing services on a statewide basis and that support any of the following State health and wellness initiatives:
    a. A program targeting advocacy, support, education, or residential services for persons diagnosed with autism.
    b. A comprehensive program of education, advocacy, and support related to brain injury and those affected by brain injury.
    c. A system of residential supports for those afflicted with substance abuse addiction.
    d. A program of advocacy and supports for individuals with intellectual and developmental disabilities or severe and persistent mental illness, substance abusers, or the elderly.
    e. Supports and services to children and adults with developmental disabilities or mental health diagnoses.
    f. A food distribution system for needy individuals.
    g. The provision and coordination of services for the homeless.
    h. The provision of services for individuals aging out of foster care.
    i. Programs promoting wellness, physical activity, and health education programming for North Carolinians.
    j. A program focused on enhancing vision screening through the State's public school system.
    k. Provision for the delivery of after-school services for at-risk youth.
    l. The provision of direct services for amyotrophic lateral sclerosis (ALS) and those diagnosed with the disease.
    m. The provision of assistive information technology services for blind and disabled persons.
(5) Ensures that funds received by the Department to implement the plan supplement and do not supplant existing funds for health and wellness programs and initiatives.

SECTION 12A.2.(e) No later than February 1, 2014, the Secretary of Health and Human Services shall develop a plan for the implementation of the competitive grants process for nonprofit funding and shall report to the Joint Legislative Oversight Committee on Health and Human Services on the plan.

SECTION 12A.2.(f) No later than March 1, 2014, the Secretary of Health and Human Services shall implement the plan for the competitive grants process.

SECTION 12A.2.(g) No later than July 1, 2014, the Secretary shall announce the recipients of the competitive grant awards and allocate funds to the grant recipients for the 2014-2015 fiscal year pursuant to the amounts designated under subsection (a) of this section. After awards have been granted, the Secretary shall submit a report to the Joint Legislative Oversight Committee on Health and Human Services on the grant awards that includes at least all of the following:

(1) The identity and a brief description of each grantee and each program or initiative offered by the grantee.
(2) The amount of funding awarded to each grantee.
(3) The number of persons served by each grantee, broken down by program or initiative.

SUPPLEMENTAL SHORT-TERM ASSISTANCE FOR GROUP HOMES

SECTION 12A.2A.(a) As used in this act, "group home" means any facility that (i) is licensed under Chapter 122C of the General Statutes, (ii) meets the definition of a supervised living facility under 10A NCAC 27G .5601(c)(1) or 10A NCAC 27G .5601(c)(3), and (iii) serves adults whose primary diagnosis is mental illness or a developmental disability but may also have other diagnoses.

SECTION 12A.2A.(b) From the funds appropriated in this act to the Department of Health and Human Services, Division of Central Management and Support, the sum of four million six hundred thousand dollars ($4,600,000) in nonrecurring funds shall be used to provide temporary, short-term financial assistance in the form of a monthly payment to group homes on behalf of each resident who meets all of the following criteria:

(1) Was eligible for Medicaid-covered personal care services (PCS) prior to January 1, 2013, but was determined to be ineligible for PCS on or after January 1, 2013, due to Medicaid State Plan changes in PCS eligibility criteria specified in Section 10.9F of S.L. 2012-142, as amended by Section 3.7 of S.L. 2012-145 and Section 70 of S.L. 2012-194.

(2) Has continuously resided in a group home since December 31, 2012.

SECTION 12A.2A.(c) These monthly payments shall be subject to all of the following requirements and limitations:

(1) The amount of the monthly payments authorized by this section shall not exceed four hundred sixty-four dollars and thirty cents ($464.30) per month for each resident who meets all criteria specified in subsection (b) of this section.

(2) A group home that receives the monthly payments authorized by this section shall not, under any circumstances, use these payments for any purpose other than providing, as necessary, supervision and medication management for a resident who meets all criteria specified in subsection (b) of this section.

(3) The Department shall make monthly payments authorized by this section to a group home on behalf of each resident who meets all criteria specified in subsection (b) of this section only for the period commencing July 1, 2013, and ending June 30, 2014, or upon depletion of the four million six hundred thousand dollars ($4,600,000) in nonrecurring funds appropriated in this act to the Division of Central Management and Support for the 2013-2014 fiscal year for the purpose of this section, whichever is earlier.

(4) The Department shall make monthly payments authorized by this section only to the extent sufficient funds are available from the four million six hundred thousand dollars ($4,600,000) in nonrecurring funds appropriated in this act to the Division of Central Management and Support for the 2013-2014 fiscal year for the purpose of this section.

(5) The Department shall not make monthly payments authorized by this section to a group home on behalf of a resident during the pendency of an appeal by or on behalf of the resident under G.S. 108A-70.9A.

(6) The Department shall terminate all monthly payments pursuant to this section on June 30, 2014, or upon depletion of the funds appropriated in this act to the Division of Central Management and Support for the 2013-2014 fiscal year for the purpose of this section, whichever is earlier.

(7) Each group home that receives the monthly payments authorized by this section shall submit to the Department a list of all funding sources for the operational costs of the group home for the preceding two years, in accordance with the schedule and format prescribed by the Department.

SECTION 12A.2A.(d) The Department shall use an existing mechanism to administer these funds in the least restrictive manner that ensures compliance with this section and timely and accurate payments to group homes. The Department shall not, under any

circumstances, use any portion of the four million six hundred thousand dollars ($4,600,000) appropriated in this act to the Division of Central Management and Support for the purpose of this section for any other purpose.

SECTION 12A.2A.(e) By no later than April 1, 2014, the Department of Health and Human Services shall submit to the Joint Legislative Oversight Committee on Health and Human Services and the Fiscal Research Division:

(1) A plan for a long-term solution for individuals residing in group homes who would like to continue residing in this setting and, as a result of an independent assessment, have been determined to need only supervision, medication management, or both.

(2) A list of funding sources for each group home that receives assistance authorized by this section, based on the information provided to the Department pursuant to Section 12A.2A(c)(7).

SECTION 12A.2A.(f) Nothing in this section shall be construed as an obligation by the General Assembly to appropriate funds for the purpose of this section, or as an entitlement by any group home, resident of a group home, or other person to receive temporary, short-term financial assistance under this section.

SECTION 12A.2A.(g) This section expires June 30, 2014.

ESTABLISH STATEWIDE TELEPSYCHIATRY PROGRAM

SECTION 12A.2B.(a) By no later than August 15, 2013, the Office of Rural Health and Community Care of the Department of Health and Human Services shall develop and submit to the Senate Appropriations Committee on Health and Human Services, the House Appropriations Subcommittee on Health and Human Services, the Joint Legislative Oversight Committee on Health and Human Services, and the Fiscal Research Division a plan to implement a statewide telepsychiatry program to be administered by East Carolina University Center for Telepsychiatry and e-Behavioral Health (ECU Center for Telepsychiatry) pursuant to a contract between the Department and ECU Center for Telepsychiatry. The plan shall be substantially similar to the Albemarle Hospital Foundation telepsychiatry project currently operating in 14 hospitals in eastern North Carolina and shall allow all hospitals licensed to operate in the State under Chapter 131E or Chapter 122C of the General Statutes to participate in the telepsychiatry program, either as a consultant site or as a referring site. As used in this section, the terms "consultant site" and "referring site" are as defined in G.S. 143B-139.4B(a). In addition, the plan shall include at least all of the following:

(1) Specific steps to be taken by ECU Center for Telepsychiatry, within specified time periods, to work toward implementation of the telepsychiatry program on a statewide basis.

(2) Specific steps to be taken by the Department to oversee and monitor establishment and administration of the program.

(3) Estimated program costs and rates of payment for telepsychiatry services.

(4) Requirements for liability coverage related to participation in telepsychiatry.

SECTION 12A.2B.(b) Article 3 of Chapter 143B of the General Statutes is amended by adding a new section to read:

"**§ 143B-139.4B. Office of Rural Health and Community Care to oversee and monitor establishment and administration of statewide telepsychiatry program.**

(a) The following definitions apply in this section:

(1) Consultant site. – The hospital or other site at which the consulting provider is physically located at the time the consulting provider delivers the acute mental health or substance abuse care by means of telepsychiatry.

(2) Hospital. – A facility licensed under Chapter 131E or Chapter 122C of the General Statutes, or a State facility listed in G.S. 122C-181.

(3) Referring site. – The hospital at which the patient is physically located.

(4) Telepsychiatry. – The delivery of acute mental health or substance abuse care, including diagnosis or treatment, by means of two-way real-time interactive audio and video by a consulting provider at a consultant site to an individual patient at a referring site. The term does not include the standard use of telephones, facsimile transmissions, unsecured electronic mail, or a combination of these in the course of care.

(5) Consulting provider. – A physician or other health care provider licensed in this State to provide acute mental health or substance abuse care.

(b) The North Carolina Office of Rural Health and Community Care shall oversee the establishment and administration of a statewide telepsychiatry program that allows referring sites to utilize consulting providers at a consultant site to provide timely psychiatric assessment and rapid initiation of treatment for patients at the referring site experiencing an acute mental health or substance abuse crisis. Notwithstanding the provisions of Article 3 of Chapter 143 of the General Statutes or any other provision of law, the Office of Rural Health and Community Care shall contract with East Carolina University Center for Telepsychiatry and e-Behavioral Health to administer the telepsychiatry program. The contract shall include a provision requiring East Carolina University Center for Telepsychiatry and e-Behavioral Health to work toward implementing this program on a statewide basis by no later than January 1, 2014, and to report annually to the Office of Rural Health and Community Care on the following performance measures:

(1) Number of consultant sites and referring sites participating in the program.

(2) Number of psychiatric assessments conducted under the program, reported by site or region.

(3) Length of stay of patients receiving telepsychiatry services in the emergency departments of hospitals participating in the program, reported by disposition.

(4) Number of involuntary commitments recommended as a result of psychiatric assessments conducted by consulting providers under the program, reported by site or region and by year, and compared to the number of involuntary commitments recommended prior to implementation of this program.

(c) The Office of Rural Health and Community Care shall have all of the following powers and duties relative to the statewide telepsychiatry program:

(1) Ongoing oversight and monitoring of the program.

(2) Ongoing monitoring of the performance of East Carolina University Center for Telepsychiatry and e-Behavioral Health under its contract with the Department, including all of the following:

a. Review of the performance measures described in subsection (b) of this section.

b. Annual site visits to East Carolina University Center for Telepsychiatry and e-Behavioral Health.

(3) Facilitation of program linkages with critical access hospitals and small rural hospitals.

(4) Conducting visits to referring sites and consultant sites to monitor implementation of the program; and upon implementation, conducting these site visits at least once annually.

(5) Addressing barriers and concerns identified by consulting providers, consultant sites, and referring sites participating in the program.

(6) Encouraging participation in the program by all potential consultant sites, consulting providers, and referring sites throughout the State and promoting continued participation in the program by consultant sites, consulting providers, and referring sites throughout the State.

(7) Compiling a list of recommendations for future tele-health initiatives, based on operation of the statewide telepsychiatry program.

(8) Reviewing on a quarterly basis the financial statements of East Carolina University Center for Telepsychiatry and e-Behavioral Health related to the telepsychiatry program in order to compare and monitor projected and actual program costs.

(9) Annually reporting to the Legislative Oversight Committee on Health and Human Services and the Fiscal Research Division on or before November 1 on the operation and effectiveness of the program. The report shall include information on each of the performance measures described in subsection (b) of this section.

(d) The Department shall adopt rules necessary to ensure the health and safety of patients who receive care, diagnosis, or treatment under the telepsychiatry program authorized by this section."

SECTION 12A.2B.(c) From the funds appropriated in this act to the Department of Health and Human Services, Division of Central Management and Support, Office of Rural Health and Community Care, the sum of two million dollars ($2,000,000) for the 2013-2014 fiscal year and the sum of two million dollars ($2,000,000) for the 2014-2015 fiscal year shall be used for the following purposes:

(1) To enter into a contract with East Carolina University Center for Telepsychiatry and e-Behavioral Health for statewide implementation and administration of the telepsychiatry program authorized in G.S. 143B-139.4B of the General Statutes.

(2) To purchase needed telepsychiatry equipment for the State facilities listed in G.S. 122C-181 that participate in the statewide telepsychiatry program.

HEALTH INFORMATION TECHNOLOGY

SECTION 12A.3.(a) The Department of Health and Human Services, in cooperation with the State Chief Information Officer, shall coordinate health information technology (HIT) policies and programs within the State of North Carolina. The Department's goal in coordinating State HIT policy and programs shall be to avoid duplication of efforts and to ensure that each State agency, public entity, and private entity that undertakes health information technology activities does so within the area of its greatest expertise and technical capability and in a manner that supports coordinated State and national goals, which shall include at least all of the following:

(1) Ensuring that patient health information is secure and protected, in accordance with applicable law.

(2) Improving health care quality, reducing medical errors, reducing health disparities, and advancing the delivery of patient-centered medical care.

(3) Providing appropriate information to guide medical decisions at the time and place of care.

(4) Ensuring meaningful public input into HIT infrastructure development.

(5) Improving the coordination of information among hospitals, laboratories, physicians' offices, and other entities through an effective infrastructure for the secure and authorized exchange of health care information.

(6) Improving public health services and facilitating early identification and rapid response to public health threats and emergencies, including bioterrorist events and infectious disease outbreaks.

(7) Facilitating health and clinical research.

(8) Promoting early detection, prevention, and management of chronic diseases.

SECTION 12A.3.(b) The Department of Health and Human Services shall establish and direct an HIT management structure that is efficient and transparent and that is compatible with the Office of the National Health Coordinator for Information Technology (National Coordinator) governance mechanism. The HIT management structure shall be responsible for all of the following:

(1) Developing a State plan for implementing and ensuring compliance with national HIT standards and for the most efficient, effective, and widespread adoption of HIT.
(2) Ensuring that (i) specific populations are effectively integrated into the State plan, including aging populations, populations requiring mental health services, and populations utilizing the public health system, and (ii) unserved and underserved populations receive priority consideration for HIT support.
(3) Identifying all HIT stakeholders and soliciting feedback and participation from each stakeholder in the development of the State plan.
(4) Ensuring that existing HIT capabilities are considered and incorporated into the State plan.
(5) Identifying and eliminating conflicting HIT efforts where necessary.
(6) Identifying available resources for the implementation, operation, and maintenance of health information technology, including identifying resources and available opportunities for North Carolina institutions of higher education.
(7) Ensuring that potential State plan participants are aware of HIT policies and programs and the opportunity for improved health information technology.
(8) Monitoring HIT efforts and initiatives in other states and replicating successful efforts and initiatives in North Carolina.
(9) Monitoring the development of the National Coordinator's strategic plan and ensuring that all stakeholders are aware of and in compliance with its requirements.
(10) Monitoring the progress and recommendations of the HIT Policy and Standards Committee and ensuring that all stakeholders remain informed of the Committee's recommendations.
(11) Monitoring all studies and reports provided to the United States Congress and reporting to the Joint Legislative Oversight Committee on Information Technology and the Fiscal Research Division on the impact of report recommendations on State efforts to implement coordinated HIT.

SECTION 12A.3.(c) Section 10.24(c) of S.L. 2011-145 reads as rewritten:

"**SECTION 10.24.(c)** ~~Beginning October 1, 2011, the Department of Health and Human Services shall provide quarterly written reports~~By no later than January 15, 2015, the Department of Health and Human Services shall provide a written report on the status of HIT efforts to the Joint Legislative Oversight Committee on Health and Human Services and the Fiscal Research Division. The ~~reports due each January 1 and July 1 shall consist of updates to substantial initiatives or challenges that have occurred since the most recent comprehensive report. The reports due each October 1 and April 1~~report shall be comprehensive and shall include all of the following:

(1) Current status of federal HIT initiatives.
(2) Current status of State HIT efforts and initiatives among both public and private entities.
(3) A breakdown of current public and private funding sources and dollar amounts for State HIT initiatives.
(4) Department efforts to coordinate HIT initiatives within the State and any obstacles or impediments to coordination.
(5) HIT research efforts being conducted within the State and sources of funding for research efforts.
(6) Opportunities for stakeholders to participate in HIT funding and other efforts and initiatives during the next quarter.
(7) Issues associated with the implementation of HIT in North Carolina and recommended solutions to these issues."

FUNDS FOR REPLACEMENT MEDICAID MANAGEMENT INFORMATION SYSTEM/IMPLEMENTATION OF REPLACEMENT MMIS

SECTION 12A.4.(a) The Secretary of the Department of Health and Human Services may utilize prior year earned revenue received for the replacement MMIS in the amount of nine million six hundred fifty-eight thousand one hundred fifty-two dollars ($9,658,152) for the 2013-2014 fiscal year and in the amount of one million six hundred sixty-six thousand six hundred twenty-five dollars ($1,666,625) for the 2014-2015 fiscal year. In the event the Department does not receive prior year earned revenues in the amounts authorized by this section, or funds are insufficient to advance the project, the Department may, with prior approval from the Office of State Budget and Management (OSBM), utilize overrealized receipts and funds appropriated to the Department to achieve the level of funding specified in this section for the replacement MMIS.

SECTION 12A.4.(b) The Department shall make full development of the replacement MMIS a top priority. During development and implementation of the replacement MMIS, the Department shall develop plans to ensure the timely and effective implementation of enhancements to the system to provide the following capabilities:

(1) Receiving and tracking premiums or other payments required by law.

(2) Compatibility with the Health Information System.

SECTION 12A.4.(c) The Department shall make every effort to expedite the implementation of the enhancements. The replacement MMIS shall have the capability to fully implement the administration of NC Health Choice, Ticket to Work, CAP Children's Program, all relevant Medicaid waivers, and the Medicare 646 waiver as it applies to Medicaid eligibles.

SECTION 12A.4.(d) The Office of the State Chief Information Officer (SCIO) and the Office of Information Technology Services (ITS) shall work in cooperation with the Department to ensure the timely and effective implementation of the replacement MMIS and any enhancements. The SCIO shall ensure that the replacement MMIS meets all State requirements for project management and shall immediately report any failure to meet these requirements to the Joint Legislative Oversight Committee on Health and Human Services, the Joint Legislative Oversight Committee on Information Technology, the Fiscal Research Division, and the Office of State Budget and Management. The SCIO shall also immediately report if any replacement MMIS project, or portion of a project, is listed as red in the project portfolio management tool.

SECTION 12A.4.(e) Notwithstanding G.S. 114-2.3, the Department shall consult with the Office of the SCIO concerning the retention of private counsel for the replacement MMIS, and as directed by the Office of the SCIO, retain private counsel with expertise in pertinent information technology and computer law to negotiate and review contract amendments associated with the replacement MMIS. The private counsel engaged by the Department shall review the replacement MMIS contract amendments between the Department and the vendors to ensure that the requirements of subsection (c) of this section are met in their entirety and that the terms of the contract amendments are in the State's best interest.

SECTION 12A.4.(f) The Department shall immediately report any changes to the replacement MMIS implementation schedules to the Joint Legislative Oversight Committee on Health and Human Services, the Joint Legislative Oversight Committee on Information Technology, the Fiscal Research Division, and the Office of State Budget and Management, with a full explanation of the reason for the change and any associated costs.

SECTION 12A.4.(g) The Department shall provide the following reports on the replacement MMIS by the dates specified in this subsection to the Joint Legislative Oversight Committee on Health and Human Services, the Joint Legislative Oversight Committee on Information Technology, the Fiscal Research Division, and the Office of State Budget and Management:

(1) By no later than September 1, 2013, a progress report on full implementation of the replacement MMIS, which shall include at least all of the following:

a. Any issues encountered following the "go-live" date of July 1, 2013, and how each issue was resolved.
b. Any system requirements for manual workarounds and the time line for implementing an automated solution for each manual workaround.
c. Required capabilities that are not available in the replacement MMIS on the "go-live" date of July 1, 2013, with a date for the implementation of each.

(2) By no later than November 1, 2013, a progress report on full implementation of the replacement MMIS, which shall include at least all of the following:
a. An updated estimate of the costs associated with operating and maintaining the system during the 2013-2014 and 2014-2015 fiscal years, with an explanation for any changes from previous submissions.
b. The cost, if any, associated with the resolution of each issue encountered following the "go-live" date of July 1, 2013, and the source of funding for the associated cost.
c. The cost, if any, associated with any system requirements for manual workarounds, the source of funding used to pay for the associated cost, the cost associated with transitioning to each automated solution, and the source of funding for each identified cost.
d. A comparison of timeliness and accuracy of payments for legacy system and replacement system transactions, using the same criteria for both.
e. The cost, if any, associated with implementation of any required capabilities that are not available in the replacement MMIS on the "go-live" date of July 1, 2013.

(3) By no later than December 1, 2013, a plan for the elimination of the Office of Medicaid Management Information System Services (OMMISS) and the transfer of its remaining operations to other Divisions within the Department of Health and Human Services. This plan shall include at least all of the following:
a. The specific operations to be transferred to other Divisions within the Department, the specific Division to which each operation will be transferred, the State personnel that will be impacted by each transfer, costs associated with each transfer, and sources of funding to enable the identified Divisions to assume these transferred operations.
b. Any State personnel costs that will result from the dissolution of OMMISS, including the costs of any severance payments and any compensatory time earned during the course of the project, broken down by employee; and any identified sources of funding to pay for these personnel costs.
c. A plan for transitioning out of the space currently leased by the State for OMMISS, costs associated with this transition, and any savings that will result from the transition.

(4) By no later than January 15, 2014, a preliminary report on the Department's plan for achieving system certification, which shall include at least all of the following:
a. A description of the process.
b. A detailed time line.
c. Any issues that could impact the timing of system certification and plans to mitigate identified issues.

d. Any costs associated with system certification.
e. Any identified funding sources to pay for costs associated with system certification.

SECTION 12A.4.(h) The Department shall complete the Reporting and Analytics Project solution simultaneously with the implementation of the replacement MMIS.

SECTION 12A.4.(i) Notwithstanding any other provision of law and to the extent permitted by federal law, the Department shall not approve any overtime or compensatory time related to the replacement MMIS after August 1, 2013, without the prior written approval of the Office of State Personnel for each specific instance of overtime or compensatory time. Beginning August 1, 2013, the Department shall submit a monthly report to the Joint Legislative Oversight Committee on Health and Human Services, the Joint Legislative Oversight Committee on Information Technology, and the Fiscal Research Division on the total amount of approved overtime and compensatory time related to the replacement MMIS for the preceding calendar month.

SECTION 12A.4.(j) The Department shall plan and implement system modifications necessary to enable entities under contract with the Department to perform Medicaid claim adjudication in the replacement MMIS. The Department shall implement these system modifications by the earlier of January 1, 2015, or prior to renewing any contract currently in effect with an entity required to perform Medicaid claim adjudication in the replacement MMIS pursuant to this section. Upon implementation of these system modifications, the Department shall require all Medicaid claim adjudication to be performed by the replacement MMIS, including all Medicaid claim adjudication performed by entities under contract with the Department. The Department may require entities under contract with the Department to contract directly with the State's Medicaid fiscal agent to provide technical support for Medicaid claim adjudication performed by the replacement MMIS for these entities, subject to prior approval of contract terms by the Department. The Department may charge entities under contract with the Department a fee not to exceed the amount necessary to cover the full operating cost of Medicaid claim adjudication performed by the replacement MMIS for these entities.

SECTION 12A.4.(k) Subsection (j) of this section becomes effective July 1, 2014.

FRAUD DETECTION THROUGH NORTH CAROLINA ACCOUNTABILITY AND COMPLIANCE TECHNOLOGY SYSTEM

SECTION 12A.5. The Department of Health and Human Services shall work with the Governmental Data Analytics Center (GDAC) to develop an integration plan to leverage the North Carolina Financial Accountability and Compliance Technology System (NC FACTS), which is the State's enterprise-level fraud detection system operated by GDAC, in an effort to detect and prevent potential fraud, waste, and improper payments.

The integration plan shall include a feasibility analysis, a proposed integration time line, and a cost estimate to integrate the following systems with NC FACTS:

(1) NCTracks, the replacement Medicaid Management Information System (MMIS).
(2) North Carolina Child Treatment Program (NC CTP) State-funded secure database.
(3) North Carolina Families Accessing Services through Technology (NC FAST).

The integration plan shall include opportunities to leverage existing data integration and analytics contracts and licenses for the purposes of optimizing cost effectiveness and generating greater efficiencies. The integration plan shall also include proposals for how to protect medical and other private information stored in the NCTracks, NC CTP, and NC FAST.

No later than April 1, 2014, the Department shall report a plan to integrate the systems listed in this section to the Joint Legislative Oversight Committee on Information Technology and the Joint Legislative Oversight Committee on Health and Human Services.

FUNDING FOR NORTH CAROLINA FAMILIES ACCESSING SERVICES THROUGH TECHNOLOGY (NC FAST); REPORT ON ELIGIBILITY DETERMINATIONS FOR THE EXCHANGE

SECTION 12A.6.(a) Funds appropriated in this act in the amount of eight hundred sixty-four thousand six hundred fifty-five dollars ($864,655) for State fiscal year 2014-2015 along with the cash balance in Budget Code 24410 Fund 2411 for the North Carolina Families Accessing Services through Technology (NC FAST) project shall be used to match federal funds in fiscal years 2013-2014 and 2014-2015 to expedite the development and implementation of the Eligibility Information System (EIS), Child Care, Low Income Energy Assistance, and Crisis Intervention Programs, and Child Service components of the NC FAST project.

SECTION 12A.6.(b) The Department of Health and Human Services shall report on NC FAST's performance in providing eligibility determinations for Medicaid applicants on the federally facilitated Health Benefit Exchange, a required function of NC FAST directed by Section 2 of S.L. 2013-5. The report shall contain a description of the following:

(1) Funding sources, funding amounts, and expenditures for the project beginning in fiscal year 2012-2013 through the time of the report.

(2) Any challenges with the eligibility determination project and how NC FAST solved those challenges.

(3) The number of eligibility determinations performed for applicants on the federally facilitated Health Benefit Exchange, including an analysis of on what days and for how many persons eligibility determinations were performed as well as how many applicants were determined to be eligible.

The Department shall submit a report to the Joint Legislative Commission on Governmental Operations, the Joint Legislative Oversight Committee on Health and Human Services, and the Joint Legislative Oversight Committee on Information Technology three months after open enrollment begins for the federally facilitated Health Benefit Exchange.

LIABILITY INSURANCE

SECTION 12A.7. Article 31 of Chapter 58 of the General Statutes is amended by adding a new section to read:

"**§ 58-31-26. Medical liability insurance for certain physicians and dentists.**

(a) The Secretary of the Department of Health and Human Services and the Secretary of the Department of Public Safety may provide medical liability insurance not to exceed one million dollars ($1,000,000) per incident on behalf of employees of these Departments who are licensed to practice medicine or dentistry; on behalf of all licensed physicians who are faculty members of The University of North Carolina who perform work on a contractual basis for the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services for incidents that occur in Division programs; and on behalf of physicians in all residency training programs from The University of North Carolina who are in training at institutions operated by the Department of Health and Human Services. This coverage may include commercial insurance or self-insurance and shall cover these individuals for their acts or omissions only while they are engaged in providing medical and dental services pursuant to their State employment or training.

(b) The coverage provided pursuant to this section shall not cover any individual for any act or omission that the individual knows or reasonably should know constitutes a violation of the applicable criminal laws of any state or the United States, or that arises out of any sexual, fraudulent, criminal, or malicious act or out of any act amounting to willful or wanton negligence.

(c) The coverage provided pursuant to this section shall not require any additional appropriations and, except as provided in subsection (a) of this section, shall not apply to any individual providing contractual service to the Department of Health and Human Services or the Department of Public Safety."

ELIMINATION OF UNNECESSARY AND REDUNDANT REPORTS

SECTION 12A.8.(a) Eliminate Outcomes Evaluation Study on the Effectiveness of Substance Abuse Services Provided to Person Convicted of DWI. – G.S. 122C-142.1(j) is repealed.

SECTION 12A.8.(b) Eliminate Evaluation of Efficiency and Effectiveness of Family Resource Center Grant Program. – G.S. 143B-152.15(b) is repealed.

SECTION 12A.8.(c) Eliminate Annual Report on Progress of MH/DD/SAS State Plan. – G.S. 122C-102(c) is repealed.

SECTION 12A.8.(d) Eliminate Annual Report on North Carolina State Plan on Healthcare Associated Infections. – G.S. 130A-150(e) is repealed.

SECTION 12A.8.(e) Eliminate Annual Report on The Health Insurance Program for Children. – G.S. 108A-70.27(b) is repealed.

SECTION 12A.8.(f) Eliminate Annual Report by State Child Fatality Review Team. – G.S. 143B-150.20(h) is repealed.

CANCER COORDINATION REPORTING

SECTION 12A.9. G.S. 130A-33.51(b) reads as rewritten:

"(b) The Committee shall submit a written report not later than May 1, 1994, and not later than October 1 of each subsequent year, to ~~the Governor and to the Joint Legislative Commission on Governmental Operations.~~ the Secretary. The report shall address the progress in implementation of a cancer control program. The report shall include an accounting of funds expended and anticipated funding needs for full implementation of recommended programs."

MEETINGS OF CANCER COORDINATION COMMITTEE

SECTION 12A.10. G.S. 130A-33.50(b) reads as rewritten:

"(b) The Committee shall have up to 34 members, including the Secretary of the Department or the Secretary's designee. The members of the Committee shall elect a chair and vice-chair from among the Committee membership. The Committee shall meet not more than twice a year at the call of the chair. Six of the members shall be legislators, three of whom shall be appointed by the Speaker of the House of Representatives, and three of whom shall be appointed by the President Pro Tempore of the Senate. Four of the members shall be cancer survivors, two of whom shall be appointed by the Speaker of the House of Representatives, and two of whom shall be appointed by the President Pro Tempore of the Senate. The remainder of the members shall be appointed by the Governor as follows:

(1) One member from the Department of Environment and Natural Resources;
(2) Three members, one from each of the following: the Department, the Department of Public Instruction, and the North Carolina Community College System;
(3) Four members representing the cancer control programs at North Carolina medical schools, one from each of the following: the University of North Carolina at Chapel Hill School of Medicine, the Bowman Gray School of Medicine, the Duke University School of Medicine, and the East Carolina University School of Medicine;
(4) One member who is an oncology nurse representing the North Carolina Nurses Association;
(5) One member representing the Cancer Committee of the North Carolina Medical Society;
(6) One member representing the Old North State Medical Society;
(7) One member representing the American Cancer Society, North Carolina Division, Inc.;
(8) One member representing the North Carolina Hospital Association;

(9) One member representing the North Carolina Association of Local Health Directors;
(10) One member who is a primary care physician licensed to practice medicine in North Carolina;
(11) One member representing the American College of Surgeons;
(12) One member representing the North Carolina Oncology Society;
(13) One member representing the Association of North Carolina Cancer Registrars;
(14) One member representing the Medical Directors of the North Carolina Association of Health Plans; and
(15) Up to four additional members at large.

Except for the Secretary, the members shall be appointed for staggered four-year terms and until their successors are appointed and qualify. The Governor may remove any member of the Committee from office in accordance with the provisions of G.S. 143B-13. Members may succeed themselves for one term and may be appointed again after being off the Committee for one term."

ANNUAL REPORT OF LAPSED SALARY FUNDS

SECTION 12A.11. Section 10.20 of S.L. 2012-142 reads as rewritten:

"**SECTION 10.20.** Beginning no later than November 1, 2012, and annually thereafter, the Department of Health and Human Services shall submit ~~quarterly reports~~a report to the Joint Legislative Oversight Committee on Health and Human ~~Services, the House Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services,~~ Services and the Fiscal Research Division on the use of lapsed salary funds by each Division within the Department. For each Division, the report shall include the following information about the preceding ~~calendar quarter~~ State fiscal year:

(1) The total amount of lapsed salary funds.
(2) The number of full-time equivalent positions comprising the lapsed salary funds.
(3) The Fund Code for each full-time equivalent position included in the number reported pursuant to subdivision (2) of this section.
(4) The purposes for which the Department expended lapsed salary funds."

PRISON REPORT

SECTION 12A.12. G.S. 148-19(d) reads as rewritten:

"(d) The Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services shall adopt standards for the delivery of mental health and mental retardation services to inmates in the custody of the Division of Adult Correction of the Department of Public Safety. The Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services shall give the Secretary of Public Safety an opportunity to review and comment on proposed standards prior to promulgation of such standards; however, final authority to determine such standards remains with the Commission. The Secretary of the Department of Health and Human Services shall designate an agency or agencies within the Department of Health and Human Services to monitor the implementation by the Division of Adult Correction of the Department of Public Safety of these standards and of substance abuse standards adopted by the Division of Adult Correction of the Department of Public Safety. ~~The Secretary of Health and Human Services shall send a written report on the progress which the Division of Adult Correction of the Department of Public Safety has made on the implementation of such standards to the Governor, the Lieutenant Governor, and the Speaker of the House. Such reports shall be made on an annual basis beginning January 1, 1978.~~"

MODIFICATIONS TO JUSTUS-WARREN TASK FORCE

SECTION 12A.13. G.S. 143B-216.60 reads as rewritten:

"§ **143B-216.60. The Justus-Warren Heart Disease and Stroke Prevention Task Force.**

…

(e) The Task Force shall meet ~~at least quarterly or more frequently~~ not more than twice annually at the call of the Chair.

~~(f) The Task Force Chair may establish committees for the purpose of making special studies pursuant to its duties, and may appoint non-Task Force members to serve on each committee as resource persons. Resource persons shall be voting members of the committees and shall receive subsistence and travel expenses in accordance with G.S. 138-5 and G.S. 138-6. Committees may meet with the frequency needed to accomplish the purposes of this section.~~

…."

MODIFICATIONS TO COMMISSION FOR THE BLIND

SECTION 12A.14.(a) Eliminate Professional Advisory Committee. – Part 8 of Article 3 of Chapter 143B of the General Statutes is repealed.

SECTION 12A.14.(b) G.S. 143B-158 reads as rewritten:

"§ **143B-158. Commission for the Blind.**

(a) The Commission for the Blind of the Department of Health and Human Services shall consist of ~~13~~19 members as follows:

(1) One representative of the Statewide Independent Living Council.

(2) One representative of a parent training and information center established pursuant to section 631(c) of the Individuals with Disabilities Education Act, 20 U.S.C. § 1431(c).

(3) One representative of the State's Client Assistance Program.

(4) One vocational rehabilitation counselor who has knowledge of and experience in vocational rehabilitation services for the blind. A vocational rehabilitation counselor appointed pursuant to this subdivision shall serve as a nonvoting member of the Commission if the counselor is an employee of the Department of Health and Human Services.

(5) One representative of community rehabilitation program services providers.

(6) One current or former applicant for, or recipient of, vocational rehabilitation services.

(7) One representative of a disability advocacy group representing individuals who are blind.

(8) One parent, family member, guardian, advocate, or authorized representative of an individual who is blind, has multiple disabilities, and either has difficulty representing himself or herself or who is unable, due to disabilities, to represent himself or herself.

(9) One representative of business, industry, and labor.

(10) One representative of the directors of projects carried out under section 121 of the Rehabilitation Act of 1973, 29 U.S.C. § 741, as amended, if there are any of these projects in the State.

(11) One representative of the Department of Public Instruction.

(12) One representative of the Commission on Workforce Development.

(12a) Two licensed physicians nominated by the North Carolina Medical Society whose practice is limited to ophthalmology.

(12b) Two optometrists nominated by the North Carolina State Optometric Society.

(12c) Two opticians nominated by the North Carolina Opticians Association.

(13) The Director of the Division of Services for the Blind shall serve as an ex officio, nonvoting member.

(b) The members of the Commission for the Blind shall be appointed by the Governor. The Governor shall appoint members after soliciting recommendations from representatives of

organizations representing a broad range of individuals who have disabilities and organizations interested in those individuals. In making appointments to the Commission, the Governor shall consider, to the greatest extent practicable, the extent to which minority populations are represented on the Commission.

(c) ~~A~~ Except for individuals appointed to the Commission under subdivisions (12a), (12b), and (12c) of subsection (a) of this section, a majority of Commission members shall be persons who are blind, as defined in ~~G.S. 111-11. A majority of Commission members shall be persons who are~~ G.S. 111-11 and who are not employed by the Division of Services for the Blind.

(d) The Commission for the Blind shall select a Chairperson from among its members.

(e) The term of office of members of the Commission is three years. The term of members appointed under subdivisions (1), (2), (3), ~~and (4)~~ (4), and (12a) of subsection (a) of this section shall expire on June 30 of years evenly divisible by three. The term of members appointed under subdivisions (5), (6), (7), ~~and (8)~~ (8), and (12b) of subsection (a) of this section shall expire on June 30 of years that follow by one year those years that are evenly divisible by three. The term of members appointed under subdivisions (9), (10), (11), ~~and (12)~~ (12), and (12c) of subsection (a) of this section shall expire on June 30 of years that precede by one year those years that are evenly divisible by three.

(f) No individual may be appointed to more than two consecutive three-year terms. Upon the expiration of a term, a member shall continue to serve until a successor is appointed, as provided by G.S. 128-7. An appointment to fill a vacancy shall be for the unexpired balance of the term.

(g) A member of the Commission shall not vote on any issue before the Commission that would have a significant and predictable effect on the member's financial interest. The Governor shall have the power to remove any member of the Commission from office for misfeasance, malfeasance, or nonfeasance in accordance with the provisions of G.S. 143B-13 of the Executive Organization Act of 1973.

(h) The members of the Commission shall receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5.

(i) A majority of the Commission shall constitute a quorum for the transaction of business.

(j) All clerical and other services required by the Commission shall be supplied by the Secretary of Health and Human Services."

SECTION 12A.14.(c) Subsection (b) of this section becomes effective August 1, 2013.

SUBPART XII-B. DIVISION OF CHILD DEVELOPMENT AND EARLY EDUCATION

NC PRE-K

SECTION 12B.1.(a) Eligibility. – The Department of Health and Human Services, Division of Child Development and Early Education, shall continue implementing the prekindergarten program (NC Pre-K). The NC Pre-K program shall serve children who are four years of age on or before August 31 of the program year. In determining eligibility, the Division shall establish income eligibility requirements for the program not to exceed seventy-five percent (75%) of the State median income. Up to twenty percent (20%) of children enrolled may have family incomes in excess of seventy-five percent (75%) of median income if those children have other designated risk factors. Furthermore, any age-eligible child who is a child of either of the following shall be eligible for the program: (i) an active duty member of the Armed Forces of the United States, including the North Carolina National Guard, State military forces, or a reserve component of the Armed Forces who was ordered to active duty by the proper authority within the last 18 months or is expected to be ordered within the next 18 months or (ii) a member of the Armed Forces of the United States, including the North Carolina National Guard, State military forces, or a reserve component of the Armed Forces

who was injured or killed while serving on active duty. Eligibility determinations for prekindergarten participants may continue through local education agencies and local North Carolina Partnership for Children, Inc., partnerships.

Other than developmental disabilities or other chronic health issues, the Division shall not consider the health of a child as a factor in determining eligibility for participation in the NC Pre-K program.

SECTION 12B.1.(b) Multiyear Contracts. – The Division of Child Development and Early Education shall require the NC Pre-K contractor to issue multiyear contracts for licensed private child care centers providing NC Pre-K classrooms.

SECTION 12B.1.(c) Programmatic Standards. – All entities operating prekindergarten classrooms shall adhere to all of the policies prescribed by the Division of Child Development and Early Education regarding programmatic standards and classroom requirements.

SECTION 12B.1.(d) NC Pre-K Committees. – The Division of Child Development and Early Education shall establish a standard decision-making process to be used by local NC Pre-K committees in awarding prekindergarten classroom slots and student selection.

SECTION 12B.1.(e) SEEK. – All prekindergarten classrooms shall be required to participate in the Subsidized Early Education for Kids (SEEK) accounting system to streamline the payment function for these classrooms with a goal of eliminating duplicative systems and streamlining the accounting and payment processes among the subsidy reimbursement systems. Prekindergarten funds transferred may be used to add these programs to SEEK.

SECTION 12B.1.(f) Pilot Program. – The Division of Child Development and Early Education shall create a pilot program that provides funding for NC Pre-K classrooms on a per classroom basis. The pilot program shall include three different NC Pre-K contractual regions that are geographically diverse. The local NC Pre-K administrator shall contract with the provider for operation of a classroom established pursuant to the pilot program. The Division shall provide a report on the status of the pilot program to the Joint Legislative Oversight Committee on Health and Human Services and the Fiscal Research Division no later than January 31, 2014. The report shall include the following:

(1) The number of students served.
(2) The amount of funds paid for each classroom.
(3) The amount of funds paid per student.
(4) The attendance information on students in the pilot program as compared to those students in a classroom having a traditional funding structure.
(5) Information on the number of students and students' families using the Subsidized Early Education for Kids (SEEK) system.
(6) A cost comparison of the classroom pilots to the average cost per student through the per student funding methodology.

SECTION 12B.1.(g) Reporting. – The Division of Child Development and Early Education shall submit an annual report no later than March 15 of each year to the Joint Legislative Commission on Governmental Operations, the Joint Legislative Oversight Committee on Health and Human Services, the Office of State Budget and Management, and the Fiscal Research Division. The report shall include the following:

(1) The number of children participating in the NC Pre-K program by county.
(2) The number of children participating in the NC Pre-K program who have never been served in other early education programs such as child care, public or private preschool, Head Start, Early Head Start, or early intervention programs.
(3) The expected NC Pre-K expenditures for the programs and the source of the local contributions.
(4) The results of an annual evaluation of the NC Pre-K program.

SECTION 12B.1.(h) Child Care Commission. – G.S. 143B-168.4(b) reads as rewritten:

"(b) Members shall be appointed as follows:

(1) Of the Governor's initial appointees, four shall be appointed for terms expiring June 30, ~~1986,~~2015, and three shall be appointed for terms expiring June 30, ~~1987;~~2016;

(2) Of the General Assembly's initial appointees appointed upon recommendation of the President of the Senate, two shall be appointed for terms expiring June 30, ~~1986,~~2015, and two shall be appointed for terms expiring June 30, ~~1987;~~2016;

(3) Of the General Assembly's initial appointees appointed upon recommendation of the Speaker of the House of Representatives, two shall be appointed for terms expiring June 30, ~~1986,~~2015, and two shall be appointed for terms expiring June 30, ~~1987.~~2016.

Appointments by the General Assembly shall be made in accordance with G.S. 120-121. After the initial appointees' terms have expired, all members shall be appointed to serve two-year terms. Any appointment to fill a vacancy on the Commission created by the resignation, dismissal, death, or disability of a member shall be for the balance of the unexpired term."

SECTION 12B.1.(i) The terms of all members currently serving on the Child Care Commission shall expire on the effective date of this act. A new Commission of 17 members shall be appointed in the manner provided by G.S. 143B-168.4(a) and (b), as amended in subsection (h) of this section. Members appointed pursuant to subsection (h) of this section shall be appointed no later than October 1, 2013.

CHILD CARE SUBSIDY RATES

SECTION 12B.3.(a) The maximum gross annual income for initial eligibility, adjusted biennially, for subsidized child care services shall be seventy-five percent (75%) of the State median income, adjusted for family size.

SECTION 12B.3.(b) Fees for families who are required to share in the cost of care shall be established based on a percent of gross family income and adjusted for family size. Fees shall be determined as follows:

FAMILY SIZE	PERCENT OF GROSS FAMILY INCOME
1-3	10%
4-5	9%
6 or more	8%

SECTION 12B.3.(c) Payments for the purchase of child care services for low-income children shall be in accordance with the following requirements:

(1) Religious-sponsored child care facilities operating pursuant to G.S. 110-106 and licensed child care centers and homes that meet the minimum licensing standards that are participating in the subsidized child care program shall be paid the one-star county market rate or the rate they charge privately paying parents, whichever is lower, unless prohibited by subsection (f) of this section.

(2) Licensed child care centers and homes with two or more stars shall receive the market rate for that rated license level for that age group or the rate they charge privately paying parents, whichever is lower, unless prohibited by subsection (f) of this section.

(3) Nonlicensed homes shall receive fifty percent (50%) of the county market rate or the rate they charge privately paying parents, whichever is lower.

(4) No payments shall be made for transportation services or registration fees charged by child care facilities.

(5) Payments for subsidized child care services for postsecondary education shall be limited to a maximum of 20 months of enrollment.

(6) The Department of Health and Human Services shall implement necessary rule changes to restructure services, including, but not limited to, targeting benefits to employment.

SECTION 12B.3.(d) Provisions of payment rates for child care providers in counties that do not have at least 50 children in each age group for center-based and home-based care are as follows:

(1) Except as applicable in subdivision (2) of this subsection, payment rates shall be set at the statewide or regional market rate for licensed child care centers and homes.

(2) If it can be demonstrated that the application of the statewide or regional market rate to a county with fewer than 50 children in each age group is lower than the county market rate and would inhibit the ability of the county to purchase child care for low-income children, then the county market rate may be applied.

SECTION 12B.3.(e) A market rate shall be calculated for child care centers and homes at each rated license level for each county and for each age group or age category of enrollees and shall be representative of fees charged to parents for each age group of enrollees within the county. The Division of Child Development and Early Education shall also calculate a statewide rate and regional market rate for each rated license level for each age category.

SECTION 12B.3.(f) The Division of Child Development and Early Education shall continue implementing policies that improve the quality of child care for subsidized children, including a policy in which child care subsidies are paid, to the extent possible, for child care in the higher quality centers and homes only. The Division shall define higher quality, and subsidy funds shall not be paid for one- or two-star rated facilities. For those counties with an inadequate number of four- and five-star rated facilities, the Division shall continue a transition period that allows the facilities to continue to receive subsidy funds while the facilities work on the increased star ratings. The Division may allow exemptions in counties where there is an inadequate number of four- and five-star rated facilities for nonstar rated programs, such as religious programs.

SECTION 12B.3.(g) Facilities licensed pursuant to Article 7 of Chapter 110 of the General Statutes and facilities operated pursuant to G.S. 110-106 may participate in the program that provides for the purchase of care in child care facilities for minor children of needy families. Except as authorized by subsection (f) of this section, no separate licensing requirements shall be used to select facilities to participate. In addition, child care facilities shall be required to meet any additional applicable requirements of federal law or regulations. Child care arrangements exempt from State regulation pursuant to Article 7 of Chapter 110 of the General Statutes shall meet the requirements established by other State law and by the Social Services Commission.

County departments of social services or other local contracting agencies shall not use a provider's failure to comply with requirements in addition to those specified in this subsection as a condition for reducing the provider's subsidized child care rate.

SECTION 12B.3.(h) Payment for subsidized child care services provided with Work First Block Grant funds shall comply with all regulations and policies issued by the Division of Child Development for the subsidized child care program.

SECTION 12B.3.(i) Noncitizen families who reside in this State legally shall be eligible for child care subsidies if all other conditions of eligibility are met. If all other conditions of eligibility are met, noncitizen families who reside in this State illegally shall be eligible for child care subsidies only if at least one of the following conditions is met:

(1) The child for whom a child care subsidy is sought is receiving child protective services or foster care services.

(2) The child for whom a child care subsidy is sought is developmentally delayed or at risk of being developmentally delayed.

(3) The child for whom a child care subsidy is sought is a citizen of the United States.

SECTION 12B.3.(j) Department of Health and Human Services, Division of Child Development and Early Education, shall require all county departments of social services to include on any forms used to determine eligibility for child care subsidy whether the family waiting for subsidy is receiving assistance through the NC Pre-K Program or Head Start.

CHILD CARE ALLOCATION FORMULA

SECTION 12B.4.(a) The Department of Health and Human Services shall allocate child care subsidy voucher funds to pay the costs of necessary child care for minor children of needy families. The mandatory thirty percent (30%) North Carolina Partnership for Children, Inc., subsidy allocation under G.S. 143B-168.15(g) shall constitute the base amount for each county's child care subsidy allocation. The Department of Health and Human Services shall use the following method when allocating federal and State child care funds, not including the aggregate mandatory thirty percent (30%) North Carolina Partnership for Children, Inc., subsidy allocation:

(1) Funds shall be allocated to a county based upon the projected cost of serving children under age 11 in families with all parents working who earn less than seventy-five percent (75%) of the State median income.

(2) No county's allocation shall be less than ninety percent (90%) of its State fiscal year 2001-2002 initial child care subsidy allocation.

(3) For fiscal years 2013-2014 and 2014-2015, the Division of Child Development and Early Education shall base the formula identified in subdivision (1) of this subsection on the same data source used for the 2012-2013 fiscal year.

(4) The Department of Health and Human Services shall allocate to counties all State funds appropriated for child care subsidy and shall not withhold funds during the 2013-2014 and 2014-2015 fiscal years.

SECTION 12B.4.(b) The Department of Health and Human Services may reallocate unused child care subsidy voucher funds in order to meet the child care needs of low-income families. Any reallocation of funds shall be based upon the expenditures of all child care subsidy voucher funding, including North Carolina Partnership for Children, Inc., funds within a county.

CHILD CARE FUNDS MATCHING REQUIREMENTS

SECTION 12B.5. No local matching funds may be required by the Department of Health and Human Services as a condition of any locality's receiving its initial allocation of child care funds appropriated by this act unless federal law requires a match. If the Department reallocates additional funds above twenty-five thousand dollars ($25,000) to local purchasing agencies beyond their initial allocation, local purchasing agencies must provide a twenty percent (20%) local match to receive the reallocated funds. Matching requirements shall not apply when funds are allocated because of a disaster as defined in G.S. 166A-19.3(6).

CHILD CARE REVOLVING LOAN

SECTION 12B.6. Notwithstanding any law to the contrary, funds budgeted for the Child Care Revolving Loan Fund may be transferred to and invested by the financial institution contracted to operate the Fund. The principal and any income to the Fund may be used to make loans, reduce loan interest to borrowers, serve as collateral for borrowers, pay the contractor's cost of operating the Fund, or pay the Department's cost of administering the program.

ADMINISTRATIVE ALLOWANCE FOR COUNTY DEPARTMENTS OF SOCIAL SERVICES/USE OF SUBSIDY FUNDS FOR FRAUD DETECTION

SECTION 12B.7.(a) The Department of Health and Human Services, Division of Child Development and Early Education, shall fund the allowance that county departments of social services may use for administrative costs at four percent (4%) of the county's total child care subsidy funds allocated in the Child Care Development Fund Block Grant plan or eighty thousand dollars ($80,000), whichever is greater.

SECTION 12B.7.(b) Each county department of social services may use up to two percent (2%) of child care subsidy funds allocated to the county for fraud detection and investigation initiatives.

SECTION 12B.7.(c) The Department of Health and Human Services, Division of Child Development and Early Education, shall submit a progress report on the use of child care subsidy funds under subsection (b) of this section to the Joint Legislative Committee on Health and Human Services and the Fiscal Research Division no later than May 1, 2014, and submit a follow-up report on the use of those funds no later than January 1, 2015.

STUDY USE OF UNIQUE STUDENT IDENTIFIER/CHILD CARE SUBSIDY

SECTION 12B.8.(a) In coordination with the Department of Public Instruction (DPI), the Department of Health and Human Services, Division of Child Development and Early Education (DCDEE), shall study assigning a unique student identifier to monitor, throughout their education, the performance levels of children receiving child care subsidies. The study shall be designed to provide data on the efficacy of child care facilities participating in the child care subsidy program or the North Carolina Partnership for Children, Inc. The study shall define the requirements for the following:

(1) Establishing the unique identifier.
(2) Collecting, maintaining, and analyzing data.
(3) Recommending a solution that will allow for the cost-effective acquisition and maintenance of data from child care facilities.
(4) Recommending an interface with DPI applications that monitors and analyzes student performance.
(5) Estimating the cost for developing an interface and implementing the requirements identified in the study.

SECTION 12B.8.(b) DCDEE shall report the results of the study to the Joint Legislative Committee on Health and Human Services, the Joint Legislative Education Oversight Committee, the Joint Legislative Oversight Committee on Information Technology, and the Fiscal Research Division no later than April 1, 2014.

EARLY CHILDHOOD EDUCATION AND DEVELOPMENT INITIATIVES ENHANCEMENTS/SALARY SCHEDULE/MATCH REQUIREMENT ADJUSTMENTS

SECTION 12B.9.(a) Policies. – The North Carolina Partnership for Children, Inc., and its Board shall establish policies that focus the North Carolina Partnership for Children, Inc.'s mission on improving child care quality in North Carolina for children from birth to five years of age. North Carolina Partnership for Children, Inc.-funded activities shall include assisting child care facilities with (i) improving quality, including helping one-, two-, and three-star rated facilities increase their star ratings and (ii) implementing prekindergarten programs. State funding for local partnerships shall also be used for evidence-based or evidence-informed programs for children from birth to five years of age that do the following:

(1) Increase children's literacy.
(2) Increase the parents' ability to raise healthy, successful children.
(3) Improve children's health.
(4) Assist four- and five-star rated facilities in improving and maintaining quality.

SECTION 12B.9.(b) Administration. – Administrative costs shall be equivalent to, on an average statewide basis for all local partnerships, not more than eight percent (8%) of the total statewide allocation to all local partnerships. For purposes of this subsection, administrative costs shall include costs associated with partnership oversight, business and financial management, general accounting, human resources, budgeting, purchasing, contracting, and information systems management. The North Carolina Partnership for Children, Inc., shall develop a single statewide contract management system that incorporates features of the required standard fiscal accountability plan described in G.S. 143B-168.12(a)(4). All local partnerships shall be required to participate in the contract management system and shall be directed by the North Carolina Partnership for Children, Inc., to collaborate, to the fullest extent possible, with other local partnerships to increase efficiency and effectiveness.

SECTION 12B.9.(c) Salaries. – The salary schedule developed and implemented by the North Carolina Partnership for Children, Inc., shall set the maximum amount of State funds that may be used for the salary of the Executive Director of the North Carolina Partnership for Children, Inc., and the directors of the local partnerships. The North Carolina Partnership for Children, Inc., shall base the schedule on the following criteria:

(1) The population of the area serviced by a local partnership.
(2) The amount of State funds administered.
(3) The amount of total funds administered.
(4) The professional experience of the individual to be compensated.
(5) Any other relevant factors pertaining to salary, as determined by the North Carolina Partnership for Children, Inc.

The salary schedule shall be used only to determine the maximum amount of State funds that may be used for compensation. Nothing in this subsection shall be construed to prohibit a local partnership from using non-State funds to supplement an individual's salary in excess of the amount set by the salary schedule established under this subsection.

SECTION 12B.9.(d) Match Requirements. – It is the intent of the General Assembly to continue to increase the percentage of the match of cash and in-kind contributions required of the North Carolina Partnership for Children, Inc., and the local partnerships. The North Carolina Partnership for Children, Inc., and all local partnerships shall, in the aggregate, be required to match one hundred percent (100%) of the total amount budgeted for the program in each fiscal year of the biennium. Of the funds the North Carolina Partnership for Children, Inc., and the local partnerships are required to match, contributions of cash shall be equal to at least eleven percent (11%), and in-kind donated resources shall be equal to no more than three percent (3%) for a total match requirement of fourteen percent (14%) for the 2013-2014 fiscal year; and contributions of cash shall be equal to at least eleven percent (11%), and in-kind donated resources shall be equal to no more than four percent (4%) for a total match requirement of fifteen percent (15%) for the 2014-2015 fiscal year. The North Carolina Partnership for Children, Inc., may carry forward any amount in excess of the required match for a fiscal year in order to meet the match requirement of the succeeding fiscal year. Only in-kind contributions that are quantifiable shall be applied to the in-kind match requirement. Volunteer services may be treated as an in-kind contribution for the purpose of the match requirement of this subsection. Volunteer services that qualify as professional services shall be valued at the fair market value of those services. All other volunteer service hours shall be valued at the statewide average wage rate as calculated from data compiled by the Employment Security Commission in the Employment and Wages in North Carolina Annual Report for the most recent period for which data are available. Expenses, including both those paid by cash and in-kind contributions, incurred by other participating non-State entities contracting with the North Carolina Partnership for Children, Inc., or the local partnerships, also may be considered resources available to meet the required private match. In order to qualify to meet the required private match, the expenses shall:

(1) Be verifiable from the contractor's records.

(2) If in-kind, other than volunteer services, be quantifiable in accordance with generally accepted accounting principles for nonprofit organizations.
(3) Not include expenses funded by State funds.
(4) Be supplemental to and not supplant preexisting resources for related program activities.
(5) Be incurred as a direct result of the Early Childhood Initiatives Program and be necessary and reasonable for the proper and efficient accomplishment of the Program's objectives.
(6) Be otherwise allowable under federal or State law.
(7) Be required and described in the contractual agreements approved by the North Carolina Partnership for Children, Inc., or the local partnership.
(8) Be reported to the North Carolina Partnership for Children, Inc., or the local partnership by the contractor in the same manner as reimbursable expenses.

Failure to obtain a fourteen percent (14%) match by June 30 of the 2013-2014 fiscal year and a fifteen percent (15%) match by June 30 of the 2014-2015 fiscal year shall result in a dollar-for-dollar reduction in the appropriation for the Program for a subsequent fiscal year. The North Carolina Partnership for Children, Inc., shall be responsible for compiling information on the private cash and in-kind contributions into a report that is submitted to the Joint Legislative Commission on Governmental Operations in a format that allows verification by the Department of Revenue. The same match requirements shall apply to any expansion funds appropriated by the General Assembly.

SECTION 12B.9.(e) Bidding. – The North Carolina Partnership for Children, Inc., and all local partnerships shall use competitive bidding practices in contracting for goods and services on contract amounts as follows:

(1) For amounts of five thousand dollars ($5,000) or less, the procedures specified by a written policy to be developed by the Board of Directors of the North Carolina Partnership for Children, Inc.
(2) For amounts greater than five thousand dollars ($5,000), but less than fifteen thousand dollars ($15,000), three written quotes.
(3) For amounts of fifteen thousand dollars ($15,000) or more, but less than forty thousand dollars ($40,000), a request for proposal process.
(4) For amounts of forty thousand dollars ($40,000) or more, a request for proposal process and advertising in a major newspaper.

SECTION 12B.9.(f) Allocations. – The North Carolina Partnership for Children, Inc., shall not reduce the allocation for counties with less than 35,000 in population below the 2012-2013 funding level.

SECTION 12B.9.(g) Performance-Based Evaluation. – The Department of Health and Human Services shall continue to implement the performance-based evaluation system.

SECTION 12B.9.(h) Expenditure Restrictions. – The Department of Health and Human Services and the North Carolina Partnership for Children, Inc., shall ensure that the allocation of funds for Early Childhood Education and Development Initiatives for State fiscal years 2013-2014 and 2014-2015 shall be administered and distributed in the following manner:

(1) Capital expenditures are prohibited for fiscal years 2013-2014 and 2014-2015. For the purposes of this section, "capital expenditures" means expenditures for capital improvements as defined in G.S. 143C-1-1(d)(5).
(2) Expenditures of State funds for advertising and promotional activities are prohibited for fiscal years 2013-2014 and 2014-2015.

For fiscal years 2013-2014 and 2014-2015, local partnerships shall not spend any State funds on marketing campaigns, advertising, or any associated materials. Local partnerships may spend any private funds the local partnerships receive on those activities.

SUBPART XII-C. DIVISION OF SOCIAL SERVICES

REVISE DATES/TANF BENEFIT IMPLEMENTATION

SECTION 12C.1.(a) The General Assembly approves the plan titled "North Carolina Temporary Assistance for Needy Families State Plan 2012-2015," prepared by the Department of Health and Human Services and presented to the General Assembly. The North Carolina Temporary Assistance for Needy Families State Plan covers the period October 1, 2012, through September 30, 2015. The Department shall submit the State Plan, as revised in accordance with subsection (b) of this section and as amended by this act or any other act of the 2013 General Assembly, to the United States Department of Health and Human Services.

SECTION 12C.1.(b) The counties approved as Electing Counties in the North Carolina Temporary Assistance for Needy Families State Plan 2012-2015, as approved by this section are Beaufort, Caldwell, Catawba, Lenoir, Lincoln, Macon, and Wilson.

SECTION 12C.1.(c) Counties that submitted the letter of intent to remain as an Electing County or to be redesignated as an Electing County and the accompanying county plan for years 2012 through 2015 pursuant to G.S. 108A-27(e) shall operate under the Electing County budget requirements effective July 1, 2012. For programmatic purposes, all counties referred to in this subsection shall remain under their current county designation through September 30, 2015.

SECTION 12C.1.(d) For each year of the 2013-2015 fiscal biennium, Electing Counties shall be held harmless to their Work First Family Assistance allocations for the 2012-2013 fiscal year, provided that remaining funds allocated for Work First Family Assistance and Work First Diversion Assistance are sufficient for payments made by the Department on behalf of Standard Counties pursuant to G.S. 108A-27.11(b).

SECTION 12C.1.(e) In the event that departmental projections of Work First Family Assistance and Work First Diversion Assistance for the 2013-2014 fiscal year or the 2014-2015 fiscal year indicate that remaining funds are insufficient for Work First Family Assistance and Work First Diversion Assistance payments to be made on behalf of Standard Counties, the Department is authorized to deallocate funds, of those allocated to Electing Counties for Work First Family Assistance in excess of the sums set forth in G.S. 108A-27.11, up to the requisite amount for payments in Standard Counties. Prior to deallocation, the Department shall obtain approval by the Office of State Budget and Management. If the Department adjusts the allocation set forth in subsection (d) of this section, then a report shall be made to the Joint Legislative Commission on Governmental Operations, the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, and the Fiscal Research Division.

INTENSIVE FAMILY PRESERVATION SERVICES FUNDING AND PERFORMANCE ENHANCEMENTS

SECTION 12C.2.(a) Notwithstanding the provisions of G.S. 143B-150.6, the Intensive Family Preservation Services (IFPS) Program shall provide intensive services to children and families in cases of abuse, neglect, and dependency where a child is at imminent risk of removal from the home and to children and families in cases of abuse where a child is not at imminent risk of removal. The Program shall be developed and implemented statewide on a regional basis. The IFPS shall ensure the application of standardized assessment criteria for determining imminent risk and clear criteria for determining out-of-home placement.

SECTION 12C.2.(b) The Department of Health and Human Services shall require that any program or entity that receives State, federal, or other funding for the purpose of IFPS shall provide information and data that allows for the following:

(1) An established follow-up system with a minimum of six months of follow-up services.

(2) Detailed information on the specific interventions applied, including utilization indicators and performance measurement.

(3) Cost-benefit data.
(4) Data on long-term benefits associated with IFPS. This data shall be obtained by tracking families through the intervention process.
(5) The number of families remaining intact and the associated interventions while in IFPS and 12 months thereafter.
(6) The number and percentage, by race, of children who received IFPS compared to the ratio of their distribution in the general population involved with Child Protective Services.

SECTION 12C.2.(c) The Department shall establish a performance-based funding protocol and shall only provide funding to those programs and entities providing the required information specified in subsection (b) of this section. The amount of funding shall be based on the individual performance of each program.

CHILD CARING INSTITUTIONS

SECTION 12C.3. Until the Social Services Commission adopts rules setting standardized rates for child caring institutions as authorized under G.S. 143B-153(8), the maximum reimbursement for child caring institutions shall not exceed the rate established for the specific child caring institution by the Department of Health and Human Services, Office of the Controller. In determining the maximum reimbursement, the State shall include county and IV-E reimbursements.

USE OF FOSTER CARE BUDGET FOR GUARDIANSHIP ASSISTANCE PROGRAM

SECTION 12C.4. Of the funds available for the provision of foster care services, the Department of Health and Human Services, Division of Social Services, may provide for the financial support of children who are deemed to be (i) in a permanent family placement setting, (ii) eligible for legal guardianship, and (iii) otherwise unlikely to receive permanency. The Division of Social Services shall design the Guardianship Assistance Program (GAP) in such a manner that no additional expenses are incurred beyond the funds budgeted for foster care. The Guardianship Assistance Program rates shall reimburse the legal guardian for room and board and be set at the same rate as the foster care room and board rates in accordance with rates established under G.S. 108A-49.1. The Social Services Board shall adopt rules establishing a Guardianship Assistance Program to implement this section, including defining the phrase "legal guardian" as used in this section.

CHILD WELFARE POSTSECONDARY SUPPORT PROGRAM (NC REACH)

SECTION 12C.5.(a) Additional funds appropriated from the General Fund to the Department of Health and Human Services for the child welfare postsecondary support program in the amount of two hundred thousand dollars ($200,000) for the 2013-2014 fiscal year and four hundred thousand dollars ($400,000) for the 2014-2015 fiscal year shall be used for the expansion of the child welfare postsecondary support program. The funds shall be used to continue providing assistance with the "cost of attendance" as that term is defined in 20 U.S.C. § 108711 for the educational needs of foster youth aging out of the foster care system and special needs children adopted from foster care after age 12. These funds shall be allocated by the State Education Assistance Authority.

SECTION 12C.5.(b) Of the funds appropriated from the General Fund to the Department of Health and Human Services, the sum of fifty thousand dollars ($50,000) for the 2013-2014 fiscal year and the sum of fifty thousand dollars ($50,000) for the 2014-2015 fiscal year shall be allocated to the North Carolina State Education Assistance Authority (SEAA). The SEAA shall use these funds only to perform administrative functions necessary to manage and distribute scholarship funds under the child welfare postsecondary support program.

SECTION 12C.5.(c) Of the funds appropriated from the General Fund to the Department of Health and Human Services, the sum of three hundred thirty-nine thousand four hundred ninety-three dollars ($339,493) for the 2013-2014 fiscal year and the sum of three

hundred thirty-nine thousand four hundred ninety-three dollars ($339,493) for the 2014-2015 fiscal year shall be used to contract with an entity to administer the child welfare postsecondary support program described under subsection (a) of this section, which administration shall include the performance of case management services.

SECTION 12C.5.(d) Funds appropriated to the Department of Health and Human Services for the child welfare postsecondary support program shall be used only for students attending public institutions of higher education in this State.

DSS STUDY/PROCEDURES FOR REPORTING CHILD ABUSE

SECTION 12C.7.(a) The Department of Health and Human Services, Division of Social Services, shall study the policies and procedures in place for reporting child abuse. In conducting the study, the Division shall review the following:

(1) Reports of child abuse in child care facilities.
(2) How reports of child abuse are received.
(3) The number of inaccurate reports of child abuse the Division receives annually.
(4) The number of children the Division has placed in child protective services pursuant to a report of child abuse.
(5) The reasons a child is placed in child protective services pursuant to a report of child abuse.
(6) The procedures the Division follows after determining child abuse has occurred as well as the procedures the Division follows after determining child abuse has not occurred.
(7) The number of reports the Division has determined to be false and a summary of actions taken in response to false reports.
(8) Procedures and actions the Division follows in removing or redacting reports or other information made available to the public regarding an individual accused of child abuse or a child care facility where the alleged abuse occurred when there is a determination that no abuse has occurred.
(9) Any recommendations the Division has for improving the process for reporting instances of child abuse.

SECTION 12C.7.(b) The Division of Social Services shall report the results of the study and any recommendations to the Joint Legislative Committee on Health and Human Services and the Fiscal Research Division no later than April 1, 2014.

CODIFY WORK FIRST FAMILY ASSISTANCE ELIGIBILITY AND PAYMENT LEVELS

SECTION 12C.8. Part 2 of Article 2 of Chapter 108A of the General Statutes is amended by adding a new section to read as follows:

"**§ 108A-27A. Income eligibility and payment level for Work First Family Assistance.**

The maximum net family annual income eligibility standards for Work First Family Assistance are the same standards of need for eligibility for the categorically needy under the Medicaid Program. The payment level for Work First Family Assistance shall be fifty percent (50%) of the standard of need."

A FAMILY FOR EVERY CHILD/PROVISION OF FOSTER CARE

SECTION 12C.10.(a) Of the funds appropriated in this act to the Department of Health and Human Services, Division of Social Services, the sum of one million five hundred thousand dollars ($1,500,000) for the 2013-2014 fiscal year and the sum of one million five hundred thousand dollars ($1,500,000) for the 2014-2015 fiscal year shall be used to restore funding to the Adoption Promotion Fund to (i) reimburse private nonprofit organizations pursuant to performance-based contracts to support adoption programs and (ii) provide a

financial incentive to public county departments of social services to complete adoptions above an established baseline.

SECTION 12C.10.(b) Of the funds appropriated in this act to the Department of Health and Human Services, Division of Social Services, the sum of one million dollars ($1,000,000) for the 2013-2014 fiscal year and the sum of two million seven hundred fifty thousand dollars ($2,750,000) for the 2014-2015 fiscal year shall be used solely for the Permanency Innovation Initiative Fund for services provided by the Children's Home Society of North Carolina as established by G.S. 131D-10.9B, enacted in subsection (e) of this section.

SECTION 12C.10.(c) G.S. 108A-50.2 reads as rewritten:

"§ **108A-50.2. ~~Special Children~~ Adoption Promotion Fund.**

(a) Funds appropriated by the General Assembly to the Department of Health and Human Services, Division of Social Services, for the ~~Special Children~~ Adoption Promotion Fund shall be used as provided in this section. The Division of Social Services of the Department of Health and Human Services, in consultation with the North Carolina Association of County Directors of Social Services and representatives of licensed private adoption agencies, shall develop guidelines for the awarding of funds to licensed public and private adoption agencies upon the adoption of children described in G.S. 108A-50 and in foster care. Payments received from the ~~Special Children~~ Adoption Promotion Fund by participating agencies shall be used exclusively to enhance the adoption services. No local match shall be required as a condition for receipt of these funds. In accordance with State rules for allowable costs, the ~~Special Children~~ Adoption Promotion Fund may be used for post-adoption services for families whose income exceeds two hundred percent (200%) of the federal poverty level.

(b) Of the total funds appropriated for the ~~Special Children~~ Adoption Promotion Fund each year, twenty percent (20%) of the total funds available shall be reserved for payment to participating private adoption agencies. If the funds reserved in this subsection for payments to private agencies have not been spent on or before March 31 of each State fiscal year, the Division of Social Services may reallocate those funds, in accordance with this section, to other participating adoption agencies.

(c) The Division of Social Services shall monitor the total expenditures in the ~~Special Children~~ Adoption Promotion Fund and redistribute unspent funds to ensure that the funds are used in accordance with the guidelines established in subsection (a) of this section."

SECTION 12C.10.(d) G.S. 131D-10.1 through G.S. 131D-10.9 are recodified as Part 1 of Article 1A of Chapter 131D of the General Statutes.

SECTION 12C.10.(e) Article 1A of Chapter 131D of the General Statutes is amended by adding the following new Part to read:

"Part 2. A Family for Every Child Initiative.

"**§ 131D-10.9A. Permanency Innovation Initiative Oversight Committee created.**

(a) Creation and Membership. – The Permanency Innovation Initiative Oversight Committee is established. The Committee shall be located administratively in the General Assembly. The Committee shall consist of 11 members serving staggered terms. In making appointments, each appointing authority shall select members who have appropriate experience and knowledge of the issues to be examined by the Committee and shall strive to ensure racial, gender, and geographical diversity among the membership. The initial Committee members shall be appointed on or after July 1, 2013, as follows:

(1) Four members shall be appointed by the General Assembly upon recommendation of the Speaker of the House of Representatives. Of the members appointed under this subdivision, at least one shall be a member of the judiciary who shall serve for a term of two years and at least one shall be a representative from the Children's Home Society of North Carolina who shall serve for a term of three years. One member of the House shall be appointed for a one-year term. The remaining appointee shall serve a one-year term.

(2) Four members shall be appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate. Of the members appointed under this subdivision, at least one shall be a representative from the Department of Health and Human Services, Division of Social Services, who shall serve for a term of two years and at least one shall be a representative from The Duke Endowment who shall serve for a term of three years. One member of the Senate shall be appointed for a one-year term. The remaining appointee shall serve a one-year term.

(3) Three members shall be appointed by the Governor. Of the members appointed under this subdivision, at least one shall be a representative from a county department of social services who shall serve for a term of three years and at least one shall be a representative from the University of North Carolina at Chapel Hill who shall serve for a term of two years. The remaining member shall serve a one-year term.

(b) Terms. – Upon the expiration of the terms of the initial Committee members, each member shall be appointed for a term of three years and shall serve until a successor is appointed. No member may serve more than two consecutive full terms. A vacancy shall be filled within 30 days by the authority making the initial appointment.

(c) Purpose and Powers. – The Committee shall:

(1) Design and implement a data tracking methodology to collect and analyze information to gauge the success of the initiative.

(2) Develop a methodology to identify short- and long-term cost-savings in the provision of foster care and any potential reinvestment strategies.

(3) Oversee program implementation to ensure fidelity to the program models identified under subdivisions (1) and (2) of G.S. 131D-10.9B(a).

(4) Study, review, and recommend other policies and services that may positively impact permanency and well-being outcomes.

(d) Reports. – The Committee shall report its analysis and any findings and recommendations to the General Assembly by September 15 of each year.

(e) Organization. – The President Pro Tempore of the Senate and the Speaker of the House of Representatives shall each designate a cochair of the Committee. The Committee shall meet at least once a quarter upon the joint call of the cochairs. A quorum of the Committee is seven members. No action may be taken except by a majority vote at a meeting at which a quorum is present.

(f) Funding. – From funds available to the General Assembly, the Legislative Services Commission shall allocate monies to fund the work of the Committee. Members of the Committee shall receive subsistence and travel expenses as provided in G.S. 120-3.1 and G.S. 138-5.

(g) Staff. – The Legislative Services Commission, through the Legislative Services Officer, shall assign professional staff to assist the Committee in its work. Upon the direction of the Legislative Services Commission, the Director of Legislative Assistants of the Senate and of the House of Representatives shall assign clerical staff to the Committee. The expenses for clerical employees shall be borne by the Committee.

"**§ 131D-10.9B. Permanency Innovation Initiative Fund.**

(a) There is created the Permanency Innovation Initiative Fund that will support a demonstration project with services provided by Children's Home Society of North Carolina to (i) improve permanency outcomes for children living in foster care through reunification with parents, providing placement or guardianship with other relatives, or adoption, (ii) improve engagement with biological relatives of children in or at risk of entering foster care, and (iii) reduce costs associated with maintaining children in foster care. In implementing these goals, the Permanency Innovation Initiative Fund shall support the following strategies:

(1) Family Finding, which is a program that uses intensive biological family engagement services to discover and engage biological relatives of children

living in public foster care to provide permanent emotional and relational support, including adoption, legal guardianship, or legal custody.

(2) Child Specific Adoption Recruitment Services, which is a program that follows the Wendy's Wonderful Kids Model as developed by The Dave Thomas Foundation for Adoption and works with children in public foster care to develop and execute adoption recruitment plans tailored to the needs of the individual child.

(3) Permanency Training Services, which are services delivered by Children's Home Society of North Carolina to assess the readiness of county departments of social services to implement the permanency strategies under subdivisions (1) and (2) of this subsection and provide training services to support the delivery of the services.

(b) This program shall not constitute an entitlement and is subject to the availability of funds.

(c) The Social Services Commission shall adopt rules to implement the provisions of this section."

SUBPART XII-D. DIVISION OF AGING AND ADULT SERVICES

TIERED STATE-COUNTY SPECIAL ASSISTANCE PILOT

SECTION 12D.2.(a) As used in this section, the term "group home" means any facility that (i) is licensed under Chapter 122C of the General Statutes, (ii) meets the definition of a supervised living facility under 10A NCAC 27G .5601(c)(1) or 10A NCAC 27G .5601(c)(3), and (iii) serves adults whose primary diagnosis is mental illness or a developmental disability but may also have other diagnoses.

SECTION 12D.2.(b) It is the intent of the General Assembly to create a State-County Special Assistance program that allows counties greater flexibility in serving individual needs within their communities and greater control over how county funds are used to support this program in light of the fact that counties are required to pay for fifty percent (50%) of the costs of this program. To that end, the General Assembly directs the Department of Health and Human Services to establish a pilot program in accordance with subsection (c) of this section.

SECTION 12D.2.(c) The Department of Health and Human Services, Division of Aging and Adult Services (Department), shall establish a pilot program to implement a tiered rate structure within the State-County Special Assistance program for individuals residing in group homes, in-home living arrangements, and assisted living residences as defined in G.S. 131D-2.1. The purposes of the pilot program are to (i) determine the best way to implement a block grant for this program statewide and (ii) test the feasibility and effectiveness of implementing a tiered rate structure to address program participants' intensity of need, including medication management. The Department shall select a minimum of four and a maximum of six counties to participate in the pilot program, at least two of which shall be rural counties and at least two of which shall be urban counties. The pilot program shall (i) be implemented during the 2013-2014 fiscal year, (ii) operate for at least a 12-month period, and (iii) comply with any agreements in effect between the State of North Carolina and the United States government.

SECTION 12D.2.(d) The Department shall implement the pilot program in collaboration with the local departments of social services in the counties selected for participation. As part of the pilot program, the selected counties shall receive a State General Fund allocation as a block grant to be equally matched with county general funds. The General Fund allocation provided to each county participating in the pilot program shall be calculated based upon the average annual Special Assistance expenditures for that county during the 2011-2013 fiscal biennium, adjusted for the amount of projected annual growth in the number of Special Assistance recipients in that county during the 2013-2015 fiscal biennium. These

funds may be used to pay for room, board, and personal care services, including medication management, for individuals eligible to receive State-County Special Assistance, subject to the following limitations and requirements:

(1) These funds shall not be used to cover any portion of the cost of providing services for which an individual receives Medicaid coverage.

(2) The pilot program shall comply with all federal and State requirements governing the existing State-County Special Assistance program, except that Section 12D.3 does not apply to the pilot program.

(3) The tiered rate structure shall be based upon intensity of need, and an individual's placement within a tier shall be based upon an independent assessment of the individual's need for room, board, and assistance with activities of daily living, including medication management.

SECTION 12D.2.(e) By February 1, 2014, the Department shall submit a progress report on the implementation and operation of the pilot program, including any obstacles to implementation; and by February 1, 2015, the Department shall submit a final report on the results of the pilot program, along with any recommendations based on these results, to the Joint Legislative Oversight Committee on Health and Human Services and the Fiscal Research Division. The report due by February 1, 2015, shall include information from all participating counties on at least all of the following:

(1) The amount of the tiered rates implemented as part of the pilot program.

(2) The cost methodology for determining these tiered rates.

(3) The number of individuals participating in the pilot program while residing in a group home.

(4) The number of individuals participating in the pilot program while residing in an in-home living arrangement.

(5) The number of individuals participating in the pilot program while residing in an assisted living residence as defined by G.S. 131D-2.1, broken down by facility type.

(6) A comparison of the number of recipients of State-County Special Assistance prior to and during the pilot program, broken down by county and living arrangement.

(7) Any other information the Department deems relevant for determining the best way to implement a block grant statewide for the State-County Special Assistance program.

STATE-COUNTY SPECIAL ASSISTANCE

SECTION 12D.3.(a) For each year of the 2013-2015 fiscal biennium, the maximum monthly rate for residents in adult care home facilities shall be one thousand one hundred eighty-two dollars ($1,182) per month per resident.

SECTION 12D.3.(b) For each year of the 2013-2015 fiscal biennium, the maximum monthly rate for residents in Alzheimer's/Dementia special care units shall be one thousand five hundred fifteen dollars ($1,515) per month per resident.

SUBPART XII-E. DIVISION OF PUBLIC HEALTH

INCREASE PERMIT FEES FOR CERTAIN FOOD AND LODGING ESTABLISHMENTS

SECTION 12E.1.(a) G.S. 130A-247 is amended by adding a new subdivision to read:

"(8) "Temporary food establishment" means an establishment not otherwise exempted from this part pursuant to G.S. 130A-250 that (i) prepares or serves food, (ii) operates for a period of time not to exceed 21 days in one

location, and (iii) is affiliated with and endorsed by a transitory fair, carnival, circus, festival, or public exhibition."

SECTION 12E.1.(b) G.S. 130A-248(d) reads as rewritten:

"(d) The Department shall charge each establishment subject to this section, except nutrition programs for the elderly administered by the Division of Aging and Adult Services of the Department of Health and Human Services, establishments that prepare and sell meat food products or poultry products, temporary food establishments, limited food services establishments, and public school cafeterias, a fee of ~~seventy-five~~one hundred twenty dollars ~~($75.00)~~($120.00) for each permit issued. This fee shall be reassessed annually for permits that do not expire. The Commission shall adopt rules to implement this subsection. Fees collected under this subsection shall be used for State and local food, lodging, and institution sanitation programs and activities. No more than ~~thirty-three and one-third percent (33 1/3%) of the fees~~fifty dollars ($50.00) of each fee collected under this subsection may be used to support State health programs and activities."

SECTION 12E.1.(c) G.S. 130A-248(d1) reads as rewritten:

"(d1) The Department shall charge a twenty-five dollar ($25.00) late payment fee to any establishment subject to this section, except nutrition programs for the elderly administered by the Division of Aging of the Department of Health and Human Services, establishments that prepare and sell meat food products or poultry products, temporary food establishments, limited food services establishments, and public school cafeterias, that fails to pay the fee required by subsection (d) of this section within 45 days after billing by the Department. The Department may, in accordance with G.S. 130A-23, suspend the permit of an establishment that fails to pay the required fee within 60 days after billing by the Department. The Department shall charge a reinstatement fee of one hundred fifty dollars ($150.00) to any establishment that requests reinstatement of its permit after the permit has been suspended. The Commission shall adopt rules to implement this subsection.

The clear proceeds of civil penalties collected pursuant to this subsection shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

SECTION 12E.1.(d) G.S. 130A-248 is amended by adding a new subsection to read:

"(d2) A local health department shall charge each temporary food establishment and each limited food services establishment a fee of seventy-five dollars ($75.00) for each permit issued. A local health department shall use all fees collected under this subsection for local food, lodging, and institution sanitation programs and activities."

SECTION 12E.1.(e) Subsections (a) through (d) of this section become effective on August 1, 2013, and apply to food and lodging permits effective or reassessed on or after August 1, 2013.

SECTION 12E.1.(f) Section 31.11A of S.L. 2011-145, as amended by Section 61A of S.L. 2011-391 and Section 10.15 of S.L. 2012-142, is repealed.

MODIFICATIONS TO ORAL HEALTH STRATEGY

SECTION 12E.2.(a) The General Assembly encourages local health departments to increase access to direct clinical care and preventive oral health services in the dental clinics operated or sponsored by local health departments.

SECTION 12E.2.(b) Effective October 1, 2013, the Secretary of Health and Human Services shall eliminate at least 15 full-time equivalent positions within the Oral Health Section of the Division of Public Health in order to achieve a savings of at least six hundred thirty-seven five hundred thousand dollars ($637,500) during the 2013-2014 fiscal year and at least eight hundred fifty thousand dollars ($850,000) during the 2014-2015 fiscal year.

SECTION 12E.2.(c) By no later than February 1, 2014, the Department shall submit a revised statewide oral health strategic plan to the Joint Legislative Oversight Committee on Health and Human Services and the Fiscal Research Division. The plan shall include at least all of the following:

(1) Recommendations for reorganizing the Department's Oral Health Section.
(2) Strategies for reducing oral diseases through prevention, education, and health promotion services.
(3) Strategies for monitoring public oral health.
(4) Strategies for increasing access to dental care.

FUNDS FOR SCHOOL NURSES

SECTION 12E.3.(a) All funds appropriated in this act for the School Nurse Funding Initiative shall be used to supplement and not supplant other State, local, or federal funds appropriated or allocated for this purpose. Communities shall maintain their current level of effort and funding for school nurses. These funds shall not be used to fund nurses for State agencies. These funds shall be distributed to local health departments according to a formula that includes all of the following:

(1) School nurse-to-student ratio.
(2) Percentage of students eligible for free or reduced meals.
(3) Percentage of children in poverty.
(4) Per capita income.
(5) Eligibility as a low-wealth county.
(6) Mortality rates for children between one and 19 years of age.
(7) Percentage of students with chronic illnesses.
(8) Percentage of county population consisting of minority persons.

SECTION 12E.3.(b) The Division of Public Health shall ensure that school nurses funded with State funds (i) do not assist in any instructional or administrative duties associated with a school's curriculum and (ii) perform all of the following with respect to school health programs:

(1) Serve as the coordinator of the health services program and provide nursing care.
(2) Provide health education to students, staff, and parents.
(3) Identify health and safety concerns in the school environment and promote a nurturing school environment.
(4) Support healthy food services programs.
(5) Promote healthy physical education, sports policies, and practices.
(6) Provide health counseling, assess mental health needs, provide interventions, and refer students to appropriate school staff or community agencies.
(7) Promote community involvement in assuring a healthy school and serve as school liaison to a health advisory committee.
(8) Provide health education and counseling and promote healthy activities and a healthy environment for school staff.
(9) Be available to assist the county health department during a public health emergency.

SECTION 12E.3.(c) Section 6.9(b) of S.L. 2011-145, as amended by Section 6.2 of S.L. 2012-142, is repealed.

CHILDREN'S DEVELOPMENTAL SERVICE AGENCIES

SECTION 12E.4. In order to achieve the reduced amount of State funds appropriated in this act for the Children's Developmental Service Agencies (CDSAs) program, the Department of Health and Human Services, Division of Public Health, may close up to four CDSAs, effective July 1, 2014. The Department shall retain the CDSA located in the City of Morganton and the CDSAs with the highest caseloads of children residing in rural and medically underserved areas. If the Department elects to close one or more CDSAs pursuant to this section, it shall submit a report to the Joint Legislative Oversight Committee on Health and Human Services and the Fiscal Research Division no later than March 1, 2014, identifying the CDSAs selected for closure.

AIDS DRUG ASSISTANCE PROGRAM

SECTION 12E.5.(a) The Department of Health and Human Services shall work with the Department of Public Safety (DPS) to use DPS funds to purchase pharmaceuticals for the treatment of individuals in the custody of DPS who have been diagnosed with Human Immunodeficiency Virus or Acquired Immune Deficiency Syndrome (HIV/AIDS) in a manner that allows these funds to be accounted for as State matching funds in the Department of Health and Human Services drawdown of federal Ryan White funds earmarked for the AIDS Drug Assistance Program (ADAP).

SECTION 12E.5.(b) By no later than April 1, 2014, and by no later than April 1, 2015, the Department of Health and Human Services, Division of Public Health, shall submit a report to the Joint Legislative Oversight Committee on Health and Human Services and the Fiscal Research Division on alternative options for serving individuals diagnosed with HIV/AIDS who are eligible to receive services under ADAP, including the State Medicaid program and the federally facilitated Health Benefit Exchange that will operate in this State.

COMMUNITY-FOCUSED ELIMINATING HEALTH DISPARITIES INITIATIVE

SECTION 12E.6.(a) Funds appropriated in this act to the Department of Health and Human Services, Division of Public Health, for the Community-Focused Eliminating Health Disparities Initiative (CFEHDI) shall be used to provide a maximum of 12 grants-in-aid to close the gap in the health status of African-Americans, Hispanics/Latinos, and American Indians as compared to the health status of white persons. These grants-in-aid shall focus on the use of measures to eliminate or reduce health disparities among minority populations in this State with respect to heart disease, stroke, diabetes, obesity, asthma, HIV/AIDS, and cancer. The Office of Minority Health shall coordinate and implement the grants-in-aid program authorized by this section.

SECTION 12E.6.(b) In implementing the grants-in-aid program authorized by subsection (a) of this section, the Department shall ensure all of the following:

(1) The amount of any grant-in-aid is limited to three hundred thousand dollars ($300,000).

(2) Only community-based organizations, faith-based organizations, local health departments, hospitals, and CCNC networks located in urban and rural areas of the western, eastern, and Piedmont areas of this State are eligible to apply for these grants-in-aid. No more than four grants-in-aid shall be awarded to applicants located in any one of the three areas specified in this subdivision.

(3) Each eligible applicant shall be required to demonstrate substantial participation and involvement with all other categories of eligible applicants, in order to ensure an evidence-based medical home model that will affect change in health and geographic disparities.

(4) Eligible applicants shall select one or more of the following chronic illnesses or conditions specific to the applicant's geographic area as the basis for applying for a grant-in-aid under this section to affect change in the health status of African-Americans, Hispanics/Latinos, or American Indians:
   a. Heart Disease.
   b. Stroke.
   c. Diabetes.
   d. Obesity.
   e. Asthma.
   f. HIV/AIDS.
   g. Cancer.

(5) The minimum duration of the grant period for any grant-in-aid is two years.

(6) The maximum duration of the grant period for any grant-in-aid is three years.

(7) If approved for a grant-in-aid, the grantee (i) shall not use more than eight percent (8%) of the grant funds for overhead costs and (ii) shall be required at the end of the grant period to demonstrate significant gains in addressing one or more of the health disparity focus areas identified in subsection (a) of this section.

(8) An independent panel with expertise in the delivery of services to minority populations, health disparities, chronic illnesses and conditions, and HIV/AIDS shall conduct the review of applications for grants-in-aid. The Department shall establish the independent panel required by this section.

SECTION 12E.6.(c) The grants-in-aid awarded under this section shall be awarded in honor of the memory of the following deceased members of the General Assembly: Bernard Allen, Pete Cunningham, John Hall, Robert Holloman, Howard Hunter, Ed Jones, Jeanne Lucas, Vernon Malone, William Martin, and William Wainwright. These funds shall be used for concerted efforts to address large gaps in health status among North Carolinians who are African-American, as well as disparities among other minority populations in North Carolina.

SECTION 12E.6.(d) Section 10.21(d) of S.L. 2011-145 reads as rewritten:

"**SECTION 10.21.(d)** By ~~October 1, 2012, and annually thereafter,~~October 1, 2013, the Department shall submit a report to ~~the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services,~~ the Joint Legislative Oversight Committee on Health and Human Services and the Fiscal Research Division on funds appropriated to the CFEHDI. The report shall include specific activities undertaken pursuant to subsection (a) of this section to address large gaps in health status among North Carolinians who are African-American and other minority populations in this State, and shall also address all of the following:

(1) Which community-based organizations, faith-based organizations, local health departments, hospitals, and CCNC networks received CFEHDI grants-in-aid.

(2) The amount of funding awarded to each grantee.

(3) Which of the minority populations were served by each grantee.

(4) Which community-based organizations, faith-based organizations, local health departments, hospitals, and CCNC networks were involved in fulfilling the goals and activities of each grant-in-aid awarded under this section and what activities were planned and implemented by the grantee to fulfill the community focus of the CFEHDI program.

(5) How the activities implemented by the grantee fulfilled the goal of reducing health disparities among minority populations, and the specific success in reducing particular incidences."

STRATEGIES FOR IMPROVING MEN'S HEALTH

SECTION 12E.7. Article 7 of Chapter 130A of the General Statutes is amended by adding a new Part to read:

"Part 5A. Men's Health.

"**§ 130A-223.1. Department to establish strategies for improving men's health.**

The Department of Health and Human Services, Division of Public Health, Chronic Disease and Injury Prevention Section, shall work to expand the State's attention and focus on the prevention of disease and improvement in the quality of life for men over their entire lifespan. The Department shall develop strategies for achieving these goals, which shall include, but not be limited to, all of the following:

(1) Developing a strategic plan to improve health care services.

(2) Building public health awareness.

(3) Developing initiatives within existing programs.

(4) Pursuing federal and State funding for the screening, early detection, and treatment of prostate cancer and other diseases affecting men's health."

INCREASE NORTH CAROLINA MEDICAL EXAMINER AUTOPSY FEES

SECTION 12E.8.(a) G.S. 130A-389(a) reads as rewritten:

"(a) If, in the opinion of the medical examiner investigating the case or of the Chief Medical Examiner, it is advisable and in the public interest that an autopsy or other study be made; or, if an autopsy or other study is requested by the district attorney of the county or by any superior court judge, an autopsy or other study shall be made by the Chief Medical Examiner or by a competent pathologist designated by the Chief Medical Examiner. A complete autopsy report of findings and interpretations, prepared on forms designated for the purpose, shall be submitted promptly to the Chief Medical Examiner. Subject to the limitations of G.S. 130A-389.1 relating to photographs and video or audio recordings of an autopsy, a copy of the report shall be furnished to any person upon request. A fee for the autopsy or other study shall be paid by the State. However, if the deceased is a resident of the county in which the death or fatal injury occurred, that county shall pay the fee. The fee shall be one thousand two hundred fifty dollars ~~($1,000).~~($1,250)."

SECTION 12E.8.(b) This section becomes effective August 1, 2013, and applies to fees imposed for autopsies performed on or after that date.

SUBPART XII-F. DIVISION OF MH/DD/SAS AND STATE OPERATED HEALTHCARE FACILITIES

FUNDS FOR LOCAL INPATIENT PSYCHIATRIC BEDS OR BED DAYS

SECTION 12F.2.(a) Use of Funds. – Of the funds appropriated in Section 2.1 of this act to the Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, for crisis services, the sum of thirty-eight million one hundred twenty-one thousand six hundred forty-four dollars ($38,121,644) for the 2013-2014 fiscal year and the sum of thirty-eight million one hundred twenty-one thousand six hundred forty-four dollars ($38,121,644) for the 2014-2015 fiscal year shall be used to purchase additional local inpatient psychiatric beds or bed days not currently funded by or though LME/MCOs. The Department shall develop and implement a two-tiered system of payment for purchasing these local inpatient psychiatric beds or bed days based on acuity level, with an enhanced rate of payment for inpatient psychiatric beds or bed days for individuals with higher acuity levels, as defined by the Department. The enhanced rate of payment for inpatient psychiatric beds or bed days for individuals with higher acuity levels shall not exceed the lowest average cost per patient bed day among the State psychiatric hospitals. In addition, at the discretion of the Secretary of Health and Human Services, existing funds allocated to LME/MCOs for community-based mental health, developmental disabilities, and substance abuse services may be used to purchase additional local inpatient psychiatric beds or bed days. Funds designated in this subsection for the purchase of local inpatient psychiatric beds or bed days shall not be used to supplant other funds appropriated or otherwise available to the Department for the purchase of inpatient psychiatric services through contracts with local hospitals.

SECTION 12F.2.(b) Distribution and Management of Beds or Bed Days. – The Department shall work to ensure that any local inpatient psychiatric beds or bed days purchased in accordance with this section are distributed across the State in LME/MCO catchment areas and according to need as determined by the Department. The Department shall ensure that beds or bed days for individuals with higher acuity levels are distributed across the State in LME catchment areas, including any catchment areas served by managed care organizations, and according to greatest need based on hospital bed utilization data. The Department shall enter into contracts with LME/MCOs and local hospitals for the management of these beds or bed days. The Department shall work to ensure that these contracts are awarded equitably around all regions of the State. LME/MCOs shall manage and control these local inpatient psychiatric beds or bed days, including the determination of the specific local hospital or State psychiatric

hospital to which an individual should be admitted pursuant to an involuntary commitment order.

SECTION 12F.2.(c) Funds to be Held in Statewide Reserve. – Funds appropriated to the Department for the purchase of local inpatient psychiatric beds or bed days shall not be allocated to LME/MCOs but shall be held in a statewide reserve at the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services to pay for services authorized by the LME/MCOs and billed by the hospitals through the LME/MCOs. LME/MCOs shall remit claims for payment to the Department within 15 working days after receipt of a clean claim from the hospital and shall pay the hospital within 30 working days after receipt of payment from the Department.

SECTION 12F.2.(d) Ineffective LME/MCO Management of Beds or Bed Days. – If the Department determines that (i) an LME/MCO is not effectively managing the beds or bed days for which it has responsibility, as evidenced by beds or bed days in the local hospital not being utilized while demand for services at the State psychiatric hospitals has not reduced, or (ii) the LME/MCO has failed to comply with the prompt payment provisions of subsection (c) of this section, the Department may contract with another LME/MCO to manage the beds or bed days or, notwithstanding any other provision of law to the contrary, may pay the hospital directly.

SECTION 12F.2.(e) Reporting by LME/MCOs. – The Department shall establish reporting requirements for LME/MCOs regarding the utilization of these beds or bed days.

SECTION 12F.2.(f) Reporting by Department. – By no later than March 1, 2014, the Department shall report to the Joint Legislative Oversight Committee on Health and Human Services and the Fiscal Research Division on all of the following:

(1) A uniform system for beds or bed days purchased during the fiscal year ending June 30, 2013, from (i) funds appropriated in this act that are designated for this purpose in subsection (a) of this section, (ii) existing State appropriations, and (iii) local funds.

(2) Other Department initiatives funded by State appropriations to reduce State psychiatric hospital use.

SECTION 12F.2.(g) Repeal of Hospital Utilization Pilot. – Sections 10.49(s1) through 10.49(s5) of S.L. 2007-323 are repealed.

FUNDS FOR THE NORTH CAROLINA CHILD TREATMENT PROGRAM

SECTION 12F.3.(a) Recurring funds appropriated in this act to the Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, for the 2013-2015 fiscal biennium for the North Carolina Child Treatment Program (NC CTP) shall be used for the following purposes:

(1) To provide clinical training and coaching to licensed Medicaid clinicians on an array of evidence-based treatments and to provide a statewide platform to assure accountability and outcomes.

(2) To maintain and manage a public roster of program graduates, linking high-quality clinicians with children, families, and professionals.

(3) To partner with State, LME/MCO, and private sector leadership to bring effective mental health treatment to children in juvenile justice and mental health facilities.

SECTION 12F.3.(b) Nonrecurring funds appropriated in this act to the Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, for the 2013-2015 fiscal biennium for the North Carolina Child Treatment Program (NC CTP) shall be used to pay for the cost of developing a secure database for the NC CTP to track individual-level and aggregate-level data with interface capability to work with existing networks within State agencies. The data, including any entered or stored in the database, is and remains the sole property of the State.

SINGLE STREAM FUNDING FOR MH/DD/SAS COMMUNITY SERVICES

SECTION 12F.4.(a) For the purpose of mitigating cash flow problems that many LME/MCOs experience at the beginning of each fiscal year relative to single stream funding, the Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, shall distribute not less than one-twelfth of each LME/MCO's continuation allocation at the beginning of the fiscal year and subtract the amount of that distribution from the LME/MCO's total reimbursements for the fiscal year.

SECTION 12F.4.(b) The Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, shall periodically review and, as deemed necessary by the Department, update the set of standardized covered benefits developed and implemented by the Department pursuant to Section 10.11(b) of S.L. 2011-145 for recipients of LME/MCO community service funds; provided, however, the Department shall not implement any updates that increase the overall cost of these standardized covered benefits.

BEHAVIORAL HEALTH CLINICAL INTEGRATION AND PERFORMANCE MONITORING

SECTION 12F.4A.(a) The Department of Health and Human Services shall require local management entities, including local management entities that have been approved to operate the 1915(b)/(c) Medicaid Waiver (LME/MCOs), to implement clinical integration activities with Community Care of North Carolina (CCNC) through Total Care, a collaborative initiative designed to improve and minimize the cost of care for patients who suffer from comorbid mental health or substance abuse and primary care or other chronic conditions.

SECTION 12F.4A.(b) The Department shall ensure that, by no later than January 1, 2014, all LME/MCOs submit claims data, including to the extent practical, retrospective claims data and integrated payment and reporting system (IPRS) data, to the CCNC Informatics Center and to the Medicaid Management Information System. Upon receipt of this claims data, CCNC shall provide access to clinical data and care management information within the CCNC Informatics Center to LME/MCOs and authorized behavioral health providers to support (i) treatment, quality assessment, and improvement activities or (ii) coordination of appropriate and effective patient care, treatment, or habilitation.

SECTION 12F.4A.(c) The Department, in consultation with CCNC and the LME/MCOs, shall develop quality and performance statistics on the status of mental health, developmental disabilities, and substance abuse services, including, but not limited to, variations in total cost of care, clinical outcomes, and access to and utilization of services.

SECTION 12F.4A.(d) The Department shall, within available appropriations and as deemed necessary by the Department, expand or alter existing contracts by mutual agreement of all parties to the contract in order to implement the provisions of this section.

SECTION 12F.4A.(e) By no later than March 1, 2014, and semiannually thereafter, the Department shall submit a report to the Joint Legislative Oversight Committee on Health and Human Services and the Fiscal Research Division on the progress, outcomes, and savings associated with the implementation of clinical integration activities with CCNC pursuant to this section.

MH/DD/SAS HEALTH CARE INFORMATION SYSTEM PROJECT

SECTION 12F.5. The Department of Health and Human Services shall not take any further action or expend any funds appropriated or available to the Department to develop and implement the health care information system for State facilities operated by the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services until each of the following conditions has been met:

(1) By no later than March 1, 2014, the Department shall submit a detailed plan of this system to the Joint Legislative Oversight Committee on Health and

Human Services, the Joint Legislative Oversight Committee on Information Technology, and the Fiscal Research Division. The plan shall include an explanation of at least all of the following:

a. The process the Department used to select the Veterans Health Information Systems and Technology Architecture (VisTA), whether or not the selection process was competitive, and if not, why it was not.
b. Requirements for vendor services to support system implementation and operation and the costs associated with this support.
c. Governance structure for the system.
d. Modules to be implemented in each facility and the reason for each.
e. Assignment of responsibility for system maintenance, codes fixes, application upgrades, and hardware upgrades.
f. Whether the application and database will be implemented at each facility or centrally managed by the Department and the reasons for the decision.
g. Identification of additional hardware that will be required to support a statewide rollout and the location at which the Department plans to host it.
h. Assignment of responsibility for backup and recovery.
i. If there will be redundant failover between facilities.
j. Plans, time lines, and costs for implementing any other modules currently offered by the United State Department of Veterans Affairs.
k. A process for ensuring that the system software is upgraded whenever the United States Department of Veterans Affairs upgrades its system.
l. Technology constraints for VisTA and State-supported facilities and how they will be addressed, by facility.
m. Facility on-boarding plan for the State psychiatric hospitals and other State facilities operated by the Division.
n. Costs and sources of funding for planning, development, and implementation at each facility and five years of costs and sources of funding for operations and maintenance at each facility.
o. Any other costs associated with system planning, development, implementation, operation, and maintenance.
p. Any issues associated with the planning, development, and implementation, identified by the Department, the Office of the State Chief Information Officer, the Office of Information Technology Services, or the Office of State Budget and Management, with a solution for each identified issue.

(2) Upon submission of the plan required by subdivision (1) of this section, the Department shall obtain prior approval from the State Chief Information Officer in order to take any further action or expend any funds appropriated or available to the Department to develop and implement the health care information system for State facilities operated by the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services.

LME/MCO FUNDS FOR SUBSTANCE ABUSE SERVICES

SECTION 12F.6.(a) LME/MCOs shall use a portion of their allocated funds for substance abuse treatment services to support prevention and education activities at a level at least equivalent to the 2012-2013 fiscal year.

SECTION 12F.6.(b) In providing treatment and services for adult offenders and increasing the number of Treatment Accountability for Safer Communities (TASC) case

managers, local management entities shall consult with TASC to improve offender access to substance abuse treatment and match evidence-based interventions to individual needs at each stage of substance abuse treatment. Special emphasis should be placed on intermediate punishment offenders, community punishment offenders at risk for revocation, and Department of Correction releases who have completed substance abuse treatment while in custody.

The Department shall allocate up to three hundred thousand dollars ($300,000) of the funds appropriated in this act to the Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, to provide substance abuse services for adult offenders and to increase the number of TASC case managers. These funds shall be allocated to TASC before funds are allocated to LMEs for mental health services, substance abuse services, and crisis services.

STUDY WAYS TO IMPROVE OUTCOMES AND EFFICIENCIES IN ALCOHOL & DRUG ABUSE TREATMENT PROGRAMS

SECTION 12F.7.(a) By no later than April 1, 2014, the Department of Health and Human Services shall study and report to the Joint Legislative Oversight Committee on Health and Human Services and the Fiscal Research Division on ways to improve outcomes and reduce operating costs associated with inpatient treatment at the alcohol and drug abuse treatment centers operated by the Division of State-Operated Healthcare Facilities.

SECTION 12F.7.(b) The Joint Legislative Program Evaluation Oversight Committee shall consider including in the 2014 Work Plan for the Program Evaluation Division of the General Assembly a study of the most effective and efficient ways to operate inpatient alcohol and drug abuse treatment programs, including, but not limited to, (i) an examination and comparison of the practices, costs, and outcomes of private and State-operated programs in North Carolina, (ii) an examination of the practices, costs, and outcomes of private and state-operated programs in other states, and (iii) recommendations for best practices to achieve greater program efficiencies and outcomes in North Carolina.

SUBPART XII-G. DIVISION OF HEALTH SERVICE REGULATION

THREE-YEAR MORATORIUM ON SPECIAL CARE UNIT LICENSES AND REVIEW OF CURRENT SPECIAL CARE UNIT STAFFING REQUIREMENTS

SECTION 12G.1.(a) For the period beginning July 31, 2013, and ending July 1, 2016, the Department of Health and Human Services, Division of Health Service Regulation (Department), shall not issue any licenses for special care units as defined in G.S. 131D-4.6 and G.S. 131E-114. This prohibition shall not restrict the Department from doing any of the following:

(1) Issuing a license to a facility that is acquiring an existing special care unit.

(2) Issuing a license for a special care unit in any area of the State upon a determination by the Secretary of the Department of Health and Human Services that increased access to this type of care is necessary in that area during the three-year moratorium imposed by this section.

(3) Processing all completed applications for special care unit licenses received by the Division of Health Service Regulation along with the applicable license fee prior to June 1, 2013.

SECTION 12G.1.(b) By no later than April 1, 2014, the Department shall review the laws pertaining to staff ratios and other staffing requirements of special care units and report the results of its review to the Joint Legislative Oversight Committee on Health and Human Services and the Fiscal Research Division. The report shall compare special care unit staff ratios and staffing requirements in North Carolina to those of other states, including those states that border North Carolina. The report shall contain all of the following specific information:

(1) The rationale and justification for establishing the existing special care unit staff ratios and staffing requirements.

(2) Recommendations for changes to existing staff ratios and staffing requirements based on findings of the Department's review.

ELIMINATE COMPREHENSIVE REPORT ON MEDICATION-RELATED ERRORS IN NURSING HOMES

SECTION 12G.2.(a) G.S. 131E-128.1(e) reads as rewritten:

"(e) Confidentiality. – The meetings or proceedings of the advisory committee, the records and materials it produces, and the materials it considers, including analyses and reports pertaining to medication-related error reporting under G.S. 131E-128.2 ~~and G.S. 131E-128.5~~ and pharmacy reports on drug defects and adverse reactions under G.S. 131E-128.4, shall be confidential and not be considered public records within the meaning of G.S. 132-1. The meetings or proceedings and records and materials also shall not be subject to discovery or introduction into evidence in any civil action against a nursing home or a provider of professional health services resulting from matters that are the subject of evaluation and review by the committee. No person who was in attendance at a meeting of the committee shall testify in any civil action as to any evidence or other matters produced or presented during the meetings or proceedings of the committee or as to any findings, recommendations, evaluations, opinions, or other actions of the committee or its members. Notwithstanding the foregoing:

(1) Information, documents, or records otherwise available, including any deficiencies found in the course of an inspection conducted under G.S. 131E-105, shall not be immune from discovery or use in a civil action merely because they were presented during meetings or proceedings of the advisory committee. A member of the advisory committee or a person who testifies before the committee may testify in a civil action but cannot be asked about that person's testimony before the committee or any opinion formed as a result of the committee meetings or proceedings.

(2) Information that is confidential and not subject to discovery or use in civil actions under this subsection may be released to a professional standards review organization that performs any accreditation or certification function. Information released to the professional standards review organization shall be limited to information reasonably necessary and relevant to the standards review organization's determination to grant or continue accreditation or certification. Information released to the standards review organization retains its confidentiality and is not subject to discovery or use in any civil action as provided under this subsection. The standards review organization shall keep the information confidential subject to this subsection.

(3) Information that is confidential and not subject to discovery or use in civil actions under this subsection may be released to the Department of Health and Human Services pursuant to its investigative authority under G.S. 131E-105. Information released to the Department shall be limited to information reasonably necessary and relevant to the Department's investigation of compliance with Part 1 of Article 6 of this Chapter. Information released to the Department retains its confidentiality and is not subject to discovery or use in any civil action as provided in this subsection. The Department shall keep the information confidential subject to this subsection.

(4) Information that is confidential and is not subject to discovery or use in civil actions under this subsection may be released to an occupational licensing board having jurisdiction over the license of an individual involved in an incident that is under review or investigation by the advisory committee. Information released to the occupational licensing board shall be limited to

information reasonably necessary and relevant to an investigation being conducted by the licensing board pertaining to the individual's involvement in the incident under review by the advisory committee. Information released to an occupational licensing board retains its confidentiality and is not subject to discovery or use in any civil action as provided in this subsection. The occupational licensing board shall keep the information confidential subject to this subsection."

SECTION 12G.2.(b) G.S. 131E-128.1(g) reads as rewritten:

"(g) Penalty. – The Department may take adverse action against the license of a nursing home upon a finding that the nursing home has failed to comply with this section, G.S. 131E-128.2, 131E-128.3, ~~131E-128.4, or 131E-128.5.~~or 131E-128.4."

SECTION 12G.2.(c) G.S. 131E-128.5 is repealed.

CERTIFICATE OF NEED EXEMPTION FOR REPLACEMENT OF PREVIOUSLY APPROVED EQUIPMENT & FACILITIES LOCATED ON THE MAIN CAMPUS OF A LICENSED HEALTH SERVICE FACILITY

SECTION 12G.3.(a) G.S. 131E-176 is amended by adding a new subdivision to read:

"(14n) "Main campus" means all of the following for the purposes of G.S. 131E-184(f) and (g) only:

a. The site of the main building from which a licensed health service facility provides clinical patient services and exercises financial and administrative control over the entire facility, including the buildings and grounds adjacent to that main building.

b. Other areas and structures that are not strictly contiguous to the main building but are located within 250 yards of the main building."

SECTION 12G.3.(b) G.S. 131E-184 is amended by adding new subsections to read:

"(f) The Department shall exempt from certificate of need review the purchase of any replacement equipment that exceeds the two million dollar ($2,000,000) threshold set forth in G.S. 131E-176(22) if all of the following conditions are met:

(1) The equipment being replaced is located on the main campus.

(2) The Department has previously issued a certificate of need for the equipment being replaced.

(3) The licensed health service facility proposing to purchase the replacement equipment shall provide prior written notice to the Department, along with supporting documentation to demonstrate that it meets the exemption criteria of this subsection.

(g) The Department shall exempt from certificate of need review any capital expenditure that exceeds the two million dollar ($2,000,000) threshold set forth in G.S. 131E-176(16)b. if all of the following conditions are met:

(1) The sole purpose of the capital expenditure is to renovate, replace on the same site, or expand the entirety or a portion of an existing health service facility that is located on the main campus.

(2) The capital expenditure does not result in (i) a change in bed capacity as defined in G.S. 131E-176(5) or (ii) the addition of a health service facility or any other new institutional health service other than that allowed in G.S. 131E-176(16)b.

(3) The licensed health service facility proposing to incur the capital expenditure shall provide prior written notice to the Department, along with supporting documentation to demonstrate that it meets the exemption criteria of this subsection."

SECTION 12G.3.(b) This section applies to replacement equipment purchased, and capital expenditures for replacement facilities incurred, on or after the date this act becomes law.

SUBPART XII-H. DIVISION OF MEDICAL ASSISTANCE (MEDICAID)

DETAILED MEDICAID REFORM PROPOSAL TO BE PREPARED BY DEPARTMENT OF HEALTH AND HUMAN SERVICES; MEDICAID REFORM ADVISORY GROUP ESTABLISHED

SECTION 12H.1.(a) The Department of Health and Human Services, Division of Medical Assistance, (Department), in consultation with the Medicaid Reform Advisory Group created by subsection (e) of this section, shall create a detailed plan for, but not implement, significant reforms to the State's Medicaid Program that shall accomplish the following:

(1) Create a predictable and sustainable Medicaid program for North Carolina taxpayers.

(2) Increase administrative ease and efficiency for North Carolina Medicaid providers.

(3) Provide care for the whole person by uniting physical and behavioral health care.

SECTION 12H.1.(b) The Department shall submit its detailed proposal of how to reform the State's Medicaid Program to the General Assembly. The report shall contain the following:

(1) The details of the reform plan, including how the plan would accomplish the goals set out in subsection (a) of this section.

(2) The Department's methodology for selecting the reform plan over alternatives.

(3) Forecasts of the reform plan's potential to slow the growth of the costs of the Medicaid Program, including the assumptions and methodology used for the forecast, as well as an explanation of how the Department's forecast methodology has been improved to produce more accurate forecasting than in prior years.

(4) The reform plan's impact, as compared to the existing Medicaid Program, on both providers and recipients in areas such as enrollment within the Medicaid system, access to services, quality of care, and payment methodologies, and any other areas of comparison to help the General Assembly evaluate the reform plan.

(5) If regional demonstration projects, pilot projects, or similar projects will be used to test a proposal, how the Department will ensure that the test methodology is scientifically valid and consistent with social science research methods.

(6) How financial risks will be allocated under the reform plan.

(7) The mechanisms through which the Department and any contractors under the reform plan would be held accountable for the implementation and performance of the plan.

(8) Short-term costs to implement the plan and expected long-term savings in future years from slowing the growth of costs.

(9) A realistic time line for implementation.

(10) Draft Medicaid State Plan Amendments, Medicaid waivers, amendments to State law, or other changes necessary to legally allow the Department to implement its reform plan.

(11) Any other detailed information that would assist the General Assembly in evaluating the strength of the reform plan and the plan's ability to accomplish the goals set out in subsection (a) of this section.

SECTION 12H.1.(c) The Department is encouraged to and may submit draft Medicaid State Plan amendments, draft waiver applications, or other documents to the federal government to solicit feedback on the Department's proposal prior to reporting to the General Assembly. The Department shall not, however, submit any documents to the federal government to implement the reform plan without legislation authorizing the Department to implement the Department's reform plan.

SECTION 12H.1.(d) The Department shall submit its reform plan to the General Assembly no later than March 17, 2014, but is encouraged to submit its plan as early as it responsibly can.

SECTION 12H.1.(e) Advisory Group. – There is established the North Carolina Medicaid Reform Advisory Group (Advisory Group) in order to advise the Department of Health and Human Services in its development of its detailed plan to reform Medicaid. The Advisory Group shall meet in order to (i) provide stakeholder input in a public forum and (ii) ensure the transparency of the process of developing the reform proposal. The Advisory Group shall meet at the call of the chair.

The Advisory Group shall consist of the following five members, and the appointing officer shall fill vacancies:

(1) A Representative appointed by the Speaker of the House of Representatives.

(2) A Senator appointed by the President Pro Tempore of the Senate.

(3) Three persons appointed by the Governor, one of whom shall be designated as the chair.

Legislative members of the Advisory Group shall receive per diem, subsistence, and travel expenses as provided in G.S. 120-3.1. Non-legislative members of the Advisory Group shall receive per diem, subsistence, and travel expenses as allowed under G.S. 138-5 or, if the member is a State employee, lodging and travel expenses as allowed under G.S. 138-6.

The Secretary of Health and Human Services shall ensure adequate staff representation and support from the Department of Health and Human Services.

The Advisory Group shall terminate on July 1, 2014.

SECTION 12H.1.(f) Eligibility of Legislation. – Legislation based on the Department's reform proposal and recommended by the Advisory Group shall be eligible for consideration when the 2013 General Assembly reconvenes in 2014, and G.S. 143C-5-2 does not apply to such legislation.

CLARIFY STATE PLAN AMENDMENT PROCEDURES

SECTION 12H.2.(a) Part 6 of Article 2 of Chapter 108A of the General Statutes is amended by adding a new section to read as follows:

"**§ 108A-54.1A. Amendments to Medicaid State Plan and Medicaid Waivers.**

(a) No provision in the Medicaid State Plan or in a Medicaid Waiver may expand or otherwise alter the scope or purpose of the Medicaid program from that authorized by law enacted by the General Assembly. For purposes of this section, the term "amendments to the State Plan" includes State Plan amendments, Waivers, and Waiver amendments.

(b) The Department may submit amendments to the State Plan only as required under any of the following circumstances:

(1) A law enacted by the General Assembly directs the Department to submit an amendment to the State Plan.

(2) A law enacted by the General Assembly makes a change to the Medicaid Program that requires approval by the federal government.

(3) A change in federal law, including regulatory law, or a change in the interpretation of federal law by the federal government requires an amendment to the State Plan.

(4) A change made by the Department to the Medicaid Program requires an amendment to the State Plan, if the change was within the authority granted to the Department by State law.

(5) An amendment to the State Plan is required in response to an order of a court of competent jurisdiction.

(6) An amendment to the State Plan is required to ensure continued federal financial participation.

(c) Amendments to the State Plan submitted to the federal government for approval shall contain only those changes that are allowed by the authority for submitting an amendment to the State Plan in subsection (b) of this section.

(d) No fewer than 10 days prior to submitting an amendment to the State Plan to the federal government, the Department shall post the amendment on its Web site and notify the members of the Joint Legislative Oversight Committee on Health and Human Services and the Fiscal Research Division that the amendment has been posted. This requirement shall not apply to draft or proposed amendments submitted to the federal government for comments but not submitted for approval. If the authority for submitting the amendment to the State Plan is pursuant to subdivision (3), (4), (5), or (6) of subsection (b) of this section, then, prior to submitting an amendment to the federal government, the Department shall submit to the General Assembly members receiving notice under this subsection and to the Fiscal Research Division an explanation of the amendment, the need for the amendment, and the federal time limits required for implementation of the amendment.

(e) The Department shall submit an amendment to the State Plan to the federal government by a date sufficient to provide the federal government adequate time to review and approve the amendment so the amendment may be effective by the date required by the directing authority in subsection (b) of this section."

SECTION 12H.2.(b) G.S. 108A-70.25 reads as rewritten:

"§ **108A-70.25. State Plan for Health Insurance Program for Children.**

~~The Department shall develop and submit a State Plan to implement "The Health Insurance Program for Children" authorized under this Part to the federal government as application for federal funds under Title XXI. The State Plan submitted under this Part shall be developed by the Department only as authorized by and in accordance with this Part. No provision in the State Plan submitted under this Part may expand or otherwise alter the scope or purpose of the Program from that authorized under this Part. The Department shall include in the State Plan submitted only those items required by this Part and required by the federal government to qualify for federal funds under Title XXI and necessary to secure the State's federal fund allotment for the applicable fiscal period. Except as otherwise provided in this section, the Department shall not amend the State Plan nor submit any amendments thereto to the federal government for review or approval without the specific approval of the General Assembly. In the event federal law requires that an amendment be made to the State Plan and further requires that the amendment be submitted or implemented within a time period when the General Assembly is not and will not be in session to approve the amendment, then the Department may submit the amendment to the federal government for review and approval without the approval of the General Assembly. Prior to submitting an amendment to the federal government without General Assembly approval as authorized in this section, the Department shall report the proposed amendment to the Joint Legislative Oversight Committee on Health and Human Services and to members of the Joint Appropriations Subcommittee on Health and Human Services. The report shall include an explanation of the amendment, the necessity therefor, and the federal time limits required for implementation of the amendment.~~

(a) The NC Health Choice program shall be administered and operated in accordance with this Part and the NC Health Choice State Plan, as periodically amended by the Department of Health and Human Services and approved by the federal government.

(b) The requirements in G.S. 108A-54.1A shall apply to NC Health Choice State Plan amendments in the same manner in which they apply to Medicaid State Plan amendments."

SECTION 12H.2.(c) The Department of Health and Human Services shall take any and all action necessary to amend the Medicaid State Plan, Attachment 4.19-B, Section 5, Page 2, which pertains to supplemental payments that increase reimbursement to the average

commercial rate for certain eligible medical professional providers, in order to limit the definition of eligible medical professional providers to only physicians employed by the East Carolina University School of Medicine or the University of North Carolina at Chapel Hill School of Medicine as academic faculty. The supplemental payments shall be made only for services provided at these schools of medicine.

SECTION 12H.2.(d) This section is effective when it becomes law.

CODIFY GENERAL POLICIES

SECTION 12H.3. G.S. 108A-54 reads as rewritten:

"§ **108A-54. Authorization of Medical Assistance Program.**

(a) The Department is authorized to establish a Medicaid Program in accordance with Title XIX of the federal Social Security Act. The Department may adopt rules to implement the Program. The State is responsible for the nonfederal share of the costs of medical services provided under the Program. In addition, the State shall pay one hundred percent (100%) of the federal Medicare Part D clawback payments under the Medicare Modernization Act of 2004, P.L. 108-173, as amended. A county is responsible for the county's cost of administering the Program in that county.

…

(c) The Medicaid Program shall be administered and operated in accordance with this Part and the North Carolina Medicaid State Plan and Waivers, as periodically amended by the Department of Health and Human Services in accordance with G.S. 108A-54.1A and approved by the federal government.

(d) The Department shall not take any actions that the Department determines would jeopardize the State's qualification to receive federal funds through the Medicaid Program."

CODIFY MEDICAID AS SECONDARY PAYOR

SECTION 12H.4. G.S. 108A-55 is amended by adding a new subsection to read as follows:

"§ **108A-55. Payments.**

…

(e) Medicaid is a secondary payor of claims. The Department shall apply Medicaid medical policy to recipients who have primary insurance other than Medicare, Medicare Advantage, and Medicaid. For recipients who have primary insurance other than Medicare, Medicare Advantage, or Medicaid, the Department shall pay the lesser of the Medicaid Allowable Amount or an amount up to the actual coinsurance or deductible or both of the primary payor, in accordance with the State Plan, as approved by the Department of Health and Human Services. The Department may disregard application of this policy in cases where application of the policy would adversely affect patient care."

CODIFY COUNTIES SHARING IN FRAUD RECOVERY

SECTION 12H.5. Part 6 of Article 2 of Chapter 108A of the General Statutes is amended by adding a new section to read as follows:

"**§ 108A-64.1. Incentives to counties to recover fraudulent Medicaid expenditures.**

The Department of Health and Human Services, Division of Medical Assistance, shall provide incentives to counties that successfully recover fraudulently spent Medicaid funds by sharing State savings with counties responsible for the recovery of the fraudulently spent funds."

CODIFY CHANGES TO MEDICAL POLICY

SECTION 12H.6.(a) G.S. 108A-54.2 reads as rewritten:

"§ **108A-54.2. Procedures for changing medical policy.**

(a) The Department shall adopt rules to develop, amend, and adopt medical coverage policy for Medicaid and NC Health Choice in accordance with this section.

(b) Medical coverage policy is defined as those policies, definitions, or guidelines utilized to evaluate, treat, or support the health or developmental conditions of a recipient so as to determine eligibility, authorization or continued authorization, medical necessity, course of treatment and supports, clinical outcomes, and clinical supports treatment practices for a covered procedure, product, or service. Medical coverage policy is subject to the following:

(1) During the development of new medical coverage policy or amendment to existing medical coverage policy, the Department shall consult with and seek the advice of the Physician Advisory Group and other organizations the Secretary deems appropriate. The Secretary shall also consult with and seek the advice of officials of the professional societies or associations representing providers who are affected by the new medical coverage policy or amendments to existing medical coverage policy.

(2) At least 45 days prior to the adoption of new or amended medical coverage policy, the Department shall:

a. Publish the proposed new or amended medical coverage policy on the Department's Web site;

b. Notify all Medicaid and NC Health Choice providers of the proposed, new, or amended policy; and

c. Upon request, provide persons copies of the proposed medical coverage policy.

(3) During the 45-day period immediately following publication of the proposed new or amended medical coverage policy, the Department shall accept oral and written comments on the proposed new or amended policy.

(4) If, following the comment period, the proposed new or amended medical coverage policy is modified, then the Department shall, at least 15 days prior to its adoption:

a. Notify all Medicaid and NC Health Choice providers of the proposed policy;

b. Upon request, provide persons notice of amendments to the proposed policy; and

c. Accept additional oral or written comments during this 15-day period.

(c) If the adoption of new or amended medical coverage policies is necessitated by an act of the General Assembly or a change in federal law, then the 45- and 15-day time periods specified in subsection (b) of this section shall instead be 30- and 10-day time periods.

(d) Unless directed to do so by the General Assembly, the Department shall not change medical policy affecting the amount, sufficiency, duration, and scope of health care services and who may provide services until the Division of Medical Assistance has prepared a five-year fiscal analysis documenting the increased cost of the proposed change in medical policy and submitted it for departmental review. Changes to medical policy affecting the amount, sufficiency, duration, and scope of health care services and who may provide services are subject to the following:

(1) If the fiscal impact indicated by the fiscal analysis for any proposed medical policy change exceeds five hundred thousand dollars ($500,000) in total requirements for Medicaid or fifty thousand dollars ($50,000) in total requirements for NC Health Choice for a given fiscal year, then the Department shall submit the proposed medical policy change to the fiscal analysis to the Office of State Budget and Management and the Fiscal Research Division. The Department shall not implement the proposed medical policy change unless the source of State funding is identified and approved by the Office of State Budget and Management.

(2) If the medical policy change meets the requirement thresholds specified in subdivision (1) of this subsection but is required for compliance with federal

law, then the Department shall submit the proposed medical policy or policy interpretation change with the five-year fiscal analysis to the Office of State Budget and Management prior to implementing the change.

The Department shall annually report, by November 1 of each year, all medical policy changes with total requirements of less than the amount specified in subdivision (1) of this subsection to the Office of State Budget and Management and the Fiscal Research Division of the Legislative Services Commission."

SECTION 12H.6.(b) G.S. 108A-54.3 is repealed.

SECTION 12H.6.(c) G.S. 150B-1(d)(9) reads as rewritten:

"(9) The Department of Health and Human Services in adopting new or amending existing medical coverage policies ~~under~~ for the State Medicaid ~~Program~~and NC Health Choice programs pursuant to G.S. 108A-54.2."

SECTION 12H.6.(d) This section is effective when it becomes law.

PROVIDER APPLICATION AND RECREDENTIALING FEE

SECTION 12H.7. The Department of Health and Human Services, Division of Medical Assistance, shall charge an application fee of one hundred dollars ($100.00), and the amount federally required, to each provider enrolling in the Medicaid Program for the first time. The fee shall be charged to all providers at recredentialing every three years.

CODIFY ELECTRONIC TRANSACTION REQUIREMENTS FOR PROVIDERS

SECTION 12H.8. Chapter 108C of the General Statutes is amended by adding a new section to read as follows:

"§ **108C-13. Electronic transactions.**

(a) Providers shall follow the Department's established procedures for securing electronic payments, and the Department shall not provide routine provider payments by check. Medicaid providers shall file claims electronically, except that nonelectronic claims submission may be required when it is in the best interest of the Department.

(b) Providers shall submit Preadmission Screening and Annual Resident Reviews (PASARR) through the Department's Web-based tool or through a vendor with interface capability to submit data into the Web-based PASARR.

(c) Providers shall submit requests for prior authorizations electronically via Web site. Providers shall access their authorizations via online portals rather than receiving hard copies by mail. Providers shall receive copies of adverse decisions electronically, although recipients shall receive adverse decisions via certified mail.

(d) Providers shall submit their provider enrollment applications online. The Department shall accept electronic signatures rather than require receipt of signed hard copies."

CLARIFY RULE MAKING

SECTION 12H.9.(a) G.S. 108A-54(b) is recodified as G.S. 108A-54.1B(a).

SECTION 12H.9.(b) G.S. 108A-54.1B, as created by subsection (a) of this section, reads as rewritten:

"§ **108A-54.1B. Adoption of rules; State Plans, including amendments and waivers to State Plans, have effect of rules.**

(a) The Department is expressly authorized to adopt temporary and permanent rules to implement or define the federal laws and regulations, the North Carolina State Plan of Medical Assistance, and the North Carolina State Plan of the Health Insurance Program for Children, the terms and conditions of eligibility for applicants and recipients of the Medical Assistance Program and the Health Insurance Program for Children, audits and program integrity, the services, goods, supplies, or merchandise made available to recipients of the Medical Assistance Program and the Health Insurance Program for Children, and reimbursement for the services, goods, supplies, or merchandise made available to recipients of the Medical Assistance Program and the Health Insurance Program for Children.

(b) Rule-making authority granted under this section for particular circumstances or programs is in addition to any other rule-making authority granted to the Department under Chapter 150B of the General Statutes.

(c) Prior to filing a temporary rule authorized under G.S. 150B-21.1(a)(17) with the Rules Review Commission and the Office of Administrative Hearings, the Department shall consult with the Office of State Budget and Management on the possible fiscal impact of the temporary rule and its effect on State appropriations and local governments.

(d) State Plans, State Plan Amendments, and Waivers approved by the Centers for Medicare and Medicaid Services (CMS) for the North Carolina Medicaid Program and the NC Health Choice program shall have the force and effect of rules adopted pursuant to Article 2A of Chapter 150B of the General Statutes."

SECTION 12H.9.(c) G.S. 150B-1(d) is amended by adding a new subdivision to read as follows:

"(d) Exemptions from Rule Making. – Article 2A of this Chapter does not apply to the following:

…

(22) The Department of Health and Human Services with respect to the content of State Plans, State Plan Amendments, and Waivers approved by the Centers for Medicare and Medicaid Services (CMS) for the North Carolina Medicaid Program and the NC Health Choice program."

SECTION 12H.9.(d) G.S. 150B-21.1(a) is amended by adding a new subdivision to read as follows:

"(a) Adoption. – An agency may adopt a temporary rule when it finds that adherence to the notice and hearing requirements of G.S. 150B-21.2 would be contrary to the public interest and that the immediate adoption of the rule is required by one or more of the following:

…

(17) To maximize receipt of federal funds for the Medicaid or NC Health Choice programs within existing State appropriations, to reduce Medicaid or NC Health Choice expenditures, and to reduce Medicaid and NC Health Choice fraud and abuse."

MEDICAID ELIGIBILITY; ADJUSTMENT TO HEALTH CHOICE ELIGIBILITY

SECTION 12H.10.(a) Families and children who are categorically and medically needy are eligible for Medicaid, subject to the following annual income levels:

Family Size	Categorically Needy Income Level	Medically Needy Income Level
1	$ 4,344	$ 2,900
2	5,664	3,800
3	6,528	4,400
4	7,128	4,800
5	7,776	5,200
6	8,376	5,600
7	8,952	6,000
8	9,256	6,300

The Department of Health and Human Services shall provide Medicaid coverage to 19- and 20-year-olds under this subsection in accordance with federal rules and regulations. Medicaid enrollment of categorically needy families with children shall be continuous for one year without regard to changes in income or assets.

SECTION 12H.10.(b) For the following Medicaid eligibility classifications for which the federal poverty guidelines are used as income limits for eligibility determinations, the income limits will be updated each April 1 immediately following publication of federal

poverty guidelines. The Department of Health and Human Services, Division of Medical Assistance, shall provide Medicaid coverage to the following:

(1) All elderly, blind, and disabled people who have incomes equal to or less than one hundred percent (100%) of the federal poverty guidelines.

(2) Pregnant women with incomes equal to or less than one hundred eighty-five percent (185%) of the federal poverty guidelines and without regard to resources. Services to pregnant women eligible under this subsection continue throughout the pregnancy but include only those related to pregnancy and to those other conditions determined by the Department as conditions that may complicate pregnancy.

(3) Infants under the age of one with family incomes equal to or less than two hundred percent (200%) of the federal poverty guidelines and without regard to resources.

(4) Children aged one through five with family incomes equal to or less than two hundred percent (200%) of the federal poverty guidelines and without regard to resources.

(5) Effective until January 1, 2014, children aged six through 18 with family incomes equal to or less than one hundred percent (100%) of the federal poverty guidelines and without regard to resources.

(6) Effective January 1, 2014, children aged six through 18 with family incomes equal to or less than one hundred thirty-three percent (133%) of the federal poverty guidelines and without regard to resources.

(7) Workers with disabilities described in G.S. 108A-66A with unearned income equal to or less than one hundred fifty percent (150%) of the federal poverty guidelines.

The Department of Health and Human Services, Division of Medical Assistance, shall also provide family planning services to men and women of childbearing age with family incomes equal to or less than one hundred eighty-five percent (185%) of the federal poverty guidelines and without regard to resources.

SECTION 12H.10.(c) The Department of Health and Human Services, Division of Medical Assistance, shall provide Medicaid coverage to adoptive children with special or rehabilitative needs, regardless of the adoptive family's income.

SECTION 12H.10.(d) The Department of Health and Human Services, Division of Medical Assistance, shall provide Medicaid coverage to "independent foster care adolescents," ages 18, 19, and 20, as defined in section 1905(w)(1) of the Social Security Act (42 U.S.C. § 1396d(w)(1)), without regard to the adolescent's assets, resources, or income levels.

SECTION 12H.10.(e) The Department of Health and Human Services, Division of Medical Assistance, shall provide Medicaid coverage to women who need treatment for breast or cervical cancer and who are defined in 42 U.S.C. § 1396a(a)(10)(A)(ii)(XVIII).

SECTION 12H.10.(f) G.S. 108A-54.1 is recodified as G.S. 108A-66.1. G.S. 108A-66.1(a), as recodified by this subsection, reads as rewritten:

"(a) Title. – This ~~act~~ section may be cited as the Health Coverage for Workers With Disabilities Act. The Department shall implement a Medicaid buy-in eligibility category as permitted under P.L. 106-170, Ticket to Work and Work Incentives Improvement Act of 1999. The Department shall establish rules, policies, and procedures to implement this act in accordance with this section."

SECTION 12H.10.(g) Effective January 1, 2014, G.S. 108A-70.21(a)(1)d. reads as rewritten:

"§ **108A-70.21. Program eligibility; benefits; enrollment fee and other cost-sharing; coverage from private plans; purchase of extended coverage.**

(a) Eligibility. – The Department may enroll eligible children based on availability of funds. Following are eligibility and other requirements for participation in the Program:

(1) Children must:

a. Be between the ages of 6 through 18;
b. Be ineligible for Medicaid, Medicare, or other federal government-sponsored health insurance;
c. Be uninsured;
d. Be in a family whose family income is above ~~one hundred percent (100%)~~ one hundred thirty-three percent (133%) through two hundred percent (200%) of the federal poverty level;
e. Be a resident of this State and eligible under federal law; and
f. Have paid the Program enrollment fee required under this Part.

…."

NC HEALTH CHOICE TEMPORARY EXTENDED COVERAGE

SECTION 12H.11. An enrollee in the NC Health Choice program who loses eligibility due to reaching the age of 19 on or after June 1, 2013, may purchase at full premium cost continued coverage under the NC Health Choice program until the end of the month following the date on which the Secretary of the United States Department of Health and Human Services determines that the North Carolina federally facilitated Health Benefits Exchange is fully operational. The benefits, co-payments, and other conditions of enrollment under the NC Health Choice program applicable to extended coverage purchased in accordance with this section shall be the same as those applicable to an NC Health Choice enrollee who has not yet reached the age of 19.

STUDY POTENTIAL SAVINGS THROUGH THE PURCHASE OF INSURANCE

SECTION 12H.12. The Department of Health and Human Services shall study the opportunities for savings in overall State funding by purchasing health insurance for persons who are currently served by programs administered by the Department. The Department shall look broadly at all of its programs, including, but not limited to, Medicaid, AIDS Drug Assistance, and disability programs, for instances where purchasing private insurance for an individual may be less costly for the State than the current program serving the individual. The Department shall report on its findings to the Joint Legislative Oversight Committee on Health and Human Services no later than April 1, 2014.

MODIFICATIONS TO EXISTING COVERED SERVICES AND PAYMENT FOR SERVICES

SECTION 12H.13.(a) Except as otherwise provided in this act, the allowable State plan services, co-pays, reimbursement rates, and fees shall remain the same as those effective June 30, 2013. Except as otherwise provided in this act and to the extent allowable under federal law, the adjustments made in this section apply to both the Medicaid Program and the NC Health Choice program.

SECTION 12H.13.(b) Effective July 1, 2013, any rate methodologies that contain an automatic inflationary or increase factor shall not increase above the rate in effect on June 30, 2013, unless the rate is otherwise increased by the General Assembly. Interim hospital outpatient services' percentage of cost used for payment shall be adjusted to compensate for expected inflation that hospitals would be eligible for, and cost settlement will only be up to the percentage in subsection (e) of this section. The following rates are excluded from this subsection: Federally Qualified Health Centers, Rural Health Centers, critical access hospitals, State-Operated services, Hospice, Part B and D Premiums, third-party and HMO premiums, drugs, MCO capitation payments, and nursing home direct care services case mix index increases.

SECTION 12H.13.(c) Effective November 1, 2013, nominal co-pays for Medicaid are increased to the maximum amount allowed by the Centers for Medicare and Medicaid Services (CMS) as of June 30, 2013.

SECTION 12H.13.(d) Effective January 1, 2014, the following changes are made to allowable State plan services:

(1) Of the 22 visits allowed per recipient per fiscal year for professional services provided by physicians, nurse practitioners, nurse-midwives, physician assistants, clinics, and health departments, prior authorization is required for visits in excess of 10 within a year. This limitation and prior authorization requirement does not apply to chronic conditions.

(2) Adult rehabilitation home visits for set-up and training are limited to three within a 12-month period.

SECTION 12H.13.(e) Effective January 1, 2014, the percentage of allowable costs for hospital outpatients is reduced from eighty percent (80%) to seventy percent (70%).

SECTION 12H.13.(f) Effective January 1, 2014, the following changes are made to drug reimbursements:

(1) Prices based on the Wholesale Acquisition Cost (WAC) shall be paid at one hundred one percent (101%) of WAC.

(2) Prices based on the State Medicaid Average Costs (SMAC) shall be paid at one hundred fifty percent (150%) of SMAC.

(3) The rate for dispensing brand drugs is reduced by one dollar ($1.00).

SECTION 12H.13.(g) In order to achieve cost-savings and improve health outcomes, the Department of Health and Human Services, Division of Medical Assistance, may impose prior authorization requirements and other restrictions on medications prescribed to Medicaid and Health Choice recipients for the treatment of mental illness, including, but not limited to, prior authorization requirements and restrictions on (i) medications on the Preferred Drug List (PDL) that are prescribed for the treatment of mental illness and (ii) medications for attention deficit hyperactivity disorder (ADHD) or attention deficit disorder (ADD) that are prescribed to juveniles for off-label uses.

ADDITIONAL MANAGEMENT OF DRUG UTILIZATION

SECTION 12H.13A. The Department of Health and Human Services shall work with Community Care of North Carolina (CCNC) to do the following:

(1) Ensure better pharmacy management, including compliance by Medicaid recipients with taking their prescription drugs and compliance by pharmacy providers with the CCNC protocols.

(2) Identify Medicaid recipients who are frequent users of pharmacy services and coordinate with physicians and pharmacists to implement steps to enhance CCNC care management programs.

ADMINISTRATIVE HEARINGS FUNDING; CONTINGENCY FEES TO AUDIT CONTRACTORS

SECTION 12H.16.(a) The Department of Health and Human Services (Department) shall transfer the sum of one million dollars ($1,000,000) for the 2013-2014 fiscal year and the sum of one million dollars ($1,000,000) for the 2014-2015 fiscal year to the Office of Administrative Hearings (OAH). These funds shall be allocated by the OAH for mediation services provided for Medicaid applicant and recipient appeals and to contract for other services necessary to conduct the appeals process. OAH shall continue the Memorandum of Agreement (MOA) with the Department for mediation services provided for Medicaid recipient appeals and contracted services necessary to conduct the appeals process. The MOA will facilitate the Department's ability to draw down federal Medicaid funds to support this administrative function. Upon receipt of invoices from OAH for covered services rendered in accordance with the MOA, the Department shall transfer the federal share of Medicaid funds drawn down for this purpose.

SECTION 12H.16.(b) Chapter 108C of the General Statutes is amended by adding a new section to read as follows:

"**§ 108C-5.1. Post-payment review and recovery audit contracts.**

The Department shall not pay contingent fees pursuant to any contract with an entity conducting Medicaid post-payment reviews or Recovery Audit Contractor (RAC) audits before all appeal rights have been exhausted. Any contingent fee for Medicaid post-payment reviews or RAC audits shall be calculated as a percentage of the amount of the final overpayment, as defined in G.S. 108C-2(5). The State share of the contingent fee paid for Medicaid post-payment reviews or RAC audits shall not exceed the State share of the amount actually recovered by the Department and applied to the final overpayment."

SECTION 12H.16.(c) Subsection (b) of this section applies only to contracts entered into or amended on or after the date this act becomes law.

CODIFY PROVIDER PERFORMANCE BONDS

SECTION 12H.17.(a) Chapter 108C of the General Statutes is amended by adding a new section to read as follows:

"**§ 108C-14. Provider performance bonds.**

(a) Subject to the provisions of this section, the Department may require Medicaid-enrolled providers to purchase a performance bond in an amount not to exceed one hundred thousand dollars ($100,000) naming as beneficiary the Department of Health and Human Services, Division of Medical Assistance, or provide to the Department a validly executed letter of credit or other financial instrument issued by a financial institution or agency honoring a demand for payment in an equivalent amount. The Department may require the purchase of a performance bond or the submission of an executed letter of credit or financial instrument as a condition of initial enrollment, reenrollment, recredentialing, or reinstatement if any of the following are true:

(1) The provider fails to demonstrate financial viability.

(2) The Department determines there is significant potential for fraud and abuse.

(3) The Department otherwise finds it is in the best interest of the Medicaid program to do so.

The Department shall specify the circumstances under which a performance bond or executed letter of credit will be required.

(b) The Department may waive or limit the requirements of subsection (a) of this section for individual Medicaid-enrolled providers or for one or more classes of Medicaid-enrolled providers based on the following:

(1) The provider's or provider class's dollar amount of monthly billings to Medicaid.

(2) The length of time an individual provider has been licensed, endorsed, certified, or accredited in this State to provide services.

(3) The length of time an individual provider has been enrolled to provide Medicaid services in this State.

(4) The provider's demonstrated ability to ensure adequate record keeping, staffing, and services.

(5) The need to ensure adequate access to care.

In waiving or limiting requirements of this section, the Department shall take into consideration the potential fiscal impact of the waiver or limitation on the State Medicaid Program. The Department shall provide to the affected provider written notice of the findings upon which its action is based and shall include the performance bond requirements and the conditions under which a waiver or limitation apply."

SECTION 12H.17.(b) The Department may adopt temporary rules in accordance with G.S. 150B-21.1 as necessary to implement G.S. 108C-14, as enacted by this section.

SHARED SAVINGS PLAN WITH PROVIDERS

SECTION 12H.18.(a) The Department of Health and Human Services shall consult with providers affected by subsection (b) of this section to develop a shared savings

plan that the Department shall implement by July 1, 2014, with provider payments beginning January 1, 2015. The shared savings plan shall provide incentives to provide effective and efficient care that results in positive outcomes for Medicaid and NC Health Choice recipients. Payments under the shared savings plan shall be paid from funds withheld under subsection (b) of this section, and payments to members of a particular provider group shall come from the funds withheld from that group.

SECTION 12H.18.(b) During the 2013-2015 fiscal biennium, the Department of Health and Human Services shall withhold three percent (3%) of payments for the following services rendered to Medicaid and NC Health Choice recipients on or after January 1, 2014:

(1) Inpatient hospital.
(2) Physician, excluding primary care until January 1, 2015.
(3) Dental.
(4) Optical services and supplies.
(5) Podiatry.
(6) Chiropractors.
(7) Hearing aids.
(8) Personal care services.
(9) Nursing homes.
(10) Adult care homes.
(11) Dispensing drugs.

Funds from payments withheld under this section that are budgeted to be shared with providers shall not revert to the General Fund.

SECTION 12H.18.(c) The Department of Health and Human Services shall report to the Joint Legislative Oversight Committee on Health and Human Services on the development of the shared savings program established by this section no later than March 1, 2014.

SECTION 12H.18.(d) The Department of Health and Human Services shall use funds withheld from payments for drugs to develop with Community Care of North Carolina (CCNC) a program for Medicaid and Health Choice recipients based on the ChecKmeds NC program. The program shall include the following:

(1) At least 50 community pharmacies by June 30, 2015.
(2) At least 500 community pharmacies in at least 70 counties by June 30, 2016.
(3) A per member per month (PMPM) payment for care coordination and population health services provided in conjunction with CCNC.
(4) A pay for performance payment.

MODIFY HOSPITAL PROVIDER ASSESSMENTS BY CHANGING AMOUNT RETAINED BY STATE TO A PERCENTAGE

SECTION 12H.19.(a) G.S. 108A-121(8) reads as rewritten:

"(8) State's annual Medicaid payment. – ~~Forty-three million dollars ($43,000,000).~~ For an assessment collected under this Article, an amount equal to twenty-five and nine-tenths percent (25.9%) of the total amount collected under the assessment."

SECTION 12H.19.(b) G.S. 108A-124 reads as rewritten:

"§ **108A-124. Use of assessment proceeds.**

(a) Use. – The proceeds of the assessments imposed under this Article and all corresponding matching federal funds must be used to make the State annual Medicaid payment to the State and the Medicaid equity payments and UPL payments to hospitals.

(b) Quarterly Payments. – Within seven business days ~~of~~ following the due date for each quarterly assessment imposed under G.S. 108A-123, the Secretary must do the following:

~~(1) Transfer to the State Controller twenty-five percent (25%) of the State's annual Medicaid payment amount.~~

~~(2)~~(1) Pay to each hospital that has paid its equity assessment for the respective quarter twenty-five percent (25%) of its Medicaid equity payment amount. A hospital's Medicaid equity payment amount is the sum of the hospital's Medicaid inpatient and outpatient deficits after calculating all other Medicaid payments, excluding disproportionate share hospital payments and the UPL payment remitted to the hospital under subdivision ~~(3)~~(2) of this subsection.

~~(3)~~(2) Pay to the primary affiliated teaching hospital for the East Carolina University Brody School of Medicine, to the critical access hospitals, and to each hospital that has paid its UPL assessment for the respective quarter twenty-five percent (25%) of its UPL payment amount, as determined under subsection (c) of this section.

…."

SECTION 12H.19.(c) Article 7 of Chapter 108A of the General Statutes is amended by adding a new section to read as follows:

"**§ 108A-128. Payment for providers formerly subject to this Article.**

If a hospital provider (i) is exempt from both the equity and UPL assessments under this Article, (ii) makes an intergovernmental transfer (IGT) to the Department of Health and Human Services to be used to draw down matching federal funds, and (iii) has acquired, merged, leased, or managed another provider on or after March 25, 2011, then the hospital provider shall transfer to the State an additional amount, which shall be retained by the State. The additional amount shall be twenty-five and nine-tenths percent (25.9%) of the amount of funds that (i) would be transferred to the State through such an IGT and (ii) are to be used to match additional federal funds that the hospital provider is able to receive because of the acquired, merged, leased, or managed provider."

MODIFY MEDICAID RATE METHODOLOGIES FOR RECENTLY ACQUIRED PROVIDERS; CREATE REGIONAL BASE RATES FOR HOSPITALS

SECTION 12H.20.(a) The Department of Health and Human Services shall modify Medicaid rate methodologies to ensure that rates paid to hospital or physician providers that were acquired, merged, leased, or managed after December 31, 2011, do not exceed rates that would have been paid if the provider had not been acquired, merged, leased, or managed.

SECTION 12H.20.(b) The Department of Health and Human Services, Division of Medical Assistance, shall replace the existing base rates for individual hospitals with new regional base rates for all hospitals within a given region. The Department shall consult with hospitals to define the regions and to identify appropriate regional differences in order to establish regional base rates. The new regional base rates shall do the following:

(1) Maintain the same statewide total for the base rates for all hospitals as before the base rate revision, after first adjusting the statewide total based on the changes to rates made by subsection (a) of this section.

(2) Ensure the sustainability of small rural hospitals, ensuring access to care.

COMMUNITY CARE OF NORTH CAROLINA COST-EFFECTIVENESS AND OUTCOMES STUDY; CONTINUED REPORTING

SECTION 12H.21.(a) The Office of the State Auditor shall, as recommended in its January 2013 performance audit of the Medicaid Program, engage nationally recognized medical researchers to perform a scientifically valid study based upon actual data to determine whether the Community Care of North Carolina (CCNC) model saves money and improves health outcomes. This study shall begin during fiscal year 2013-2014 and shall, if possible, be completed by the end of that fiscal year. The Department of Health and Human Services shall, upon the direction of and in amounts specified by the Office of the State Auditor, make payments to the contractor hired by the Office of the State Auditor from the one hundred

thousand dollars ($100,000) appropriated elsewhere in this budget for this study as well as from federal Medicaid matching funds available for this study.

SECTION 12H.21.(b) North Carolina Community Care Networks, Inc. (NCCCN), shall report quarterly to the Department and to the Office of State Budget and Management (OSBM) on the development of the statewide Enhanced Primary Care Case Management System and its defined goals and deliverables as agreed upon in the contract. NCCCN shall submit biannual reports to the Secretary of Health and Human Services, OSBM, the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, and the Fiscal Research Division on the progress and results of implementing the quantitative, analytical, utilization, quality, cost containment, and access goals and deliverables set out in the contract. NCCCN shall conduct its own analysis of the CCNC system to identify any variations from the development plan for the Enhanced Primary Care Case Management System and its defined goals and deliverables set out in the contract between the Department of Health and Human Services, Division of Medical Assistance (DMA), and NCCCN. Upon identifying any variations, NCCCN shall develop and implement a plan to address the variations. NCCCN shall report the plan to DMA within 30 days after taking any action to implement the plan.

COMMUNITY CARE OF NORTH CAROLINA TO SET AND PAY PER MEMBER PER MONTH PAYMENTS ON PERFORMANCE BASIS TO ENCOURAGE BETTER CARE MANAGEMENT

SECTION 12H.22.(a) The Department of Health and Human Services shall contract with Community Care Networks, Inc. (NCCCN), to administer and distribute the funds currently allocated to per member per month (PMPM) payments for Community Care of North Carolina (CCNC) primary care providers. NCCCN shall distribute one hundred percent (100%) of the funds allocated to PMPM payments to primary care providers on a care management performance basis using criteria developed by NCCCN. In developing its pay for performance model, NCCCN shall (i) ensure an adequate statewide network of participating CCNC primary care providers and (ii) adopt a payment level of zero dollars ($0.00) for providers who do not satisfactorily participate in CCNC care management initiatives. Performance-based payments shall begin on July 1, 2014.

SECTION 12H.22.(b) PMPM payments from the Department to CCNC primary care providers shall continue until the implementation of the performance-based payment system.

SECTION 12H.22.(c) The Department shall consult with the Joint Legislative Oversight Committee on Health and Human Services on the performance-based payment proposal from NCCCN to incentivize better care management from primary care providers. If the Department submits a report and requests a meeting for the consultation, but the Oversight Committee does not hear the consultation within 90 days of the request, then the consultation requirement shall be deemed waived by the Oversight Committee. The report submitted for consultation shall include the following:

(1) Measureable elements that will be used to differentiate care management performance-based payments from the existing PMPM payments.
(2) A comparison of the performance plan to other measures such as the Healthcare Effectiveness Data and Information Set (HEDIS) or other national performance or quality measures.
(3) The specific structure of when payments would be made.
(4) An impact calculation of prospective payments under the performance-based payment plan and the current PMPM rates.

SECTION 12H.22.(d) Subsection (a) of this section is contingent upon both of the following:

(1) The Department's successful renegotiation of and modification to the existing contract or entering into a new contract with NCCCN to administer

and distribute performance-based payments, as provided in subsection (a) of this section.

(2) The consultation required under subsection (c) of this section or an implied waiver of the consultation requirement, as provided in subsection (c) of this section.

ACCOUNTING FOR MEDICAID RECEIVABLES AS NONTAX REVENUE

SECTION 12H.24.(a) Receivables reserved at the end of the 2013-2014 and 2014-2015 fiscal years shall, when received, be accounted for as nontax revenue for each of those fiscal years.

SECTION 12H.24.(b) For the 2013-2014 fiscal year, the Department of Health and Human Services shall deposit from its revenues one hundred ten million dollars ($110,000,000) with the Department of State Treasurer to be accounted for as nontax revenue. For the 2014-2015 fiscal year, the Department of Health and Human Services shall deposit from its revenues one hundred nine million dollars ($109,000,000) with the Department of State Treasurer to be accounted for as nontax revenue. These deposits shall represent the return of General Fund appropriations, nonfederal revenue, fund balances, or other resources from State-owned and State-operated hospitals which are used to provide indigent and non-indigent care services. The return from State-owned and State-operated hospitals to DHHS will be made from nonfederal resources in an amount equal to the amount of the payments from the Division of Medical Assistance for uncompensated care. The treatment of any revenue derived from federal programs shall be in accordance with the requirements specified in the Code of Federal Regulations, Title 2, Part 225.

MEDICAID SPECIAL FUND TRANSFER

SECTION 12H.25. Of the funds transferred to the Department of Health and Human Services for Medicaid programs pursuant to G.S. 143C-9-1, there is appropriated from the Medicaid Special Fund to the Department of Health and Human Services the sum of forty-three million dollars ($43,000,000) for the 2013-2014 fiscal year and the sum of forty-three million dollars ($43,000,000) for the 2014-2015 fiscal year. These funds shall be allocated as prescribed by G.S. 143C-9-1(b) for Medicaid programs. Notwithstanding the prescription in G.S. 143C-9-1(b) that these funds not reduce State general revenue funding, these funds shall replace the reduction in general revenue funding effected in this act.

MEDICAID COST CONTAINMENT ACTIVITIES

SECTION 12H.26.(a) The Department of Health and Human Services may use up to five million dollars ($5,000,000) in the 2013-2014 fiscal year and up to five million dollars ($5,000,000) in the 2014-2015 fiscal year in Medicaid funds budgeted for program services to support the cost of administrative activities when cost-effectiveness and savings are demonstrated. The funds shall be used to support activities that will contain the cost of the Medicaid Program, including contracting for services, hiring additional staff, funding pilot programs, Health Information Exchange and Health Information Technology (HIE/HIT) administrative activities, or providing grants through the Office of Rural Health and Community Care to plan, develop, and implement cost containment programs.

Medicaid cost containment activities may include prospective reimbursement methods, incentive-based reimbursement methods, service limits, prior authorization of services, periodic medical necessity reviews, revised medical necessity criteria, service provision in the least costly settings, plastic magnetic-stripped Medicaid identification cards for issuance to Medicaid enrollees, fraud detection software or other fraud detection activities, technology that improves clinical decision making, credit balance recovery and data mining services, and other cost containment activities. Funds may be expended under this section only after the Office of State Budget and Management has approved a proposal for the expenditure submitted by the Department. Proposals for expenditure of funds under this section shall

include the cost of implementing the cost containment activity and documentation of the amount of savings expected to be realized from the cost containment activity.

SECTION 12H.26.(b) The Department shall report annually on the expenditures under this section to the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, and the Fiscal Research Division. The report shall include the methods used to achieve savings and the amount saved by these methods. The report is due to the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, and the Fiscal Research Division not later than December 1 of each year for the activities of the previous State fiscal year.

MISCELLANEOUS MEDICAID PROVISIONS

SECTION 12H.27.(a) Volume Purchase Plans and Single Source Procurement. – The Department of Health and Human Services, Division of Medical Assistance, may, subject to the approval of a change in the State Medicaid Plan, contract for services, medical equipment, supplies, and appliances by implementation of volume purchase plans, single source procurement, or other contracting processes in order to improve cost containment.

SECTION 12H.27.(b) Cost Containment Programs. – The Department of Health and Human Services, Division of Medical Assistance, may undertake cost containment programs, including contracting for services, preadmissions to hospitals, and prior approval for certain outpatient surgeries before they may be performed in an inpatient setting.

SECTION 12H.27.(c) Posting of Notices on Web Site. – For any public notice of change required pursuant to the provisions of 42 C.F.R. § 447.205, the Department shall, no later than seven business days after the date of publication, publish the same notice on its Web site on the same Web page as it publishes State Plan amendments, and the notice shall remain on the Web site continuously for 90 days.

SECTION 12H.27.(d) Medicaid Identification Cards. – The Department shall issue Medicaid identification cards to recipients on an annual basis with updates as needed.

CONTINUE A+KIDS REGISTRY AND ASAP INITIATIVE

SECTION 12H.28.(a) Community Care of North Carolina (CCNC) and the Department of Health and Human Services, Division of Medical Assistance, shall continue to do the following:

(1) Monitor the prescription and administration of atypical antipsychotic medications to Medicaid recipients under the age of 18 through the About the Antipsychotics – Keeping It Documented for Safety (A+KIDS) Registry.

(2) Utilize a prior authorization policy for off-label antipsychotic medication prescribing with safety monitoring for Medicaid recipients 18 and older through the Adult Safety with Antipsychotic Prescribing (ASAP) Initiative.

SECTION 12H.28.(b) No later than April 1, 2014, Community Care of North Carolina (CCNC) and the Department of Health and Human Services shall report to the Joint Legislative Oversight Committee on Health and Human Services on the effectiveness of the programs listed in subsection (a) of this section.

SUBPART XII-I. MISCELLANEOUS

STUDY/ALLOW CERTIFIED NURSE-MIDWIVES GREATER FLEXIBILITY IN PRACTICE OF MIDWIFERY

SECTION 12I.2.(a) The Joint Legislative Oversight Committee on Health and Human Services shall appoint a subcommittee to study whether certified nurse-midwives should be given more flexibility in the practice of midwifery. In conducting the study, the subcommittee shall consider whether a certified nurse-midwife should be allowed to practice midwifery in collaboration with, rather than under the supervision of, a physician licensed to

practice medicine under Article 1 of Chapter 90 of the General Statutes who is actively engaged in the practice of obstetrics.

SECTION 12I.2.(b) The subcommittee shall report its findings and recommendations to the Joint Legislative Oversight Committee on Health and Human Services on or before April 1, 2014, at which time it shall terminate.

SUBPART XII-J. DHHS BLOCK GRANTS

DHHS BLOCK GRANTS

SECTION 12J.1.(a) Except as otherwise provided, appropriations from federal block grant funds are made for each year of the fiscal biennium ending June 30, 2015, according to the following schedule:

TEMPORARY ASSISTANCE TO NEEDY FAMILIES (TANF) FUNDS		**FY 2013-2014**	**FY 2014-2015**
Local Program Expenditures			
Division of Social Services			
01.	Work First Family Assistance	$ 60,285,413	$ 60,285,413
02.	Work First County Block Grants	82,485,495	82,485,495
03.	Work First Electing Counties	2,352,521	2,352,521
04.	Adoption Services – Special Children Adoption Fund	2,026,877	2,026,877
05.	Child Protective Services – Child Welfare Workers for Local DSS	9,412,391	9,412,391
06.	Child Welfare Collaborative	632,416	632,416
Division of Child Development			
07.	Subsidized Child Care Program	57,172,097	55,409,695
08.	Swap Child Care Subsidy	6,352,644	6,352,644
Division of Public Health			
09.	Teen Pregnancy Initiatives	2,500,000	2,500,000
DHHS Administration			
10.	Division of Social Services	2,482,260	2,482,260
11.	Office of the Secretary	34,042	34,042
Transfers to Other Block Grants			
Division of Child Development			

12.	Transfer to the Child Care and Development Fund	71,773,001	71,773,001
13.	Transfer to Social Services Block Grant for Child Protective Services – Child Welfare Training in Counties	1,300,000	1,300,000
14.	Transfer to Social Services Block Grant for Child Protective Services	5,040,000	5,040,000
15.	Transfer to Social Services Block Grant for County Departments of Social Services for Children's Services	4,148,001	4,148,001
TOTAL TEMPORARY ASSISTANCE TO NEEDY FAMILIES (TANF) FUNDS		**$307,997,158**	**$306,234,756**

TEMPORARY ASSISTANCE TO NEEDY FAMILIES (TANF) EMERGENCY CONTINGENCY FUNDS

Local Program Expenditures

Division of Social Services

01.	Work First County Block Grants	$ 5,580,925	$ 5,580,925
02.	Work First Electing Counties	25,692	25,692
03.	Subsidized Child Care	6,549,469	6,549,469
TOTAL TEMPORARY ASSISTANCE TO NEEDY FAMILIES (TANF) EMERGENCY CONTINGENCY FUNDS		**$12,156,086**	**$ 12,156,086**

SOCIAL SERVICES BLOCK GRANT

Local Program Expenditures

Divisions of Social Services and Aging and Adult Services

01.	County Departments of Social Services (Transfer from TANF $4,148,001)	$ 29,422,137	$ 29,422,137
02.	Child Protective Services (Transfer from TANF)	5,040,000	5,040,000
03.	State In-Home Services Fund	1,943,950	1,943,950
04.	Adult Protective Services	1,245,363	1,245,363
05.	State Adult Day Care Fund	1,994,084	1,994,084
06.	Child Protective Services/CPS		

	Investigative Services – Child Medical Evaluation Program	563,868	563,868
07.	Special Children Adoption Incentive Fund	462,600	462,600
08.	Child Protective Services – Child Welfare Training for Counties (Transfer from TANF)	1,300,000	1,300,000
09.	Home and Community Care Block Grant (HCCBG)	1,696,888	1,696,888
10.	Child Advocacy Centers	375,000	375,000
11.	Guardianship	3,978,360	3,978,360
12.	UNC Cares Contract	229,376	229,376
13.	Foster Care Services	1,385,152	1,385,152
	Division of Central Management and Support		
14.	DHHS Competitive Block Grants for Nonprofits	3,852,500	3,852,500
	Division of Mental Health, Developmental Disabilities, and Substance Abuse Services		
15.	Mental Health Services – Adult and Child/Developmental Disabilities Program/ Substance Abuse Services – Adult	4,030,730	4,030,730
DHHS Program Expenditures			
	Division of Services for the Blind		
16.	Independent Living Program	3,361,323	3,361,323
	Division of Health Service Regulation		
17.	Adult Care Licensure Program	381,087	381,087
18.	Mental Health Licensure and Certification Program	190,284	190,284
DHHS Administration			
19.	Division of Aging and Adult Services	577,745	577,745
20.	Division of Social Services	559,109	559,109
21.	Office of the Secretary/Controller's Office	127,731	127,731
22.	Division of Child Development	13,878	13,878

23.	Division of Mental Health, Developmental Disabilities, and Substance Abuse Services	27,446	27,446
24.	Division of Health Service Regulation	118,946	118,946
TOTAL SOCIAL SERVICES BLOCK GRANT		**$ 62,877,557**	**$ 62,877,557**

LOW-INCOME HOME ENERGY ASSISTANCE BLOCK GRANT

Local Program Expenditures

Division of Social Services

01.	Low-Income Energy Assistance Program (LIEAP)	$ 50,876,440	$ 50,876,440
02.	Crisis Intervention Program (CIP)	33,866,195	33,866,195

Local Administration

Division of Social Services

03.	County DSS Administration	6,757,731	6,757,731

DHHS Administration

04.	Office of the Secretary/DIRM	412,488	412,488
05.	Office of the Secretary/Controller's Office	18,378	18,378

Transfers to Other State Agencies

Department of Environment and Natural Resources (DENR)

06.	Weatherization Program	14,947,789	14,947,789
07.	Heating Air Repair and Replacement Program (HARRP)	7,193,873	7,193,873
08.	Local Residential Energy Efficiency Service Providers – Weatherization	37,257	37,257
09.	Local Residential Energy Efficiency Service Providers – HARRP	338,352	338,352
10.	DENR Administration – Weatherization	37,257	37,257
11.	DENR Administration – HARRP	338,352	338,352

Department of Administration

12.	N.C. Commission on Indian Affairs	87,736	87,736

TOTAL LOW-INCOME HOME ENERGY ASSISTANCE BLOCK GRANT		**$ 114,911,848**	**$ 114,911,848**
CHILD CARE AND DEVELOPMENT FUND BLOCK GRANT			
Local Program Expenditures			
Division of Child Development			
01.	Child Care Services (Smart Start $7,000,000)	$ 156,566,345	$ 158,328,747
02.	Electronic Tracking System	3,000,000	3,000,000
03.	Transfer from TANF Block Grant for Child Care Subsidies	71,773,001	71,773,001
04.	Quality and Availability Initiatives (TEACH Program $3,800,000)	24,262,402	22,500,000
DHHS Administration			
Division of Child Development			
05.	DCDEE Administrative Expenses	6,000,000	6,000,000
06.	Local Subsidized Child Care Services Support	13,274,413	13,274,413
Division of Central Administration			
07.	DHHS Central Administration – DIRM Technical Services	775,000	775,000
TOTAL CHILD CARE AND DEVELOPMENT FUND BLOCK GRANT		**$ 275,651,161**	**$ 275,651,161**
MENTAL HEALTH SERVICES BLOCK GRANT			
Local Program Expenditures			
01.	Mental Health Services – Adult	$ 10,717,607	$ 10,717,607
02.	Mental Health Services – Child	5,121,991	5,121,991
03.	Administration	200,000	200,000
TOTAL MENTAL HEALTH SERVICES BLOCK GRANT		**$ 16,039,598**	**$ 16,039,598**
SUBSTANCE ABUSE PREVENTION AND TREATMENT BLOCK GRANT			
Local Program Expenditures			

	Division of Mental Health, Developmental Disabilities, and Substance Abuse Services		
01.	Substance Abuse Services – Adult	$ 14,960,371	$ 14,960,371
02.	Substance Abuse Treatment Alternative for Women	6,050,300	6,050,300
03.	Substance Abuse – HIV and IV Drug	3,919,723	3,919,723
04.	Substance Abuse Prevention – Child	7,186,857	7,186,857
05.	Substance Abuse Services – Child	4,190,500	4,190,500
06.	Administration	454,000	454,000
	Division of Public Health		
07.	Risk Reduction Projects	575,654	575,654
08.	Aid-to-Counties	190,295	190,295
TOTAL SUBSTANCE ABUSE PREVENTION AND TREATMENT BLOCK GRANT		**$ 37,527,700**	**$ 37,527,700**

MATERNAL AND CHILD HEALTH BLOCK GRANT

	Local Program Expenditures		
	Division of Public Health		
01.	Children's Health Services (Safe Sleep Campaign $45,000)	$ 8,042,531	$ 8,042,531
02.	Women's Health (March of Dimes $350,000; Teen Pregnancy Prevention Initiatives $650,000; Perinatal Quality Collaborative $350,000; 17P Project $52,000; Carolina Pregnancy Care Fellowship $250,000; Nurse-Family Partnership $509,018)	8,532,935	8,532,935
03.	Oral Health	44,901	44,901
	DHHS Program Expenditures		
	Division of Public Health		
04.	Children's Health Services	1,301,504	1,301,504
05.	Women's Health – Maternal Health	105,419	105,419
06.	State Center for Health Statistics	164,487	164,487

07.	Health Promotion – Injury and Violence Prevention	89,374	89,374

DHHS Administration

Division of Public Health

08.	Division of Public Health Administration	573,108	573,108
TOTAL MATERNAL AND CHILD HEALTH BLOCK GRANT		**$ 18,854,259**	**$ 18,854,259**

PREVENTIVE HEALTH SERVICES BLOCK GRANT

Local Program Expenditures

01.	Physical Activity and Prevention	$ 1,186,142	$ 1,186,142
02.	Injury and Violence Prevention (Services to Rape Victims – Set-Aside)	169,730	169,730

DHHS Program Expenditures

Division of Public Health

03.	HIV/STD Prevention and Community Planning	145,819	145,819
04.	Oral Health Preventive Services	46,302	46,302
05.	Laboratory Services – Testing, Training, and Consultation	10,980	10,980
06.	Injury and Violence Prevention (Services to Rape Victims – Set-Aside)	199,634	199,634
07.	Heart Disease and Stroke Prevention	162,249	162,249
08.	Performance Improvement and Accountability	213,971	213,971
09.	Physical Activity and Nutrition	38,000	38,000
10.	State Center for Health Statistics	61,406	61,406
TOTAL PREVENTIVE HEALTH SERVICES BLOCK GRANT		**$ 2,234,233**	**$ 2,234,233**

COMMUNITY SERVICES BLOCK GRANT

Local Program Expenditures

Office of Economic Opportunity

01.	Community Action Agencies	$ 22,402,724	$ 22,402,724

02.	Limited Purpose Agencies	1,244,596	1,244,596
DHHS Administration			
03.	Office of Economic Opportunity	1,244,596	1,244,596
TOTAL COMMUNITY SERVICES BLOCK GRANT		**$ 24,891,916**	**$ 24,891,916**

GENERAL PROVISIONS

SECTION 12J.1.(b) Information to Be Included in Block Grant Plans. – The Department of Health and Human Services shall submit a separate plan for each Block Grant received and administered by the Department, and each plan shall include the following:

(1) A delineation of the proposed allocations by program or activity, including State and federal match requirements.
(2) A delineation of the proposed State and local administrative expenditures.
(3) An identification of all new positions to be established through the Block Grant, including permanent, temporary, and time-limited positions.
(4) A comparison of the proposed allocations by program or activity with two prior years' program and activity budgets and two prior years' actual program or activity expenditures.
(5) A projection of current year expenditures by program or activity.
(6) A projection of federal Block Grant funds available, including unspent federal funds from the current and prior fiscal years.

SECTION 12J.1.(c) Changes in Federal Fund Availability. – If the Congress of the United States increases the federal fund availability for any of the Block Grants or contingency funds and other grants related to existing Block Grants administered by the Department of Health and Human Services from the amounts appropriated in this section, the Department shall allocate the increase proportionally across the program and activity appropriations identified for that Block Grant in this section. In allocating an increase in federal fund availability, the Office of State Budget and Management shall not approve funding for new programs or activities not appropriated in this section.

If the Congress of the United States decreases the federal fund availability for any of the Block Grants or contingency funds and other grants related to existing Block Grants administered by the Department of Health and Human Services from the amounts appropriated in this section, the Department shall develop a plan to adjust the block grants based on reduced federal funding.

Notwithstanding the provisions of this subsection, for fiscal years 2013-2014 and 2014-2015, increases in the federal fund availability for the Temporary Assistance to Needy Families (TANF) Block Grant shall be used for the North Carolina Child Care Subsidy program to pay for child care in four- or five-star rated facilities for four-year-old children.

Prior to allocating the change in federal fund availability, the proposed allocation must be approved by the Office of State Budget and Management. If the Department adjusts the allocation of any Block Grant due to changes in federal fund availability, then a report shall be made to the Joint Legislative Oversight Committee on Health and Human Services, the Joint Legislative Commission on Governmental Operations, and the Fiscal Research Division.

SECTION 12J.1.(d) Except as otherwise provided, appropriations from federal Block Grant funds are made for each year of the fiscal biennium ending June 30, 2015, according to the schedule enacted for State fiscal years 2013-2014 and 2014-2015 or until a new schedule is enacted by the General Assembly.

SECTION 12J.1.(e) All changes to the budgeted allocations to the Block Grants or contingency funds and other grants related to existing Block Grants administered by the Department of Health and Human Services that are not specifically addressed in this section shall be approved by the Office of State Budget and Management, and the Office of State

Budget and Management shall consult with the Joint Legislative Commission on Governmental Operations for review prior to implementing the changes. The report shall include an itemized listing of affected programs, including associated changes in budgeted allocations. All changes to the budgeted allocations to the Block Grants shall be reported immediately to the Joint Legislative Oversight Committee on Health and Human Services and the Fiscal Research Division. This subsection does not apply to Block Grant changes caused by legislative salary increases and benefit adjustments.

TEMPORARY ASSISTANCE FOR NEEDY FAMILIES (TANF) FUNDS

SECTION 12J.1.(f) The sum of eighty-two million four hundred eighty-five thousand four hundred ninety-five dollars ($82,485,495) appropriated in this section in TANF funds to the Department of Health and Human Services, Division of Social Services, for each year of the 2013-2015 fiscal biennium shall be used for Work First County Block Grants. The Division shall certify these funds in the appropriate State-level services based on prior year actual expenditures. The Division has the authority to realign the authorized budget for these funds among the State-level services based on current year actual expenditures.

SECTION 12J.1.(g) The sum of two million four hundred eighty-two thousand two hundred sixty dollars ($2,482,260) appropriated in this section in TANF funds to the Department of Health and Human Services, Division of Social Services, for each year of the 2013-2015 fiscal biennium shall be used to support administration of TANF-funded programs.

SECTION 12J.1.(h) The sum of nine million four hundred twelve thousand three hundred ninety-one dollars ($9,412,391) appropriated in this section to the Department of Health and Human Services, Division of Social Services, in TANF funds for each year of the 2013-2015 fiscal biennium for child welfare improvements shall be allocated to the county departments of social services for hiring or contracting staff to investigate and provide services in Child Protective Services cases; to provide foster care and support services; to recruit, train, license, and support prospective foster and adoptive families; and to provide interstate and post-adoption services for eligible families.

Counties shall maintain their level of expenditures in local funds for Child Protective Services workers. Of the Block Grant funds appropriated for Child Protective Services workers, the total expenditures from State and local funds for fiscal years 2013-2014 and 2014-2015 shall not be less than the total expended from State and local funds for the 2012-2013 fiscal year.

SECTION 12J.1.(i) The sum of two million twenty-six thousand eight hundred seventy-seven dollars ($2,026,877) appropriated in this section in TANF funds to the Department of Health and Human Services, Special Children Adoption Fund, for each year of the 2013-2015 fiscal biennium shall be used in accordance with G.S. 108A-50.2. The Division of Social Services, in consultation with the North Carolina Association of County Directors of Social Services and representatives of licensed private adoption agencies, shall develop guidelines for the awarding of funds to licensed public and private adoption agencies upon the adoption of children described in G.S. 108A-50 and in foster care. Payments received from the Special Children Adoption Fund by participating agencies shall be used exclusively to enhance the adoption services program. No local match shall be required as a condition for receipt of these funds.

SECTION 12J.1.(j) The sum of six hundred thirty-two thousand four hundred sixteen dollars ($632,416) appropriated in this section to the Department of Health and Human Services in TANF funds for each year of the 2013-2015 fiscal biennium shall be used to continue support for the Child Welfare Collaborative.

SOCIAL SERVICES BLOCK GRANT

SECTION 12J.1.(k) The sum of twenty-nine million four hundred twenty-two thousand one hundred thirty-seven dollars ($29,422,137) appropriated in this section in the Social Services Block Grant to the Department of Health and Human Services, Division of

Social Services, for each year of the 2013-2015 fiscal biennium shall be used for county block grants. The Division shall certify these funds in the appropriate State-level services based on prior year actual expenditures. The Division has the authority to realign the authorized budget for these funds among the State-level services based on current year actual expenditures.

SECTION 12J.1.(l) The sum of one million three hundred thousand dollars ($1,300,000) appropriated in this section in the Social Services Block Grant to the Department of Health and Human Services, Division of Social Services, for each year of the 2013-2015 fiscal biennium shall be used to support various child welfare training projects as follows:

(1) Provide a regional training center in southeastern North Carolina.

(2) Provide training for residential child caring facilities.

(3) Provide for various other child welfare training initiatives.

SECTION 12J.1.(m) The Department of Health and Human Services is authorized, subject to the approval of the Office of State Budget and Management, to transfer Social Services Block Grant funding allocated for departmental administration between divisions that have received administrative allocations from the Social Services Block Grant.

SECTION 12J.1.(n) Social Services Block Grant funds appropriated for the Special Childrens Adoption Incentive Fund will require a fifty percent (50%) local match.

SECTION 12J.1.(o) The sum of five million forty thousand dollars ($5,040,000) appropriated in this section in the Social Services Block Grant for each year of the 2013-2015 fiscal biennium shall be allocated to the Department of Health and Human Services, Division of Social Services. The Division shall allocate these funds to local departments of social services to replace the loss of Child Protective Services State funds that are currently used by county government to pay for Child Protective Services staff at the local level. These funds shall be used to maintain the number of Child Protective Services workers throughout the State. These Social Services Block Grant funds shall be used to pay for salaries and related expenses only and are exempt from 10A NCAC 71R .0201(3) requiring a local match of twenty-five percent (25%).

SECTION 12J.1.(p) The sum of three million eight hundred fifty-two thousand five hundred dollars ($3,852,500) appropriated in this section in the Social Services Block Grant to the Department of Health and Human Services, Division of Central Management and Support, shall be used for DHHS competitive block grants pursuant to Section 12A.2 of this act for each year of the 2013-2015 fiscal biennium. These funds are exempt from the provisions of 10A NCAC 71R .0201(3).

SECTION 12J.1.(q) The sum of three hundred seventy-five thousand dollars ($375,000) appropriated in this section in the Social Services Block Grant for each year of the 2013-2015 fiscal biennium to the Department of Health and Human Services, Division of Social Services, shall be used to continue support for the Child Advocacy Centers and are exempt from the provisions of 10A NCAC 71R .0201(3).

SECTION 12J.1.(r) The sum of three million nine hundred seventy-eight thousand three hundred sixty dollars ($3,978,360) appropriated in this section in the Social Services Block Grant for each year of the 2013-2015 fiscal biennium to the Department of Health and Human Services, Divisions of Social Services and Aging and Adult Services, shall be used for guardianship services pursuant to Chapter 35A of the General Statutes. The Department may expend funds appropriated in this section to support (i) existing corporate guardianship contracts during the 2013-2014 and 2014-2015 fiscal years and (ii) guardianship contracts transferred to the State from local management entities or managed care organizations during the 2013-2014 and 2014-2015 fiscal years.

LOW-INCOME HOME ENERGY ASSISTANCE BLOCK GRANT

SECTION 12J.1.(s) Additional emergency contingency funds received may be allocated for Energy Assistance Payments or Crisis Intervention Payments without prior consultation with the Joint Legislative Commission on Governmental Operations. Additional funds received shall be reported to the Joint Legislative Commission on Governmental

Operations and the Fiscal Research Division upon notification of the award. The Department of Health and Human Services shall not allocate funds for any activities, including increasing administration, other than assistance payments, without prior consultation with the Joint Legislative Commission on Governmental Operations.

SECTION 12J.1.(t) The sum of fifty million eight hundred seventy-six thousand four hundred forty dollars ($50,876,440) appropriated in this section in the Low-Income Home Energy Assistance Block Grant for each year of the 2013-2015 fiscal biennium to the Department of Health and Human Services, Division of Social Services, shall be used for energy assistance payments for the households of (i) elderly persons age 60 and above with income up to one hundred thirty percent (130%) of the federal poverty level and (ii) disabled persons eligible for services funded through the Division of Aging and Adult Services. County departments of social services shall submit to the Division of Social Services an outreach plan for targeting households with 60-year-old household members no later than August 1 of each year.

CHILD CARE AND DEVELOPMENT FUND BLOCK GRANT

SECTION 12J.1.(u) Payment for subsidized child care services provided with federal TANF funds shall comply with all regulations and policies issued by the Division of Child Development for the subsidized child care program.

SECTION 12J.1.(v) If funds appropriated through the Child Care and Development Fund Block Grant for any program cannot be obligated or spent in that program within the obligation or liquidation periods allowed by the federal grants, the Department may move funds to child care subsidies, unless otherwise prohibited by federal requirements of the grant, in order to use the federal funds fully.

MATERNAL AND CHILD HEALTH BLOCK GRANT

SECTION 12J.1.(w) If federal funds are received under the Maternal and Child Health Block Grant for abstinence education, pursuant to section 912 of Public Law 104-193 (42 U.S.C. § 710), for the 2013-2014 fiscal year or the 2014-2015 fiscal year, then those funds shall be transferred to the State Board of Education to be administered by the Department of Public Instruction. The Department of Public Instruction shall use the funds to establish an abstinence until marriage education program and shall delegate to one or more persons the responsibility of implementing the program and G.S. 115C-81(e1)(4) and (4a). The Department of Public Instruction shall carefully and strictly follow federal guidelines in implementing and administering the abstinence education grant funds.

SECTION 12J.1.(x) The Department of Health and Human Services shall ensure that there will be follow-up testing in the Newborn Screening Program.

PART XIII. DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

INCREASE CERTAIN AGRONOMIC TESTING FEES

SECTION 13.1.(a) G.S. 106-22 reads as rewritten:

"§ **106-22. Joint duties of Commissioner and Board.**

The Commissioner of Agriculture, by and with the consent and advice of the Board of Agriculture shall:

…

(17) Agronomic Testing. – Provide agronomic testing services and charge reasonable fees for plant analysis, nematode testing, in-State soil testing during peak season, out-of-state soil testing, and expedited soil testing. The Board shall charge at least four dollars ($4.00) for plant analysis, at least two dollars ($2.00) for nematode testing, at least four dollars ($4.00) for in-State soil testing during peak season, at least five dollars ($5.00) for out-of-state soil testing, and at least ~~one hundred dollars ($100.00)~~two hundred dollars

($200.00) for expedited soil testing. As used in this subdivision, "peak season" includes at a minimum the four-month period beginning no later than December 1 of any year and extending until at least March 31 of the following year. The Board may modify the meaning of peak season by starting a peak season earlier in any year or ending it later the following year or both.

…."

SECTION 13.1.(b) It is the intent of the General Assembly that receipts generated from the new fee for in-State soil testing during peak season under G.S. 106-22(17), as amended by this section, are to be used to alleviate testing delays in the peak testing season. Any receipts generated as a result of the new fee for in-State soil testing during peak season are appropriated to the Department of Agriculture and Consumer Services for the 2013-2014 fiscal year and for the 2014-2015 fiscal year and shall be available to the Department in addition to any other existing funding sources.

SECTION 13.1.(c) This section becomes effective August 1, 2013, and applies to submissions received by the Department for testing or analysis on or after that date.

AGRICULTURAL WATER RESOURCES ASSISTANCE PROGRAM FUNDING

SECTION 13.2. The Division of Soil and Water Conservation of the Department of Agriculture and Consumer Services may use up to fifteen percent (15%) of the funds appropriated for the Agriculture Water Resources Assistance program to provide engineering, technical, and administrative assistance.

TVA SETTLEMENT FUNDS

SECTION 13.3.(a) In each fiscal year of the 2013-2015 biennium, the Department of Agriculture and Consumer Services shall apply for two million two hundred forty thousand dollars ($2,240,000) from the Tennessee Valley Authority Settlement Agreement in compliance with the requirements of paragraphs 122 through 128 of the Consent Decree entered into by the State in *State of Alabama et al. v. Tennessee Valley Authority,* Civil Action 3:11-cv-00170 in the United States District Court for the Eastern District of Tennessee, and Appendix C to the Compliance Agreement. The funds received by the State under this section shall be allocated as follows:

(1) Five hundred thousand dollars ($500,000) for each fiscal year of the 2013-2015 biennium to award grants for "Environmental Mitigation Projects" of the types specified in paragraph 128 of the Consent Decree in the following counties: Avery, Buncombe, Burke, Cherokee, Clay, Graham, Haywood, Henderson, Jackson, Macon, Madison, McDowell, Mitchell, Swain, Transylvania, Watauga, Yancey.

(2) Five hundred thousand dollars ($500,000) for each fiscal year of the 2013-2015 biennium to the North Carolina Agricultural Water Resources Assistance Program to fund projects in the following counties: Avery, Buncombe, Burke, Cherokee, Clay, Graham, Haywood, Henderson, Jackson, Macon, Madison, McDowell, Mitchell, Swain, Transylvania, Watauga, Yancey.

(3) One million dollars ($1,000,000) for each fiscal year of the 2013-2015 biennium to North Carolina Agricultural Development and Farmland Preservation Trust Fund to be used, notwithstanding G.S. 106-744, to award funds in the following counties: Avery, Buncombe, Burke, Cherokee, Clay, Graham, Haywood, Henderson, Jackson, Macon, Madison, McDowell, Mitchell, Swain, Transylvania, Watauga, Yancey.

(4) Two hundred forty thousand dollars ($240,000) for each fiscal year of the 2013-2015 biennium to the Appalachian Energy Center at Appalachian State University.

SECTION 13.3(b) Funds allocated under subdivision (1) of subsection (a) of this section shall not be used to acquire land.

SUSTAINABLE LOCAL FOOD ADVISORY COUNCIL SUNSET

SECTION 13.4. Section 1 of S.L. 2012-75 reads as rewritten:

"**SECTION 1.** Section 4 of S.L. 2009-530 reads as rewritten:

"**SECTION 4.** This act is effective when it becomes law and shall expire on ~~July 31, 2015.~~July 31, 2013."

TOBACCO TRUST FUND

SECTION 13.5. Notwithstanding any other provisions of G.S. 143-720 or the provisions of G.S. 143-721, the funds appropriated from the General Fund to the Tobacco Trust Fund for the 2013-2014 fiscal year and for the 2014-2015 fiscal year shall be used as follows:

(1) Up to three hundred fifty thousand dollars ($350,000) may be used for administrative expenses each fiscal year.

(2) Of the remaining funds appropriated to the Tobacco Trust Fund, preference shall be given to provide direct financial assistance to tobacco producers as permitted under G.S. 143-720.

STATE FAIR ADMISSION

SECTION 13.6. Notwithstanding 02 NCAC 20B .0104, the Board of Agriculture may set admission fees for the 2013 State Fair without complying with the requirements of Article 2A of Chapter 150B of the General Statutes. When this act becomes law, the Board shall post the 2013 admission fee schedule on its Web site and provide notice of the fee schedule, along with a citation to this section, to all persons named on the mailing list maintained pursuant to G.S. 150B-21.2(d).

FUTURE FARMERS OF AMERICA PROGRAM FUNDS/REPORTING REQUIREMENTS

SECTION 13.7.(a) Up to forty thousand dollars ($40,000) of the funds appropriated to the Department of Agriculture and Consumer Services for the 2013-2014 fiscal year and up to one hundred forty thousand dollars ($140,000) of the funds appropriated to the Department of Agriculture and Consumer Services for the 2014-2015 fiscal year may be used as a grant-in-aid to the North Carolina Agricultural Foundation, Inc., for the Future Farmers of America program for each of these fiscal years.

SECTION 13.7.(b) North Carolina Agricultural Foundation – FFA Foundation (hereinafter "FFA Foundation") shall do the following if the Department of Agriculture and Consumer Services allocates funds to the entity:

(1) By September 1 of each year, and more frequently as requested, report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division on prior State fiscal year program activities, objectives, and accomplishments and prior State fiscal year itemized expenditures and fund sources.

(2) Provide to the Fiscal Research Division a copy of the organization's annual audited financial statement within 30 days of issuance of the statement.

ALLOW BOARD TO ESTABLISH EXAMINATION FEE/SOIL SCIENTISTS

SECTION 13.8. G.S. 89F-25 reads as rewritten:

"§ **89F-25. Fees.**

(a) The Board shall determine fees for the following services that shall not exceed the amounts specified in this section:

Application	$ 50.00
~~Examination~~	~~125.00~~

License	85.00
Renewal	85.00
Restoration	110.00
Replacement license	50.00
Seal	30.00.

(b) The Board may charge the applicant the actual cost of preparation, administration, and grading of examinations for soil scientists, in addition to its other fees."

INCREASE CERTAIN COMMERCIAL FERTILIZER FEES FOR PACKAGES OF FIVE POUNDS OR LESS

SECTION 13.9.(a) G.S. 106-660(a) reads as rewritten:

"(a) Each brand of commercial fertilizer for tobacco, specialty fertilizer, fertilizer materials, manipulated manure and fortified mulch shall be registered by the person whose name appears upon the label before being offered for sale, sold or distributed in this State, except those brands expressly produced for experimental and demonstration purposes only. Other fertilizers may be manufactured and sold without registration after obtaining a license as required in G.S. 106-661(a). The application for registration shall be submitted in duplicate to the Commissioner for his approval on forms furnished by the Commissioner, and shall include a fee of five dollars ($5.00) per brand and grade for all packages greater than five pounds. The registration fee for packages of five pounds or less shall be ~~thirty dollars ($30.00).~~fifty-five dollars ($55.00). All approved registrations expire on June 30 of each year. The application shall include such information as deemed necessary by the Board of Agriculture."

SECTION 13.9.(b) G.S. 106-671(a) reads as rewritten:

"(a) For the purpose of defraying expenses on the inspection and of otherwise determining the value of commercial fertilizers in this State, there shall be paid to the Department of Agriculture and Consumer Services a charge of fifty cents (50¢) per ton on all commercial fertilizers other than packages of five pounds or less. Inspection fees shall be paid on all tonnage distributed into North Carolina to any person not having a valid reporting permit. ~~On individual~~Individual packages of five pounds or less ~~there shall be paid in lieu of the tonnage fee an annual registration fee of twenty-five dollars ($25.00) for each brand offered for sale, sold, or distributed;~~shall be exempt from the tonnage fee; provided that any per annum (fiscal) tonnage of any brand sold in excess of one hundred tons ~~may~~ shall be subject to the charge of fifty cents (50¢) per ton on any amount in excess of one hundred tons as provided herein. Whenever any manufacturer of commercial fertilizer shall have paid the charges required by this section his goods shall not be liable to further tax, whether by city, town, or county; provided, this shall not exempt the commercial fertilizers from an ad valorem tax."

SECTION 13.9.(c) This section becomes effective August 1, 2013.

DEPARTMENT OF LABOR CREATE AND CONDUCT SAFETY PROGRAM FOR HISTORICAL BOILER OPERATORS

SECTION 13.10.(a) Chapter 95 of the General Statutes is amended by adding the following new Article to read:

"Article 7B.

"Historical Boilers.

"**§ 95-69.30. Safety Program for Operators and Apprentices.**

The Department of Labor shall create and conduct a safety program for the purpose of providing instruction on how to properly care, maintain, operate, and exhibit historical boilers. The program shall also include instruction on how to train an apprentice to properly care, maintain, operate, and exhibit historical boilers. For purposes of this section, the term "historical boiler" means a steam boiler of riveted construction that is preserved, restored, or maintained for hobby or demonstration."

SECTION 13.10.(b) This section is effective when it becomes law.

PART XIV. DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

DEVELOP PLAN FOR AQUARIUMS TO RAISE PRIVATE FUNDS FOR SUPPORT ASSISTANCE

SECTION 14.1. No later than April 1, 2014, the Division of North Carolina Aquariums of the Department of Environment and Natural Resources shall develop a plan for the North Carolina Aquariums established under Article 5C of Chapter 143B of the General Statutes to increase the amount of private funds raised through the direct efforts of each North Carolina Aquarium in order to make the North Carolina Aquariums become more financially self-sustaining. No later than April 1, 2014, the Division of North Carolina Aquariums of the Department of Environment and Natural Resources shall report its plan under this section to the Senate Appropriations Committee on Natural and Economic Resources, the House of Representatives Appropriations Subcommittee on Natural and Economic Resources, and the Fiscal Research Division.

EARLY SUNSET FOR NC SUSTAINABLE COMMUNITIES TASK FORCE

SECTION 14.2. Section 13.5(e) of S.L. 2010-31 reads as rewritten:

"**SECTION 13.5.(e)** Sunset. – This section expires ~~June 30, 2016.~~July 31, 2013."

CLEAN WATER MANAGEMENT TRUST FUND UNDER DENR; NHTF REPEALED; CWMTF CHANGES

SECTION 14.3.(a) All staff that are supported by the Clean Water Management Trust Fund and employed by the Clean Water Management Trust Fund Board of Trustees are transferred to the Department of Environment and Natural Resources and shall continue to be supported by the Clean Water Management Trust Fund, established in G.S. 113A-253, and shall be employed by the Department of Environment and Natural Resources. The Clean Water Management Trust Fund shall be administered by the Department of Environment and Natural Resources.

SECTION 14.3.(b) Article 5A of Chapter 113 of the General Statutes is repealed.

SECTION 14.3.(c) G.S. 20-79.7(b) reads as rewritten:

"(b) Distribution of Fees. – The Special Registration Plate Account and the Collegiate and Cultural Attraction Plate Account are established within the Highway Fund. The Division must credit the additional fee imposed for the special registration plates listed in subsection (a) of this section among the Special Registration Plate Account (SRPA), the Collegiate and Cultural Attraction Plate Account (CCAPA), the ~~Natural Heritage Trust Fund (NHTF),~~Clean Water Management Trust Fund (CWMTF), which is established under ~~G.S. 113-77.7,~~G.S. 113A-253, and the Parks and Recreation Trust Fund, which is established under G.S. 113-44.15, as follows:

Special Plate	SRPA	CCAPA	~~NHTF~~CWMTF	PRTF

…."

SECTION 14.3.(d) G.S. 113A-253 reads as rewritten:

"§ **113A-253. Clean Water Management Trust Fund.**

(a) Fund Established. – The Clean Water Management Trust Fund is established as a special revenue ~~fund.~~fund to be administered by the Department of Environment and Natural Resources. The Fund receives revenue from the following sources and may receive revenue from other sources:

(1) Annual appropriations.

(2) ~~Scenic River special~~Special registration plates under G.S. 20-81.12.

(3) Other special registration plates under G.S. 20-79.7.

(b) Fund Earnings, Assets, and Balances. – The State Treasurer shall hold the Fund separate and apart from all other moneys, funds, and accounts. Investment earnings credited to the assets of the Fund shall become part of the Fund. Any balance remaining in the Fund at the

end of any fiscal year shall be carried forward in the Fund for the next succeeding fiscal year. Payments from the Fund shall be made on the warrant of the Chair of the Board of Trustees.

(c) Fund Purposes. – Moneys from the Fund are appropriated annually to finance projects to clean up or prevent surface water pollution and for land preservation in accordance with this Article. Revenue in the Fund may be used for any of the following purposes:

(1) To acquire land for riparian buffers for the purposes of providing environmental protection for surface waters and urban drinking water supplies and establishing a network of riparian greenways for environmental, educational, and recreational ~~uses and to retire debt incurred for this purpose under Article 9 of Chapter 142 of the General Statutes.~~uses.

(2) To acquire conservation easements or other interests in real property for the purpose of protecting and conserving surface waters and enhancing drinking water supplies, including the development of water supply ~~reservoirs, and to retire debt incurred for this purpose under Article 9 of Chapter 142 of the General Statutes.~~reservoirs.

(3) To coordinate with other public programs involved with lands adjoining water bodies to gain the most public benefit while protecting and improving water ~~quality and to retire debt incurred for this purpose under Article 9 of Chapter 142 of the General Statutes.~~quality.

(4) To restore previously degraded lands to reestablish their ability to protect water ~~quality and to retire debt incurred for this purpose under Article 9 of Chapter 142 of the General Statutes.~~quality.

~~(5) To repair failing wastewater collection systems and wastewater treatment works if the repair is a reasonable remedy for resolving an existing waste treatment problem and the repair is not for the purpose of expanding the system to accommodate future anticipated growth of a community.~~

~~(6) To repair and eliminate failing septic tank systems, to eliminate illegal drainage connections, and to expand a wastewater collection system or wastewater treatment works if the expansion eliminates failing septic tank systems or illegal drainage connections.~~

~~(7) To finance stormwater quality projects.~~

(8) To facilitate planning that targets reductions in surface water pollution.

(8a) To finance innovative efforts, including pilot projects, to improve stormwater management, to reduce pollutants entering the State's waterways, to improve water quality, and to research alternative solutions to the State's water quality problems.

(8b) To provide buffers around military bases or for State matching funds for the Readiness and Environmental Protection Initiative, a federal funding initiative that provides funds for military buffers.

(8c) To acquire land that represents the ecological diversity of North Carolina, including natural features such as riverine, montane, coastal, and geologic systems and other natural areas to ensure their preservation and conservation for recreational, scientific, educational, cultural, and aesthetic purposes.

(8d) To acquire land that contributes to the development of a balanced State program of historic properties.

(8e) To authorize expenditures from the Fund not to exceed seven hundred fifty thousand dollars ($750,000) to pay for the inventory of natural areas conducted under the Natural Heritage Program established pursuant to the Nature Preserves Act, Article 9A of Chapter 113A of the General Statutes, and to pay for conservation and protection planning and for informational programs for owners of natural areas, as defined in G.S. 113A-164.3.

(9) To fund operating expenses of the Board of Trustees and its staff.

(d) Limit on Operating and Administrative Expenses. – ~~No more than two percent (2%) of the annual balance of the Fund on 1 July or a total sum of one million two hundred fifty thousand dollars ($1,250,000), whichever is greater, may be used each fiscal year for administrative and operating expenses of the Board of Trustees and its staff.~~For the fiscal year beginning July 1, 2013, the limit on operating and administrative expenses of the Board of Trustees and its staff is one million two hundred fifty thousand dollars ($1,250,000). For fiscal years beginning on or after July 1, 2014, the limit on operating and administrative expenses of the Board of Trustees and its staff is the amount for the preceding year, adjusted to include any change in the distribution of statewide salary and benefits reserves."

SECTION 14.3.(e) G.S. 113A-255 reads as rewritten:

"§ **113A-255. Clean Water Management Trust Fund: Board of Trustees established; membership qualifications; vacancies; meetings and meeting facilities.**

(a) Board of Trustees Established. – There is established the Clean Water Management Trust Fund Board of Trustees. The Clean Water Management Trust Fund Board of Trustees shall be administratively located within the Department of Environment and Natural ~~Resources but shall be independent of the Department.~~Resources.

(b) Membership. – The Clean Water Management Trust Fund Board of Trustees shall be composed of ~~21 members appointed to four-year terms as follows:~~nine members appointed to three-year terms as follows:

~~(1) One member appointed by the Governor to a term that expires on 1 July of years that precede by one year those years that are evenly divisible by four.~~

~~(2) One member appointed by the Governor to a term that expires on 1 July of years that precede by one year those years that are evenly divisible by four.~~

~~(3) One member appointed by the Governor to a term that expires on 1 July of years that are evenly divisible by four.~~

~~(4) One member appointed by the Governor to a term that expires on 1 July of years that are evenly divisible by four.~~

~~(5) One member appointed by the Governor to a term that expires on 1 July of years that follow by one year those years that are evenly divisible by four.~~

~~(6) One member appointed by the Governor to a term that expires on 1 July of years that follow by two years those years that are evenly divisible by four.~~

~~(7) One member appointed by the Governor to a term that expires on 1 July of years that follow by two years those years that are evenly divisible by four.~~

~~(8) One member appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate to a term that expires on 1 July of years that precede by one year those years that are evenly divisible by four.~~

~~(9) One member appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate to a term that expires on 1 July of years that precede by one year those years that are evenly divisible by four.~~

~~(10) One member appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate to a term that expires on 1 July of years that are evenly divisible by four.~~

~~(11) One member appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate to a term that expires on 1 July of years that follow by one year those years that are evenly divisible by four.~~

~~(12) One member appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate to a term that expires on 1 July of years that follow by one year those years that are evenly divisible by four.~~

~~(13) One member appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate to a term that expires on 1 July~~

~~of years that follow by two years those years that are evenly divisible by four.~~

~~(14) One member appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate to a term that expires on 1 July of years that follow by two years those years that are evenly divisible by four.~~

~~(15) One member appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives to a term that expires on 1 July of years that precede by one year those years that are evenly divisible by four.~~

~~(16) One member appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives to a term that expires on 1 July of years that are evenly divisible by four.~~

~~(17) One member appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives to a term that expires on 1 July of years that are evenly divisible by four.~~

~~(18) One member appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives to a term that expires on 1 July of years that follow by one year those years that are evenly divisible by four.~~

~~(19) One member appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives to a term that expires on 1 July of years that follow by one year those years that are evenly divisible by four.~~

~~(20) One member appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives to a term that expires on 1 July of years that follow by two years those years that are evenly divisible by four.~~

~~(21) One member appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives to a term that expires on 1 July of years that follow by two years those years that are evenly divisible by four.~~

(1) One member appointed by the Governor to a term that expires on July 1 of years that precede by one year those years that are evenly divisible by three.

(2) One member appointed by the Governor to a term that expires on July 1 of years that follow by one year those years that are evenly divisible by three.

(3) One member appointed by the Governor to a term that expires on July 1 of years that are evenly divisible by three.

(4) One member appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate to a term that expires on July 1 of years that precede by one year those years that are evenly divisible by three.

(5) One member appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate to a term that expires on July 1 of years that follow by one year those years that are evenly divisible by three.

(6) One member appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate to a term that expires on July 1 of years that are evenly divisible by three.

(7) One member appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives to a term that expires on July 1 of years that precede by one year those years that are evenly divisible by three.

(8) One member appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives to a term that expires on July 1 of years that follow by one year those years that are evenly divisible by three.

(9) One member appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives to a term that expires on July 1 of years that are evenly divisible by three.

(b1) Qualifications. – The office of Trustee is declared to be an office that may be held concurrently with any other executive or appointive office, under the authority of Article VI, Section 9, of the North Carolina Constitution. ~~Persons appointed shall be knowledgeable in at least one of the following areas:~~When appointing members of the Authority, the Governor, the President Pro Tempore of the Senate, and the Speaker of the House of Representatives shall give consideration to adequate representation from the various regions of the State and shall give consideration to the appointment of members who are knowledgeable in any of the following areas:

(1) Acquisition and management of natural areas.
(2) Conservation and restoration of water quality.
(3) Wildlife and fisheries habitats and resources.
(4) Environmental management.

(b2) Limitation on Length of Service. – No member of the Board of Trustees shall serve more than two consecutive ~~four-year~~three-year terms or a total of 10 years.

…

(f) Per Diem and Expenses. – Each member of the Board of Trustees shall receive per diem and necessary travel and subsistence expenses in accordance with the provisions of ~~G.S. 138-5.~~ G.S. 120-3.1, 138-5, and 138-6, as applicable. Per diem, subsistence, and travel expenses of the Trustees shall be paid from the Fund.

~~(g) Meeting Facilities. – The Secretary of Environment and Natural Resources shall provide meeting facilities for the Board of Trustees and its staff as requested by the Chair.~~"

SECTION 14.3.(f) G.S. 113A-256 reads as rewritten:

"§ **113A-256. Clean Water Management Trust Fund Board of Trustees: powers and duties.**

(a) Allocate Grant Funds. – The Trustees shall allocate moneys from the Fund as grants. A grant may be awarded only for a project or activity that satisfies the criteria and furthers the purposes of this Article.

(b) Develop Grant Criteria. – The Trustees shall develop criteria for awarding grants under this Article. The criteria developed shall include consideration of the following:

(1) The significant enhancement and conservation of water quality in the State.
(2) The objectives of the basinwide management plans for the State's river basins and watersheds.
(3) The promotion of regional integrated ecological networks insofar as they affect water quality.
(4) The specific areas targeted as being environmentally sensitive.
(5) The geographic distribution of funds as appropriate.
(6) The preservation of water resources with significant recreational or economic value and uses.
(7) The development of a network of riparian buffer-greenways bordering and connecting the State's waterways that will serve environmental, educational, and recreational uses.
(8) Water supply availability and the public's need for resources adequate to meet demand for essential water uses. Criteria developed pursuant to this subdivision may include consideration of the likelihood of a proposed water supply project ultimately being permitted and built.

(9) The protection or preservation of land with outstanding natural or cultural heritage values.

(10) The protection or preservation of land that contains a relatively undisturbed and outstanding example of a native North Carolina ecological community that is now uncommon; contains a major river or tributary, watershed, wetland, significant littoral, estuarine, or aquatic site, or important geologic feature; or represents a type of landscape, natural feature, or natural area that is not currently in the State's inventory of parks and natural areas.

(11) The protection or preservation of a site or structure that is of such historical significance as to be essential to the development of a balanced State program of historic properties.

(c) Develop Additional Guidelines. – The Trustees may develop guidelines in addition to the grant criteria consistent with and as necessary to implement this Article.

(d) Acquisition of Land. – The Trustees may acquire land by purchase, negotiation, gift, or devise. Any acquisition of land by the Trustees must be reviewed and approved by the Council of State and the deed for the land subject to approval of the Attorney General before the acquisition can become effective. In determining whether to acquire land as permitted by this Article, the Trustees shall consider whether the acquisition furthers the purposes of this Article and may also consider recommendations from the Council. Nothing in this section shall allow the Trustees to acquire land under the right of eminent domain.

(e) Exchange of Land. – The Trustees may exchange any land they acquire in carrying out the powers conferred on the Trustees by this Article.

(f) Land Management. – The Trustees may designate managers or managing agencies of the lands acquired under this Article.

(g) Tax Credit Certification. – The Trustees shall develop guidelines to determine whether land donated for a tax credit under G.S. 105-130.34 or G.S. 105-151.12 are suitable for one of the purposes under this Article and may be certified for a tax credit.

(h) Rule-making Authority. – The Trustees may adopt rules to implement this Article. Chapter 150B of the General Statutes applies to the adoption of rules by the Trustees.

(i) Repealed by Session Laws 1999-237, s. 15.11, effective July 1, 1999.

~~(j) Debt. — Of the funds credited annually to the Fund, the Trustees may authorize expenditure of a portion to reimburse the General Fund for debt service on special indebtedness to be issued or incurred under Article 9 of Chapter 142 of the General Statutes for the purposes provided in G.S. 113A-253(c)(1) through (4).(4) and G.S. 113A-253(c)(8c). In order to authorize expenditure of funds for debt service reimbursement, the Trustees must identify to the State Treasurer and the Department of Administration the specific capital projects for which they would like special indebtedness to be issued or incurred and the annual amount they intend to make available, and request the State Treasurer to issue or incur the indebtedness. After special indebtedness has been issued or incurred for a capital project requested by the Trustees, the Trustees must direct the State Treasurer to credit to the General Fund each year the actual aggregate principal and interest payments to be made in that year on the special indebtedness, as identified by the State Treasurer.~~"

SECTION 14.3.(g) G.S. 113A-258 reads as rewritten:

"§ **113A-258. Clean Water Management Trust Fund: Executive Director and staff.**

~~The Clean Water Management Trust Fund Board of Trustees, as soon as practicable after its organization,~~The Secretary of Environment and Natural Resources shall select and appoint a competent person in accordance with this section as Executive Director of the Clean Water Management Trust Fund Board of Trustees. The Executive Director shall be charged with the supervision of all activities under the jurisdiction of the Trustees and shall serve as the chief administrative officer of the Trustees. Subject to the approval of ~~the Trustees and the Director of the Budget,~~ the Secretary of Environment and Natural Resources, the Executive Director may employ such clerical and other assistants as may be deemed necessary.

The person selected as Executive Director shall have had training and experience in conservation, protection, and management of surface water resources. The salary of the Executive Director shall be fixed by the ~~Trustees,~~Secretary of Environment and Natural Resources, and the Executive Director shall be allowed travel and subsistence expenses in accordance with G.S. 138 6. The Executive Director's salary and expenses shall be paid from the Fund. The term of office of the Executive Director shall be at the pleasure of the ~~Trustees.~~Secretary of Environment and Natural Resources.

These employees shall be exempt from the State Personnel Act, as provided in G.S. 126-5(c1)."

SECTION 14.3.(h) G.S. 106-887(a) reads as rewritten:

"(a) DuPont State Forest is designated as a State Recreational Forest. The Department shall manage DuPont State Recreational Forest: (i) primarily for natural resource preservation, scenic enjoyment and recreational purposes, including horseback riding, hiking, bicycling, hunting, and fishing; (ii) so as to provide an exemplary model of scientifically sound, ecologically based natural resource management for the social and economic benefit of the forest's diverse community of users; and (iii) consistent with the grant agreement ~~between the Natural Heritage Trust Fund and the North Carolina Forest Service, which grant~~that designates a portion of the forest as a North Carolina Nature Preserve. In addition, the Department may use the forest for the demonstration of different forest management and resource protection techniques for local landowners, natural resource professionals, students, and other forest visitors."

SECTION 14.3.(i) G.S. 120-123 reads as rewritten:

"§ **120-123. Service by members of the General Assembly on certain boards and commissions.**

No member of the General Assembly may serve on any of the following boards or commissions:

…

~~(67) The Board of Trustees of the Natural Heritage Trust Fund, as established by G.S. 113-77.8.~~

…."

SECTION 14.3.(j) G.S. 143B-279.3(b)(18) and G.S. 143B-344.38(a)(8)d. are repealed.

SECTION 14.3.(k) The Natural Heritage Trust Fund shall be closed and the remaining fund balance in the Fund shall be transferred to the Clean Water Management Trust Fund established in G.S. 113A-253 as provided in this subsection. It is the intent of the General Assembly to honor the obligations from the Natural Heritage Trust Fund that were authorized prior to the effective date of this section and to ensure that any tax proceeds credited to the Natural Heritage Trust Fund are used for the purposes for which they were collected. Any encumbered funds transferred from the Natural Heritage Trust Fund to the Clean Water Management Trust Fund shall be used for the purpose for which the grant was awarded. The funds transferred from the Natural Heritage Trust Fund to the Clean Water Management Trust Fund that are unencumbered and any funds transferred from the Natural Heritage Trust Fund to the Clean Water Management Trust Fund that were encumbered but become unencumbered after the effective date of this section shall be used to acquire land under G.S. 113A-253(c)(8c) or G.S. 113A-253(c)(8d), as amended by subsection (d) of this section, or shall be used for the continued payment of debt service authorized before the effective date of this section to reimburse the General Fund for debt service on special indebtedness issued or incurred under Article 9 of Chapter 142 of the General Statutes for a natural heritage purpose.

SECTION 14.3.(l) The Revisor of Statutes may conform names and titles changed by this section, and may correct statutory references as required by this section, throughout the General Statutes. In making the changes authorized by this section, the Revisor may also adjust subject and verb agreement and the placement of conjunctions.

SECTION 14.3.(m) This section becomes effective August 1, 2013.

JORDAN LAKE WATER QUALITY IMPROVEMENT DEMONSTRATION PROJECT

SECTION 14.3A.(a) Jordan Lake Nutrient Mitigation Demonstration Project. – The Department of Environment and Natural Resources shall establish a twenty-four-month demonstration project for the management of nutrients in Jordan Lake. The demonstration project shall specifically focus on preventing and reducing harmful algal blooms and excessive chlorophyll as well providing other nutrient mitigation measures in the Haw River arm and the Morgan Creek arm of Jordan Lake. In conducting the demonstration project, the Department shall enter into a contract with a third party that can deploy floating arrays of in-lake, long-distance circulators to reduce or prevent the adverse impacts of excessive nutrient loads, such as algal blooms, taste and odor problems in drinking water, and low levels of dissolved oxygen. At a minimum, the in-lake mechanical system chosen must meet the following criteria:

(1) Floating equipment shall be capable of continuous operation on solar power only during day, night, and extended overcast conditions 365 days per year. Continuous operation shall be defined as operating a minimum of ninety-seven percent (97%) of the total hours during the course of one year on solar power without reliance on any connection to the alternating current power grid.

(2) Achieve a total flow rate through the impellers on a continuous basis for 24 hours per day of 72,000 gallons per minute in the Morgan Creek arm and 36,000 gallons per minute in the Haw River arm.

(3) The circulation equipment shall be constructed primarily of Type 316 stainless steel metal for strength and superior corrosion resistance. Each machine shall also undergo a passivation bath, also known as stainless steel pickling, to restore corrosion resistance to the welds and other areas of imperfection.

(4) The circulation equipment shall be mechanically operated by a motor that has the following characteristics:
   a. Is brushless (brush motors requiring brush replacement are not acceptable).
   b. Uses a direct drive with no gearbox to avoid lubrication maintenance.
   c. Contains stainless steel bearings requiring no scheduled lubrication with a rated bearing life expectancy greater than 100,000 hours of continuous operation.
   d. Is designed for a marine outdoor environment by having a sealed housing with polymeric encapsulated internal windings for superior corrosion resistance capable of withstanding environmental conditions of one hundred percent (100%) humidity, -40 degree to 140 degree Fahrenheit ambient temperature range, freeze resistance, condensation resistance, and splash resistance.
   e. Has a 10 year or greater replacement warranty.

(5) The circulation equipment shall be supplied with a motor controller and power management with the following features:
   a. An anti-jam reverse feature that is automated and self-clearing for a locked rotor triggered by high current occurrences caused by a jammed impeller.
   b. Scheduled reverse cycles with daily reverse impeller cycling for self-clearing of impeller to minimize fouling.
   c. Motor health status monitoring and recording that includes scheduled speed, commanded speed, actual speed, motor current, motor voltage, and motor controller errors.

d. Temperature-compensated charging so that battery charging parameters are automatically adjusted for optimum results based on battery temperature.
e. Power conservation and continued operation mode managed by a programmed algorithm for reducing motor load and continuing operation by incremental speed reduction that is automatically enabled when extended low-sunlight conditions occur or battery reserve power is reduced.
f. A NEMA 4 enclosure for protection against condensation and moisture in a marine environment with internal circuit boards that are conformal coated for added protection against moisture.

(6) The battery power storage shall be a single battery (unless multiple batteries are connected in series) to avoid charging problems and shall have the following characteristics:
a. A battery rating capacity, at a 24-hour discharge rate in watt hours, at least 50 times the motor load in watts during normal operation (full speed, peak load).
b. Is a submergible battery to avoid temperature extremes and extend battery life.
c. Complies with DOT HMR49 nonspillable battery requirements.
d. Is UL listed and compliant to UL 1989.
e. Is maintenance-free and does not require rewatering.
f. Has a temperature sensor that monitors battery housing temperature and not ambient temperature to optimize charging cycles and extend battery life.
g. Is encased in double wall plastic and mounted in a stainless steel cage for safety and battery protection purposes.

(7) The photovoltaic modules on the unit shall have the following characteristics:
a. Have a nominal wattage rating that is five times the normal operating wattage of the motor to ensure continuous operation of the motor and impeller in all seasons.
b. Are monocrystalline and not multicrystalline to ensure adequate power collection during low-sunlight conditions.
c. Are certified to UL 1703 Class C, IEC 61215, and IEC 60364 standards.
d. Have 25-year manufacturer performance warranties.

(8) The digital controller of the machine shall have the following features:
a. Flashing light-emitting diodes in the control box readily accessible by service personnel and providing continuous electrical diagnostics so the state of the power system can easily be determined.
b. Capability to store within controller memory a 30-day rolling log of all primary machine operation parameters.

(9) The machine shall have an adjustable horizontal water intake that is capable of being field adjusted to a set level below the water surface without requiring machine removal or reinstallation. The intake shall bring a one-foot thick horizontal layer of water into the machine and include a singular hose of adequate length to reach the required intake depth setting. The flow through the hose and intake shall not exceed one foot per second.

(10) The circulation equipment shall operate normally with the following maintenance features:
a. No scheduled lubrication requirements for any system component, including motor and motor bearings.

b. No brush replacement on motor, gearbox replacement, or motor replacement to be expected during a 25-year expected life of the circulation equipment.
c. No spare parts shall be required to be kept on hand.
d. The impeller assembly shall be removable without the use of tools.
e. The circulator equipment shall have a bird deterrent system to minimize bird roostings and droppings on photovoltaic modules.

(11) The flotation equipment shall have the following features and characteristics:
a. Adjustable float arms with a one-inch diameter shaft and turnbuckle to achieve optimal performance setting. The arms shall be a closed frame to minimize torsion forces on the circulation equipment and provide balanced flotation.
b. The flotation buoyancy shall be 1,350 pounds or more to support the weight of the assembled circulation equipment with a safety factor greater than 1.5. Each machine shall weigh approximately 850 pounds.
c. Flotation shall contain expanded polystyrene foam beads that are steamed together to minimize water adsorption.
d. The flotation shall not sink should the flotation encasement be punctured. Encasements shall be resistant to damage due to animals, ice, bumps by watercraft, and contact deterioration from petroleum products and should be suitable for marine use.

(12) The circulation equipment shall be capable of being held in position by either attachment to mooring blocks at the bottom of the reservoir or tethering to the shore.

Any contract entered into under this subsection shall not be subject to Article 3 or Article 8 of Chapter 143 of the General Statutes. Once installed, the Department shall monitor and evaluate the performance of the circulators in reducing the adverse impacts of harmful algal blooms and excessive chlorophyll and in providing other nutrient mitigation measures in the Haw River arm and the Morgan Creek arm of Jordan Lake and report the results of the monitoring and evaluation as provided in subsection (b) of this section.

SECTION 14.3A.(b) Report. – No later than October 1, 2015, the Department of Environment and Natural Resources shall submit an interim report on implementation of the demonstration project to the Environmental Review Commission and the Fiscal Research Division of the General Assembly. No later than April 1, 2016, the Department of Environment and Natural Resources shall submit a final report on implementation of the demonstration project to the Environmental Review Commission and the Fiscal Research Division of the General Assembly.

SECTION 14.3A.(c) Funding. – Of the funds appropriated by this act to the Clean Water Management Trust Fund, a total of one million three hundred fifty thousand dollars ($1,350,000) for fiscal year 2013-2014 and three hundred thousand dollars ($300,000) for fiscal year 2014-2015 shall be transferred to the Department of Environment and Natural Resources to be used to implement the Jordan Lake Water Quality Improvement Demonstration Project. In addition, the Department of Environment and Natural Resources shall contribute one hundred fifty thousand dollars ($150,000) for fiscal year 2014-2015 and one hundred fifty thousand dollars ($150,000) for fiscal year 2015-2016 from available funds, including those appropriated by this act, to support the Department's Division of Water Resources activities to manage and carry out the project, including water sampling, water testing, and water analysis of samples in the lake and connecting creeks prior to and during the demonstration project defined in subsection (a) of this section.

SPECIAL LICENSE PLATE REVENUE FOR FRIENDS OF STATE PARKS, INC.

SECTION 14.3B. G.S. 20-81.12(b2)(5) reads as rewritten:

"(5) North Carolina State Parks. – ~~One-half of the revenue derived from the special plate shall be transferred quarterly to Natural Heritage Trust Fund established under G.S. 113-77.7, and the remaining revenue shall be transferred quarterly to the Parks and Recreation Trust Fund established under G.S. 113-44.15.~~The revenue derived from the special plate shall be transferred quarterly to Friends of State Parks, Inc., for its educational, conservation, and other programs in support of the operations of the State Parks System established in Article 2C of Chapter 113 of the General Statutes."

DEED STAMP TAX PROCEEDS CREDITED TO GENERAL FUND

SECTION 14.4.(a) G.S. 105-228.30(b) reads as rewritten:

"(b) The register of deeds of each county must remit the proceeds of the tax levied by this section to the county finance officer. The finance officer of each county must credit one-half of the proceeds to the county's general fund and remit the remaining one-half of the proceeds, less taxes refunded and the county's allowance for administrative expenses, to the Department of Revenue on a monthly basis. A county may retain two percent (2%) of the amount of tax proceeds allocated for remittance to the Department of Revenue as compensation for the county's cost in collecting and remitting the State's share of the tax. ~~Of the funds remitted to it pursuant to this section, the Department of Revenue must credit seventy-five percent (75%) to the Parks and Recreation Trust Fund established under G.S. 113-44.15 and twenty-five percent (25%) to the Natural Heritage Trust Fund established under G.S. 113-77.7.~~ The Department of Revenue shall credit the funds remitted to the Department of Revenue under this subsection to the General Fund."

SECTION 14.4.(b) G.S. 113-44.15(a) reads as rewritten:

"(a) Fund Created. – There is established a Parks and Recreation Trust Fund in the State Treasurer's Office. The Trust Fund shall be a ~~nonreverting~~ special revenue fund consisting of gifts and grants to the Trust ~~Fund, monies credited to the Trust Fund pursuant to G.S. 105-228.30(b),~~Fund and other monies appropriated to the Trust Fund by the General Assembly. Investment earnings credited to the assets of the Fund shall become part of the Fund."

SECTION 14.4.(c) Money collected pursuant to Article 8E of Chapter 105 of the General Statutes between July 1, 2013, and the date this act becomes law shall be credited to the General Fund. The money shall be used for the purposes provided in G.S. 113-44.15 and G.S. 113-253(c)(8b)-(8d), as enacted by this act.

PARKS AND RECREATION AUTHORITY

SECTION 14.5.(a) G.S. 143B-313.2 reads as rewritten:

"§ **143B-313.2. North Carolina Parks and Recreation Authority; members; selection; compensation; meetings.**

(a) Membership. – The North Carolina Parks and Recreation Authority shall consist of ~~15~~ nine members. The members shall include persons who are knowledgeable about park and recreation issues in North Carolina or with expertise in finance. In making appointments, each appointing authority shall specify under which subdivision of this subsection the person is appointed. Members shall be appointed as follows:

(1) One member appointed by the Governor.
(2) One member appointed by the Governor.
(3) One member appointed by the Governor.
~~(3a) One member appointed by the Governor.~~
~~(3b) One member appointed by the Governor.~~

(4) One member appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives, as provided in G.S. 120-121.

(5) One member appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives, as provided in G.S. 120-121.

(6) One member appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives, as provided in G.S. 120-121.

~~(7) One member appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives, as provided in G.S. 120-121.~~

~~(7a) One member appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives, as provided in G.S. 120-121.~~

(8) One member appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate, as provided in G.S. 120-121.

(9) One member appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate, as provided in G.S. 120-121.

(10) One member appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate, as provided in G.S. 120-121.

~~(11) One member appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate, as provided in G.S. 120-121.~~

~~(12) One member appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate, as provided in G.S. 120-121.~~

(b) Terms. – Members shall serve staggered terms of office of three years. Members shall serve no more than two consecutive three-year terms. After serving two consecutive three-year terms, a member is not eligible for appointment to the Authority for at least one year after the expiration date of that member's most recent term. Upon the expiration of a three-year term, a member may continue to serve until a successor is appointed and duly qualified as provided by G.S. 128-7. The terms of members appointed under subdivision (1), ~~(3a),~~ (5), ~~(7),~~ or (9) of subsection (a) of this section shall expire on July 1 of years that are evenly divisible by three. The terms of members appointed under subdivision (2), ~~(3b),~~ (4), ~~(8), or (11)~~or (8) of subsection (a) of this section shall expire on July 1 of years that follow by one year those years that are evenly divisible by three. The terms of members appointed under subdivision (3), (6), ~~(7a), (10), or (12)~~ or (10) of subsection (a) of this section shall expire on July 1 of years that precede by one year those years that are evenly divisible by three.

(c) Chair. – The Governor shall appoint one member of the North Carolina Parks and Recreation Authority to serve as Chair.

(d) Vacancies. – A vacancy on the North Carolina Parks and Recreation Authority shall be filled by the appointing authority responsible for making the appointment to that position as provided in subsection (a) of this section. An appointment to fill a vacancy shall be for the unexpired balance of the term.

(e) Removal. – The Governor may remove, as provided in Article 10 of Chapter 143C of the General Statutes any member of the North Carolina Parks and Recreation Authority appointed by the Governor for misfeasance, malfeasance, or nonfeasance. The General Assembly may remove any member of the North Carolina Parks and Recreation Authority appointed by the General Assembly for misfeasance, malfeasance, or nonfeasance.

(f) Compensation. – The members of the North Carolina Parks and Recreation Authority shall receive per diem and necessary travel and subsistence expenses according to the provisions of G.S. 138-5.

(g) Meetings. – The North Carolina Parks and Recreation Authority shall meet at least quarterly at a time and place designated by the Chair.

(h) Quorum. – A majority of the North Carolina Parks and Recreation Authority shall constitute a quorum for the transaction of business.

(i) Staff. – All clerical and other services required by the North Carolina Parks and Recreation Authority shall be provided by the Secretary of Environment and Natural Resources."

SECTION 14.5.(b) The terms of all members of the North Carolina Parks and Recreation Authority shall expire on July 31, 2013. A new Authority consisting of nine members shall be appointed as provided in G.S. 143B-313.2, as amended by subsection (a) of this section. This subsection becomes effective on July 31, 2013.

FISHERY RESOURCE GRANT PROGRAM REPEAL

SECTION 14.7.(a) G.S. 113-200 is repealed.

SECTION 14.7.(b) G.S. 143B-289.54(c) reads as rewritten:

"(c) Additional Considerations. – In making appointments to the Commission, the Governor shall provide for appropriate representation of women and minorities on the Commission. ~~The Governor shall make appointments to the Commission consistent with the restrictions of G.S. 113-200(g).~~"

MARINE FISHERIES LICENSE AND PERMIT FEES; LICENSE AND PERMIT REQUIREMENTS; FEE INCREASES FUND DMF AT-SEA OBSERVER PROGRAM

SECTION 14.8.(a) G.S. 113-168.1(h) reads as rewritten:

"(h) Replacement Licenses and Endorsements. – The Division shall issue a replacement license, including any endorsements, to a licensee for a license that has not been suspended or revoked. A licensee may apply for a replacement license for a license that has been lost, stolen, or destroyed and shall apply for a replacement license within 30 days of a change in the licensee's name or address. A licensee may apply for a replacement license in person at any office of the Division or by mail to the Morehead City office of the Division. A licensee may use a copy of the application for a replacement license that has been filed with the Division as a temporary license until the licensee receives the replacement license. The Commission may establish a fee for each type of replacement license, not to exceed ~~ten dollars ($10.00),~~ twelve dollars and fifty cents ($12.50), that compensates the Division for the administrative costs associated with issuing the replacement license."

SECTION 14.8.(b) G.S. 113-168.2 reads as rewritten:

"§ **113-168.2. Standard Commercial Fishing License.**

(a) Requirement. – Except as otherwise provided in this Article, it is unlawful for any person to engage in a commercial fishing operation in the coastal fishing waters without holding a SCFL issued by the Division. A person who works as a member of the crew of a vessel engaged in a commercial fishing operation under the direction of a person who holds a valid SCFL is not required to hold a SCFL. A person who holds a SCFL is not authorized to take shellfish unless the SCFL is endorsed as provided in ~~G.S. 113-168.5(d) or the person holds a shellfish license issued pursuant to G.S. 113-169.2.~~G.S. 113-168.5.

(a1) Use of Vessels. – The holder of a SCFL is authorized to use only one vessel in a commercial fishing operation at any given time. The Commission may adopt a rule to exempt from this requirement a person in command of a vessel that is auxiliary to a vessel engaged in a pound net operation, long-haul operation, beach seine operation, or menhaden operation. A person who works as a member of the crew of a vessel engaged in a mechanical shellfish operation under the direction of a person who holds a valid SCFL with a shellfish endorsement is not required to hold a shellfish license.

(b) through (d) Repealed by Session Laws 1998-225, s. 4.11.

(e) Fees. – The annual SCFL fee for a resident of this State shall be ~~two hundred dollars ($200.00)~~two hundred fifty dollars ($250.00). The annual SCFL fee for a person who is not a resident of this State shall be ~~eight hundred dollars ($800.00) or~~ the amount charged to a resident of this State in the nonresident's ~~state, whichever is less.~~state. In no event, however, may the fee be less than ~~two hundred dollars ($200.00).~~two hundred fifty dollars ($250.00). For purposes of this subsection, a "resident of this State" is a person who is a resident within the meaning of:

(1) Sub-subdivisions a. through d. of G.S. 113-130(4) and who filed a State income tax return as a resident of North Carolina for the previous calendar or tax year, or

(2) G.S. 113-130(4)e.

(f) Assignment. – The holder of a SCFL may assign the SCFL to any individual who is eligible to hold a SCFL under this Article. It is unlawful for the holder of an SCFL to assign a shellfish endorsement of an SCFL to any individual who is not a resident of this State. The assignment shall be in writing on a form provided by the Division and shall include the name of the licensee, the license number, any endorsements, the assignee's name, mailing address, physical or residence address, and the duration of the assignment. If a notarized copy of an assignment is not filed with the Morehead City office of the Division within five days of the date of the assignment, the assignment shall expire. It is unlawful for the assignee of a SCFL to assign the SCFL. The assignment shall terminate:

(1) Upon written notification by the assignor to the assignee and the Division that the assignment has been terminated.

(2) Upon written notification by the estate of the assignor to the assignee and the Division that the assignment has been terminated.

(3) If the Division determines that the assignee is operating in violation of the terms and conditions applicable to the assignment.

(4) If the assignee becomes ineligible to hold a license under this Article.

(5) Upon the death of the assignee.

(6) If the Division suspends or revokes the assigned SCFL.

(7) At the end of the license year.

(g) Transfer. – A SCFL may be transferred only by the Division. A SCFL may be transferred pursuant to rules adopted by the Commission or upon the request of:

(1) A licensee, from the licensee to a member of the licensee's immediate family who is eligible to hold a SCFL under this Article.

(2) The administrator or executor of the estate of a deceased licensee, to the administrator or executor of the estate if a surviving member of the deceased licensee's immediate family is eligible to hold a SCFL under this Article. The administrator or executor must request a transfer under this subdivision within six months after the administrator or executor qualifies under Chapter 28A of the General Statutes. An administrator or executor who holds a SCFL under this subdivision may, for the benefit of the estate of the deceased licensee:

a. Engage in a commercial fishing operation under the SCFL if the administrator or executor is eligible to hold a SCFL under this Article.

b. Assign the SCFL as provided in subsection (f) of this section.

c. Renew the SCFL as provided in G.S. 113-168.1.

(3) An administrator or executor to whom a SCFL was transferred pursuant to subdivision (2) of this subsection, to a surviving member of the deceased licensee's immediate family who is eligible to hold a SCFL under this Article.

(4) The surviving member of the deceased licensee's immediate family to whom a SCFL was transferred pursuant to subdivision (3) of this subsection, to a third-party purchaser of the deceased licensee's fishing vessel.

(5) A licensee who is retiring from commercial fishing, to a third-party purchaser of the licensee's fishing vessel.

(h) Identification as Commercial Fisherman. – The receipt of a current and valid SCFL or shellfish license issued by the Division shall serve as proper identification of the licensee as a commercial fisherman.

(i) Record-Keeping Requirements. – The fish dealer shall record each transaction at the time and place of landing on a form provided by the Division. The transaction form shall include the information on the SCFL or shellfish license, the quantity of the fish, the identity of the fish dealer, and other information as the Division deems necessary to accomplish the purposes of this Subchapter. The person who records the transaction shall provide a completed copy of the transaction form to the Division and to the other party of the transaction. The Division's copy of each transaction form shall be transmitted to the Division by the fish dealer on or before the tenth day of the month following the transaction."

SECTION 14.8.(c) G.S. 113-168.3(b) reads as rewritten:

"(b) Eligibility; Fees. – Any individual who is 65 years of age or older and who is eligible for a SCFL under G.S. 113-168.2 may apply for either a SCFL or RSCFL. An applicant for a RSCFL shall provide proof of age at the time the application is made. The annual fee for a RSCFL for a resident of this State shall be ~~one hundred dollars ($100.00).~~one hundred twenty-five dollars ($125.00). The annual fee for a RSCFL for a person who is not a resident of this State shall be ~~eight hundred dollars ($800.00) or the amount charged to a resident of this State in the nonresident's state, whichever is less. In no event, however, shall the fee be less than one hundred dollars ($100.00).~~one hundred sixty-two dollars and fifty cents ($162.50). For purposes of this subsection, a "resident of this State" is a person who is a resident within the meaning of:

(1) Sub-subdivisions a. through d. of G.S. 113-130(4) and who filed a State income tax return as a resident of North Carolina for the previous calendar or tax year, or

(2) G.S. 113-130(4)e."

SECTION 14.8.(d) G.S. 113-168.4(c) reads as rewritten:

"(c) A person who organizes a recreational fishing tournament may sell fish taken in connection with the tournament pursuant to a recreational fishing tournament license to sell fish. A person who organizes a recreational fishing tournament may obtain a recreational fishing tournament license to sell fish upon application to the Division and payment of a fee of ~~one hundred dollars ($100.00).~~one hundred twenty-five dollars ($125.00). It is unlawful for any person licensed under this subsection to sell fish to any person other than a fish dealer licensed under G.S. 113-169.3 unless the seller is also a licensed fish dealer. A recreational fishing tournament is an organized fishing competition occurring within a specified time period not to exceed one week and that is not a commercial fishing operation. Gross proceeds from the sale of fish may be used only for charitable, religious, educational, civic, or conservation purposes and shall not be used to pay tournament expenses."

SECTION 14.8.(e) G.S. 113-168.6 reads as rewritten:

"§ **113-168.6. Commercial fishing vessel registration.**

(a) As used in this subsection, a North Carolina vessel is a vessel that has its primary situs in the State. A vessel has its primary situs in the State if:

(1) A certificate of number has been issued for the vessel under Article 1 of Chapter 75A of the General Statutes;

(2) A certificate of title has been issued for the vessel under Article 4 of Chapter 75A of the General Statutes; or

(3) A certification of documentation has been issued for the vessel that lists a home port in the State under 46 U.S.C. § 12101, et seq., as amended.

(b) The owner of a vessel used in a commercial fishing operation in the coastal fishing waters of the State or a North Carolina vessel used to land or sell fish in the State shall register the vessel with the Division. It is unlawful to use a vessel that is not registered with the Division in a commercial fishing operation or a for-hire operation in the coastal fishing waters of the State. It is unlawful to use a North Carolina vessel that is not registered with the Division to land or sell fish in the State. No registration is required for a vessel of any length that does not have a motor if the vessel is used only in connection with another vessel that is properly registered.

(b1) The vessel owner at the time of application for registration under subsection (b) of this section shall obtain either a commercial vessel endorsement if the vessel is intended to be used primarily for the harvest of fish for sale, a for-hire endorsement if the vessel is intended to be used primarily for for-hire activities, or both endorsements if the vessel is intended to be engaged in both activities. The owner of a vessel applying for a commercial fishing vessel registration with a for-hire endorsement must affirm liability coverage and knowledge of applicable United States Coast Guard safety requirements.

(c) The annual fee for a commercial fishing vessel registration shall be determined by the length of the vessel and shall be in addition to the fee for other licenses issued under this Article. The length of a vessel shall be determined by measuring the distance between the ends of the vessel along the deck and through the cabin, excluding the sheer. The annual fee for a commercial fishing vessel registration is:

(1) ~~One dollar ($1.00)~~One dollar and twenty-five cents ($1.25) per foot for a vessel not over 18 feet in length.

(2) ~~One dollar and fifty cents ($1.50)~~One dollar and ninety cents ($1.90) per foot for a vessel over 18 feet but not over 38 feet in length.

(3) ~~Three dollars ($3.00)~~Three dollars and seventy-five cents ($3.75) per foot for a vessel over 38 feet but not over 50 feet in length.

(4) ~~Six dollars ($6.00)~~Seven dollars and fifty cents ($7.50) per foot for a vessel over 50 feet in length.

(d) A vessel may be registered at any office of the Division. A commercial fishing vessel registration expires on the last day of the license year.

(e) Within 30 days of the date on which the owner of a registered vessel transfers ownership of the vessel, the new owner of the vessel shall notify the Division of the change in ownership and apply for a replacement commercial fishing vessel registration. An application for a replacement commercial fishing vessel registration shall be accompanied by proof of the transfer of the vessel. The provisions of G.S. 113-168.1(h) apply to a replacement commercial fishing vessel registration."

SECTION 14.8.(f) G.S. 113-169.1 reads as rewritten:

"§ **113-169.1. Permits for gear, equipment, and other specialized activities authorized.**

(a) The Commission may adopt rules to establish permits for gear, equipment, and specialized activities, including commercial fishing operations that do not involve the use of a vessel and transplanting oysters or clams. The Commission may establish a fee for each permit established pursuant to this subsection in an amount that compensates the Division for the administrative costs associated with the permit but that does not exceed one hundred dollars ($100.00) per permit.

(b) The Commission may adopt rules to establish gear specific permits to take striped bass from the Atlantic Ocean and to limit the number and type of these permits that may be issued to a person. The Commission may establish a fee for each permit established pursuant to this subsection in an amount that compensates the Division for the administrative costs associated with the permit but that does not exceed ~~ten dollars ($10.00)~~thirty dollars ($30.00) per permit.

(c) To ensure an orderly transition from one permit year to the next, the Division may issue a permit prior to July 1 of the permit year for which the permit is valid. Revenue that the Division receives for the issuance of a permit prior to the beginning of a permit year shall not revert at the end of the fiscal year in which the revenue is received and shall be credited and available to the Division for the permit year in which the permit is valid."

SECTION 14.8.(g) G.S. 113-169.2 reads as rewritten:

"§ **113-169.2. Shellfish license for North Carolina residents without a SCFL.**

(a) License or Endorsement Necessary to Take or Sell ~~Shellfish.~~Shellfish Taken by Hand Methods. – It is unlawful for an individual to take shellfish from the public or private grounds of the State ~~by mechanical means or~~ as part of a commercial fishing operation by ~~any means~~hand methods without holding either a shellfish license or a shellfish endorsement of a

SCFL. A North Carolina resident who seeks only to take shellfish by hand methods and sell such shellfish shall be eligible to obtain a shellfish license without holding a SCFL. The shellfish license authorizes the licensee to sell shellfish.

(a1) License Necessary to Take or Sell Shellfish Taken by Mechanical Means. – Subject to subsection (i) of this section, an individual who takes shellfish from the public or private grounds of the State by mechanical means must obtain an SCFL under the provisions of G.S. 113-168.2.

(b) Repealed by Session Laws 1998-225, s. 4.17, effective July 1, 1999.

(c) Fees. – Shellfish licenses issued under this section shall be issued annually upon payment of a fee of ~~twenty-five dollars ($25.00)~~thirty-one dollars and twenty-five cents ($31.25) upon proof that the license applicant is a North Carolina resident.

(d) License Available for Inspection. – It is unlawful for any individual to take shellfish as part of a commercial fishing operation from the public or private grounds of the State without having ready at hand for inspection a current and valid shellfish license issued to the licensee personally and bearing the licensee's correct name and address. It is unlawful for any individual taking or possessing freshly taken shellfish to refuse to exhibit the individual's license upon the request of an officer authorized to enforce the fishing laws.

(e) Repealed by Session Laws 1998-225, s. 4.17, effective July 1, 1999.

(f) Name or Address Change. – In the event of a change in name or address or upon receipt of an erroneous shellfish license, the licensee shall, within 30 days, apply for a replacement shellfish license bearing the correct name and address. Upon a showing by the individual that the name or address change occurred within the past 30 days, the trial court or prosecutor shall dismiss any charges brought pursuant to this subsection.

(g) Transfer Prohibited. – It is unlawful for an individual issued a shellfish license to transfer or offer to transfer the license, either temporarily or permanently, to another. It is unlawful for an individual to secure or attempt to secure a shellfish license from a source not authorized by the Commission.

(h) Exemption. – Persons under 16 years of age are exempt from the license requirements of this section if accompanied by a parent, grandparent, or guardian who is in compliance with the requirements of this section or if in possession of a parent's, grandparent's or guardian's shellfish license.

(i) Taking Shellfish Without a License for Personal Use. – Shellfish may be taken without a license for personal use in quantities established by rules of the Marine Fisheries Commission."

SECTION 14.8.(h) G.S. 113-169.3(e) reads as rewritten:

"(e) Application Fee for New Fish Dealers. – An applicant for a new fish dealer license shall pay a nonrefundable application fee of ~~fifty dollars ($50.00)~~sixty-two dollars and fifty cents ($62.50) in addition to the license category fees set forth in this section."

SECTION 14.8.(i) G.S. 113-169.3(f) reads as rewritten:

"(f) License Category Fees. – Every fish dealer subject to licensing requirements shall secure an annual license at each established location for each of the following activities transacted there, upon payment of the fee set out:

(1) Dealing in oysters: ~~$50.00;~~$62.50.
(2) Dealing in scallops: ~~$50.00;~~$62.50.
(3) Dealing in clams: ~~$50.00;~~$62.50.
(4) Dealing in hard or soft crabs: ~~$50.00;~~$62.50.
(5) Dealing in shrimp, including bait: ~~$50.00;~~$62.50.
(6) Dealing in finfish, including bait: ~~$50.00;~~$62.50.
(7) Operating menhaden or other fish-dehydrating or oil-extracting processing plants: ~~$50.00; or~~$62.50.
(8) Consolidated license (all categories): ~~$300.00.~~$375.00."

SECTION 14.8.(j) G.S. 113-169.4 reads as rewritten:

"§ **113-169.4. Licensing of ocean fishing piers; fees.**

(a) The owner or operator of an ocean fishing pier within the coastal fishing waters who charges the public a fee to fish in any manner from the pier shall secure a current and valid pier license from the Division. An application for a pier license shall disclose the names of all parties involved in the pier operations, including the owner of the property, owner of the pier if different, and all leasehold or other corporate arrangements, and all persons with a substantial financial interest in the pier.

(b) Within 30 days following a change of ownership of a pier, or a change as to the manager, the manager or new manager shall secure a replacement pier license as provided in G.S. 113-168.1(h).

(c) Pier licenses are issued upon payment of ~~fifty cents (50¢)~~four dollars and fifty cents ($4.50) per linear foot, to the nearest foot, that the pier extends into coastal fishing waters beyond the mean high waterline. The length of the pier shall be measured to include all extensions of the pier.

(d) The manager who secures the pier license shall be the individual with the duty of executive-level supervision of pier operations.

(e) The pier license issued under this section authorizes any individual who does not hold a Coastal Recreational Fishing License under Article 14B or Article 25A of this Chapter to engage in recreational fishing while on the pier."

SECTION 14.8.(k) G.S. 113-169.5(b) reads as rewritten:

"(b) The fee for a land or sell license for a vessel not having its primary situs in North Carolina is ~~two hundred dollars ($200.00),~~two hundred fifty dollars ($250.00), or an amount equal to the nonresident fee charged by the nonresident's state, whichever is greater. Persons aboard vessels having a primary situs in a jurisdiction that would allow North Carolina vessels without restriction to land or sell their catch, taken outside the jurisdiction, may land or sell their catch in the State without complying with this section if the persons are in possession of a valid license from their state of residence."

SECTION 14.8.(l) G.S. 113-171.1(b) reads as rewritten:

"(b) License. – Before an aircraft is used as a spotter plane in a commercial fishing operation, the owner or operator of the aircraft must obtain a license for the aircraft from the Division. The fee for a license for a spotter plane is ~~one hundred dollars ($100.00).~~one hundred twenty-five dollars ($125.00). An applicant for a license for a spotter plane shall include in the application the identity, either by boat or by company, of the specific commercial fishing operations in which the spotter plane will be used during the license year. If, during the course of the license year, the aircraft is used as a spotter plane in a commercial fishing operation that is not identified in the original license application, the owner or operator of the aircraft shall amend the license application to add the identity of the additional commercial fishing operation."

SECTION 14.8.(m) G.S. 113-173(f) reads as rewritten:

"(f) Duration; Fees. – The RCGL shall be valid for a one-year period from the date of purchase. The fee for a RCGL for a North Carolina resident shall be ~~thirty-five dollars ($35.00).~~forty-three dollars and seventy-five cents ($43.75). The fee for a RCGL for an individual who is not a North Carolina resident shall be ~~two hundred fifty dollars ($250.00).~~three hundred twelve dollars and fifty cents ($312.50)."

SECTION 14.8.(n) G.S. 113-174(2a) reads as rewritten:

"(2a) "For Hire ~~Boat~~'Vessel" means a charter boat, head boat, dive boat, or other ~~boat~~ vessel hired to allow individuals to engage in recreational fishing."

SECTION 14.8.(o) G.S. 113-174.3 reads as rewritten:

"§ **113-174.3. ~~For Hire Blanket CRFL.~~For-Hire Licenses.**

~~(a) License. A person who operates a for hire boat may purchase a For Hire Blanket CRFL issued by the Division for the for hire boat. A For Hire Blanket CRFL authorizes all individuals on the for hire boat who do not hold a license issued under this Article or Article 25A of this Chapter to engage in recreational fishing in coastal fishing waters that are not joint fishing waters. A For Hire Blanket CRFL does not authorize individuals to engage in~~

~~recreational fishing in joint fishing waters or inland fishing waters. A For Hire Blanket CRFL is valid for a period of one year from the date of issuance. The fee for a For Hire Blanket CRFL is:~~

~~(1) Two hundred fifty dollars ($250.00) for a vessel that will carry six or fewer passengers.~~

~~(2) Three hundred fifty dollars ($350.00) for a vessel that will carry greater than six passengers.~~

~~(b) Implementation. – Except as provided in this section and G.S. 113-174.2(d), each individual on board a for hire boat engaged in recreational fishing, other than crew members who do not engage in recreational fishing, must hold a license issued under this Article or Article 25A of this Chapter. An owner, operator, or crew member of a for hire boat is not responsible for the licensure of a customer fishing from the boat.~~

(c) License. – It is unlawful for a person to engage in a for-hire operation without having obtained one of the following licenses issued by the Division:

(1) Blanket For-Hire Captain's CRFL. – This license allows individuals properly licensed by the United States Coast Guard to carry passengers on any vessel with a commercial vessel registration with a for-hire endorsement. A Blanket For-Hire Captain's CRFL authorizes all individuals on the for-hire vessel who do not hold a license issued under this Article or Article 25A of this Chapter to engage in recreational fishing in coastal fishing waters that are not joint fishing waters. The resident fees for a Blanket For-Hire Captain's CRFL are two hundred fifty dollars ($250.00) for a vessel carrying six or fewer passengers and three hundred fifty dollars ($350.00) for a vessel carrying more than six passengers. The nonresident fees for a Blanket For-Hire Captain's CRFL are three hundred twelve dollars and fifty cents ($312.50) for a vessel carrying six or fewer passengers and four hundred thirty-seven dollars and fifty cents ($437.50) for a vessel carrying more than six passengers. Any vessel whose operator is licensed under this subdivision and that is engaged in for-hire fishing must obtain a Commercial Fishing Vessel Registration with a for-hire endorsement.

(2) Blanket For-Hire Vessel CRFL. – This license allows any United States Coast Guard licensed operator to carry passengers aboard the licensed vessel. A Blanket For-Hire Vessel CRFL authorizes all individuals on the for-hire vessel who do not hold a license issued under this Article or Article 25A of this Chapter to engage in recreational fishing in coastal fishing waters that are not joint fishing waters. The resident fees for a Blanket For-Hire Vessel CRFL are two hundred fifty dollars ($250.00) for a vessel carrying six or fewer passengers and three hundred fifty dollars ($350.00) for a vessel carrying more than six passengers. The nonresident fees for a Blanket For-Hire Vessel CRFL are three hundred twelve dollars and fifty cents ($312.50) for a vessel carrying six or fewer passengers and four hundred thirty-seven dollars and fifty cents ($437.50) for a vessel carrying more than six passengers. Any vessel whose operator is licensed under this subdivision and that is engaged in for-hire fishing is not required to obtain a Commercial Fishing Vessel Registration with a for-hire endorsement.

(3) Non-Blanket For-Hire Vessel License. – This license allows any United States Coast Guard licensed operator to carry passengers aboard the licensed vessel. This license does not authorize individuals aboard the vessel to engage in recreational fishing unless they hold an individual CRFL issued under this Article or Article 25A of this Chapter. The fee for the Non-Blanket For-Hire Vessel License is twenty-five dollars ($25.00) for a vessel operated by a resident operator and thirty-seven dollars and fifty cents ($37.50) for a vessel operated by a nonresident operator. Any vessel whose

operator is licensed under this subdivision and that is engaged in for-hire fishing is not required to obtain a Commercial Fishing Vessel Registration with a for-hire endorsement.

(d) A license issued under this section does not authorize individuals to engage in recreational fishing in joint fishing waters or inland fishing waters. All for-hire licenses expire on the last day of the license year.

(e) Each individual who obtains a for-hire license shall submit to the Division logbooks summarizing catch and effort statistical data to the Division. The Commission may adopt rules that determine the means and methods to satisfy the requirements of this subsection."

SECTION 14.8.(p) G.S. 113-174.4 is repealed.

SECTION 14.8.(q) G.S. 113–174.5(a) reads as rewritten:

"(a) The owner of a vessel that is 23 feet or more in length and that is either documented with the United States Coast Guard or registered with the Wildlife Resources Commission pursuant to G.S. 75A-4 may purchase a block of 10 Ten-Day CRFLs issued by the Division. A vessel owner who wishes to obtain a block of 10 Ten-Day CRFLs shall provide the Division with all information required by the Division, including information identifying the vessel on which the Ten-Day CRFLs will be used. Each individual Ten-Day CRFL shall identify the vessel for which the block of 10 Ten-Day CRFLs is issued. An individual Ten-Day CRFL issued as part of a block of 10 Ten-Day CRFLs may only be used on the vessel for which it was issued. An individual Ten-Day CRFL issued as part of a block of 10 Ten-Day CRFLs may not be used on a for hire ~~boat.~~vessel. A block of 10 Ten-Day CRFLs shall expire two years from the date of purchase."

SECTION 14.8.(r) G.S. 113–182.1(b) reads as rewritten:

"(b) The goal of the plans shall be to ensure the long-term viability of the State's commercially and recreationally significant species or fisheries. Each plan shall be designed to reflect fishing practices so that one plan may apply to a specific fishery, while other plans may be based on gear or geographic areas. Each plan shall:

…

(5) Specify a time period, not to exceed two years from the date of the adoption of the plan, ~~for ending~~to end overfishing. ~~This subdivision shall only apply to a plan for a fishery that is not producing a sustainable harvest.~~This subdivision shall not apply if the Fisheries Director determines that the biology of the fish, environmental conditions, or lack of sufficient data make implementing the requirements of this subdivision incompatible with professional standards for fisheries management.

…."

SECTION 14.8.(s) G.S. 113-203 is amended by adding two new subsections to read:

"(f) The Commission may establish a fee for each permit established pursuant to this subsection in an amount that compensates the Division for the administrative costs associated with the permit but that does not exceed one hundred dollars ($100.00) per permit.

(g) Advance Sale of Permits; Permit Revenue. – To ensure an orderly transition from one permit year to the next, the Division may issue a permit prior to July 1 of the permit year for which the permit is valid. Revenue that the Division receives for the issuance of a permit prior to the beginning of a permit year shall not revert at the end of the fiscal year in which the revenue is received and shall be credited and available to the Division for the permit year in which the permit is valid."

SECTION 14.8.(t) G.S. 113–210 is amended by adding two new subsections to read:

"(l) Fees. – Under Dock Oyster Culture Permit shall be issued annually upon payment of a fee of one hundred dollars ($100.00).

(m) Advance Sale of Permits; Permit Revenue. – To ensure an orderly transition from one permit year to the next, the Division may issue a permit prior to July 1 of the permit year

for which the permit is valid. Revenue that the Division receives for the issuance of a permit prior to the beginning of a permit year shall not revert at the end of the fiscal year in which the revenue is received and shall be credited and available to the Division for the permit year in which the permit is valid."

SECTION 14.8.(u) G.S. 113–221.2 reads as rewritten:

"§ **113-221.2. Additional rules to establish sanitation requirements for scallops, shellfish, and ~~crustacea.~~crustacea; permits and permit fees authorized.**

(a) Authority to Adopt Certain Rules and Establish Permits. – For the protection of the public health, the Marine Fisheries Commission shall adopt rules establishing sanitation requirements for the harvesting, processing and handling of scallops, shellfish, and crustacea of in-State origin. The rules of the Marine Fisheries Commission may also regulate scallops, shellfish, and crustacea shipped into North Carolina. The Department is authorized to enforce the rules and may issue and revoke permits according to the rules. The Department is authorized to establish a fee for each permit not to exceed one hundred dollars ($100.00).

(b) Advance Sale of Permits; Permit Revenue. – To ensure an orderly transition from one permit year to the next, the Division may issue a permit prior to July 1 of the permit year for which the permit is valid. Revenue that the Division receives for the issuance of a permit prior to the beginning of a permit year shall not revert at the end of the fiscal year in which the revenue is received and shall be credited and available to the Division for the permit year in which the permit is valid."

SECTION 14.8.(v) G.S. 143B-289.52(d1) reads as rewritten:

"(d1) The Commission may regulate participation in a fishery that is subject to a federal fishery management plan if that plan imposes a quota on the State for the harvest or landing of fish in the fishery. ~~If the Commission regulates participation in a fishery under this subsection, the Division may issue a license to participate in the fishery to a person who:~~

~~(1) Held a valid license issued by the Division to harvest, land, or sell fish during at least two of the three license years immediately preceding the date adopted by the Commission to determine participation in the fishery; and~~

~~(2) Participated in the fishery during at least two of those license years by landing in the State at least the minimum number of pounds of fish adopted by the Commission to determine participation in the fishery.~~The Commission may use any additional criteria aside from holding a Standard Commercial Fishing License to develop limited-entry fisheries. The Commission may establish a fee for each license established pursuant to this subsection in an amount that does not exceed five hundred dollars ($500.00)."

SECTION 14.8.(w) G.S. 143B-289.52 is amended by adding a new subsection to read:

"(d2) To ensure an orderly transition from one permit year to the next, the Division may issue a permit prior to July 1 of the permit year for which the permit is valid. Revenue that the Division receives for the issuance of a permit prior to the beginning of a permit year shall not revert at the end of the fiscal year in which the revenue is received and shall be credited and available to the Division for the permit year in which the permit is valid."

SECTION 14.8.(x) The Division of Marine Fisheries of the Department of Environment and Natural Resources shall seek the involvement of the commercial fishing industry in North Carolina in the Division's development of a plan to determine a source of funding necessary to support the Marine Fisheries At-Sea Observer Program that is in addition to the fee increases under this section. As part of this effort, the Division of Marine Fisheries shall conduct at least three public hearings in different coastal county locations to seek the input of, and receive comments of potential additional recurring funding sources from, the individuals involved in the commercial fishing industry. The Division shall receive written comments at the public hearings and take minutes of the public hearings. The minutes shall be made available to the public on the Department's Internet Web site.

SECTION 14.8.(y) Following the public hearings under subsection (x) of this section and the Division's consideration of written and oral comments resulting from the public hearings, the Division of Marine Fisheries shall submit its plan for an additional recurring funding source to support the Marine Fisheries At-Sea Observer Program to the Marine Fisheries Commission. The Marine Fisheries Commission shall vote on whether it endorses the plan.

SECTION 14.8.(z) No later than March 1, 2014, the Marine Fisheries Commission shall submit a report to the Senate Appropriations Committee on Natural and Economic Resources, the House of Representatives Appropriations Subcommittee on Natural and Economic Resources, and the Fiscal Research Division. This report shall include the results of the Commission's vote under subsection (y) of this section and its findings and recommendations for an additional source of funding necessary to support the Marine Fisheries At-Sea Observer Program in the event the Commission votes against endorsing the plan.

SECTION 14.8.(aa) The Division of Marine Fisheries shall use the proceeds it receives as a result of the fee increases under this section to provide support for the 2014-2015 fiscal year for the Marine Fisheries At-Sea Observer Program. In addition, the Division of Marine Fisheries shall provide available funds for the 2014-2015 fiscal year to provide any additional support that is needed to continue the Marine Fisheries At-Sea Observer Program.

SECTION 14.8.(ab) This section becomes effective August 1, 2013.

MARINE RESOURCES FUND AND MARINE RESOURCES ENDOWMENT FUND DISBURSEMENTS

SECTION 14.9.(a) G.S. 113-175.1(b) reads as rewritten:

"(b) The State Treasurer shall hold the Marine Resources Fund separate and apart from all other moneys, funds, and accounts. The State Treasurer shall invest the assets of the Marine Resources Fund in accordance with the provisions of G.S. 147-69.2 and G.S. 147-69.3, and all marine resources investment income shall be deposited to the credit of the Marine Resources Fund. The State Treasurer shall disburse the principal of the Marine Resources Fund and marine resources investment income only upon the written direction of ~~both~~ the Marine Fisheries ~~Commission and the Wildlife Resources Commission.~~Commission."

SECTION 14.9.(b) G.S. 113-175.1(c) reads as rewritten:

"(c) The Marine Fisheries Commission~~ and the Wildlife Resources Commission~~ may authorize the disbursement of the principal of the Marine Resources Fund and marine resources investment income only to manage, protect, restore, develop, cultivate, conserve, and enhance the marine resources of the State. The Marine Fisheries Commission~~ and the Wildlife Resources Commission are~~ is encouraged to consider supporting the Oyster Sanctuary Program managed by the Division of Marine Fisheries. The Marine Fisheries Commission~~ and the Wildlife Resources Commission~~ may not authorize the disbursement of the principal of the Marine Resources Fund and marine resources investment income to establish positions without specific authorization from the General Assembly. All proposals to the Marine Fisheries Commission~~ and the Wildlife Resources Commission~~ for the disbursement of funds from the Marine Resources Fund shall be made by and through the Fisheries Director. Prior to authorizing disbursements from the Marine Resources Fund, the Marine Fisheries Commission shall consult with the Wildlife Resources Commission about these proposals. Expenditure of the assets of the Marine Resources Fund shall be made through the State budget accounts of the Division of Marine Fisheries in accordance with the provisions of the Executive Budget Act. The Marine Resources Fund is subject to the oversight of the State Auditor pursuant to Article 5A of Chapter 147 of the General Statutes."

SECTION 14.9.(c) G.S. 113-175.5(b) reads as rewritten:

"(b) The State Treasurer shall hold the Endowment Fund separate and apart from all other moneys, funds, and accounts. The State Treasurer shall invest the assets of the Endowment Fund in accordance with the provisions of G.S. 147-69.2 and G.S. 147-69.3. The State Treasurer shall disburse the endowment investment income only upon the written

direction of both the Marine Fisheries ~~Commission and the Wildlife Resources Commission.~~Commission."

SECTION 14.9.(d) G.S. 113-175.5(c) reads as rewritten:

"(c) Subject to the limitations set out in subsection (d) of this section, the Marine Fisheries Commission ~~and the Wildlife Resources Commission~~ may authorize the disbursement of endowment investment income only to manage, protect, restore, develop, cultivate, conserve, and enhance the marine resources of the State. The Marine Fisheries Commission ~~and the Wildlife Resources Commission~~ may not authorize the disbursement of endowment investment income to establish positions without specific authorization from the General Assembly. All proposals to the Marine Fisheries Commission ~~and the Wildlife Resources Commission~~ for the disbursement of funds from the Endowment Fund shall be made by and through the Fisheries Director. Prior to authorizing disbursements from the Marine Resources Endowment Fund, the Marine Fisheries Commission shall consult with the Wildlife Resources Commission about these proposals."

MARINE FISHERIES ENDOWMENT FUND REPEALED

SECTION 14.10. G.S. 143B-289.58 is repealed.

BOATING SAFETY ENFORCEMENT AGREEMENT

SECTION 14.11.(a) The Director of the Division of Marine Fisheries of the Department of Environment and Natural Resources and the Director of the Wildlife Resources Commission shall develop and implement an agreement that includes at least all of the following provisions:

(1) Provisions to authorize the Division of Marine Fisheries marine patrol to perform any needed boating safety inspection.

(2) To avoid the duplication of enforcement activities by the Division of Marine Fisheries marine patrol and the Wildlife Resources Commission law enforcement officers, a schedule for high-volume areas that is developed to take into account that the Division of Marine Fisheries marine patrol must confine their enforcement activities to the coastal waters.

(3) To further encourage more efficient management of the State's resources, a protocol that sets forth appropriate circumstances when the Division of Marine Fisheries marine patrol is authorized or required to investigate boating accidents in coastal waters and within the joint jurisdiction of the Division of Marine Fisheries and the Wildlife Resources Commission.

(4) A provision to prohibit, except in the instances of investigations of boating accidents, the Division of Marine Fisheries from receiving any federal boating safety funds.

(5) A provision to provide mutual aid that authorizes the Division of Marine Fisheries marine patrol to enter into inland waters in winter to conduct a normal investigation of suspected illegal netting activity.

SECTION 14.11.(b) No later than April 1, 2014, the Division of Marine Fisheries of the Department of Environment and Natural Resources and the Wildlife Resources Commission shall submit a joint report to the Senate Appropriations Committee on Natural and Economic Resources, the House of Representatives Appropriations Subcommittee on Natural and Economic Resources, and the Fiscal Research Division. The report shall include any findings and recommendations, including any legislative proposals. The report shall include findings regarding at least the following issues:

(1) Whether the agreement developed pursuant to subsection (a) of this section has been successful from the perspective of the Division of Marine Fisheries, the Wildlife Resources Commission and the public in clarifying enforcement activities and reducing the duplication of enforcement activities by the

Division of Marine Fisheries marine patrol and the Wildlife Resources Commission law enforcement officers.

(2) As an alternative to the agreement developed under the provisions of subsection (a) of this section, whether it would be preferable to confer law enforcement powers upon the Division of Marine Fisheries marine patrol to authorize the Division of Marine Fisheries marine patrol to engage in enforcement activity related to only fisheries under the jurisdiction of the Division of Marine Fisheries or subject to the management of the Division of Marine Fisheries.

(3) Any other issue the Division of Marine Fisheries or the Wildlife Resources Commission deems pertinent to include in the report.

BERNARD ALLEN MEMORIAL EMERGENCY DRINKING WATER FUND

SECTION 14.14. G.S. 87-98 reads as rewritten:

"§ **87-98. Bernard Allen Memorial Emergency Drinking Water Fund.**

(a) The Bernard Allen Memorial Emergency Drinking Water Fund is established under the control and direction of the Department. The Fund shall be a nonreverting, interest-bearing fund consisting of monies appropriated by the General Assembly or made available to the Fund from any other source and investment interest credited to the Fund.

(b) The Fund may be used to pay ~~for notification,~~for:

(1) Notification, to the extent practicable, of persons aged 18 and older who reside in any dwelling unit, and the senior official in charge of any business, at which drinking water is supplied from a private drinking water well or improved spring that is located within 1,500 feet of, and at risk from, known groundwater contamination. The senior official in charge of the business shall take reasonable measures to notify all employees of the business of the groundwater contamination, including posting a notice of the contamination in a form and at a location that is readily accessible to the employees of the business. ~~The Fund may also be used by the Department to pay the~~

(2) The costs of testing of private drinking water wells and improved springs for suspected contamination up to once every three years upon request by a person who uses the ~~well and for the~~ well, or more frequent testing if the concentration of one or more contaminants in a private drinking water well is increasing over time and there is a significant risk that the concentration of a contaminant will exceed the drinking water action levels set forth in subsection (c) of this section within a three-year period.

(3) Additional testing to confirm the results of a previous test.

(4) The temporary or permanent provision of alternative drinking water supplies to persons whose drinking water well or improved spring is contaminated. Under this ~~subsection,~~section, an alternative drinking water supply includes the repair, such as use of a filtration system, or replacement of a contaminated well or the connection to a public water supply.

(5) Monitoring of filtration systems used in connection with temporary or permanent alternative drinking water supplies provided pursuant to this section.

(c) The Department shall disburse monies from the Fund based on financial need and on the risk to public health posed by groundwater contamination and shall give priority to the provision of services under this section to instances when an alternative source of funds is not available. The Fund shall not be used to provide alternative water supply to households with incomes greater than three hundred percent (300%) of the current federal poverty level. The Fund may be used to provide alternative drinking water supplies if the Department determines that the concentration of one or more contaminants in the private drinking water well or improved spring exceeds the federal maximum contaminant level, or the federal drinking water

action level as defined in 40 Code of Federal Regulations § 141.1 through § 141.571 (1 July 2007) and 40 Code of Federal Regulations § 143.3 (1 July 2007). For a contaminant for which a federal maximum contaminant level or drinking water action level has not been established, the State groundwater standard established by the Environmental Management Commission for the concentration of that contaminant shall be used to determine whether the Fund may be used to provide alternative drinking water supplies. The Fund may also be used to provide alternative drinking water supplies as provided in this section if the Department determines that the concentration of one or more contaminants in a private drinking water well is increasing over time and that there is a significant risk that the concentration of a contaminant will exceed the federal maximum contaminant level or drinking water action level, or the State groundwater standard. A determination of the concentration of a contaminant shall be based on a sample of water collected from the private drinking water well within the past 12 months.

(c1) In disbursing monies from the Fund, the Department shall give preference to provision of permanent replacement water supplies by connection to public water supplies and repair or replacement of contaminated wells over the provision of temporary water supplies. In providing alternative drinking water supplies, the Department shall give preference to connection to a public water supply system or to construction of a new private drinking water well over the use of a filtration system if the Department determines that the costs of periodic required maintenance of the filtration system would be cost-prohibitive for users of the alternative drinking water supply.

(c2) If the Department provides an alternative drinking water supply by extension of a waterline, the Department may disburse from the Fund no more than ~~ten~~ fifty thousand dollars ~~($10,000)~~($50,000) per household or other service connection. For projects where more than 10 residences are eligible for alternative water supplies under this section, no ~~No~~ more than one-third of the total cost of the project may be paid from the Fund. The Department may combine monies from the Fund with monies from other sources in order to pay the total cost of the project.

(c3) The Fund shall be used to provide alternative drinking water supplies only if the Department determines that the person or persons who are responsible for the contamination of the private drinking water well is or are not financially viable or cannot be identified or located and if the Department determines that one of the following applies:

(1) The contamination of the private drinking water well is naturally occurring.

(2) The owner of the property on which the private drinking water well is located did not cause or contribute to the contamination or control the source of the contamination.

(3) The source of the contamination is the application or disposal of a hazardous substance or pesticide that occurred without the consent of the owner of the property on which the private drinking water well is located.

(c4) The Department may use up to one hundred thousand dollars ($100,000) annually of the monies in the Fund to pay the personnel and other direct costs associated with the implementation of this section.

(c5) The Fund shall not be used for remediation of groundwater contamination.

(c6) Nothing in this section expands, contracts, or modifies the obligation of responsible parties under Article 9 or 10 of Chapter 130A of the General Statutes, this Article, or Article 21A of this Chapter to assess contamination, identify receptors, or remediate groundwater or soil contamination.

(c7) In disbursing monies from the Fund for replacement water supplies, the Department shall give priority to circumstances in which a well is contaminated as the result of nonnaturally occurring groundwater contamination in the area over circumstances in which a well has naturally occurring contamination.

(d) The Department shall establish criteria by which the Department is to evaluate applications and disburse monies from this Fund and may adopt any rules necessary to implement this section.

(e) The Department, in consultation with the Commission for Public Health and local health departments, shall report no later than ~~1 October~~October 1 of each year to the Environmental Review Commission, the House of Representatives Appropriations Subcommittee on Natural and Economic Resources, Senate Appropriations Committee on Natural and Economic Resources, and the Fiscal Research Division on the implementation of this section. The report shall include the purpose and amount of all expenditures from the Fund during the prior fiscal year, a discussion of the benefits and deficiencies realized as a result of the section, and may also include recommendations for any legislative action."

NONCOMMERCIAL LEAKING PETROLEUM UNDERGROUND STORAGE TANK CLEANUP FUND; DENR STUDY

SECTION 14.15.(a) G.S. 143-215.94D(b1) reads as rewritten:

"(b1) The Noncommercial Fund shall be used for the payment of the costs of:

(1) ~~The~~ For releases discovered or reported to the Department prior to August 1, 2013, the cleanup of environmental damage as required by G.S. 143-215.94E(a).

(1a) For releases discovered or reported to the Department on or after August 1, 2013, the cleanup of environmental damage as required by G.S.143-215.94E(a) in excess of two thousand dollars ($2,000) or the sum of the following amounts, whichever is less:

a. A deductible of one thousand dollars ($1,000) per occurrence.

b. A co-payment equal to ten percent (10%) of the costs of the cleanup of environmental damage, per occurrence.

(2) Compensation to third parties for bodily injury and property damage in excess of one hundred thousand dollars ($100,000) per occurrence.

(3) Reimbursing the State for damages or other costs incurred as a result of a loan from the Loan Fund. The per occurrence limit does not apply to reimbursements to the State under this subdivision.

(4) Recordation of residual petroleum as required by G.S. 143B-279.11 if the Noncommercial Fund is responsible for the payment of costs under subdivisions (1) through (3) of this subsection and subsection (b) of this section."

SECTION 14.15.(b) The Department of Environment and Natural Resources (Department) shall study the costs and benefits of the noncommercial underground storage tank program and explore options for continued use of the Noncommercial Leaking Petroleum Underground Storage Tank Cleanup Fund (Fund) and ways to improve the solvency of the Fund. The study shall consider all of the following:

(1) The usual, average, historic costs of various phases of assessment and cleanup of noncommercial UST releases in order to determine areas of potential costs savings.

(2) The feasibility of determining levels of soil and groundwater contamination at noncommercial UST releases earlier in the assessment and cleanup process in order to identify lower risks sites and limit reimbursement of costs of initial abatement actions.

(3) The feasibility of assigning risk to noncommercial UST releases earlier in the assessment and cleanup process in order to limit reimbursement of costs of initial abatement actions.

(4) The feasibility of partial cleanup at lower priority noncommercial UST releases.

(5) The feasibility of issuing notices similar to the Notices of No Further Action for partially cleaned up, stabilized, lower priority noncommercial UST sites in order to facilitate property transfers.

(6) Methods to strengthen liability protections for buyers and lenders of residential properties that have known noncommercial UST releases in order to facilitate property transfers.

(7) Methods to employ land-use restrictions on residential properties where petroleum contamination remains at lower risk sites in order to limit cleanup at these sites, while still informing the public of risk, and facilitating property transfers.

(8) Methods to increase the participation of noncommercial UST owners in the costs of assessments and cleanups.

(9) Any other matter the Department deems relevant to improve the solvency of the Fund.

SECTION 14.15.(c) The Department shall report its findings and recommendations, including any legislative proposals, to the Environmental Review Commission, the Senate Appropriations Committee on Natural and Economic Resources, the House of Representatives Appropriations Subcommittee on Natural and Economic Resources, and the Fiscal Research Division no later than April 1, 2014.

PORTION OF SCRAP TIRE DISPOSAL TAX CREDITED TO GENERAL FUND; REPEAL SCRAP TIRE DISPOSAL ACCOUNT

SECTION 14.16.(a) G.S. 105-187.19(b) reads as rewritten:

"(b) Each quarter, the Secretary shall credit ~~eight percent (8%) of the net tax proceeds to the Solid Waste Management Trust Fund, seventeen percent (17%) of the net tax proceeds to the Scrap Tire Disposal Account, two and one-half percent (2.5%) of the net tax proceeds to the Inactive Hazardous Sites Cleanup Fund, and two and one-half percent (2.5%) of the net tax proceeds to the Bernard Allen Memorial Emergency Drinking WaterFund.~~thirty percent (30%) of the net tax proceeds to the General Fund. The Secretary shall distribute the remaining seventy percent (70%) of the net tax proceeds among the counties on a per capita basis according to the most recent annual population estimates certified to the Secretary by the State Budget Officer."

SECTION 14.16.(b) G.S. 130A-309.63 is repealed.

SECTION 14.16.(c) Part 2B of Article 9 of Chapter 130A of the General Statutes is amended by adding a new section to read:

"**§ 130A-309.64. Scrap Tire Disposal Program; other Department activities related to scrap tires.**

(a) The Department may make grants to units of local government to assist them in disposing of scrap tires. To administer the grants, the Department shall establish procedures for applying for a grant and the criteria for selecting among grant applicants. The criteria shall include the financial ability of a unit of local government to provide for scrap tire disposal, the severity of a unit of local government's scrap tire disposal problem, the effort made by a unit of local government to ensure that only tires generated in the normal course of business in this State are provided free disposal, and the effort made by a unit of local government to provide for scrap tire disposal within the resources available to it.

(b) A unit of local government is not eligible for a grant under subsection (a) of this section unless its costs for disposing of scrap tires for the six-month period preceding the date the unit of local government files an application for a grant exceeded the amount the unit of local government received during that period from the proceeds of the scrap tire tax under G.S. 105-187.19. A grant to a unit of local government for scrap tire disposal may not exceed the unit of local government's unreimbursed cost for the six-month period.

(c) The Department may support a position to provide local governments with assistance in developing and implementing scrap tire management programs designed to complete the cleanup of nuisance tire collection sites and prevent scrap tires generated from outside of the State from being presented for free disposal in the State.

(d) The Department may clean up scrap tire collection sites that the Department has determined are a nuisance. The Department may use funds to clean up a nuisance tire collection site only if no other funds are available for that purpose.

(e) The Department shall include in the report to be delivered to the Environmental Review Commission on or before January 15 of each year pursuant to G.S. 130A-309.06(c) a description of the implementation of the North Carolina Scrap Tire Disposal Act under this Part for the fiscal year ending the preceding June 30. The description of the implementation of the North Carolina Scrap Tire Disposal Act shall include a list of the recipients of grants under subsection (a) of this section and the amount of each grant for the previous 12-month period. The report also shall include the amount of funds used to clean up nuisance sites under subsection (d) of this section.

(f) It is the intent of the General Assembly to allow the Department to satisfy grant obligations that extend beyond the end of the fiscal year.

(g) The Department may adopt any rules necessary to implement this section."

SECTION 14.16.(d) G.S. 130A-309.06(c) reads as rewritten:

"(c) The Department shall report to the Environmental Review Commission on or before 15 January of each year on the status of solid waste management efforts in the State. The report shall include:

…

(10) A description of the implementation of the North Carolina Scrap Tire Disposal Act that includes ~~the beginning and ending balances in the Scrap Tire Disposal Account for the reporting period, the amount credited to the Scrap Tire Disposal Account during the reporting period, and~~the amount of revenue used for grants and to clean up nuisance tire collection ~~sites, as required by G.S. 130A-309.63(e).~~under the provisions of G.S 130A-309.64.

…."

SECTION 14.16.(e) G.S. 130A-309.09C(g) reads as rewritten:

"(g) In addition to any other penalties provided by law, a unit of local government that does not comply with the requirements of G.S. 130A-309.09A(b) and G.S. 130A-309.09B(a) shall not be eligible for grants from the Solid Waste Management Trust ~~Fund, the Scrap Tire Disposal Account,~~Fund or the White Goods Management Account and shall not receive the proceeds of the scrap tire disposal tax imposed by Article 5B of Chapter 105 of the General Statutes or the proceeds of the white goods disposal tax imposed by Article 5C of Chapter 105 of the General Statutes to which the unit of local government would otherwise be entitled. The Secretary shall notify the Secretary of Revenue to withhold payment of these funds to any unit of local government that fails to comply with the requirements of G.S. 130A-309.09A(b) and G.S. 130A-309.09B(a). Proceeds of the scrap tire disposal tax that are withheld pursuant to this subsection shall be credited to the ~~Scrap Tire Disposal Account~~General Fund and may be used as provided in ~~G.S. 130A-309.63.~~G.S. 130A-309.64. Proceeds of the white goods disposal tax that are withheld pursuant to this subsection shall be credited to the White Goods Management Account and may be used as provided in G.S. 130A-309.83."

SECTION 14.16.(f) The funds appropriated to the Department of Environment and Natural Resources for the 2013-2015 biennium for the Scrap Tire Disposal Program established under G.S. 130A-309.64, as enacted by subsection (b) of this section, shall be allocated as follows:

(1) Up to eighty thousand dollars ($80,000) shall be used by the Department of Environment and Natural Resources to support a position in the same manner as revenue in the Scrap Tire Disposal Account may be used under G.S. 130A-309.63(b)(3), and

(2) Four hundred twenty thousand dollars ($420,000) shall be used by the Department of Environment and Natural Resources in the same manner as revenue in the Scrap Tire Disposal Account may be used under G.S. 130A-309.63, as amended by this section.

SECTION 14.16.(g) Any tax proceeds remaining in the Scrap Tire Disposal Account, repealed under subsection (b) of this section, as of the effective date of this section shall continue to be used for the same purposes and in the same manner as the Scrap Tire Disposal Account, except the funds in the Scrap Tire Disposal Account shall not be used for grants to encourage the use of processed scrap tire materials.

SECTION 14.16.(h) Money collected pursuant to Article 5B of Chapter 105 of the General Statutes between July 1, 2013, and the date this act becomes law shall be credited to the General Fund. The money shall be used for the purposes provided in this section.

PORTION OF WHITE GOODS DISPOSAL TAX CREDITED TO GENERAL FUND

SECTION 14.17.(a) G.S. 105-187.24 reads as rewritten:

"§ **105-187.24. Use of tax proceeds.**

The Secretary shall distribute the taxes collected under this Article, less the Department of Revenue's allowance for administrative expenses, in accordance with this section. The Secretary may retain the Department's cost of collection, not to exceed four hundred twenty-five thousand dollars ($425,000) a year, as reimbursement to the Department.

Each quarter, the Secretary shall credit ~~eight percent (8%) of the net tax proceeds to the Solid Waste Management Trust Fund and shall credit twenty percent (20%) of the net tax proceeds to the White Goods Management Account.~~ twenty-eight percent (28%) of the net tax proceeds to the General Fund. The Secretary shall distribute the remaining seventy-two percent (72%) of the net tax proceeds among the counties on a per capita basis according to the most recent annual population estimates certified to the Secretary by the State Budget Officer. The Department shall not distribute the tax proceeds to a county when notified not to do so by the Department of Environment and Natural Resources under G.S. 130A-309.87. If a county is not entitled to a distribution, the proceeds allocated for that county will be credited to the White Goods Management Account.

A county may use funds distributed to it under this section only as provided in G.S. 130A-309.82. A county that receives funds under this section and that has an interlocal agreement with another unit of local government under which the other unit provides for the disposal of solid waste for the county must transfer the amount received under this section to that other unit. A unit to which funds are transferred is subject to the same restrictions on use of the funds as the county."

SECTION 14.17.(b) G.S. 130A-309.83(a) reads as rewritten:

"(a) The White Goods Management Account is established within the Department. ~~The Account consists of revenue credited to the Account from the proceeds of the white goods disposal tax imposed by Article 5C of Chapter 105 of the General Statutes.~~"

SECTION 14.17.(c) G.S. 130A-309.87(a) reads as rewritten:

"(a) Receipt of Funds. – A county may not receive a quarterly distribution of the white goods disposal tax proceeds under G.S. 105-187.24 unless the undesignated balance in the county's white goods account at the end of its fiscal year is less than the threshold amount. Based upon the information in a county's Annual Financial Information Report, the Department must notify the Department of Revenue by March 1 of each year which counties may not receive a distribution of the white goods disposal tax for the current calendar year. The Department of Revenue will credit the undistributed tax proceeds to the ~~White Goods Management Account.~~General Fund."

SECTION 14.17.(d) G.S. 130A-309.09C(g) reads as rewritten:

"(g) In addition to any other penalties provided by law, a unit of local government that does not comply with the requirements of G.S. 130A-309.09A(b) and G.S. 130A-309.09B(a) shall not be eligible for grants from the Solid Waste Management Trust Fund, the Scrap Tire Disposal Account, or the White Goods Management Account and shall not receive the proceeds of the scrap tire disposal tax imposed by Article 5B of Chapter 105 of the General Statutes or the proceeds of the white goods disposal tax imposed by Article 5C of Chapter 105 of the General Statutes to which the unit of local government would otherwise be entitled. The

Secretary shall notify the Secretary of Revenue to withhold payment of these funds to any unit of local government that fails to comply with the requirements of G.S. 130A-309.09A(b) and G.S. 130A-309.09B(a). Proceeds of the scrap tire disposal tax that are withheld pursuant to this subsection shall be credited to the Scrap Tire Disposal Account and may be used as provided in G.S. 130A-309.63. Proceeds of the white goods disposal tax that are withheld pursuant to this subsection shall be credited to the ~~White Goods Management Account~~General Fund and may be used as provided in G.S. 130A-309.83."

SECTION 14.17.(e) G.S. 130A-309.83 is repealed.

SECTION 14.17.(f) G.S. 130A-309.85(3) is repealed.

SECTION 14.17.(g) G.S. 130A-309.87, as amended by subsection (c) of this section, reads as rewritten:

"§ **130A-309.87. Eligibility for disposal tax proceeds.**

…

(b) Annual Financial Information Report. – On or before November 1 of each year, a county must submit a copy of its Annual Financial Information Report, prepared in accordance with G.S. 159-33.1, to the Department. The Secretary of the Local Government Commission must require the following information in that report:

…

(2) The amount of revenue credited to its white goods account. This revenue should include all receipts derived from the white goods disposal tax, and the sale of white goods scrap metals and ~~freon, and a grant from the White Goods Management Account.~~freon.

…."

SECTION 14.17.(h) Subsection (e) through subsection (g) of this section become effective June 30, 2017.

SECTION 14.17.(i) This section is effective August 1, 2013.

PORTION OF SOLID WASTE DISPOSAL TAX CREDITED TO GENERAL FUND; REPEAL SOLID WASTE MANAGEMENT TRUST FUND

SECTION 14.18.(a) G.S. 105-187.63 reads as rewritten:

"§ **105-187.63. Use of tax proceeds.**

From the taxes received pursuant to this Article, the Secretary may retain the costs of collection, not to exceed two hundred twenty-five thousand dollars ($225,000) a year, as reimbursement to the Department. The Secretary must credit or distribute taxes received pursuant to this Article, less the cost of collection, on a quarterly basis as follows:

(1) Fifty percent (50%) to the Inactive Hazardous Sites Cleanup Fund established by G.S. 130A-310.11.

(2) Thirty-seven and one-half percent (37.5%) to cities and counties in the State on a per capita basis, using the most recent annual estimate of population certified by the State Budget Officer. One-half of this amount must be distributed to cities, and one-half of this amount must be distributed to counties. For purposes of this distribution, the population of a county does not include the population of a city located in the county.

A city or county is excluded from the distribution under this subdivision if it does not provide solid waste management programs and services and is not responsible by contract for payment for these programs and services. The Department of Environment and Natural Resources must provide the Secretary with a list of the cities and counties that are excluded under this subdivision. The list must be provided by May 15 of each year and applies to distributions made in the fiscal year that begins on July 1 of that year.

Funds distributed under this subdivision must be used by a city or county solely for solid waste management programs and services.

(3) Twelve and one-half percent (12.5%) to the ~~Solid Waste Management Trust Fund established by G.S. 130A-309.12.~~General Fund."

SECTION 14.18.(b) G.S. 130A-309.12 is repealed.

SECTION 14.18.(c) Part 2A of Article 9 of Chapter 130A of the General Statutes is amended by adding a new section to read:

"**§ 130A-309.13. Solid Waste Management Outreach Program.**

(a) The Department shall develop an outreach program to promote waste reduction and recycling. From funds available to the Department for this program, the Department may engage in any of the following outreach activities:

(1) Provide public education regarding waste reduction and recycling.

(2) Provide technical assistance regarding waste reduction and recycling to units of local government.

(3) Conduct research on the solid waste stream in North Carolina.

(4) Develop secondary materials markets by providing technical and financial support, including providing technical and financial support to private recycling businesses, including use of processed scrap tire materials.

(5) Provide funding for the activities of the Division of Environmental Assistance and Outreach.

(b) It is the intent of the General Assembly to allow the Department to satisfy grant obligations that extend beyond the end of the fiscal year.

(c) The Department shall include in the report required by G.S. 130A-309.06(c) a description of the outreach program under this section. This report shall specify the type of outreach activity under each of subdivisions (1) through (5) under subsection (a) of this section and the amount of program funds the Department expended for each activity during the previous year."

SECTION 14.18.(d) Of the funds appropriated to the Department of Environment and Natural Resources for the 2013-2015 fiscal biennium for the Solid Waste Management Outreach Program, established under G.S. 130A-309.13, as enacted by subsection (c) of this section, up to one million one hundred thousand dollars ($1,100,000) may be used by the Department of Environment and Natural Resources for recycling grants.

SECTION 14.18.(e) Any tax proceeds remaining in the Solid Waste Management Trust Fund, repealed under subsection (b) of this section, as of the effective date of this section, shall be used only for one or more of the following purposes:

(1) Funding activities of the Department to promote waste reduction and recycling, including, but not limited to, public education programs and technical assistance to units of local government.

(2) Funding research on the solid waste stream in North Carolina.

(3) Funding activities related to the development of secondary materials markets.

(4) Providing funding for demonstration projects as provided by this Part.

(5) Providing funding for research by The University of North Carolina and independent nonprofit colleges and universities within the State which are accredited by the Southern Association of Colleges and Schools as provided by this Part.

(6) Providing funding for the activities of the Division of Environmental Assistance and Outreach.

SECTION 14.18.(f) Money collected pursuant to Article 5G of Chapter 105 of the General Statutes between July 1, 2013, and the date this act becomes law shall be credited to the General Fund. The money shall be used for the purposes provided in this section.

DRINKING WATER STATE REVOLVING FUND

SECTION 14.20. Notwithstanding G.S. 159G-22, the Department of Environment and Natural Resources may transfer State funds from the Drinking Water Reserve to the

Drinking Water State Revolving Fund for the 2013-2014 fiscal year and shall use any such funds to match maximum available federal grant monies authorized by section 1453 of the federal Safe Drinking Water Act of 1996, 42 U.S.C. § 300j-12, as amended.

CREATE NEW DIVISION OF WATER INFRASTRUCTURE IN DENR; NEW STATE WATER INFRASTRUCTURE AUTHORITY; TRANSFER WATER INFRASTRUCTURE FUND TO NEW DIVISION

SECTION 14.21.(a) The Division of Water Infrastructure is established as a new division within the environmental area of the Department of Environment and Natural Resources. All functions, powers, duties, and obligations previously vested in the Division of Water Quality of the Department of Environment and Natural Resources pertaining to the implementation and administration of Chapter 159G of the General Statutes are transferred to and vested in the Division of Water Infrastructure by a Type II transfer, as defined in G.S. 143A-6. All functions, powers, duties, and obligations previously vested in the Division of Water Resources of the Department of Environment and Natural Resources pertaining to the implementation and administration of Chapter 159G of the General Statutes are transferred to and vested in the Division of Water Infrastructure by a Type II transfer, as defined in G.S. 143A-6. The Water Infrastructure Fund established under G.S. 159G-22 and all accounts within the Water Infrastructure Fund under G.S. 159G-22 shall be transferred to and administered by the Division of Water Infrastructure. In addition to its other duties set forth in Chapter 159G, the Division of Water Infrastructure shall be responsible for administering the program whereby local government units are awarded funds by the State Water Infrastructure Authority created by this section for infrastructure projects from community development block grant funds.

SECTION 14.21.(b) Chapter 159G of the General Statutes is amended by adding a new Article to read:

"Article 5.

"State Water Infrastructure Authority.

"**§ 159G-70. State Water Infrastructure Authority created.**

(a) Authority Established. – The State Water Infrastructure Authority is created within the Department of Environment and Natural Resources.

(b) Membership. – The Authority consists of nine members as follows:

(1) The Director of the Division of Water Infrastructure of the Department or the Director's designee who is familiar with the water infrastructure financing, regulatory, and technical assistance programs of the Department.

(2) The Secretary of Commerce or the Secretary's designee who is familiar with the State programs that fund water or other infrastructure improvements for the purpose of promoting economic development.

(3) The Director of the Local Government Commission or the Director's designee who is familiar with the functions of the Commission.

(4) One member who is a professional engineer in the private sector and is familiar with the development of infrastructure necessary for wastewater systems, to be appointed by the Governor to a term that expires on July 1 of even-numbered years.

(5) One member who is knowledgeable about, and has experience related to, direct federal funding programs for wastewater and public water systems, to be appointed by the Governor to a term that expires on July 1 of odd-numbered years.

(6) One member who is a representative of an urban local government wastewater system or public water system, to be appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate to a term that expires on July 1 of even-numbered years.

(7) One member who is a representative of a rural local government wastewater system or public water system, to be appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate to a term that expires on July 1 of odd-numbered years.

(8) One member who either (i) is a county commissioner of a rural county or (ii) resides in a rural county and is knowledgeable about, and has experience related to, public health services, to be appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives to a term that expires on July 1 of even-numbered years.

(9) One member who is familiar with wastewater, drinking water, and stormwater issues and related State funding sources, to be appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives to a term that expires on July 1 of odd-numbered years.

(c) Terms. – The members appointed by the Governor, the President Pro Tempore of the Senate, and the Speaker of the House of Representatives shall serve two-year terms. The other members, who are ex officio members or designees of those members, shall serve until they are no longer in office or are replaced with another designee.

(d) Chair. – The Director of the Division of Water Infrastructure, or the Director's designee, shall serve as Chair of the Authority. The Chair must call the first meeting. The Chair shall serve as a nonvoting member, provided, however, that the Chair shall vote to break a tie.

(e) Meetings. – The Authority shall meet at least four times a year and may meet as often as needed. A majority of the members of the Authority constitutes a quorum for the transaction of business. The affirmative vote of a majority of the members present at a meeting of the Authority is required for action to be taken by the Authority.

(f) Vacancies. – A vacancy in the Authority or as Chair of the Authority resulting from the resignation of a member or otherwise is filled in the same manner in which the original appointment was made. The term of an appointment to fill a vacancy is for the balance of the unexpired term.

(g) Compensation. – Each member of the Authority shall receive no salary as a result of serving on the Authority but shall receive per diem, subsistence, and travel expenses in accordance with the provisions of G.S. 120-3.1, 138-5, and 138-6, as applicable.

"**§ 159G-71. State Water Infrastructure Authority; powers and duties.**

The Authority has the following additional duties:

(1) After reviewing the recommendations for grants and loans submitted to it by the Division, to determine the rank of applications and to select the applications that are eligible to receive grants and loans, consistent with federal law.

(2) To establish priorities for making loans and grants under this Chapter, consistent with federal law.

(3) To review the criteria for making loans and grants under G.S. 159G-23 and make recommendations, if any, to the Department for additional criteria or changes to the criteria, consistent with federal law.

(4) To develop guidelines for making loans and grants under this Chapter, consistent with federal law.

(5) To develop a master plan to meet the State's water infrastructure needs.

(6) To assess and make recommendations on the role of the State in the development and funding of wastewater, drinking water, and stormwater infrastructure in the State.

(7) To analyze the adequacy of projected funding to meet projected needs over the next five years.

(8) To make recommendations on ways to maximize the use of current funding resources, whether federal, State, or local, and to ensure that funds are used in a coordinated manner.

(9) To review the application of management practices in wastewater, drinking water, and stormwater utilities and to determine the best practices.

(10) To assess the role of public-private partnerships in the future provision of utility service.

(11) To assess the application of the river basin approach to utility planning and management.

(12) To assess the need for a "troubled system" protocol.

"**§ 159G-72. State Water Infrastructure Authority; reports.**

No later than November 1 of each year, the Authority shall submit a report of its activity and findings, including any recommendations or legislative proposals, to the Senate Appropriations Committee on Natural and Economic Resources, the House of Representatives Appropriations Subcommittee on Natural and Economic Resources, and the Fiscal Research Division of the Legislative Services Commission."

SECTION 14.21.(c) Article 4 of Chapter 159G of the General Statutes is repealed.

SECTION 14.21.(d) G.S. 159G-20 reads as rewritten:

"§ **159G-20. Definitions.**

The following definitions apply in this Chapter:

…

~~(5) Division of Water Quality. – The Division of Water Quality of the Department of Environment and Natural Resources.~~

~~(5a) Division of Water Resources. – The Division of Water Resources of the Department of Environment and Natural Resources.~~

(5b) Division. – Division of Water Infrastructure.

…."

SECTION 14.21.(e) G.S. 159G-23 reads as rewritten:

"§ **159G-23. Common criteria for loan or grant from Wastewater Reserve or Drinking Water Reserve.**

The criteria in this section apply to a loan or grant from the Wastewater Reserve or the Drinking Water Reserve. The Division of Water ~~Quality and the Division of Water Resources~~Infrastructure must each establish a system of assigning points to applications based on the following criteria:

(1) Public necessity. – An applicant must explain how the project promotes public health and protects the environment. A project that improves a system that is not in compliance with permit requirements or is under orders from the Department, enables a moratorium to be lifted, or replaces failing septic tanks with a wastewater collection system has priority.

…."

SECTION 14.21.(f) G.S. 159G-26(a) reads as rewritten:

"(a) Requirement. – The Department must publish a report each year on the accounts in the Water Infrastructure Fund that are administered by the Division of Water ~~Quality or the Division of Water Resources.~~Infrastructure. The report must be published by 1 November of each year and cover the preceding fiscal year. The Department must make the report available to the public and must give a copy of the report to the Environmental Review Commission and the Fiscal Research Division of the ~~General Assembly.~~Legislative Services Commission."

SECTION 14.21.(g) G.S. 159G-30 reads as rewritten:

"§ **159G-30. Department's responsibility.**

The Department, through the Division of Water ~~Quality and the Division of Water Resources,~~Infrastructure, administers loans and grants made from the CWSRF, the DWSRF, the Wastewater Reserve, and the Drinking Water Reserve. ~~The Division of Water Quality administers loans and grants from the CWSRF and the Wastewater Reserve. The Division of Water Resources administers loans and grants from the DWSRF and the Drinking Water Reserve.~~"

SECTION 14.21.(h) G.S. 159G-32(b) reads as rewritten:

"(b) Wastewater Reserve. – The Department is authorized to make loans and grants from the Wastewater Reserve for the following types of projects:

(1) Wastewater collection system.

(2) Wastewater treatment works.

(3) Stormwater quality ~~project.~~projects, including innovative stormwater management projects and pilot projects.

(4) Nonpoint source pollution project."

SECTION 14.21.(i) G.S. 159G-37 reads as rewritten:

"§ **159G-37. Application to CWSRF, Wastewater Reserve, DWSRF, and Drinking Water Reserve.**

An application for a loan or grant from the ~~CWSRF or the Wastewater Reserve~~CWSRF, the DWSRF, the Wastewater Reserve, or the Drinking Water Reserve must be filed with the Division of Water ~~Quality of the Department. An application for a loan or grant from the DWSRF or the Drinking Water Reserve must be filed with the Division of Water Resources~~Infrastructure of the Department. An application must be submitted on a form prescribed by the Division and must contain the information required by the Division. An applicant must submit to the Division any additional information requested by the Division to enable the Division to make a determination on the application. An application that does not contain information required on the application or requested by the Division is incomplete and is not eligible for consideration. An applicant may submit an application in as many categories as it is eligible for consideration under this Article."

SECTION 14.21.(j) G.S. 159G-38 reads as rewritten:

"§ **159G-38. Environmental assessment and public hearing.**

(a) Required Information. – An application submitted under this Article for a loan or grant for a project must state whether the project requires an environmental assessment. If the application indicates that an environmental assessment is not required, it must identify the exclusion in the North Carolina Environmental Policy Act, Article 1 of Chapter 113A of the General Statutes, that applies to the project. If the application does not identify an exclusion in the North Carolina Environmental Policy Act, it must include an environmental assessment of the project's probable impacts on the environment.

(b) Division Review. – If, after reviewing an application, the Division of Water ~~Quality or the Division of Water Resources, as appropriate,~~ Infrastructure determines that a project requires an environmental assessment, the assessment must be submitted before the Division continues its review of the application. If, after reviewing an environmental assessment, the Division concludes that an environmental impact statement is required, the Division may not continue its review of the application until a final environmental impact statement has been completed and approved as provided in the North Carolina Environmental Policy Act.

(c) Hearing. – The Division of Water ~~Quality or the Division of Water Resources, as appropriate,~~ Infrastructure may hold a public hearing on an application for a loan or grant under this Article if it determines that holding a hearing will serve the public interest. An individual who is a resident of any county in which a proposed project is located may submit a written request for a public hearing. The request must set forth each objection to the proposed project or other reason for requesting a hearing and must include the name and address of the individual making the request. The Division may consider all written objections to the proposed project, any statement submitted with the hearing request, and any significant adverse effects the proposed project may have on the environment. The Division's decision on whether to hold a hearing is conclusive. The Division must keep all written requests for a hearing on an application as part of the records pertaining to the application."

SECTION 14.21.(k) G.S. 159G-39 reads as rewritten:

"§ **159G-39. Review of applications and award of loan or grant.**

(a) Point Assignment. – The Division of Water ~~Quality or the Division of Water Resources, as appropriate,~~Infrastructure must review all applications filed for a loan or grant under this Article for an application period. The Division must rank each application in

accordance with the points assigned to the evaluation criteria. The Division must make a written determination of an application's rank and attach the determination to the ~~application. The Division's determination of rank is conclusive.~~application for the Authority's review. The Authority must consider the Division's determination of rank when the Authority determines an application's rank. The Authority's determination of rank is conclusive.

(b) Initial Consideration. – The Division may consider an application for an emergency loan from the Wastewater Reserve or the Drinking Water Reserve at any time. The Division must consider all other loan applications and all grant applications filed during an application period at the same time in order to rank the applications. The Division shall forward all applications received for the application period to the State Water Infrastructure Authority.

(c) Reconsideration. – When the Authority determines an application's rank is too low to receive an award of a loan or grant for an application period, the Division must include the application with those considered for the next application period. If the application's rank is again too low to receive an award, the application is not eligible for consideration in a subsequent application period. An applicant whose application does not receive an award after review in two application periods may file a new application.

(d) Notification of Decision. – When the ~~Division~~ Authority determines that an application's rank makes it eligible for an award of a loan or grant, the Division must send the applicant a letter of intent to award the loan or grant. The notice must set out any conditions the applicant must meet to receive an award of a loan or grant. When the applicant satisfies the conditions set out in the letter of intent, the Division must send the applicant an offer to award a loan or grant. The applicant must give the Division written notice of whether it accepts or rejects the offer. A loan or grant is considered awarded when an offer to award the loan or grant is issued."

SECTION 14.21.(l) G.S. 143-355.4(b) reads as rewritten:

"(b) To be eligible for State water infrastructure funds from the Drinking Water State Revolving Fund or the Drinking Water Reserve or any other grant or loan of funds allocated by the General Assembly whether the allocation of funds is to a State agency or to a nonprofit organization for the purpose of extending waterlines or expanding water treatment capacity, a local government or large community water system must demonstrate that the system:

(1) Has established a water rate structure that is adequate to pay the cost of maintaining, repairing, and operating the system, including reserves for payment of principal and interest on indebtedness incurred for maintenance or improvement of the water system during periods of normal use and periods of reduced water use due to implementation of water conservation measures. The funding agency shall apply guidelines developed by the State Water Infrastructure ~~Commission~~ Authority in determining the adequacy of the water rate structure to support operation and maintenance of the system.

…."

SECTION 14.21.(m) Of the funds appropriated to the Department of Environment and Natural Resources in this act, at least three million two hundred thousand dollars ($3,500,000) for the 2013-2014 fiscal year and at least five million dollars ($5,000,000) for the 2014-2015 fiscal year shall be used for grants to local government units for public water system-related projects and wastewater-related projects. The State Water Infrastructure Authority established by G.S. 159G-70, as enacted by subsection (b) of this section, shall determine the distribution of funds between public water system-related projects and wastewater-related projects, depending upon the number of applications for grants received and the priorities established by the State Water Infrastructure Authority. Grants awarded to local government units for public water system-related projects shall be credited to the Drinking Water Reserve established in G.S. 159G-22 to be used for grants to local government units in accordance with the provisions of Chapter 159G of the General Statutes, as amended by this section. Grants awarded to local government units for wastewater-related projects shall be credited to the Wastewater Reserve established in G.S. 159G-22 to be used for grants to local

government units in accordance with the provisions of Chapter 159G of the General Statutes, as amended by this section. Funds allocated by this subsection are limited to projects in development tier one or two areas, as defined by G.S. 143B-437.08. The State Water Infrastructure Authority shall report no later than May 1, 2014, to the Environmental Review Commission, the Senate Appropriations Committee on Natural and Economic Resources, the House of Representatives Appropriations Subcommittee on Natural and Economic Resources, and the Fiscal Research Division on the distribution of grant funds awarded under Chapter 159G of the General Statutes, as amended by the section, and whether changes are needed to the existing grant program under Chapter 159G of the General Statutes or other available grant programs to better facilitate the dissemination of funds and meet the project needs of rural, economically distressed local governments.

SECTION 14.21.(n) The terms for the members who are appointed initially to the State Water Infrastructure Authority established by G.S. 159G-70, as enacted by subsection (b) of this section, shall commence July 1, 2013. Notwithstanding the provisions of G.S. 159G-70, as enacted by subsection (b) of this section, in order to establish staggered terms, the terms for the members who are appointed initially to the State Water Infrastructure Authority under G.S. 159G-70(b)(4), (6), and (8) shall expire July 1, 2016.

SECTION 14.21.(o) The Revisor of Statutes may conform names and titles changed by this section and may correct statutory references as required by this section throughout the General Statutes. In making the changes authorized by this section, the Revisor may also adjust subject and verb agreement and the placement of conjunctions.

INCREASE FUNDING FOR DREDGING

SECTION 14.22.(a) G.S. 75A-3 reads as rewritten:

"§ **75A-3. Wildlife Resources Commission to administer Chapter; Vessel Committee; funds for administration.**

(a) The Commission shall enforce and administer the provisions of this Chapter.

(b) The chair of the Commission shall designate from among the members of the Commission three members who shall serve as the Vessel Committee of the Commission, and who shall, in their activities with the Commission, place special emphasis on the administration and enforcement of this Chapter.

(c) The Boating Account is established within the Wildlife Resources Fund created under G.S. 143-250. Interest and other investment income earned by the Account accrues to the Account. All moneys collected pursuant to the numbering and titling provisions of this Chapter shall be credited to this Account. Motor fuel excise tax revenue is credited to the Account under G.S. 105-449.126. The Commission shall use revenue in the Account, subject to the Executive Budget Act and the Personnel Act, for the administration and enforcement of this Chapter; for activities relating to boating and water safety including education and waterway marking and improvement; and for boating access area acquisition, development, and maintenance. The Commission shall use at least three dollars ($3.00) of each one-year certificate of number fee and at least nine dollars ($9.00) of each three-year certificate of number fee collected under the numbering provisions of G.S. 75A-5 for boating access area acquisition, development, and maintenance. The Commission shall transfer on a quarterly basis fifty percent (50%) of each one-year certificate of number fee and fifty percent (50%) of each three-year certificate of number fee collected under the numbering provisions of G.S. 75A-5 to the Shallow Draft Navigation Channel and Lake Dredging Fund established by G.S. 143-215.73F."

SECTION 14.22.(b) G.S. 75A-5 reads as rewritten:

"§ **75A-5. Application for certificate of ~~number and fees;~~ number; fees; reciprocity; change of ownership; conformity with federal regulations; records; award of certificates; renewal of certificates; transfer of partial interest; destroyed or junked vessels; abandonment; change of address; duplicate certificates; display.**

(a) Application for Certificate of ~~Number and Fees.~~Number. – The owner of each vessel requiring numbering by this State shall file an application for a certificate of number with the Commission. The Commission shall furnish application forms and shall prescribe the information contained in the application form. The application shall be signed by the owner of the vessel or the owner's agent and shall be accompanied by a ~~fee. The fee is fifteen dollars ($15.00) for a one-year period or forty dollars ($40.00) for a three-year period.~~fee, as set out in subsection (a1) of this section. The fee does not apply to vessels owned and operated by nonprofit rescue squads if they are operated exclusively for rescue purposes, including rescue training. The owner shall have the option of selecting a one-year numbering period or a three-year numbering period. Upon receipt of the application in approved form, the Commission shall enter the application in its records and issue the owner a certificate of number stating the identification number awarded to the vessel and the name and address of the owner, and a validation decal indicating the expiration date of the certificate of number. The owner shall paint on or attach to each side of the bow of the vessel the identification number in such manner as may be prescribed by rules of the Commission in order that it may be clearly visible. The identification number shall be maintained in legible condition. The validation decal shall be displayed on the starboard bow of the vessel immediately following the number. The certificate of number shall be pocket size and shall be available for inspection on the vessel for which the certificate is issued at all times the vessel is in operation. Any person charged with failing to so carry a certificate of number shall not be convicted if the person produces in court a certificate of number previously issued to the owner that was valid at the time of the alleged violation.

(a1) Fees. – The fees for certificates of number are as set out in this subsection:

(1) The fee for a certificate of number for a one-year period is:

a. Thirty dollars ($30.00) for a vessel that is less than 26 feet in length.

b. Fifty dollars ($50.00) for a vessel that is 26 feet or more in length.

(2) The fee for a certificate of number for a three-year period is:

a. Ninety dollars ($90.00) for a vessel that is less than 26 feet in length.

b. One hundred fifty dollars ($150.00) for a vessel that is 26 feet or more in length.

…

(h) Renewal of Certificates. – An owner of a vessel awarded a certificate of number pursuant to this Chapter shall renew the certificate on or before the first day of the month after which the certificate expires; otherwise, the certificate shall lapse and be void until such time as it may thereafter be renewed. Application for renewal shall be submitted on a form approved by the Commission and shall be accompanied by a fee in the amount set in subsection ~~(a)~~(a1) of this section. ~~No fee is required for a period of one year for renewal of certificates of number that have been previously issued to commercial fishing vessels as defined in G.S. 75A-5.1, upon compliance with all of the requirements of that section.~~

…."

SECTION 14.22.(c) G.S. 75A-5.1 is repealed.

SECTION 14.22.(d) G.S. 75A-7 reads as rewritten:

"§ **75A-7. Exemption from numbering requirements.**

(a) A vessel shall not be required to be numbered under this Chapter if it is:

(1) A vessel that is required to be awarded an identification number pursuant to federal law or a federally approved numbering system of another state, and for which an identification number has been so awarded: Provided, that any such vessel shall not have been within this State for a period in excess of 90 consecutive days.

(2) A vessel from a country other than the United States temporarily using the waters of this State.

(3) A vessel whose owner is the United States, a state or a subdivision thereof.

(4) A ship's lifeboat.

~~(5) A vessel that has a valid marine document issued by the federal Bureau of Customs or any federal agency successor thereto.~~

(6) A sailboat of not more than 14 feet on the load water line (LWL).

(7) A vessel with no means of propulsion other than drifting or manual paddling, poling, or rowing.

(b) The Commission is hereby empowered to permit the voluntary numbering of vessels owned by the United States, a state or a subdivision thereof.

(c) Those vessels owned by the United States, a state or a subdivision thereof and those owned by nonprofit rescue squads may be assigned a certificate of number bearing no expiration date but which shall be stamped with the word "permanent" and shall not be renewable so long as the vessel remains the property of the governmental entity or nonprofit rescue squad. If the ownership of any such vessel is transferred from one governmental entity to another or to a nonprofit rescue squad or if a vessel owned by a nonprofit rescue squad is transferred to another nonprofit rescue squad or governmental entity, the Commission shall issue a new permanent certificate of number, displaying the same identification number, without charge to the successor entity. When any such vessel is sold to a private owner or is otherwise transferred to private ownership, the applicable certificate of number shall be deemed to have expired immediately prior to the transfer. Prior to further use on the waters of this State, the new owner shall obtain a certificate of number pursuant to the provisions of this Chapter. The provisions of this subsection applicable to a vessel owned by a nonprofit rescue squad apply only to a vessel operated exclusively for rescue purposes, including rescue training."

SECTION 14.22.(e) G.S. 75A-34 reads as rewritten:

"§ **75A-34. Who may apply for certificate of title; authority of employees of Commission.**

(a) Any owner of a motorized vessel or sailboat 14 feet or longer or any personal watercraft, as defined in G.S. 75A-13.3(a), that is applying for a certificate of number for the first time in this State pursuant to G.S. 75A-5(a), and any new owner of a motorized vessel or sailboat 14 feet or longer or any personal watercraft to whom ownership is being transferred under G.S. 75A-5(c) shall apply to the Commission for a certificate of title for that vessel. Any other vessel may be titled in this State at the owner's option. A vessel may not be titled in this State if it is titled in another state, unless the current title is surrendered along with the application for a certificate of title in this State. The Commission shall issue a certificate of title upon reasonable evidence of ownership, which may be established by affidavit, bill of sale, manufacturer's statement of origin, certificate of title in this State, certificate of number or title from another state, or other document satisfactory to the Commission. Only one certificate of title may be issued for any vessel in this State. A vessel may not be titled in this State if it is documented with the United States Coast ~~Guard.~~ Guard, unless the documentation has expired or been deleted by the United States Coast Guard. The Commission shall issue a certificate of title upon receipt of a completed application, along with the appropriate fee and reasonable evidence of ownership. The Commission shall require a manufacturer's statement of origin for all new vessels being issued a certificate of number and a certificate of title for the first time. The Commission may request a pencil tracing of the hull identification number (serial number) for vessels being transferred, in order to positively identify the vessel before issuance of a certificate of title for that vessel.

(b) Employees of the Commission are vested with the power to administer oaths and to take acknowledgements and affidavits incidental to the administration and enforcement of this section. They shall receive no compensation for these services."

SECTION 14.22.(f) G.S. 75A-38 reads as rewritten:

"§ **75A-38. Commission's records; fees.**

(a) The Commission shall maintain a record of any title it issues.

(b) The Commission shall charge a fee of ~~twenty dollars ($20.00)~~ thirty dollars ($30.00) to issue a new or transfer certificate of title. The Commission shall transfer on a quarterly basis at least ten dollars ($10.00) of each new or transfer certificate of title to the Shallow Draft Navigation Channel and Lake Dredging Fund established by G.S. 143-215.73F. The

Commission shall charge a fee of ten dollars ($10.00) for each duplicate title it issues and for the recording of a supplemental lien."

SECTION 14.22.(g) G.S. 105-449.126 reads as rewritten:

"§ **105-449.126. Distribution of part of Highway Fund allocation to Wildlife Resources ~~Fund.~~Fund and Shallow Draft Navigation Channel and Lake Dredging Fund.**

(a) The Secretary shall credit to the Wildlife Resources Fund one-sixth of one percent (1/6 of 1%) of the amount that is allocated to the Highway Fund under G.S. 105-449.125 and is from the excise tax on motor fuel. Revenue credited to the Wildlife Resources Fund under this section may be used only for the boating and water safety activities described in G.S. 75A-3(c). The Secretary must credit revenue to the Wildlife Resources Fund on an annual basis.

(b) The Secretary shall credit to the Shallow Draft Navigation Channel and Lake Dredging Fund one-sixth of one percent (1/6 of 1%) of the amount that is allocated to the Highway Fund under G.S. 105-449.125 and is from the excise tax on motor fuel. Revenue credited to the Shallow Draft Navigation Channel and Lake Dredging Fund under this section may be used only for the dredging activities described in G.S. 143-215.73F. The Secretary shall credit revenue to the Shallow Draft Navigation Channel and Lake Dredging Fund on an annual basis."

SECTION 14.22.(h) Article 21 of Chapter 143 of the General Statutes is amended by adding a new Part to read:

"Part 8B. Shallow Draft Navigation Channel and Lake Dredging Fund.

"§ **143-215.73F. Shallow Draft Navigation Channel and Lake Dredging Fund.**

The Shallow Draft Navigation Channel and Lake Dredging Fund is established as a special revenue fund. The Fund consists of fees credited to it under G.S. 75A-3, 75A-38, and 105-449.126. Revenue in the Fund may only be used to provide the State's share of the costs associated with any dredging project designed to keep shallow draft navigation channels located in State waters or waters of the state located within lakes navigable and safe. Any project funded by revenue from the Fund must be cost-shared with non-State dollars on a one-to-one basis. For purposes of this section, "shallow draft navigation channel" means (i) a waterway connection with a maximum depth of 16 feet between the Atlantic Ocean and a bay or the Atlantic Intracoastal Waterway, (ii) a river entrance to the Atlantic Ocean through which tidal and other currents flow, or (iii) other interior coastal waterways. "Shallow draft navigation channel" includes the Atlantic Intracoastal Waterway and its side channels, Beaufort Harbor, Bogue Inlet, Carolina Beach Inlet, the channel from Back Sound to Lookout Back, channels connected to federal navigation channels, Lockwoods Folly River, Manteo/Shallowbag Bay, including Oregon Inlet, Masonboro Inlet, New River, New Topsail Inlet, Rodanthe, Rollinson, Shallotte River, Silver Lake Harbor, and the waterway connecting Pamlico Sound and Beaufort Harbor."

SECTION 14.22.(i) Nothing in this section shall affect the validity, term, or cost of any certificate of number or certificate of title issued prior to October 1, 2013.

SECTION 14.22.(j) This section authorizes a Long Term Dredging Memorandum of Agreement with the U.S. Army Corps of Engineers which may last beyond the current fiscal biennium and which shall provide for all of the following:

(1) Prioritization of projects through joint consultation with the State, applicable units of local government, and the U.S. Army Corps of Engineers.

(2) Compliance with G.S. 143-215.73F. Funds in the Shallow Draft Navigation Channel Dredging Fund shall be used in accordance with that section.

(3) Annual reporting by the Department on the use of funds provided to the U.S. Army Corps of Engineers under the Long Term Dredging Memorandum of Agreement. These reports shall be made to the Joint Legislative Commission on Governmental Operations, the Fiscal Research Division, and the Office of State Budget and Management and shall include all of the following:

a. A list of all projects commenced.

b. The estimated cost of each project.

c. The date that work on each project commenced or is expected to commence.

d. The date that work on each project was completed or is expected to be completed.

e. The actual cost of each project.

SECTION 14.22.(k) The Department of Environment and Natural Resources may use available funds for the 2013-2014 fiscal year and the 2014-2015 fiscal year in the Shallow Draft Navigation Channel and Lake Dredging Fund established in G.S. 143-215.73F, as enacted by subsection (h) of this section, to provide the State's share of costs associated with projects that comply with that section. These funds are hereby appropriated for that purpose, but the Department of Environment and Natural Resources shall approve a project before it is eligible to receive any funds under this section.

SECTION 14.22.(l) Subsection (b) of this section becomes effective October 1, 2013, and applies to applications submitted on or after that date. Subsection (f) of this section becomes effective October 1, 2013, and applies to new or transfer certificates of title issued on or after that date. The remainder of this section becomes effective October 1, 2013.

ENVIRONMENTAL MANAGEMENT COMMISSION

SECTION 14.23.(a) G.S. 143B-283 reads as rewritten:

"§ **143B-283. Environmental Management Commission – members; selection; removal; compensation; quorum; services.**

~~(a) The Environmental Management Commission shall consist of 13 members appointed by the Governor. The Governor shall select the members so that the membership of the Commission shall consist of:~~

~~(1) One who shall be a licensed physician with specialized training and experience in the health effects of environmental pollution;~~

~~(2) One who shall, at the time of appointment, be actively connected with the Commission for Public Health or local board of health or have experience in health sciences;~~

~~(3) One who shall, at the time of appointment, be actively connected with or have had experience in agriculture;~~

~~(4) One who shall, at the time of appointment, be a registered engineer with specialized training and experience in water supply or water or air pollution control;~~

~~(5) One who shall, at the time of appointment, be actively connected with or have had experience in the fish and wildlife conservation activities of the State;~~

~~(6) One who shall, at the time of appointment, have special training and scientific expertise in hydrogeology or groundwater hydrology;~~

~~(7) Three members interested in water and air pollution control, appointed from the public at large;~~

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

~~(9) One who shall, at the time of appointment, be actively connected with or have had experience in pollution control problems of municipal or county government;~~

~~(10) One who shall, at the time of appointment, have special training and scientific expertise in air pollution control and the effects of air pollution; and~~

~~(11) One who shall, at the time of appointment, have special training and scientific expertise in freshwater, estuarine, marine biological, or ecological sciences.~~

(a1) The Environmental Management Commission shall consist of 15 members as follows:

(1) One appointed by the Governor who shall be a licensed physician.

(2) One appointed by the Governor who shall at the time of appointment have special training or scientific expertise in hydrology, water pollution control, or the effects of water pollution.

(3) One appointed by the Governor who shall at the time of appointment have special training or scientific expertise in hydrology, water pollution control, or the effects of water pollution.

(4) One appointed by the Governor who shall at the time of appointment have special training or scientific expertise in air pollution control or the effects of air pollution.

(5) One appointed by the Governor who shall at the time of appointment be actively connected with or have had experience in agriculture.

(6) One appointed by the Governor who shall at the time of appointment have special training and scientific expertise in freshwater, estuarine, marine biological, or ecological sciences or be actively connected with or have had experience in the fish and wildlife conservation activities of the State.

(7) One appointed by the Governor who shall at the time of appointment be actively employed by, or recently retired from, an industrial manufacturing facility and shall be knowledgeable in the field of industrial pollution control.

(8) One appointed by the Governor who shall at the time of appointment be a licensed engineer with specialized training and experience in water supply or water or air pollution control.

(9) One appointed by the Governor who shall serve at large.

(10) One appointed by the General Assembly upon recommendation of the Speaker of the House of Representatives in accordance with G.S. 120-121 who shall serve at large.

(11) One appointed by the General Assembly upon recommendation of the Speaker of the House of Representatives in accordance with G.S. 120-121 who shall serve at large.

(12) One appointed by the General Assembly upon recommendation of the Speaker of the House of Representatives in accordance with G.S. 120-121 who shall serve at large.

(13) One appointed by the General Assembly upon recommendation of the President Pro Tempore of the Senate in accordance with G.S. 120-121 who shall serve at large.

(14) One appointed by the General Assembly upon recommendation of the President Pro Tempore of the Senate in accordance with G.S. 120-121 who shall serve at large.

(15) One appointed by the General Assembly upon recommendation of the President Pro Tempore of the Senate in accordance with G.S. 120-121 who shall serve at large.

(b) ~~Members appointed by the Governor shall serve terms of office of six years.~~ Any appointment to fill a vacancy on the Commission created by the resignation, dismissal, death or disability of a member shall be for the balance of the unexpired term. The Governor may reappoint a member of the Commission to an additional term if, at the time of the reappointment, the member qualifies for membership on the Commission under subdivisions (1) through (9) of subsection ~~(a)~~(a1) of this section. Appointments by the General Assembly shall be made in accordance with G.S. 120-121, and vacancies in those appointments shall be filled in accordance with G.S. 120-122.

(b1) The Governor shall have the power to remove any member of the Commission from office for misfeasance, malfeasance, or nonfeasance in accordance with the provisions of G.S. 143B-13 of the Executive Organization Act of 1973.

(b2) The members of the Commission shall receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5.

(b3) A majority of the Commission shall constitute a quorum for the transaction of business.

(b4) All clerical and other services required by the Commission shall be supplied by the Secretary of Environment and Natural Resources.

(c) ~~Nine of the members appointed by the Governor under this section shall be persons who do not derive any significant portion of their income from persons subject to permits or enforcement orders under this Chapter.~~ The Governor shall require adequate disclosure of potential conflicts of interest by members. The Governor, by executive order, shall promulgate criteria regarding conflicts of interest and disclosure thereof for determining the eligibility of persons under this ~~section,~~subsection, giving due regard to the requirements of federal legislation, and for this purpose may promulgate rules, regulations or guidelines in conformance with those established by any federal agency interpreting and applying provisions of federal law.

(c1) All members of the Commission are covered persons for the purposes of Chapter 138A of the General Statutes, the State Government Ethics Act. As covered persons, members of the Commission shall comply with the applicable requirements of the State Government Ethics Act, including mandatory training, the public disclosure of economic interests, and ethical standards for covered persons. Members of the Commission shall comply with the provisions of the State Government Ethics Act to avoid conflicts of interest.

~~(d) In addition to the members designated by subsection (a) of this section, the General Assembly shall appoint six members, three upon the recommendation of the Speaker of the House of Representatives, and three upon the recommendation of the President Pro Tempore of the Senate. Appointments by the General Assembly shall be made in accordance with G.S. 120-121, and vacancies in those appointments shall be filled in accordance with G.S. 120-122. Members appointed by the General Assembly shall serve terms of two years.~~

(e) Members of the Commission shall serve terms of four years."

SECTION 14.23.(b) Transition of Membership of the Environmental Management Commission. –

(1) The terms of all members of the Environmental Management Commission serving on January 1, 2013, shall expire on July 31, 2013. A new Commission of 15 members shall be appointed in the manner provided by G.S. 143B-283(a1), as enacted by subsection (a) of this section.

(2) Members of the Commission whose qualifications are described by subdivisions (3), (5), (7), (8), (9), (11), (13), and (15) of G.S. 143B-283(a1), as enacted by subsection (a) of this section, shall, notwithstanding G.S. 143B-283(e), as enacted by subsection (a) of this section, be appointed for an initial term of two years and subsequent appointments shall be for four-year terms thereafter. Members of the Commission whose qualifications are described by subdivisions (1), (2), (4), (6), (10), (12), and (14) of G.S. 143B-283(a1), as enacted by subsection (a) of this section, shall be appointed for an initial term of four years and subsequent appointments shall be for four-year terms thereafter. Initial terms shall begin on August 1, 2013, and expire on June 30 of the year of expiration as set forth in this subsection.

(3) Members of the Commission appointed to any other State board or commission as a representative of the Commission shall no longer serve as a member of those boards or commissions after this section becomes law, and a new Commission representative shall be appointed as provided by law.

COASTAL RESOURCES COMMISSION

SECTION 14.24.(a) G.S. 113A-104 reads as rewritten:

"§ **113A-104. Coastal Resources Commission.**

(a) Established. – The General Assembly hereby establishes within the Department of Environment and Natural Resources a commission to be designated the Coastal Resources Commission.

~~(b) Composition. – The Coastal Resources Commission shall consist of 15 members appointed by the Governor, as follows:~~

~~(1) One who shall at the time of appointment be actively connected with or have experience in commercial fishing.~~

~~(2) One who shall at the time of appointment be actively connected with or have experience in wildlife or sports fishing.~~

~~(3) One who shall at the time of appointment be actively connected with or have experience in marine ecology.~~

~~(4) One who shall at the time of appointment be actively connected with or have experience in coastal agriculture.~~

~~(5) One who shall at the time of appointment be actively connected with or have experience in coastal forestry.~~

~~(6) One who shall at the time of appointment be actively connected with or have experience in coastal land development.~~

~~(7) One who shall at the time of appointment be actively connected with or have experience in marine-related business (other than fishing and wildlife).~~

~~(8) One who shall at the time of appointment be actively connected with or have experience in engineering in the coastal area.~~

~~(9) One who shall at the time of appointment be actively associated with a State or national conservation organization.~~

~~(10) One who shall at the time of appointment be actively connected with or have experience in financing of coastal land development.~~

~~(11) Two who shall at the time of appointment be actively connected with or have experience in local government within the coastal area.~~

~~(12) Three at-large members.~~

(b1) Composition. – The Coastal Resources Commission shall consist of 13 members as follows:

(1) One appointed by the Governor who shall at the time of appointment be a coastal property owner or experienced in land development.

(2) One appointed by the Governor who shall at the time of appointment be a coastal property owner or experienced in land development.

(3) One appointed by the Governor who shall at the time of appointment be actively connected with or have experience in engineering in the coastal area or a marine-related science.

(4) One appointed by the Governor who shall at the time of appointment be actively connected with or have experience in engineering in the coastal area or a marine-related science.

(5) One appointed by the Governor who shall at the time of appointment be actively connected with or have experience in coastal-related business.

(6) One appointed by the Governor who shall at the time of appointment be actively connected with or have experience in local government within the coastal area.

(7) One appointed by the Governor who shall at the time of appointment be actively connected with or have experience in coastal agriculture.

(8) One appointed by the Governor who shall at the time of appointment be actively connected with or have experience in commercial fishing.

(9) One appointed by the Governor who shall at the time of appointment be actively connected with or have experience in coastal forestry.

(10) One appointed by the General Assembly upon recommendation of the Speaker of the House of Representatives in accordance with G.S. 120-121 who shall at the time of appointment be actively connected with or have experience in sports fishing.

(11) One appointed by the General Assembly upon recommendation of the Speaker of the House of Representatives in accordance with G.S. 120-121 who shall serve at large.

(12) One appointed by the General Assembly upon recommendation of the President Pro Tempore of the Senate in accordance with G.S. 120-121 who shall at the time of appointment be actively connected with or have experience in wildlife.

(13) One appointed by the General Assembly upon recommendation of the President Pro Tempore of the Senate in accordance with G.S. 120-121 who shall serve at large.

(c) Appointment of Members. – As used in this section, the term "appointing authority" means the Governor in the case of members appointed by the Governor and means the General Assembly in the case of members appointed by the General Assembly. Appointments to the Commission shall be made to provide knowledge and experience in a diverse range of coastal interests. The members of the Commission shall serve and act on the Commission solely for the best interests of the public and public trust, and shall bring their particular knowledge and experience to the Commission for that end alone. Counties and cities in the coastal area may designate and transmit to the appointing authorities no later than May 1 of each even-numbered year qualified persons in the categories set out in subsection (b1) of this section corresponding to the Commission positions to be filled that year.

~~The Governor shall appoint in his sole discretion those members of the Commission whose qualifications are described in subdivisions (6) and (10), and one of the three members described in subdivision (12) of subsection (b) of this section.~~

~~The remaining members of the Commission shall be appointed by the Governor after completion of the nominating procedures prescribed by subsection (d) of this section.~~

(c1) The members of the Commission whose qualifications are described in subdivisions ~~(1) through (5), (9), and (11),~~(3), (6), (7), (8), (9), (11), and (12) of subsection (b1) of this section shall be persons who do not derive any significant portion of their income from land development, construction, real estate sales, or lobbying and do not otherwise serve as agents for development-related business activities. The Governor shall require adequate disclosure of potential conflicts of interest by these members. The Governor, by executive order, shall promulgate criteria regarding conflicts of interest and disclosure thereof for determining the eligibility of persons under this ~~section.~~subsection.

(c2) All members of the Commission are covered persons for the purposes of Chapter 138A of the General Statutes, the State Government Ethics Act. As covered persons, members of the Commission shall comply with the applicable requirements of the State Government Ethics Act, including mandatory training, the public disclosure of economic interests, and ethical standards for covered persons. Members of the Commission shall comply with the provisions of the State Government Ethics Act to avoid conflicts of interest.

~~(d) Nominations for Membership. – On or before May 1 in every even-numbered year the Governor shall designate and transmit to the board of commissioners in each county in the coastal area four nominating categories applicable to that county for that year. Said nominating categories shall be selected by the Governor from among the categories represented, respectively by subdivisions (1), (2), (3), (4), (5), (7), (8), (9), (11) – two persons, and (12) – two persons, of subsection (b) of this section (or so many of the above-listed paragraphs as may correspond to vacancies by expiration of term that are subject to being filled in that year). On or before June 1 in every even-numbered year the board of commissioners of each county in the~~

~~coastal area shall nominate (and transmit to the Governor the names of) one qualified person in each of the four nominating categories that was designated by the Governor for that county for that year. In designating nominating categories from biennium to biennium, the Governor shall equitably rotate said categories among the several counties of the coastal area as in his judgment he deems best; and he shall assign, as near as may be, an even number of nominees to each nominating category and shall assign in his best judgment any excess above such even number of nominees. On or before June 1 in every even-numbered year the governing body of each incorporated city within the coastal area shall nominate and transmit to the Governor the name of one person as a nominee to the Commission. In making nominations, the boards of county commissioners and city governing bodies shall give due consideration to the nomination of women and minorities. The Governor shall appoint 12 persons from among said city and county nominees to the Commission. The several boards of county commissioners and city governing bodies shall transmit the names, addresses, and a brief summary of the qualifications of their nominees to the Governor on or before June 1 in each even-numbered year, beginning in 1974; provided, that the Governor, by registered or certified mail, shall notify the chairman or the mayors of the said local governing boards by May 20 in each such even-numbered year of the duties of local governing boards under this sentence. If any board of commissioners or city governing body fails to transmit its list of nominations to the Governor by June 1, the Governor may add to the nominations a list of qualified nominees in lieu of those that were not transmitted by the board of commissioners or city governing body; Provided however, the Governor may not add to the list a nominee in lieu of one not transmitted by an incorporated city within the coastal area that neither has a population of 2,000 or more nor is contiguous with the Atlantic Ocean. Within the meaning of this section, the "governing body" is the mayor and council of a city as defined in G.S. 160A-66. The population of cities shall be determined according to the most recent annual estimates of population as certified to the Secretary of Revenue by the Secretary of Administration.~~

~~(e) Residential Qualifications. – All nominees of the several boards of county commissioners and city governing bodies must reside within the coastal area, but need not reside in the county from which they were nominated. No more than one of those members appointed by the Governor from among said nominees may reside in a particular county. No more than two members of the entire Commission, at any time, may reside in a particular county. No more than two members of the entire Commission, at any time, may reside outside the coastal area.~~

(f) Office May Be Held Concurrently with Others. – Membership on the Coastal Resources Commission is hereby declared to be an office that may be held concurrently with other elective or appointive offices in addition to the maximum number of offices permitted to be held by one person under G.S. 128-1.1.

(g) Terms. – The members shall serve staggered terms of office of four years. At the expiration of each member's term, the ~~Governor~~ appointing authority shall reappoint or replace the member with a new member of like qualification ~~(as~~as specified in subsection ~~(b)~~(b1) of this ~~section), in the manner provided by subsections (c) and (d) of this section. The initial term shall be determined by the Governor in accordance with customary practice but eight of the initial members shall be appointed for two years and seven for four years.~~section.

(h) Vacancies. – In the event of a vacancy arising otherwise than by expiration of term, the ~~Governor~~ appointing authority shall appoint a successor of like qualification ~~(as~~as specified in subsection ~~(b)~~(b1) of this ~~section)~~section who shall then serve the remainder of his predecessor's term. ~~When any such vacancy arises, the Governor shall immediately notify the board of commissioners of each county in the coastal area and the governing body of each incorporated city within the coastal area. Within 30 days after receipt of such notification each such county board and city governing body shall nominate and transmit to the Governor the name and address of one person who is qualified in the category represented by the position to be filled, together with a brief summary of the qualifications of the nominee. The Governor shall make the appointment from among said city and county nominees. If any county board or~~

~~city governing body fails to make a timely transmittal of its nominee, the Governor may add to the nominations a qualified person in lieu of said nominee; Provided however, the Governor may not add to the list a nominee in lieu of one not transmitted by an incorporated city within the coastal area that neither has a population of 2,000 or more nor is contiguous with the Atlantic Ocean.~~

(i) Officers. – The chairman shall be designated by the Governor from among the members of the Commission to serve as chairman at the pleasure of the Governor. The vice-chairman shall be elected by and from the members of the Commission and shall serve for a term of two years or until the expiration of ~~his~~ the vice-chairman's regularly appointed term.

(j) Compensation. – The members of the Commission shall receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5.

~~(k) In making appointments to and filling vacancies upon the Commission, the Governor shall give due consideration to securing appropriate representation of women and minorities.~~

(l) Attendance. – Regular attendance at Commission meetings is a duty of each member. The Commission shall develop procedures for declaring any seat on the Commission to be vacant upon failure by a member to perform this duty.

(m) Quorum. – A majority of the Commission shall constitute a quorum."

SECTION 14.24.(b) Transition of Membership of the Coastal Resources Commission. – Except as otherwise provided in this section, the terms of all members of the Coastal Resources Commission serving on January 1, 2013, shall expire July 31, 2013. A new Commission of 13 members shall be appointed in the manner provided by G.S. 113A-104(b1), as enacted by subsection (a) of this section. Members appointed in the manner provided by G.S. 113A-104(b1), as enacted by subsection (a) of this section, shall be appointed no later than August 1, 2013.

(1) The member serving pursuant to G.S. 113A-104(b)(1) on January 1, 2013, shall continue to serve pursuant to G.S. 113A-104(b1)(8), as enacted by subsection (a) of this section, until June 30, 2014.

(2) The member serving pursuant to G.S. 113A-104(b)(2) on January 1, 2013, shall continue to serve pursuant to G.S. 113A-104(b1)(10), as enacted by subsection (a) of this section, until June 30, 2014.

(3) The member serving pursuant to G.S. 113A-104(b)(11) on January 1, 2013, whose term would otherwise expire on June 30, 2014, shall continue to serve pursuant to G.S. 113A-104(b1)(6), as enacted by subsection (a) of this section, until June 30, 2014.

(4) The member serving pursuant to G.S. 113A-104(b)(5) on January 1, 2013, whose term would otherwise expire on June 30, 2014, shall continue to serve pursuant to G.S. 113A-104(b1)(9), as enacted by subsection (a) of this section, until June 30, 2014.

Members of the Commission whose qualifications are described by subdivisions (1), (3), (5), (7), (11), and (13) of G.S. 113A-104(b1), as enacted by subsection (a) of this section, shall be appointed for an initial term expiring on June 30, 2015, and subsequent appointments shall be for four-year terms thereafter. Members of the Commission whose qualifications are described by subdivisions (2), (4), (6), (8), (9), (10), and (12) of G.S. 113A-104(b1), as enacted by subsection (a) of this section, shall be appointed for an initial term expiring on June 30, 2014, and subsequent appointments shall be for four-year terms thereafter.

COASTAL RESOURCES ADVISORY COMMISSION

SECTION 14.25. G.S. 113A-105 reads as rewritten:

"§ **113A-105. Coastal Resources Advisory Council.**

(a) Creation. – There is hereby created and established a council to be known as the Coastal Resources Advisory Council.

(b) Membership and Terms. – The Coastal Resources Advisory Council shall consist of not more than ~~45~~ 20 members appointed or designated ~~as follows:~~

~~(1) Two individuals designated by the Secretary from among the employees of the Department;~~

~~(1a) The Secretary of Commerce or person designated by the Secretary of Commerce;~~

~~(2) The Secretary of Administration or person designated by the Secretary of Administration;~~

~~(3) The Secretary of Transportation or person designated by the Secretary of Transportation; and one additional member selected by the Secretary of Transportation from the Department of Transportation;~~

~~(4) The State Health Director or the person designated by the State Health Director;~~

~~(5) The Commissioner of Agriculture or person designated by the Commissioner of Agriculture;~~

~~(6) The Secretary of Cultural Resources or person designated by the Secretary of Cultural Resources;~~

~~(7) One member from each of the four multi-county planning districts of the coastal area to be appointed by the lead regional agency of each district;~~

~~(8) One representative from each of the counties in the coastal area to be designated by the respective boards of county commissioners;~~

~~(9) No more than eight additional members representative of cities in the coastal area and to be designated by the Commission;~~

~~(10) Three members selected by the Commission who are marine scientists or technologists;~~

~~(11) One member who is a local health director selected by the Commission upon the recommendation of the Secretary.~~

by the Coastal Resources Commission. Counties and cities in the coastal area may nominate candidates for consideration by the Commission. The terms of all Council members serving on the Council on January 1, 2013, shall expire on July 31, 2013. A new Council shall be appointed in the manner provided by this subsection with terms beginning on August 1, 2013, and expiring on June 30, 2015. Members may be reappointed at the discretion of the Commission, provided that one-half of the membership at the beginning of any two-year term are residents of counties in the coastal area.

…."

PART XV. DEPARTMENT OF COMMERCE

SET REGULATORY FEE FOR UTILITIES COMMISSION

SECTION 15.1.(a) The percentage rate to be used in calculating the public utility regulatory fee under G.S. 62-302(b)(2) is thirteen one-hundredths of one percent (0.13%) for each public utility's North Carolina jurisdictional revenues earned during each quarter that begins on or after July 1, 2013, and on or after July 1, 2014.

SECTION 15.1.(b) The electric membership corporation regulatory fee imposed under G.S. 62-302(b1) for the 2013-2014 and the 2014-2015 fiscal year is two hundred thousand dollars ($200,000).

REPEAL UWHARRIE REGIONAL RESOURCES ACT

SECTION 15.1A. Chapter 153C of the General Statutes is repealed.

INDUSTRIAL COMMISSION FEES/COMPUTER SYSTEM REPLACEMENT

SECTION 15.2. For the 2013-2014 fiscal year and the 2014-2015 fiscal year, the Industrial Commission may, in consultation with the State Chief Information Officer, use up to

one million eight hundred thousand dollars ($1,800,000) of available funds in Budget Code 24611 to replace the Electronic Document Management System (EDMS).

UNEMPLOYMENT INSURANCE RESERVE

SECTION 15.3.(a) The Office of State Budget and Management, in conjunction with the Office of the State Controller and the Department of Commerce, shall transfer to the Unemployment Insurance Reserve within the Office of State Budget and Management any unencumbered cash balance as of June 30, 2013, of each of the following special funds within the Department of Commerce and then close each of these special funds:

(1) Worker Training Trust Fund (Special Fund Code 64654-6400).

(2) Training and Employment Account (Special Fund Code 64655-6601).

SECTION 15.3.(b) The Office of State Budget and Management, in conjunction with the Office of the State Controller and the Department of Commerce, shall transfer the sum of ten million dollars ($10,000,000) for the 2013-2014 fiscal year from the Special Employment Security Administration Fund (Fund Code 64650-6100) to the Unemployment Insurance Reserve within the Office of State Budget and Management.

EMPLOYMENT SECURITY RESERVE FUND

SECTION 15.4.(a) There is appropriated from the Employment Security Reserve Fund to the Department of Commerce, Division of Employment Security, the amount needed for the 2013-2014 fiscal year to fund the interest payment due to the federal government for the debt owed to the U.S. Treasury for unemployment benefits.

SECTION 15.4.(b) Of the funds credited to and held in the State of North Carolina's account in the Unemployment Trust Fund by the Secretary of the Treasury of the United States pursuant to and in accordance with section 903 of the Social Security Act and pursuant to Title II of Division B of P.L. 111-5, the Assistance for Unemployed Workers and Struggling Families Act, the Department of Commerce, Division of Employment Security, may expend the sum of two hundred five million sixty-three thousand five hundred fifty-two dollars ($205,063,552) as follows: (i) one hundred million dollars ($100,000,000) shall be used to design and build the integrated unemployment insurance benefit and tax accounting system and (ii) the remaining funds shall be used for the operation of the unemployment insurance program.

WORKFORCE INVESTMENT ACT FUNDS/TRANSFER OF FUNDS TO DEPARTMENT OF LABOR

SECTION 15.5. Of the Workforce Investment Act funds awarded to the Department of Commerce by the United States Department of Labor, the sum of three hundred fifty thousand dollars ($350,000) shall be transferred to the Department of Labor for the Apprenticeship Program on a recurring basis for the 2013-2015 biennium.

SPECIAL FUNDS TRANSFER/OFFSET COMMERCE ADMINISTRATION GENERAL FUND APPROPRIATION

SECTION 15.6.(a) The Office of State Budget and Management, in conjunction with the Office of the State Controller and the Department of Commerce, shall transfer the unencumbered cash balances in the following funds as of June 30, 2013, to Commerce Administration (Budget Code 14600-1111):

(1) 24609-2537 – Energy Research Grants

(2) 24609-2535 – NC Green Business Fund

SECTION 15.6.(b) The Office of State Budget and Management, in conjunction with the Office of the State Controller and the Department of Commerce, shall transfer the unencumbered cash balance in the International Trade Show Special Fund (Budget Code 24610-2431) as of June 30, 2013, to Commerce Administration (Budget Code 14600-1111) and, upon the transfer, close the Fund.

SECTION 15.6.(c) The transfers in subsections (a) and (b) of this section are to offset General Fund appropriations to the Department of Commerce for administration.

SECRETARY DESIGNATE SUPERVISOR OF BLNC EMPLOYEES

SECTION 15.7. The Secretary of Commerce shall designate the person or persons who shall supervise the employees in Business Link North Carolina (BLNC). The person or persons designated under this section shall have the powers and duties authorized by the Secretary.

COMMERCE FLEXIBILITY TO REORGANIZE DEPARTMENT TO ESTABLISH PUBLIC-PRIVATE PARTNERSHIP

SECTION 15.7A.(a) Notwithstanding any other provision of law, and consistent with the authority granted in G.S. 143B-10, the Secretary of the Department of Commerce may reorganize positions and related operational costs within the Department to establish a public-private partnership which includes cost containment measures. Actions under this section may only be implemented after the Office of State Budget and Management has approved a proposal submitted by the Department. Proposals under this section shall include, at a minimum, the positions involved and strategies to achieve efficiencies. The Department of Commerce may use up to one million dollars ($1,000,000) in the 2013-2014 fiscal year of the cost-savings resulting from the establishment of the public-private partnership to cover the costs of reorganizing positions as provided in this subsection.

SECTION 15.7A.(b) Not later than April 1, 2014, the Department shall report on any actions under this section to the House of Representatives Appropriations Subcommittee on Natural and Economic Resources, the Senate Appropriations Committee on Natural and Economic Resources, and the Fiscal Research Division.

COMMON FOLLOW-UP/CONTINUATION REVIEW

SECTION 15.8.(a) The Department of Commerce, Labor and Economic Analysis Division (LEAD), shall conduct a continuation review of the Common Follow-Up Information Management System (hereinafter "Common Follow-Up") created pursuant to G.S. 96-32. LEAD shall report the preliminary findings of the continuation review to the Fiscal Research Division no later than December 1, 2013, and shall submit a final report to the Joint Legislative Commission on Governmental Operations, the Senate Appropriations Committee on Natural and Economic Resources, and the House Appropriations Subcommittee on Natural and Economic Resources no later than March 1, 2014.

SECTION 15.8.(b) The continuation review report required by subsection (a) of this section shall include the following information:

(1) A description of Common Follow-Up and the goals of the program.
(2) The statutory objectives for Common Follow-Up and the problem or need addressed.
(3) The extent to which the objectives of Common Follow-Up have been achieved.
(4) Any functions or programs of Common Follow-Up performed without specific statutory authority.
(5) The performance measures for Common Follow-Up and the process by which the performance measures determine efficiency and effectiveness.
(6) Recommendations for statutory, budgetary, or administrative changes needed to improve efficiency and effectiveness of services delivered to the public.
(7) The consequences of discontinuing funding.
(8) Recommendations for improving services or reducing costs or duplication.
(9) The identification of policy issues that should be brought to the attention of the General Assembly.

RURAL ECONOMIC DEVELOPMENT DIVISION CREATED

SECTION 15.10.(a) Article 10 of Chapter 143B of the General Statutes is amended by adding a new Part to read as follows:

"Part 22. Rural Economic Development Division.

"**§ 143B-472.126. Rural Economic Development Division created.**

There is hereby created in the Department of Commerce a division to be known as the Rural Economic Development Division. The Secretary shall appoint an Assistant Secretary to administer this Division, who shall be subject to the direction and supervision of the Secretary. The Assistant Secretary, subject to the approval of the Secretary, shall select a professional staff of qualified and competent employees to assist in the administration of the duties and responsibilities prescribed in this Part.

"**§ 143B-472.127. Programs administered.**

(a) The Rural Economic Development Division shall be responsible for administering the program whereby economic development grants or loans are awarded by the Rural Infrastructure Authority as provided in G.S. 143B-472.128 to local government units of the counties that have one of the 80 highest rankings under G.S. 143B-437.08 after the adjustment of that section. The funds available for grants or loans under this program may be used as follows:

(1) To construct critical water and wastewater facilities or to provide other infrastructure needs, including, but not limited to, natural gas, broadband, and rail to sites where these facilities will generate private job-creating investment. The grants under this subdivision shall not be subject to the provisions of G.S. 143-355.4.

(2) To provide matching grants or loans to local government units in an economically distressed county that will productively reuse vacant buildings and properties or construct or expand rural health care facilities with priority given to towns or communities with populations of less than 5,000. For purposes of this section, the term "economically distressed county" has the same meaning as in G.S. 143B-437.01.

(3) Recipients of grant funds under this Part shall contribute a cash match for the grant that is equivalent to at least five percent (5%) of the grant amount. The cash match shall come from local resources and may not be derived from other State or federal grant funds.

(4) In awarding grants under this Part, preference shall be given to a project involving a resident company. For purposes of this Part, the term "resident company" means a company that has paid unemployment taxes or income taxes in this State and whose principal place of business is located in this State. An application for a project that serves an economically distressed area shall have priority over a project that does not. A grant to assist with water infrastructure needs is not subject to the provisions of G.S. 143-355.4.

(5) Under no circumstances shall a grant for a project be awarded in excess of twelve thousand five hundred dollars ($12,500) per projected job created or saved.

(b) In addition to the duties under subsection (a) of this section, the Rural Economic Development Division shall also be responsible for (i) administering the program whereby local government units are awarded funds by the Rural Infrastructure Authority from the Utility Account under G.S. 143B-437.01 and (ii) administering the program whereby local government units are awarded funds by the Rural Infrastructure Authority for economic development projects from community development block grant funds.

(c) The Rural Economic Development Division may make recommendations to the Rural Infrastructure Authority as to any matters related to the administration of the programs under subsections (a) and (b) of this section.

"**§ 143B-472.128. Rural Infrastructure Authority created; powers.**

(a) Creation. – The Rural Infrastructure Authority is created within the Department of Commerce.

(b) Membership. – The Authority shall consist of 16 members who shall be appointed as follows:

(1) The Secretary of Commerce, who shall serve as a nonvoting ex officio member, except in the case of a tie.

(2) Five members appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate, and they shall each represent a Tier 1 or Tier 2 county.

(3) Five members appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives, and they shall each represent a Tier 1 or Tier 2 county.

(4) Five members appointed by the Governor, and they shall each represent a Tier 1 or Tier 2 county.

(c) Terms. – Members shall serve for a term of three years, except for initial terms as provided in this section. No member of the Authority shall serve for more than two consecutive terms, but a person who has been a member for two consecutive terms may be reappointed after being off the Authority for a period of at least three years. An initial term that is two years or less shall not be counted in determining the limitation on consecutive terms. Initial terms shall commence on July 1, 2013.

In order to provide for staggered terms, two persons appointed to the positions designated in subdivision (b)(2) of this section, one person appointed to the positions designated in subdivision (b)(3) of this section, and two persons appointed to the positions designated in subdivision (b)(4) of this section shall be appointed for initial terms ending on June 30, 2014. One person appointed to the positions designated in subdivision (b)(2) of this section, two persons appointed to the positions designated in subdivision (b)(3) of this section, and two persons appointed to the positions designated in subdivision (b)(4) of this section shall be appointed for initial terms ending on June 30, 2015. Two persons appointed to the positions designated in subdivision (b)(2) of this section, two persons appointed to the positions designated in subdivision (b)(3) of this section, and one person appointed to the positions designated in subdivision (b)(4) of this section shall be appointed for initial terms ending on June 30, 2016.

(d) Officers. – The Authority members shall select from among the membership of the Authority a person to serve as chair and vice-chair. The chair and vice-chair shall each serve for a term of one year, but may be re-elected to serve successive terms.

(e) Compensation. – Authority members shall receive no salary as a result of serving on the Authority, but are entitled to per diem and allowances in accordance with G.S. 138-5 and G.S. 138-6, as appropriate.

(f) Meetings. – The Secretary shall convene the first meeting of the Authority within 30 days after the appointment of Authority members under subsection (b) of this section. Meetings shall be held as necessary as determined by the Authority.

(g) Quorum. – A majority of the members of the Authority constitutes a quorum for the transaction of business. A vacancy in the membership of the Authority does not impair the right of the quorum to exercise all rights and to perform all duties of the Authority.

(h) Vacancies. – A vacancy on the Authority shall be filled in the same manner in which the original appointment was made, and the term of the member filling the vacancy shall be for the balance of the unexpired term. Vacancies in appointments made by the General Assembly shall be filled in accordance with G.S. 120-122.

(i) Removal. – Members may be removed in accordance with G.S. 143B-13. A member who misses three consecutive meetings of the Authority may be removed for nonfeasance.

(j) Powers and Duties. – The Authority has the following powers and duties:

(1) To receive and review applications from local government units for grants or loans authorized under G.S. 143B-472.127.

(2) To award grants or loans as provided in G.S. 143B-472.127.

(3) To formulate policies and priorities for grant and loan making under G.S. 143B-472.127, which shall include, among other things, providing for (i) at least four grant application cycles during each fiscal year, (ii) the timely distribution of grants and loans so as to allow local government units to undertake infrastructure and other projects authorized under this Part without undue delay, and (iii) the use of federal funds first instead of General Fund appropriations where the project meets federal requirements or guidelines.

(4) To establish a threshold amount for emergency grants and loans that may be awarded by the Assistant Secretary without the prior approval of the Authority. Any emergency grants or loans awarded by the Assistant Secretary pursuant to this subdivision shall meet the requirements of G.S. 143B-472.127(a) or (b), and shall comply with policies and procedures adopted by the Authority. The Assistant Secretary shall, as soon as practicable, inform the Authority of any emergency grants or loans made under this subdivision, including the name of the local government unit to which the grant or loan was made, the amount of the grant or loan, and the project for which the grant or loan was requested.

(5) To determine ways in which the Rural Economic Development Division can aid local government units in meeting the costs for preliminary project planning needed for making an application for a grant or loan under G.S. 143B-472.127.

(6) To determine ways in which the Rural Economic Development Division can effectively disseminate information to local government units about the availability of grants or loans under G.S. 143B-472.127, the application and review process, and any other information that may be deemed useful to local government units in obtaining grants or loans.

(7) To review from time to time the effectiveness of the grant or loan programs under G.S. 143B-472.127 and to determine ways in which the programs may be improved to better serve local government units.

(8) No later than September 1 of each year, to submit a report to the Senate Appropriations Committee on Natural and Economic Resources, the House Appropriations Subcommittee on Natural and Economic Resources, and the Fiscal Research Division that details all of the following:

a. Total number of awards made in the previous fiscal year.

b. Geographic display of awards made.

c. Total number of jobs created in the previous fiscal year.

d. Recommended policy changes that would benefit economic development in rural areas of the State."

SECTION 15.10.(b) For the 2013-2015 fiscal biennium, the Department of Commerce, Rural Economic Development Division, as established in subsection (a) of this section, may use up to five percent (5%) of the funds appropriated in this act to the programs to be administered by the Division, and described in subsection (a) of this section, to cover the Division's expenses in administering those programs.

SECTION 15.10.(c) G.S. 120-123 reads as rewritten:

"§ **120-123. Service by members of the General Assembly on certain boards and commissions.**

No member of the General Assembly may serve on any of the following boards or commissions:

…

(80) The Rural Infrastructure Authority, as created by G.S. 143B-472.128."

SECTION 15.10.(d) G.S. 126-5 reads as rewritten:

"§ **126-5. Employees subject to Chapter; exemptions.**

…

(c1) Except as to the provisions of Articles 6 and 7 of this Chapter, the provisions of this Chapter shall not apply to:

…

(30) Employees of the Department of Commerce employed in the Rural Economic Development Division.

…."

SECTION 15.10.(e) G.S. 143B-433 reads as rewritten:

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

The Department of Commerce shall be organized to include:

(1) The following agencies:

…

w. The Rural Economic Development Division.

x. The Rural Infrastructure Authority.

…."

GOLDEN LEAF FOUNDATION BOARD OF DIRECTORS/GOVERNOR'S APPOINTMENTS

SECTION 15.10A.(a) Section 2(c) of S.L. 1999-2 reads as rewritten:

"Section 2(c). The General Assembly also approves the provisions in the Consent Decree concerning the governance of the nonprofit corporation by 15 directors holding staggered, four-year terms, five directors to be appointed by the Governor of the State of North Carolina, one of whom shall be the chair of the Rural Infrastructure Authority created in G.S. 143B-472.128, or the chair's designee, five by the President Pro Tempore of the North Carolina Senate, and five by the Speaker of the North Carolina House of ~~Representatives, respectively in their sole discretion;~~Representatives; and that the Governor shall appoint the first Chair among his appointees, and the directors shall elect their own Chair from among their number for subsequent terms. Members of the General Assembly may not be appointed to serve on the board of directors while serving in the General Assembly."

SECTION 15.10A.(b) Upon the next occurring vacancy in the office of a director of the board of directors of the Golden LEAF Foundation appointed by the Governor, the Governor shall appoint the chair of the Rural Infrastructure Authority created in G.S. 143B-472.128, or the chair's designee, to the board of directors in accordance with subsection (a) of this section.

SECTION 15.10A.(c) This section becomes effective upon the modification of the Consent Decree in the action entitled State of North Carolina v. Philip Morris Incorporated, et al., 98 CVS 14377, in the General Court of Justice, Superior Court Division, Wake County, North Carolina. The Attorney General shall file a motion in the cause of State of North Carolina v. Philip Morris Incorporated, et al., 98 CVS 14377, in the General Court of Justice, Superior Court Division, Wake County, North Carolina, seeking a modification of the Consent Decree to permit the General Assembly to direct one or more of the Governor's appointments to the board of directors of the Golden LEAF Foundation, a nonprofit corporation created pursuant to subparagraph VI.A.1 of the Consent Decree and the Final Judgment entered in the action of 98 CVS 14377 on December 21, 1998.

ECONOMIC DEVELOPMENT COMPETITIVE GRANT PROGRAM FOR UNDERSERVED AND LIMITED RESOURCE COMMUNITIES

SECTION 15.10B.(a) Of the funds appropriated in this act to the Department of Commerce (Department), the sum of two million five hundred forty-three thousand twenty-one dollars ($2,543,021) for the 2014-2015 fiscal year shall be allocated for the Economic

Development Competitive Grant Program for Underserved and Limited Resource Communities. The Department shall establish and implement this Program to provide grants to local governments and/or nonprofit organizations to encourage the development of economic development activities, services, and projects that benefit underserved populations and limited resource communities across the State.

SECTION 15.10B.(b) The Department shall develop guidelines and procedures for the administration and distribution of funds allocated to the Economic Development Competitive Grant Program for Underserved and Limited Resource Communities that include, at a minimum, the following:

(1) Eligible organizations shall be nonprofit organizations and local governments that target underserved populations and/or limited resource communities.

(2) Eligible organizations shall make their application in accordance with procedures established by the Department.

(3) Eligible organizations shall not use funds allocated in this section for renting or purchasing land or buildings or for financing debt.

(4) Priority shall be given to eligible organizations that demonstrate established community partnerships and business involvement.

(5) Priority shall be given to eligible organizations that match funds and/or have at least one other significant source of funding.

(6) Priority shall be given to eligible organizations that prioritize independent fundraising to achieve financial sustainability apart from State-funded appropriations.

LRC STUDY/EFFICIENT DISTRIBUTION OF FUNDS FOR WATER & SEWER PROJECTS AND ECONOMIC DEVELOPMENT PROJECTS

SECTION 15.10C.(a) The Legislative Research Commission may study the ways in which the State currently distributes State and federal funds to local government units and other eligible entities for water, including public water systems, and wastewater projects and economic development projects to determine whether the distribution of these funds may be conducted in a more efficient manner. The Legislative Research Commission may study, among other issues, the following: (i) the current methods of distributing funds from the Clean Water State Revolving Fund, Drinking Water State Revolving Fund, Community Development Block Grant Funds, Industrial Development Fund Utility Account, and other similar funds; (ii) what, if any, changes can be made to the current distribution methods to shorten the period of time it takes to make these funds available to local government units through loans or grants; (iii) whether these funds are being distributed efficiently to local government units in rural areas of the State; (iv) the criteria used by the State to determine whether an area is rural, and whether that criteria should be revised; (v) whether contracting with a private entity or organization would make the distribution process more efficient; and (vi) whether any federal acts or regulations would prohibit or limit the use of a private entity or organization to distribute these funds.

SECTION 15.10C.(b) The Legislative Research Commission shall report its findings, together with any recommended legislation, to the 2014 Regular Session of the 2013 General Assembly, upon its convening.

LEAD/DEVELOP STANDARDIZED PERFORMANCE METRIC FOR NONPROFITS

SECTION 15.12. The Department of Commerce, Labor and Economic Analysis Division (LEAD), shall develop a standardized performance metric to evaluate whether a nonprofit allocated State funds by the Department in the 2013-2015 biennium has achieved its own goals or performance standards. The metric shall include standards for determining whether jobs were actually created, grants were awarded, or loans were made. The information obtained as a result of the metric shall be used by the General Assembly in determining

whether to fund the nonprofits in future fiscal years. In order to be eligible to receive State funds, each nonprofit surveyed shall provide to LEAD any information requested to help develop the metric provided for in this section.

NER BLOCK GRANTS/2014 AND 2015 PROGRAM YEARS

SECTION 15.14.(a) Appropriations from federal block grant funds are made for the fiscal years ending June 30, 2014, and June 30, 2015, according to the following schedule:

COMMUNITY DEVELOPMENT BLOCK GRANT

01.	State Administration	$ 1,375,000
02.	Economic Development	10,737,500
03.	Infrastructure	30,837,500

TOTAL COMMUNITY DEVELOPMENT
BLOCK GRANT – 2014 Program Year **$ 42,950,000**
2015 Program Year $ **42,950,000**

SECTION 15.14.(b) Decreases in Federal Fund Availability. – If federal funds are reduced below the amounts specified above after the effective date of this act, then every program in each of these federal block grants shall be reduced by the same percentage as the reduction in federal funds.

SECTION 15.14.(c) Increases in Federal Fund Availability for Community Development Block Grant. – Any block grant funds appropriated by the Congress of the United States in addition to the funds specified in this section shall be expended as follows: each program category under the Community Development Block Grant shall be increased by the same percentage as the increase in federal funds.

SECTION 15.14.(d) Limitations on Community Development Block Grant Funds. – Of the funds appropriated in this section for the Community Development Block Grant, the following shall be allocated in each category for each program year: up to one million three hundred seventy-five thousand dollars ($1,375,000) may be used for State Administration; up to ten million seven hundred thirty-seven thousand five hundred dollars ($10,737,500) may be used for Economic Development; and up to thirty million eight hundred thirty-seven thousand five hundred dollars ($30,837,500) may be used for Infrastructure. If federal block grant funds are reduced or increased by the Congress of the United States after the effective date of this act, then these reductions or increases shall be allocated in accordance with subsection (b) or (c) of this section, as applicable.

SECTION 15.14.(e) The Department of Commerce shall consult with the Joint Legislative Commission on Governmental Operations prior to reallocating Community Development Block Grant Funds. Notwithstanding the provisions of this subsection, whenever the Director of the Budget finds that:

(1) A reallocation is required because of an emergency that poses an imminent threat to public health or public safety, the Director of the Budget may authorize the reallocation without consulting the Commission. The Department of Commerce shall report to the Commission on the reallocation no later than 30 days after it was authorized and shall identify in the report the emergency, the type of action taken, and how it was related to the emergency.

(2) The State will lose federal block grant funds or receive less federal block grant funds in the next fiscal year unless a reallocation is made; the Department of Commerce shall provide a written report to the Commission on the proposed reallocation and shall identify the reason that failure to take

action will result in the loss of federal funds. If the Commission does not hear the issue within 30 days of receipt of the report, the Department may take the action without consulting the Commission.

SECTION 15.14.(f) By September 1, 2013, and September 1, 2014, the Division of Community Assistance, Department of Commerce, shall report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division on the use of Community Development Block Grant Funds appropriated in the prior fiscal year. The report shall include the following:

(1) A discussion of each of the categories of funding and how the categories were selected, including information on how a determination was made that there was a statewide need in each of the categories.

(2) Information on the number of applications that were received in each category and the total dollar amount requested in each category.

(3) A list of grantees, including the grantee's name, county, category under which the grant was funded, the amount awarded, and a narrative description of the project.

SECTION 15.14.(g) For purposes of this section, eligible activities under the category of Infrastructure in subsection (a) of this section shall be defined as provided in the HUD State Administered Community Development Block Grant definition of the term "infrastructure." Notwithstanding the provisions of subsection (e) of this section, funds allocated to the Infrastructure category in subsection (a) of this section shall not be reallocated to any other category.

NER BLOCK GRANTS/2013 PROGRAM YEAR

SECTION 15.15.(a) Section 14.1 of S.L. 2011-145, as amended by Section 13.1 of S.L. 2012-142, reads as rewritten:

"**SECTION 14.1.(a)** Appropriations from federal block grant funds are made for the fiscal year ending June 30, 2013, according to the following schedule:

COMMUNITY DEVELOPMENT BLOCK GRANT

01.	State Administration	~~$1,000,000~~ $1,375,000
~~03.~~	~~Scattered Site Housing~~	~~7,200,000~~
04.	Economic Development	~~7,000,000~~ 10,625,000
~~05.~~	~~Small Business/Entrepreneurship~~	~~2,500,000~~
~~06.~~	~~NC Catalyst~~	~~4,500,000~~
07.	Infrastructure	~~20,300,000~~ 30,500,000

TOTAL COMMUNITY DEVELOPMENT
BLOCK GRANT – 2013 Program Year $42,500,000

"**SECTION 14.1.(b)** Decreases in Federal Fund Availability. – If federal funds are reduced below the amounts specified above after the effective date of this act, then every program in each of these federal block grants shall be reduced by the same percentage as the reduction in federal funds.

"**SECTION 14.1.(c)** Increases in Federal Fund Availability for Community Development Block Grant. – Any block grant funds appropriated by the Congress of the United States in addition to the funds specified in this section shall be expended as follows: each program

category under the Community Development Block Grant shall be increased by the same percentage as the increase in federal funds.

"**SECTION 14.1.(d)** Limitations on Community Development Block Grant Funds. – Of the funds appropriated in this section for the Community Development Block Grant, the following shall be allocated in each category for each program year: up to ~~one million dollars ($1,000,000)~~ one million three hundred seventy-five thousand dollars ($1,375,000) may be used for State Administration; ~~up to seven million two hundred thousand dollars ($7,200,000) may be used for Scattered Site Housing;~~up to ~~seven million dollars ($7,000,000)~~ ten million six hundred twenty-five thousand dollars ($10,625,000) may be used for Economic Development; ~~up to two million five hundred thousand dollars ($2,500,000) may be used for Small Business/Entrepreneurship; up to four million five hundred thousand dollars ($4,500,000) shall be used for NC Catalyst;~~ and up to ~~twenty million three hundred thousand dollars ($20,300,000)~~thirty million five hundred thousand dollars ($30,500,000) may be used for Infrastructure. If federal block grant funds are reduced or increased by the Congress of the United States after the effective date of this act, then these reductions or increases shall be allocated in accordance with subsection (b) or (c) of this section, as applicable.

"**SECTION 14.1.(e)** The Department of Commerce shall consult with the Joint Legislative Commission on Governmental Operations prior to reallocating Community Development Block Grant Funds. Notwithstanding the provisions of this subsection, whenever the Director of the Budget finds that:

(1) A reallocation is required because of an emergency that poses an imminent threat to public health or public safety, the Director of the Budget may authorize the reallocation without consulting the Commission. The Department of Commerce shall report to the Commission on the reallocation no later than 30 days after it was authorized and shall identify in the report the emergency, the type of action taken, and how it was related to the emergency.

(2) The State will lose federal block grant funds or receive less federal block grant funds in the next fiscal year unless a reallocation is made, the Department of Commerce shall provide a written report to the Commission on the proposed reallocation and shall identify the reason that failure to take action will result in the loss of federal funds. If the Commission does not hear the issue within 30 days of receipt of the report, the Department may take the action without consulting the Commission.

"**SECTION 14.1.(f)** By ~~September 1, 2012,~~September 1, 2013, the Division of Community Assistance, Department of Commerce, shall report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division on the use of Community Development Block Grant Funds appropriated in the prior fiscal year. The report shall include the following:

(1) A discussion of each of the categories of funding and how the categories were selected, including information on how a determination was made that there was a statewide need in each of the categories.

(2) Information on the number of applications that were received in each category and the total dollar amount requested in each category.

(3) A list of grantees, including the grantee's name, county, category under which the grant was funded, the amount awarded, and a narrative description of the project.

"**SECTION 14.1.(g)** For purposes of this section, eligible activities under the category of Infrastructure in subsection (a) of this section ~~are limited to the installation of public water or sewer lines and improvements to water or sewer treatment plants that have specific problems such as being under moratoriums or special orders of consent.~~shall be defined as provided in the HUD State Administered Community Development Block Grant definition of the term "infrastructure." Notwithstanding the provisions of subsection (e) of this section, funds

allocated to the Infrastructure category in subsection (a) of this section shall not be reallocated to any other category."

SECTION 15.15.(b) This section becomes effective June 30, 2013.

ONE NORTH CAROLINA FUND

SECTION 15.16. Of the funds appropriated in this act to the One North Carolina Fund for the 2013-2015 biennium, the Department of Commerce may use up to two hundred fifty thousand dollars ($250,000) in each year of the biennium to cover its expenses in administering the One North Carolina Fund and other economic development incentive grant programs. The Department of Commerce shall not use more than two hundred fifty thousand dollars ($250,000) for administrative costs in any one fiscal year.

MODIFY ONE NC FUND AWARDS

SECTION 15.16A. G.S. 143B-437.71(b1) reads as rewritten:

"(b1) Awards. – The amounts committed in Governor's Letters issued in a single fiscal ~~year~~ biennium may not exceed ~~fourteen~~ twenty-eight million dollars ~~($14,000,000).~~($28,000,000)."

MODIFY INDUSTRIAL DEVELOPMENT FUND AND UTILITY ACCOUNT

SECTION 15.18.(a) G.S. 143B-437.01 reads as rewritten:

"§ **143B-437.01. Industrial Development ~~Fund.~~Fund Utility Account.**

(a) Creation and Purpose of Fund. – There is created in the Department of Commerce ~~the Industrial Development Fund~~ a special account to be known as the Industrial Development Fund Utility Account ("Utility Account") to provide funds to assist the local government units of the most economically distressed counties in the State in creating ~~and retaining jobs in certain industries.~~jobs. The Department of Commerce shall adopt rules providing for the administration of the program. Those rules shall include the following provisions, which shall apply to each grant from the ~~fund:~~account:

(1) The funds shall be used for ~~(i) installation of or purchases of equipment for eligible industries, (ii) structural repairs, improvements, or renovations of existing buildings to be used for expansion of eligible industries, or (iii)~~construction of or improvements to new or existing water, sewer, gas, telecommunications, high-speed broadband, electrical utility distribution lines or equipment, or transportation infrastructure for existing or new or proposed ~~industrial buildings to be used for eligible industries.~~buildings. To be eligible for funding, the water, gas, telecommunications, high-speed broadband, electrical utility lines or facilities, or transportation infrastructure shall be located on the site of the building or, if not located on the site, shall be directly related to the operation of the ~~specific eligible industrial~~job creation activity. To be eligible for funding, the sewer infrastructure shall be located on the site of the building or, if not located on the site, shall be directly related to the operation of the ~~specific eligible industrial~~job creation activity, even if the sewer infrastructure is located in a county other than the county in which the building is located.

(1a) The funds shall be used for projects located in economically distressed counties except that the Secretary of Commerce may use up to one hundred thousand dollars ($100,000) to provide emergency economic development assistance in any county that is documented to be experiencing a major economic dislocation.

(2) The funds shall be used by the city and county governments for projects that ~~will directly~~are reasonably anticipated to result in the creation ~~or retention~~ of new jobs. ~~The funds shall be expended at a maximum rate of ten thousand dollars ($10,000) per new job created or per job retained up to a maximum~~

~~of five hundred thousand dollars ($500,000) per project.~~There shall be no maximum funding amount per new job to be created or per project.

(3) There shall be no local match requirement if the project is located in a county that has one of the 25 highest rankings under ~~G.S. 143B-437.08 or that has a population of less than 50,000 and more than nineteen percent (19%) of its population below the federal poverty level according to the most recent federal decennial census.~~G.S. 143B-437.08.

(4) The Department may authorize a local government that receives funds under this section to use up to two percent (2%) of the funds, if necessary, to verify that the funds are used only in accordance with law and to otherwise administer the grant or loan.

(5) No project subject to the Environmental Policy Act, Article 1 of Chapter 113A of the General Statutes, shall be funded unless the Secretary of Commerce finds that the proposed project will not have a significant adverse effect on the environment. The Secretary of Commerce shall not make this finding unless the Secretary has first received a certification from the Department of Environment and Natural Resources that concludes, after consideration of avoidance and mitigation measures, that the proposed project will not have a significant adverse effect on the environment.

(6) The funds shall not be used for any nonmanufacturing project that does not meet the wage standard set out in ~~G.S. 105-129.4(b).~~G.S. 105-129.4(b) or for any retail, entertainment, or sports projects.

(7) Priority for the use of funds shall be given to eligible industries.

(a1) Definitions. – The following definitions apply in this section:

(1) Air courier services. – ~~Defined in G.S. 105-129.81.~~The furnishing of air delivery of individually addressed letters and packages for compensation, in interstate commerce, except by the United States Postal Service.

(2) Repealed by Session Laws 2006-252, s. 2.4, effective January 1, 2007.

(2a) Company headquarters. – ~~Defined in G.S. 105-129.81.~~A corporate, subsidiary, or regional managing office, as defined by NAICS in United States industry 551114, that is responsible for strategic or organizational planning and decision making for the business on an international, national, or multistate regional basis.

(3) Repealed by Session Laws 2006-252, s. 2.4, effective January 1, 2007.

(4) Economically distressed county. – A county that ~~has one of the 65 highest rankings~~is defined as a development tier one or two area under G.S. 143B-437.08 after the adjustments of that section are applied.

(5) Eligible industry. – A company headquarters or a person engaged in the business of air courier services, information technology and services, manufacturing, or warehousing and wholesale trade.

(6) Information technology and services. – ~~Defined in G.S. 105-129.81.~~An industry in one of the following, as defined by NAICS:

a. Data processing industry group 518.

b. Software publishers industry group 5112.

c. Computer systems design and related services industry group 5415.

d. An Internet activity included in industry group 519130.

(7) Major economic dislocation. – The actual or imminent loss of 500 or more manufacturing jobs in the county or of a number of manufacturing jobs equal to at least ten percent (10%) of the existing manufacturing workforce in the county.

(8) Manufacturing. – ~~Defined in G.S. 105-129.81.~~An industry in manufacturing sectors 31 through 33, as defined by NAICS, but not including quick printing or retail bakeries.

(9) Reserved.

(10) Warehousing. – ~~Defined in G.S. 105-129.81.~~An industry in warehousing and storage subsector 493 as defined by NAICS.

(11) Wholesale trade. – ~~Defined in G.S. 105-129.81.~~An industry in wholesale trade sector 42 as defined by NAICS.

(b) Repealed by Session Laws 1996, Second Extra Session, c. 13, s. 3.5.

~~(b1) There is created within the Industrial Development Fund a special account to be known as the Utility Account to provide funds to assist the local government units of the counties that have one of the 65 highest rankings under G.S. 143B-437.08 after the adjustments of that section are applied in creating jobs in eligible industries. The Department of Commerce shall adopt rules providing for the administration of the program. Except as otherwise provided in this subsection, those rules shall be consistent with the rules adopted with respect to the Industrial Development Fund. The rules shall provide that the funds in the Utility Account may be used only for construction of or improvements to new or existing water, sewer, gas, telecommunications, high-speed broadband, electrical utility distribution lines or equipment, or transportation infrastructure for existing or new or proposed industrial buildings to be used for eligible industrial operations. To be eligible for funding, the water, sewer, gas, telecommunications, high-speed broadband, electrical utility lines or facilities, or transportation infrastructure shall be located on the site of the building or, if not located on the site, shall be directly related to the operation of the specific industrial activity. There shall be no maximum funding amount per new job to be created or per project.~~

(c), (c1) Repealed by Session Laws 2012-142, s. 13.4(c), effective July 1, 2012.

(d) Repealed by Session Laws 1996, Second Extra Session, c. 13, s. 3.5."

SECTION 15.18.(b) G.S. 105-129.81 reads as rewritten:

"§ **105-129.81. Definitions.**

The following definitions apply in this Article:

…

(2) Air courier services. – ~~The furnishing of air delivery of individually addressed letters and packages for compensation, in interstate commerce, except by the United States Postal Service.~~Defined in G.S. 143B-437.01.

…

(5) Company headquarters. – ~~A corporate, subsidiary, or regional managing office, as defined by NAICS in United States industry 551114, that is responsible for strategic or organizational planning and decision making for the business on an international, national, or multistate regional basis.~~Defined in G.S. 143B-437.01.

…

(13) Information technology and services. – Defined in G.S. 143B-437.01.~~An industry in one of the following, as defined by NAICS:~~

~~a. Data processing industry group 518.~~

~~b. Software publishers industry group 5112.~~

~~c. Computer systems design and related services industry group 5415.~~

~~d. An Internet activity included in industry group 519130.~~

…

(15) Manufacturing. – ~~An industry in manufacturing sectors 31 through 33, as defined by NAICS, but not including quick printing or retail bakeries.~~Defined in G.S. 143B-437.01.

…

(25) Warehousing. – ~~An industry in warehousing and storage subsector 493 as defined by NAICS.~~Defined in G.S. 143B-437.01.

(26) Wholesale trade. – ~~An industry in wholesale trade sector 42 as defined by NAICS.~~Defined in G.S. 143B-437.01."

SECTION 15.18.(c) G.S. 143B-437.012(d) reads as rewritten:

"(d) Eligibility. – A business is eligible for consideration for a grant under this section if it satisfies the conditions of either subdivision (1) or (2) of this subsection and satisfies the conditions of both subdivisions (3) and (4) of this subsection:

…

(2) The business is a large manufacturing employer. A business is a large manufacturing employer if the business meets the following requirements:

a. The business is in manufacturing, as defined in ~~G.S. 105-129.81,~~G.S. 143B-437.01, and is converting its manufacturing process to change the product it manufactures.

b. The Department certifies that the business has invested or intends to invest at least sixty-five million dollars ($65,000,000) of private funds in improvements to real property and additions to tangible personal property in the project within a three-year period beginning with the time the investment commences.

c. The business employs at least 320 full-time employees at the project that is the subject of the grant at the time the application is made, and the business agrees to maintain at least 320 full-time employees at the project for the full term of the grant.

…."

SECTION 15.18.(d) G.S. 143B-435.1(d) reads as rewritten:

"(d) Report. – By April 1 and October 1 of each year, the Department of Commerce shall report to the Revenue Laws Study Committee, the Joint Legislative Commission on Governmental Operations, the Senate Appropriations Committee on Natural and Economic Resources, the House of Representatives Appropriations Subcommittee on Natural and Economic Resources, and the Fiscal Research Division of the ~~General Assembly~~Legislative Services Commission on (i) all clawbacks that have been triggered under the One North Carolina Fund established pursuant to G.S. 143B-437.71, the Job Development Investment Grant Program established pursuant to G.S. 143B-437.52, Job Maintenance and Capital Development Fund established pursuant to G.S. 143B-437.012, the ~~Industrial Development Fund and~~ Utility Account established pursuant to G.S. 143B-437.01, and the Site Infrastructure Fund established pursuant to G.S. 143B-437.02 and (ii) its progress on obtaining repayments. The report must include the name of each business, the event that triggered the clawback, and the amount forfeited or to be repaid."

SECTION 15.18.(e) G.S. 143B-437.07(c) reads as rewritten:

"(c) Economic Development Incentive. – An economic development incentive includes any grant from the following programs: Job Development Investment Grant Program; the Job Maintenance and Capital Development Fund; One North Carolina Fund; and the ~~Industrial Development Fund, including the~~ Utility Account. The State also incents economic development through the use of tax expenditures in the form of tax credits and refunds. The Department of Revenue must report annually on these statutory economic development incentives, as required under G.S. 105-256."

SECTION 15.18.(f) G.S. 143B-437.55(c) reads as rewritten:

"(c) Annual Reports. – The Committee shall publish a report on the Job Development Investment Grant Program on or before April 30 of each year. The Committee shall submit the report electronically to the House of Representatives Finance Committee, the Senate Finance Committee, the House of Representatives Appropriations Subcommittee on Natural and Economic Resources, the Senate Appropriations Committee on Natural and Economic Resources, and the Fiscal Research Division. The report shall include the following:

…

(13) The total amount transferred to the Utility Account ~~of the Industrial Development Fund~~ under this Part during the preceding year."

SECTION 15.18.(g) G.S. 143B-437.61 reads as rewritten:

"§ **143B-437.61. Transfer to Industrial Development ~~Fund.~~Fund Utility Account.**

At the time the Department of Commerce remits a check to a business under G.S. 143B-437.60, the Department of Commerce shall transfer to the Utility Account ~~of the Industrial Development Fund~~ an amount equal to the amount certified by the Committee as the difference between the amount of the grant and the amount of the grant for which the business would be eligible without regard to G.S. 143B-437.56(d)."

SECTION 15.18.(h) The Department of Commerce, in conjunction with the Office of the State Controller, shall close the Industrial Development Fund and the Utility Account and shall transfer the remaining fund balances of each to the Industrial Development Fund Utility Account.

SECTION 15.18.(i) This section becomes effective July 1, 2013, and applies to projects for which funds are initially provided on or after that date.

JOB DEVELOPMENT INVESTMENT GRANT PROGRAM MODIFICATIONS

SECTION 15.19.(a) G.S. 143B-437.52 reads as rewritten:

"§ **143B-437.52. Job Development Investment Grant Program.**

…

(b) Priority. – In selecting between applicants, a project that is located in an Eco-Industrial Park certified under G.S. 143B-437.08 has priority over a comparable project that is not located in a certified Eco-Industrial Park.

(c) Awards. – The maximum amount of total annual liability for grants awarded in any single calendar year under this Part, including amounts transferred to the Utility Account pursuant to G.S. 143B-437.61, is fifteen million dollars ($15,000,000). No agreement may be entered into that, when considered together with other existing agreements governing grants awarded during a single calendar year, could cause the State's potential total annual liability for grants awarded in a single calendar year to exceed this amount. The Department shall make every effort to ensure that the average percentage of withholdings of eligible positions for grants awarded under this Part does not exceed the average of the range provided in G.S. 143B-437.56(a).

…."

SECTION 15.19.(a1) Notwithstanding G.S. 143B-437.52(c), for the 2013-2015 fiscal biennium, the maximum total liability for grants awarded, including amounts transferred to the Utility Account pursuant to G.S. 143B-437.61, is twenty-two million five hundred thousand dollars ($22,500,000) and, for the period from July 1, 2015, to December 31, 2015, the maximum total liability for grants awarded, including amounts transferred to the Utility Account pursuant to G.S. 143B-437.61, is seven million five hundred thousand dollars ($7,500,000). No agreement may be entered into that, when considered together with other existing agreements governing grants awarded during an applicable time period provided in this subsection, could cause the State's potential total annual liability for grants awarded in that time period to exceed the designated maximum amount.

SECTION 15.19.(b) G.S. 143B-437.55(b) reads as rewritten:

"(b) Application Fee. – When filing an application under this section, the business must pay the Committee a fee of five thousand dollars ($5,000). The fee is due at the time the application is filed. The Secretary of Commerce, the Secretary of Revenue, and the Director of the Office of State Budget and Management shall determine the allocation of the fee imposed by this section among their agencies. The proceeds of the fee are receipts of the agency to which they are credited. Within 30 days of receipt of an application under this section but prior to any award being made, the Department of Commerce shall notify each governing body of an area where a submitted application proposes locating a project of the information listed in this subsection, provided that the governing body agrees, in writing, to any confidentiality requirements imposed by the Department under G.S. 132-6(d). The information required by this subsection includes all of the following:

(1) The estimated amount of the grant anticipated to be awarded to the applicant for the project.

(2) Any economic impact data submitted with the application or prepared by the Department.

(3) Any economic impact estimated by the Department to result from the project."

SECTION 15.19.(c) This section becomes effective July 1, 2013, and applies to applications and awards made on or after that date.

JOB DEVELOPMENT INVESTMENT GRANT PROGRAM APPLICATION FEE INCREASE

SECTION 15.20.(a) G.S. 143B-437.55(b) reads as rewritten:

"(b) Application Fee. – When filing an application under this section, the business must pay the Committee a fee of ~~five thousand dollars ($5,000).~~ ten thousand dollars ($10,000). The fee is due at the time the application is filed. The Secretary of Commerce, the Secretary of Revenue, and the Director of the Office of State Budget and Management shall determine the allocation of the fee imposed by this section among their agencies. The proceeds of the fee are receipts of the agency to which they are credited."

SECTION 15.20.(b) This section becomes effective August 1, 2013, and applies to applications filed on or after that date.

JOB DEVELOPMENT INVESTMENT GRANT PROGRAM REPORTING FEE INCREASE

SECTION 15.21.(a) G.S. 143B-437.58(a) reads as rewritten:

"(a) No later than March 1 of each year, for the preceding grant year, every business that is awarded a grant under this Part shall submit to the Committee an annual payroll report showing withholdings as a condition of its continuation in the grant program and identifying eligible positions that have been created during the base period that remain filled at the end of each year of the grant. Annual reports submitted to the Committee shall include social security numbers of individual employees identified in the reports. Upon request of the Committee, the business shall also submit a copy of its State and federal tax returns. Payroll and tax information, including social security numbers of individual employees and State and federal tax returns, submitted under this subsection is tax information subject to G.S. 105-259. Aggregated payroll or withholding tax information submitted or derived under this subsection is not tax information subject to G.S. 105-259. When making a submission under this section, the business must pay the Committee a fee of ~~one thousand five hundred dollars ($1,500).~~ the greater of two thousand five hundred dollars ($2,500) or three one-hundredths of one percent (.03%) of an amount equal to the grant less the maximum amount to be transferred pursuant to G.S. 143B-437.61. The fee is due at the time the submission is made. The Secretary of Commerce, the Secretary of Revenue, and the Director of the Office of State Budget and Management shall determine the allocation of the fee imposed by this section among their agencies. The proceeds of the fee are receipts of the agency to which they are credited."

SECTION 15.21.(b) This section becomes effective August 1, 2013, and applies to fees submitted for awards granted on or after that date.

TRANSFER STATE ENERGY OFFICE FROM COMMERCE TO DENR

GENERAL

SECTION 15.22.(a) The State Energy Office is hereby transferred from the Department of Commerce to the Department of Environment and Natural Resources. This transfer shall have all of the elements of a Type I transfer, as defined in G.S. 143A-6.

ENERGY LOAN FUND

SECTION 15.22.(b) Part 2C of Article 10 of Chapter 143B of the General Statutes, G.S. 143B-437.14 through G.S. 143B-437.16, is recodified as Part 32 of Article 7 of Chapter 143B of the General Statutes, G.S. 143B-344.42 through G.S. 143B-344.44.

SECTION 15.22.(c) G.S. 143B-437.16, recodified as G.S. 143B-344.44 in subsection (b) of this section, reads as rewritten:

"§ **143B-344.44. Lead agency; powers and duties.**

(a) For the purposes of this Part, the Department of ~~Commerce,~~Environment and Natural Resources, State Energy Office, is designated as the lead State agency in matters pertaining to energy efficiency.

…."

GUARANTEED ENERGY SAVINGS CONTRACTS

SECTION 15.22.(d) G.S. 143-64.17F reads as rewritten:

"§ **143-64.17F. State agencies to use contracts when feasible; rules; recommendations.**

…

(b) The Department of Administration, in consultation with the Department of ~~Commerce~~ Environment and Natural Resources, through the State Energy Office, shall adopt rules for: (i) agency evaluation of guaranteed energy savings contracts; (ii) establishing time periods for consideration of guaranteed energy savings contracts by the Office of State Budget and Management, the Office of the State Treasurer, and the Council of State, and (iii) setting measurements and verification criteria, including review, audit, and precertification. Prior to adopting any rules pursuant to this section, the Department shall consult with and obtain approval of those rules from the State Treasurer. The rules adopted pursuant to this subsection shall not apply to energy conservation measures implemented pursuant to G.S. 143-64.17L.

(c) The Department of Administration, and the Department of ~~Commerce~~ Environment and Natural Resources through the State Energy Office, may provide to the Council of State its recommendations concerning any energy savings contracts being considered."

SECTION 15.22.(e) G.S. 143-64.17G reads as rewritten:

"§ **143-64.17G. Report on guaranteed energy savings contracts entered into by local governmental units.**

A local governmental unit that enters into a guaranteed energy savings contract must report the contract and the terms of the contract to the Local Government Commission and the State Energy Office of the Department of ~~Administration.~~Environment and Natural Resources. The Commission shall compile the information and report it biennially to the Joint Commission on Governmental Operations. In compiling the information, the Local Government Commission shall include information on the energy savings expected to be realized from a contract and, with the assistance of the Office of State Construction and the State Energy Office, shall evaluate whether expected savings have in fact been realized."

SECTION 15.22.(f) G.S. 143-64.17H reads as rewritten:

"§ **143-64.17H. Report on guaranteed energy savings contracts entered into by State governmental units.**

A State governmental unit that enters into a guaranteed energy savings contract or implements an energy conservation measure pursuant to G.S. 143-64.17L must report either (i) the contract and the terms of the contract or (ii) the implementation of the measure to the State Energy Office of the Department of ~~Commerce~~ Environment and Natural Resources within 30 days of the date the contract is entered into or the measure is implemented. In addition, within 60 days after each annual anniversary date of a guaranteed energy savings contract, the State governmental unit must report the status of the contract to the State Energy Office, including any details required by the State Energy Office. The State Energy Office shall compile the information for each fiscal year and report it to the Joint Legislative Commission on Governmental Operations and to the Local Government Commission annually by December 1. In compiling the information, the State Energy Office shall include information on the energy

savings expected to be realized from a contract or implementation and shall evaluate whether expected savings have in fact been realized."

ENERGY ASSISTANCE FOR LOW-INCOME PERSONS

SECTION 15.22.(g) The programs administered under the North Carolina Energy Assistance Act for Low-Income Persons, being the Weatherization Assistance Program for Low-Income Families and the Heating/Air Repair and Replacement Program, and any other energy-related assistance program for the benefit of low-income persons in existing housing, are transferred from the Department of Commerce to the State Energy Office in the Department of Environment and Natural Resources. The transfer under this subsection shall have all of the elements of a Type I transfer, as defined in G.S. 143A-6.

SECTION 15.22.(h) Part 9 of Article 2 of Chapter 108A of the General Statutes, G.S. 108A-70.30, is recodified as Part 33 of Article 7 of Chapter 143B of the General Statutes, G.S. 143B-344.46.

SECTION 15.22.(i) G.S. 108A-70.30, recodified as G.S. 143B-344.46 in subsection (h) of this section, reads as rewritten:

"§ **143B-344.46. Weatherization Assistance Program and Heating/Air Repair and Replacement Program.**

The State Energy Office within the Department may administer the Weatherization Assistance Program for Low-Income Families and the Heating/Air Repair and Replacement Program functions. Nothing in this Part shall be construed as obligating the General Assembly to appropriate funds for the Program or as entitling any person to services under the Program."

SECTION 15.22.(j) Part 21 of Article 10 of Chapter 143B of the General Statutes, G.S. 143B-472.121 through 143B-472.123, is recodified as Part 34 of Article 7 of Chapter 143B of the General Statutes, G.S. 143B-344.48 through G.S. 143B-344.50.

SECTION 15.22.(k) G.S. 143B-472.122, recodified as G.S. 143B-344.49 in subsection (j) of this section, and G.S. 143B-472.123, recodified as G.S. 143B-344.50 in subsection (j) of this section, read as rewritten:

"§ **143B-344.49. Definitions.**

The following definitions apply to this Part:

…

(2) Department. – The Department of ~~Commerce.~~Environment and Natural Resources.

(3) Secretary. – The Secretary of ~~Commerce.~~the Department of Environment and Natural Resources.

….

"§ **143B-344.50. The ~~Office of Economic Opportunity~~State Energy Office designated agency; powers and duties.**

(a) The ~~Office of Economic Opportunity of the Department~~State Energy Office in the Department of Environment and Natural Resources shall administer the Weatherization Assistance Program for Low-Income Families established by 42 U.S.C. § 6861, et seq., and 42 U.S.C. § 7101, et seq.; the Heating/Air Repair and Replacement Program established by the Secretary under ~~G.S. 108A-70.30;~~G.S. 143B-344.46; and any other energy-related assistance program for the benefit of low-income persons in existing housing. The ~~Office of Economic Opportunity~~State Energy Office shall exercise the following powers and duties:

…

(8) Create a Policy Advisory Council within the ~~Office of Economic Opportunity~~State Energy Office that shall advise the ~~Office of Economic Opportunity~~State Energy Office with respect to the development and implementation of a Weatherization Program for Low-Income Families, the Heating/Air Repair and Replacement Program, and any other energy-related assistance program for the benefit of low-income persons in existing housing.

…."

ENERGY POLICY COUNCIL

SECTION 15.22.(l) G.S. 113B-2 reads as rewritten:

"§ **113B-2. Creation of Energy Policy Council; purpose of Council.**

(a) There is hereby created a council to advise and make recommendations on energy policy to the Governor and the General Assembly to be known as the Energy Policy Council which shall be located within the Department of ~~Commerce.~~Environment and Natural Resources.

(b) Except as otherwise provided in this Chapter, the powers, duties and functions of the Energy Policy Council shall be as prescribed by the Secretary of ~~Commerce.~~the Department of Environment and Natural Resources.

(c) The Energy Policy Council shall serve as the central energy policy planning body of the State and shall communicate and cooperate with federal, State, regional and local bodies and agencies to the end of effecting a coordinated energy policy."

SECTION 15.22.(m) G.S. 113B-11 reads as rewritten:

"§ **113B-11. Powers and authority.**

…

(c) The Council shall have authority to apply for and utilize grants, contributions and appropriations in order to carry out its duties as defined in Articles 1 and 2 of this Chapter, provided, however, that all such applications and requests are made through and administered by the Department of ~~Commerce.~~Environment and Natural Resources.

…

(e) The Department of ~~Commerce~~ Environment and Natural Resources shall provide the staffing capability to the Energy Policy Council so as to fully and effectively develop recommendations for a comprehensive State energy policy as contained in the provisions of this Article. The Utilities Commission is hereby authorized to make its staff available to the Council to assist in the development of a State energy policy."

PURCHASES AND CONTRACTS

SECTION 15.22.(n) G.S. 143-58.4 reads as rewritten:

"§ **143-58.4. Energy credit banking and selling program.**

(a) The following definitions apply in this section:

…

(4) Department. – The Department of ~~Commerce.~~The Department of Environment and Natural Resources.

…

(c) Adopt Rules. – The Secretary of ~~Commerce~~ Environment and Natural Resources shall adopt rules as necessary to implement this section."

ENERGY POLICY AND LIFE-CYCLE COST ANALYSIS

SECTION 15.22.(o) G.S. 143-64.11 reads as rewritten:

"§ **143-64.11. Definitions.**

For purposes of this Article:

…

(2a) "Energy Office" means the State Energy Office of the Department of ~~Commerce.~~Environment and Natural Resources.

…."

SECTION 15.22.(p) G.S. 143-64.12 reads as rewritten:

"§ **143-64.12. Authority and duties of the Department; State agencies and State institutions of higher learning.**

(a) The Department of ~~Commerce~~ Environment and Natural Resources through the State Energy Office shall develop a comprehensive program to manage energy, water, and

other utility use for State agencies and State institutions of higher learning and shall update this program annually. Each State agency and State institution of higher learning shall develop and implement a management plan that is consistent with the State's comprehensive program under this subsection to manage energy, water, and other utility use, and that addresses any findings or recommendations resulting from the energy audit required by subsection (b1) of this section. The energy consumption per gross square foot for all State buildings in total shall be reduced by twenty percent (20%) by 2010 and thirty percent (30%) by 2015 based on energy consumption for the 2002-2003 fiscal year. Each State agency and State institution of higher learning shall update its management plan annually and include strategies for supporting the energy consumption reduction requirements under this subsection. Each community college shall submit to the State Energy Office an annual written report of utility consumption and costs. Management plans submitted annually by State institutions of higher learning shall include all of the following:

…."

SECTION 15.22.(q) The Revisor of Statutes may conform names and titles changed by this section, and may correct statutory references as required by this section, throughout the General Statutes. In making the changes authorized by this section, the Revisor may also adjust subject and verb agreement and the placement of conjunctions.

STAFF FOR RURAL ECONOMIC DEVELOPMENT DIVISION AND WATER INFRASTRUCTURE DIVISION

SECTION 15.23. The Departments of Commerce and Environment and Natural Resources shall work together to determine a way in which to equitably distribute the employees within the Department of Commerce, Division of Community Assistance, responsible for the CDBG program between the Rural Economic Development Division, as established by this act, and the Water Infrastructure Division, as established by this act.

STATE MATCH FOR NATIONAL NETWORK FOR MANUFACTURING INNOVATION GRANT PROGRAM

SECTION 15.24. If federal funds become available for the National Network for Manufacturing Innovation grant program, the Department of Commerce, North Carolina State University, and the University of North Carolina Charlotte may each use the funds available to them to meet the State match requirements.

COMMERCE NONPROFITS/REPORTING REQUIREMENTS

SECTION 15.25. Ag in the Classroom, High Point Furniture Market Authority, Johnson & Wales University, North Carolina's Eastern Region, North Carolina's Northeast Commission, Southeastern North Carolina Regional Economic Development Commission, Western North Carolina Regional Economic Development Commission, Charlotte Regional Partnership, Inc., Piedmont Triad Partnership, RTI International, Research Triangle Regional Partnership, and The Support Center shall do the following:

(1) By September 1 of each year, and more frequently as requested, report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division on prior State fiscal year program activities, objectives, and accomplishments and prior State fiscal year itemized expenditures and fund sources.

(2) Provide to the Fiscal Research Division a copy of the entity's annual audited financial statement within 30 days of issuance of the statement.

GRASSROOTS SCIENCE PROGRAM

SECTION 15.25A.(a) Of the funds appropriated in this act to the Department of Commerce for State-Aid, the sum of two million three hundred forty-seven thousand seven hundred eighty-two dollars ($2,347,782) for the 2013-2014 fiscal year and the sum of two

million three hundred forty-seven thousand seven hundred eighty-two dollars ($2,347,782) for the 2014-2015 fiscal year are allocated as grants-in-aid for each fiscal year as follows:

	2013-2014	**2014-2015**
Aurora Fossil Museum	$61,821	$61,821
Cape Fear Museum	$85,248	$85,248
Carolina Raptor Center	$74,916	$74,916
Catawba Science Center	$93,041	$93,041
Colburn Earth Science Museum, Inc.	$62,547	$62,547
Core Sound Waterfowl Museum	$67,395	$67,395
Discovery Place	$261,617	$261,617
Eastern NC Regional Science Center	$59,587	$59,587
Fascinate-U	$65,616	$65,616
Granville County Museum Commission, Inc.–Harris Gallery	$60,651	$60,651
Greensboro Children's Museum	$83,575	$83,575
The Health Adventure Museum of Pack Place Education, Arts and Science Center, Inc.	$73,352	$73,352
Highlands Nature Center	$62,816	$62,816
Imagination Station	$67,588	$67,588
The Iredell Museums, Inc.	$61,013	$61,013
Kidsenses	$65,233	$65,233
Museum of Coastal Carolina	$65,454	$65,454
The Natural Science Center of Greensboro, Inc.	$116,532	$116,532
North Carolina Estuarium	$58,000	$58,000
North Carolina Museum of Life and Science	$203,545	$203,545
Pisgah Astronomical Research Institute	$74,925	$74,925
Port Discover: Northeastern North Carolina's Center for Hands-On Science, Inc.	$60,610	$60,610
Rocky Mount Children's Museum	$66,463	$66,463
Schiele Museum of Natural History and Planetarium, Inc.	$100,990	$100,990
Sci Works Science Center and Environmental Park of Forsyth County	$83,725	$83,725
Sylvan Heights Waterfowl Park and Eco-Center	$69,864	$69,864
Western North Carolina Nature Center	$74,973	$74,973
Wilmington Children's Museum	$66,684	$66,684
Total	**$2,347,782**	**$2,347,782**

SECTION 15.25A.(b) No later than March 1, 2014, the Department of Commerce shall report to the Fiscal Research Division all of the following information for each museum that receives funds under this section:

(1) The actual operating budget for the 2012-2013 fiscal year.

(2) The proposed operating budget for the 2013-2014 fiscal year.

(3) The total attendance at the museum during the 2013 calendar year.

SECTION 15.25A.(c) No later than March 1, 2015, the Department of Commerce shall report to the Fiscal Research Division all of the following information for each museum that receives funds under this section:

(1) The actual operating budget for the 2013-2014 fiscal year.

(2) The proposed operating budget for the 2014-2015 fiscal year.

(3) The total attendance at the museum during the 2014 calendar year.

SECTION 15.25A.(d) As a condition for qualifying to receive funding under this section, all of the following documentation shall, no later than November 1 of each year of the 2013-2015 fiscal biennium, be submitted for each museum under this section to the Department of Commerce for the fiscal year that most recently ended, and only those costs that are properly documented under this subsection are allowed by the Department in calculating the distribution of funds under this section:

(1) Each museum under this section shall submit its IRS (Internal Revenue Service) Form 990 to show its annual operating expenses, its annual report, and a reconciliation that explains any differences between expenses as shown on the IRS Form 990 and the annual report.

(2) Each friends association of a museum under this section shall submit its IRS Form 990 to show its reported expenses for the museum, its annual report, and a reconciliation that explains any differences between expenses as shown on the IRS Form 990 and the annual report, unless the association does not have both an IRS Form 990 and an annual report available; in which case, it shall submit either an IRS Form 990 or an annual report.

(3) The chief financial officer of each county or municipal government that provides funds for the benefit of the museum shall submit a detailed signed statement of documented costs spent for the benefit of the museum that includes documentation of the name, address, title, and telephone number of the person making the assertion that the museum receives funds from the county or municipality for the benefit of the museum.

(4) The chief financial officer of each county or municipal government or each friends association that provides indirect or allocable costs that are not directly charged to a museum under this section but that benefit the museum shall submit in the form of a detailed statement enumerating each cost by type and amount that is verified by the financial officer responsible for the completion of the documentation and that includes the name, address, title, and telephone number of the person making the assertion that the county, municipality, or association provides indirect or allocable costs to the museum.

SECTION 15.25A.(e) As used in subsection (d) of this section, "friends association" means a nonprofit corporation established for the purpose of supporting and assisting a museum that receives funding under this section.

SECTION 15.25A.(f) Each museum listed in subsection (a) of this section shall do the following:

(1) By September 1 of each year, and more frequently as requested, report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division on prior State fiscal year program activities, objectives, and accomplishments and prior State fiscal year itemized expenditures and fund sources.

(2) Provide to the Fiscal Research Division a copy of the organization's annual audited financial statement within 30 days of issuance of the statement.

RURAL CENTER/REPEAL STATUTORY REFERENCES

SECTION 15.26.(a) G.S. 106-744 reads as rewritten:

"§ **106-744. Purchase of agricultural conservation easements; establishment of North Carolina Agricultural Development and Farmland Preservation Trust Fund and Advisory Committee.**

…

(g) There is established the Agricultural Development and Farmland Preservation Trust Fund Advisory Committee. The Advisory Committee shall be administratively located within

the Department of Agriculture and Consumer Services and shall advise the Commissioner on the prioritization and allocation of funds, the development of criteria for awarding funds, program planning, and other areas where monies from the Trust Fund can be used to promote the growth and development of family farms in North Carolina. The Advisory Committee shall be composed of 19 members as follows:

…

~~(7) The Executive Director of the North Carolina Rural Economic Development Center, Inc., or the Executive Director's designee.~~The chair of the Rural Infrastructure Authority within the Department of Commerce or the chair's designee.

…."

SECTION 15.26.(b) The Revisor of Statutes may conform names and titles changed by this section, and may correct statutory references as required by this section, throughout the General Statutes. In making the changes authorized by this section, the Revisor may also adjust subject and verb agreement and the placement of conjunctions.

REGIONAL ECONOMIC DEVELOPMENT COMMISSIONS/STATUTES CREATING COMMISSIONS REPEALED EFFECTIVE JUNE 30, 2014

SECTION 15.28.(a) Articles 2 and 4 of Chapter 158 of the General Statutes are repealed.

SECTION 15.28.(b) Upon the dissolution of North Carolina's Eastern Region, the North Carolina's Eastern Region Development Commission, the governing body of North Carolina's Eastern Region, shall liquidate the assets of the Region to the extent possible and distribute all Region assets to the counties of the Region in proportion to the amount of the vehicle registration tax levied by the Commission and collected in each county. The assets of the Region that exceed the amount of the vehicle registration tax collected by the counties and are attributable to an appropriation made to the Region by the General Assembly shall revert to the General Fund and may not be distributed to the counties. A county may use funds distributed to it pursuant to this subsection only for economic development projects and infrastructure construction projects. In calculating the amount to be refunded to each county, the Region shall first allocate amounts loaned and not yet repaid as follows:

(1) Amounts loaned for a project in a county will be allocated to that county to the extent of its beneficial ownership of the principal of the interest-bearing trust account in which the proceeds of the vehicle registration tax levied by the Commission were placed, and the county will become the owner of the right to repayment of the amount loaned to the extent of its beneficial ownership of the principal of the trust account.

(2) Amounts not allocated pursuant to subdivision (1) of this subsection shall be allocated among the remaining counties in proportion to the amount of the vehicle registration tax collected in each county, and the remaining counties shall become the owners of the right to repayment of the amounts loaned in proportion to the amount of the vehicle registration tax collected in each county.

Notes and other instruments representing the right to repayment shall, upon dissolution of the Region, be held and collected by the State Treasurer, who shall disburse the collections to the counties as provided in this subsection.

The Commission shall distribute those assets that it is unable to liquidate among the Region counties insofar as practical on an equitable basis, as determined by the Commission. Upon dissolution, the State of North Carolina shall succeed to any remaining rights, obligations, and liabilities of the Region not assigned to the Region counties.

SECTION 15.28.(c) G.S. 120-123 reads as rewritten:

"§ **120-123. Service by members of the General Assembly on certain boards and commissions.**

No member of the General Assembly may serve on any of the following boards or commissions:

…

~~(62) The North Carolina's Northeast Commission, as established by G.S. 158-8.2.~~

…."

SECTION 15.28.(d) G.S. 143-215.42 reads as rewritten:

"§ **143-215.42. Acquisition of lands.**

…

(h) This section shall not authorize acquisition by condemnation of interests in land within the boundaries of any project to be constructed by the Tennessee Valley Authority, its agents or subdivision or any project licensed by the Federal Power Commission or interests in land owned or held for use by a public utility, as defined in G.S. 62-3.~~ No commission created pursuant to G.S. 158-8 shall condemn or acquire any property to be used by the Tennessee Valley Authority, its agents or subdivision.~~"

SECTION 15.28.(e) G.S. 153A-398 reads as rewritten:

"§ **153A-398. Regional planning and economic development commissions.**

Two or more counties, cities, or counties and cities may create a regional planning and economic development commission by adopting identical concurrent resolutions to that effect. Such a commission has the powers granted by this ~~Article and the powers granted by Chapter 158, Article 2.~~Article. If such a commission is created, it shall maintain separate books of account for appropriations and expenditures made pursuant to this ~~Article and for appropriations and expenditures made pursuant to Chapter 158, Article 2.~~Article."

SECTION 15.28.(f) The Revisor of Statutes may conform names and titles changed by this section and may correct statutory references as required by this section throughout the General Statutes. In making the changes authorized by this section, the Revisor may also adjust subject and verb agreement and the placement of conjunctions.

SECTION 15.28.(g) This section becomes effective June 30, 2014.

REGIONAL ECONOMIC DEVELOPMENT COMMISSIONS/FUNDS FOR 2013-2014 FISCAL YEAR

SECTION 15.28A.(a) Funds appropriated in this act to the Department of Commerce for regional economic development commissions shall be allocated to the following commissions in accordance with subsection (b) of this section: North Carolina's Eastern Region, North Carolina's Northeast Commission, Southeastern North Carolina Regional Economic Development Commission, Western North Carolina Regional Economic Development Commission, Charlotte Regional Partnership, Inc., Piedmont Triad Partnership, and Research Triangle Regional Partnership.

SECTION 15.28A.(b) Funds appropriated pursuant to subsection (a) of this section shall be allocated to each regional economic development commission as follows:

(1) First, the Department shall establish each commission's allocation by determining the sum of allocations to each county that is a member of that commission. Each county's allocation shall be determined by dividing the county's development factor by the sum of the development factors for eligible counties and multiplying the resulting percentage by the amount of the appropriation. As used in this subdivision, the term "development factor" means a county's development factor as calculated under G.S. 143B-437.08; and

(2) Next, the Department shall subtract from funds allocated to North Carolina's Eastern Region the sum of one hundred thirty-four thousand four hundred sixty-six dollars ($134,466) in the 2013-2014 fiscal year, which sum represents (i) the total interest earnings in the prior fiscal year on the

estimated balance of the seven million five hundred thousand dollars ($7,500,000) appropriated to the Global TransPark Development Zone in Section 6 of Chapter 561 of the 1993 Session Laws and (ii) the total interest earnings in the prior fiscal year on loans made from the seven million five hundred thousand dollars ($7,500,000) appropriated to the Global TransPark Development Zone in Section 6 of Chapter 561 of the 1993 Session Laws; and

(3) Next, the Department shall redistribute the sum of one hundred thirty-four thousand four hundred sixty-six dollars ($134,466) in the 2013-2014 fiscal year to the seven regional economic development commissions named in subsection (a) of this section. Each commission's share of this redistribution shall be determined according to the development factor formula set out in subdivision (1) of this subsection. This redistribution shall be in addition to each commission's allocation determined under subdivision (1) of this subsection.

SECTION 15.28A.(c) The General Assembly finds that successful economic development requires the collaboration of the State, regions of the State, counties, and municipalities. Therefore, the regional economic development commissions are encouraged to seek supplemental funding from their county and municipal partners to continue and enhance their efforts to attract and retain business in the State.

SOUTHEASTERN NORTH CAROLINA REGIONAL ECONOMIC DEVELOPMENT COMMISSION/MEMBER COUNTIES AMENDED

SECTION 15.28B. G.S. 158-8.3(a) reads as rewritten:

"(a) There is created the Southeastern North Carolina Regional Economic Development Commission to serve Anson, Bladen, Brunswick, Columbus, Cumberland, Hoke, Montgomery, New Hanover, Pender, Richmond, Robeson, Sampson, and Scotland Counties, and any other county assigned to the Commission by the Department of Commerce as authorized by law. The Commission shall be located administratively in the Department of Commerce but shall exercise its statutory powers and duties independently of the Department of Commerce. Funds appropriated for the Commission by the General Assembly shall be disbursed directly to the Commission at the beginning of each fiscal year."

HIGH POINT MARKET AUTHORITY/HOUSE COMMERCE ECONOMIC DEVELOPER POSITION

SECTION 15.29. To receive State funds, the High Point Market Authority shall provide suitable work space for a Department of Commerce economic developer position.

NC BIOTECHNOLOGY CENTER

SECTION 15.30.(a) Of the funds appropriated in this act to the North Carolina Biotechnology Center (hereinafter "Center"), the sum of twelve million six hundred thousand three hundred thirty-eight dollars ($12,600,338) for each fiscal year in the 2013-2015 biennium shall be allocated as follows:

(1) Job Creation: Ag Biotech Initiative, Economic and Industrial Development, and related activities – $2,709,073;

(2) Science and Commercialization: Science and Technology Development, Centers of Innovation, Business and Technology Development, Education and Training, and related activities – $8,165,019; and

(3) Center Operations: Administration, Professional and Technical Assistance and Oversight, Corporate Communications, Human Resource Management, Financial and Grant Administration, Legal, and Accounting – $1,726,246.

SECTION 15.30.(b) Except to provide administrative flexibility, up to ten percent (10%) of each of the allocations in subsection (a) of this section may be reallocated to one or

more of the other allocations in subsection (a) of this section if, in the judgment of Center management, the reallocation will advance the mission of the Center.

SECTION 15.30.(c) The Center shall comply with the following reporting requirements:

(1) By September 1 of each year, and more frequently as requested, report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division on prior State fiscal year program activities, objectives, and accomplishments and prior State fiscal year itemized expenditures and fund sources.

(2) Provide to the Fiscal Research Division a copy of the Center's annual audited financial statement within 30 days of issuance of the statement.

NORTH CAROLINA BIOTECHNOLOGY CENTER/EXAMINE CENTER OPERATIONS

SECTION 15.32.(a) The Board of Directors (hereinafter "Board") of the North Carolina Biotechnology Center (hereinafter "Center") shall review and examine each aspect of the Center's operations to determine ways in which efficiencies and cost-savings can be achieved. The review required by this section shall include evaluating:

(1) The activities conducted at the Center's headquarters in Research Triangle Park to determine how each and every activity is necessary to achieve the goals for which State funds are appropriated. Any unnecessary or duplicative activities shall be reduced or eliminated.

(2) The activities conducted at the Center's regional offices and how those activities can be consolidated and performed in fewer locations.

(3) Staffing requirements at the Center's headquarters and at the regional offices to determine whether some staff positions are duplicated and, if so, whether those duplications can be reduced or eliminated.

(4) Whether State funds would be better used to provide additional grants and loans rather than to support current staffing levels and whether reducing current staffing levels to increase the amount of funds available for grants and loans would provide a positive return on investment. The Center shall determine the appropriate percentage of State funds that should be disbursed for grants, loans, and staff to maximize the return on State funds appropriated to the Center.

(5) The administration of grant and loan programs funded in any way with State funds to ensure that the programs are conducted in a cost-efficient manner.

(6) Any and all cash balances on hand to determine ways in which those cash balances can be used quickly to make grants and loans.

(7) The size of the Board and the overall governance of the Center to determine whether changes in either or both can be made to make the Center more cost-efficient and effective in providing grants or loans.

(8) Whether it would be beneficial to the State if the funds appropriated in this act to the Center for the 2014-2015 fiscal year, and any funds that might be appropriated to the Center in future fiscal years, were instead appropriated to the Department of Commerce for purposes of establishing and implementing a competitive grants process.

SECTION 15.32.(b) By March 1, 2014, the Center shall report the findings of the review required by subsection (a) of this section to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division. The report shall include the steps taken by the Center to implement any changes made to the Center's operations as a result of the review and shall include the Center's anticipated funding requirements from the General Assembly.

SECTION 15.32.(c) Remaining allotments after March 1, 2014, shall not be released to the Center if it does not conduct the review and report its findings as provided in this section.

PART XVI. DEPARTMENT OF PUBLIC SAFETY

SUBPART XVI-A. GENERAL PROVISIONS

GRANT REPORTING AND MATCHING FUNDS

SECTION 16A.1.(a) The Department of Public Safety, the Department of Justice, and the Judicial Department shall report by May 1 of each year to the Joint Legislative Commission on Governmental Operations, the Chairs of the House of Representatives Subcommittee on Justice and Public Safety, and the Chairs of the Senate Appropriations Committee on Justice and Public Safety on grant funds received or preapproved for receipt by those departments. The report shall include information on the amount of grant funds received or preapproved for receipt by each department, the use of the funds, the State match expended to receive the funds, and the period to be covered by each grant. If the department intends to continue the program beyond the end of the grant period, the department shall report on the proposed method for continuing the funding of the program at the end of the grant period. Each department shall also report on any information it may have indicating that the State will be requested to provide future funding for a program presently supported by a local grant.

SECTION 16A.1.(b) Notwithstanding the provisions of G.S. 143C-6-9, the Department of Public Safety may use up to the sum of one million two hundred thousand dollars ($1,200,000) during the 2013-2014 fiscal year and up to the sum of one million two hundred thousand dollars ($1,200,000) during the 2014-2015 fiscal year from funds available to the Department to provide the State match needed in order to receive grant funds. Prior to using funds for this purpose, the Department shall report to the Chairs of the House of Representatives Subcommittee on Justice and Public Safety, the Chairs of the Senate Appropriations Committee on Justice and Public Safety, and the Joint Legislative Commission on Governmental Operations on the grants to be matched using these funds.

USE OF CLOSED FACILITIES

SECTION 16A.3. In conjunction with the closing of prison facilities, youth detention centers, and youth development centers, the Department of Public Safety shall consult with the county or municipality in which the facility is located, with the elected State and local officials, and with State and federal agencies about the possibility of converting that facility to other use. The Department may also consult with any private for-profit or nonprofit firm about the possibility of converting the facility to other use. In developing a proposal for future use of each facility, the Department shall give priority to converting the facility to other criminal justice use. Consistent with existing law and the future needs of the Department of Public Safety, the State may provide for the transfer or the lease of any of these facilities to counties, municipalities, State agencies, federal agencies, or private firms wishing to convert them to other use. The Department of Public Safety may also consider converting some of the facilities recommended for closing from one security custody level to another, where that conversion would be cost-effective. A prison unit under lease to a county pursuant to the provisions of this section for use as a jail is exempt for the period of the lease from any of the minimum standards adopted by the Secretary of Health and Human Services pursuant to G.S. 153A-221 for the housing of adult prisoners that would subject the unit to greater standards than those required of a unit of the State prison system.

LIMITED AUTHORITY TO RECLASSIFY AND ELIMINATE CERTAIN POSITIONS

SECTION 16A.4. Notwithstanding any other provision of law, subject to the approval of the Director of the Budget, the Secretary of the Department of Public Safety may

reclassify or eliminate existing administrative positions that are not specifically addressed in this act as needed for the efficient operation of the Department. The Secretary of the Department of Public Safety shall report any position reclassification undertaken pursuant to this section to the Chairs of the House of Representatives Appropriations Subcommittee on Justice and Public Safety, the Chairs of the Senate Appropriations Committee on Justice and Public Safety, and to the Fiscal Research Division, within 30 days of the reclassification. The report shall include the position number, original title, original fund code, original budgeted salary, new title, new fund code, and new budgeted salary for each reclassified position.

REPORTS ON DEPARTMENT OF PUBLIC SAFETY TRAINING

SECTION 16A.5. The Department of Public Safety shall report to the Chairs of the Joint Legislative Oversight Committee on Justice and Public Safety on its training facilities and programs in accordance with the schedule that follows:

(1) No later than October 1, 2013, the Department shall submit a report that includes an examination and analysis of all of the following:
   a. The current training practices of the Department in each of its divisions.
   b. A list of Department training facilities by division, including the location, capacity, purpose, and level of utilization of each facility.
   c. Efforts by the Department to consolidate its training facilities across and within divisions.

(2) No later than February 1, 2014, the Department shall submit a report that includes all of the following:
   a. A plan for operating the Samarkand training facility.
   b. An estimate of the impact of the Samarkand facility on the use of other Department training facilities.
   c. An estimate of savings that could be achieved by consolidating training activities and facilities at the renovated Samarkand facility.

(3) No later than March 1, 2014, the Department shall submit a report that includes an examination and analysis of all of the following:
   a. The feasibility of relocating the Highway Patrol training facility to the Samarkand facility.
   b. The cost, time line, and any logistical issues associated with upgrading the Samarkand facility for use by the State Highway Patrol as a training facility.

SUBPART XVI-B. DIVISION OF LAW ENFORCEMENT

USE OF SEIZED AND FORFEITED PROPERTY TRANSFERRED TO STATE LAW ENFORCEMENT AGENCIES BY THE FEDERAL GOVERNMENT

SECTION 16B.1.(a) Assets transferred to the Department of Justice or to the Department of Public Safety during the 2013-2015 fiscal biennium pursuant to applicable federal law shall be credited to the budgets of the respective departments and shall result in an increase of law enforcement resources for those departments. The Departments of Justice and Public Safety shall report to the Joint Legislative Commission on Governmental Operations, the Chairs of the House of Representatives Appropriations Subcommittee on Justice and Public Safety, and the Chairs of the Senate Appropriations Committee on Justice and Public Safety upon receipt of the assets and, before using the assets, shall report on the intended use of the assets and the departmental priorities on which the assets may be expended.

SECTION 16B.1.(b) The General Assembly finds that the use of assets transferred pursuant to federal law for new personnel positions, new projects, acquisition of real property, repair of buildings where the repair includes structural change, and construction of or additions to buildings may result in additional expenses for the State in future fiscal periods. Therefore,

the Department of Justice and the Department of Public Safety are prohibited from using these assets for such purposes without the prior approval of the General Assembly.

SECTION 16B.1.(c) Nothing in this section prohibits North Carolina law enforcement agencies from receiving funds from the United States Department of Justice, the United States Department of the Treasury, and the United States Department of Health and Human Services.

ELIMINATE BUTNER PUBLIC SAFETY AUTHORITY

SECTION 16B.4.(a) The Butner Public Safety Authority is abolished effective 11:59:59 p.m. on July 31, 2013. All of the assets of the Authority, real, personal, and mixed, shall be distributed to and become vested in the Town of Butner. The town attorney for the Town of Butner shall file a notice of dissolution with the Secretary of State. Following the dissolution of the Authority, the chair of the Authority shall have such power and authority necessary to transfer any of the assets of the Authority to the Town of Butner and to otherwise wind up the affairs of the Authority.

SECTION 16B.4.(b) G.S. 122C-408 reads as rewritten:

"§ **122C-408. Former Butner Public Safety Authority; jurisdiction; fire and police ~~district.~~ protection.**

~~(a) Authority Established. – There is hereby created an authority known as the Butner Public Safety Authority, which is a body politic and corporate, to provide fire and police protection for the territory of the Camp Butner Reservation and the corporate limits of the Town of Butner.~~

~~(a1) Membership. – The authority shall consist of seven voting members, three appointed by the Town of Butner, three appointed by the Secretary of Public Safety, and one appointed by the Granville County Board of Commissioners. The members shall be appointed within 30 days after the establishment of the authority. The initial Director of the authority shall be the Chief of the Butner Public Safety Division of the Department of Public Safety who is serving in that capacity on the day the authority is established. The Director shall be an ex officio, nonvoting member of the authority. No active member of the fire or police forces providing services to the authority may serve as a voting member of the authority. When the officers are elected as herein provided, the secretary of the authority shall certify to the Secretary of State the names and addresses of the officers as well as the address of the principal office of the authority, and such certification shall be filed by the Secretary of State in the same manner as articles of incorporation.~~

~~(a2) Term of Membership. – One member appointed by the Town of Butner, one member appointed by the Secretary of Public Safety, and the member appointed by the Granville County Board of Commissioners shall serve an initial term of two years. The remaining members shall serve an initial term of four years. The beginning date of each initial term for purposes of reappointment is September 1, 2011. Thereafter, each member shall serve a term of four years.~~

~~(a3) Transfer of Property. – Within 30 days after the establishment of the authority, the State shall transfer all real, personal, and mixed assets assigned to or used by the Butner Public Safety Division of the Department of Public Safety to the authority in fee simple absolute.~~

~~(a4) Duties and Responsibilities. – The authority shall have the following duties and responsibilities:~~

- ~~(1) To adopt bylaws for the regulation of its affairs and the conduct of its business.~~
- ~~(2) To elect officers from among its members in accordance with its bylaws.~~
- ~~(3) To adopt an official seal and alter the same.~~
- ~~(4) To maintain an office at such place or places as it may designate.~~
- ~~(5) To sue and be sued in its own name, plead and be impleaded.~~

~~(6) To acquire, lease as lessee or lessor, construct, reconstruct, improve, extend, enlarge, equip, repair, maintain, or operate any property necessary for and incidental to the operation of a fire and police force.~~

~~(7) To make and enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers under this section and to employ such employees and agents as may, in the judgment of the authority, be deemed necessary, and to fix their compensation; provided, however, that all such expenses shall be payable solely from funds made available under the provisions of this section.~~

~~(8) To contract with any department of State government or any unit of local government to provide services to the authority.~~

~~(9) To enter into contracts with the government of the United States or any agency or instrumentality thereof, or with any political subdivision, private corporation, copartnership, association, or individual providing for the provision of fire and police services within the Camp Butner Reservation.~~

~~(10) To receive and accept from any federal, State, or other public agency and any private agency, person, or other entity, donations, loans, grants, aid or contributions of any money, property, labor or other things of value for the operation of the authority and to agree to apply and use the same in accordance with the terms and conditions under which the same are provided if the same are otherwise lawful.~~

~~(11) To provide for the defense of civil and criminal actions and payment of civil judgments against employees and officers or former employees and officers and members or former members of the governing body, as authorized by G.S. 160A-167.~~

~~(12) To periodically review and recommend changes to the operational policy for the authority.~~

~~(13) To develop and adopt an annual budget for the authority which it shall request to be funded by the State and the Town of Butner as set out in this section and to revise the annual budget based on funding actually received and the needs of the authority.~~

~~(14) To do all acts and things necessary or convenient to carry out the powers granted by this section.~~

~~(15) To purchase real or personal property, as provided by G.S. 160A-20 or this Article.~~

(a5) Police and Fire Protection. – ~~Subject to the provisions of subsection (d) of this section, the authority shall employ or contract~~ The Town of Butner may contract ~~with a State agency or unit of local government~~ with the State of North Carolina or any state agency for the provision of special police officers or fire protection or both to any State or federal institution or lands within ~~for~~ the territory of the Camp Butner Reservation. The territorial jurisdiction of these officers shall consist of the property shown on a map produced May 20, 2003, by the Information Systems Division of the North Carolina General Assembly and kept on file in the office of the Butner Town Manager ~~and in the office of the Director of the authority~~ and such additional areas which are within the incorporated limits of the Town of Butner as shown on a map to be kept in the office of the Butner Town Manager. ~~Manager and in the office of the Director of the authority. The special police officers assigned to the authority shall be organized into a public safety department for that territory.~~

(b) Authority of Special Police Officers. – In order to assist the Town of Butner in providing contractual services to State agencies and facilities within the territorial jurisdiction set out in subsection (a5) of this section, the officers providing police services to the Town of Butner shall have the additional authority set out in this subsection. After taking the oath of office required for law-enforcement officers, the special police officers authorized by this section shall have the authority of deputy sheriffs of Durham and Granville Counties in those

counties respectively. Within the territorial jurisdiction stated in subsection (a5) of this section, the special police officers have the ~~primary responsibility~~ authority to enforce the laws of North Carolina, the ordinances of the Town of Butner, and any rule applicable to the Camp Butner Reservation adopted under authority of this Part or under G.S. 143-116.6 or G.S. 143-116.7 or under the authority granted any other agency of the State and also have the powers set forth for firemen in Articles 80, 82, and 83 of Chapter 58 of the General Statutes. Notwithstanding the foregoing, the Town of Butner has no obligation or responsibility to provide law enforcement or fire protection services outside of the corporate limits of the Town of Butner except pursuant to a contract with a State agency or facility, a federal entity, or a private person or entity. In the event that any State agency contracts with the Town of Butner for police services at any facility within the territorial jurisdiction described in subsection (a5) of this section, ~~Any~~ any civil or criminal process to be served on any individual confined at any such State facility ~~within the territorial jurisdiction described in subsection (a5) of this section shall~~ may be forwarded by the sheriff of the county in which the process originated to the director or chief of the Town of Butner's law enforcement department or that officer's designee.~~Director of the authority. Special police officers authorized by this section shall be assigned to transport any individual transferred to or from any State facility within the territorial jurisdiction described in subsection (a5) of this section to or from the psychiatric service of the University of North Carolina Hospitals at Chapel Hill.~~

~~(c) Funding. The authority shall contract with the State to provide fire and police protection to those portions of the Camp Butner Reservation outside of the corporate limits of the Town of Butner. The authority shall also contract with the Town of Butner to provide fire and police protection within the corporate limits of the Town of Butner. The contracts shall provide for the following:~~

~~(1) To fund the operations of the authority for the fiscal year beginning July 1, 2011, the State shall pay to the authority the sum of one million eight hundred eighty-five thousand one hundred eighty-one dollars ($1,885,181) and the Town of Butner shall pay to the authority the sum of one million seven hundred eighty-two thousand nine hundred ninety-five dollars ($1,782,995). The authority shall keep detailed time records tracking the amount of time spent providing fire and police protection both within and outside the corporate limits of the Town of Butner. Funding provided by the State pursuant to the contract in subsequent fiscal years shall be a percentage of the total budget set by the authority members determined by multiplying the total budget set by the authority by a fraction, the numerator of which shall be the hours spent by the authority providing services outside of the corporate limits of the Town of Butner and the denominator of which shall be the total hours the authority provided services both within the corporate limits of the Town of Butner and outside the corporate limits of the Town of Butner. The authority may also contract with any department of State government to provide services within the Camp Butner Reservation to that department; provided, however, the contract with such department shall provide enough revenue to fully cover the costs of providing such services, and any receipts or expenditures pursuant to such a contract shall not be considered in setting each party's contribution percentage. The foregoing notwithstanding, neither party's contribution percentage shall increase or decrease more than ten percent (10%) per fiscal year.~~

~~(2) The State and the Town of Butner each shall pay to the authority, on or before July 1 of each year, an amount equal to its funding percentage as described in subdivision (1) of this subsection.~~

~~(3) Repealed by Session Laws 2011-260, s. 1, effective June 23, 2011.~~

~~(4) Repealed by Session Laws 2011-260, s. 1, effective June 23, 2011.~~

~~(d) Provision of Services. – The authority may contract with the Secretary of Public Safety to provide fire and police protection to the Camp Butner Reservation and the corporate limits of the Town of Butner on such terms and conditions as the parties may agree. In such event, the employees of the Department of Public Safety shall remain employees of the State. While the contract between the Secretary of Public Safety and the Town of Butner is in effect, the Secretary of Public Safety shall consult with the voting members of the authority concerning the Department's hiring of the Director of the authority. The consultation shall include, but not be limited to, the voting members of the authority reviewing and providing their comments to the Secretary of Public Safety on the credentials of the applicants for said position. In performing its functions under this subsection, the voting members of the authority shall have the same access to the applicants' personnel records pursuant to Article 7 of Chapter 126 of the General Statutes as the Secretary of Public Safety and are subject to the same restraints concerning the personnel information as set out in that Article. After consultation with the authority, the Secretary of Public Safety shall select and hire the Director of the authority.~~

~~(e) Dissolution. – In the event that either the Town of Butner or the State fails to pay the authority its percentage share of the authority's budget as described in this section, the nonpaying party shall cease to be a participant in the authority at the expiration of the fiscal year for which it has last paid its percentage share of the budget for the authority. The remaining participant may file a notice with the Secretary of State indicating that it is the sole remaining participant in the authority. All of the property of the authority shall remain with the authority. At the expiration of the fiscal year for which the nonpaying party last paid its percentage share of the budget for the authority or at any time thereafter, the remaining participant in the authority also may file articles of dissolution dissolving the authority with the Secretary of State. In the case of such dissolution, the property of the authority shall be distributed to the remaining party filing the articles of dissolution.~~"

SECTION 16B.4.(c) G.S. 143-341(8)(i)(3) reads as rewritten:

"§ **143-341. Powers and duties of Department.**

The Department of Administration has the following powers and duties:

…

(8) General Services:

…

i. To establish and operate a central motor pool and such subsidiary related facilities as the Secretary may deem necessary, and to that end:

…

3. To require on a schedule determined by the Department all State agencies to transfer ownership, custody or control of any or all passenger motor vehicles within the ownership, custody or control of that agency to the Department, except those motor vehicles under the ownership, custody or control of the Highway Patrol, the State Bureau of Investigation, or the constituent institutions of The University of North Carolina which are used primarily for law-enforcement ~~purposes, and except those motor vehicles under the ownership, custody or control of the Department of Public Safety for Butner Public Safety which are used primarily for law-enforcement, fire, or emergency purposes.~~purposes."

SECTION 16B.4.(d) G.S. 160A-288(d) reads as rewritten:

"(d) For purposes of this section, the following shall be considered the equivalent of a municipal police department:

(1) Campus law-enforcement agencies established pursuant to G.S. 115D-21.1(a) or G.S. 116-40.5(a).

(2) Colleges or universities which are licensed, or exempted from licensure, by G.S. 116-15 and which employ company police officers commissioned by the Attorney General pursuant to Chapter 74E or Chapter 74G of the General Statutes.

(3) Law enforcement agencies operated or eligible to be operated by a municipality pursuant to G.S. 63-53(2).

~~(4) Butner Public Safety Authority.~~

(5) A Company Police agency of the Department of Agriculture and Consumer Services commissioned by the Attorney General pursuant to Chapter 74E of the General Statutes."

SECTION 16B.4.(e) G.S. 160A-288.2(d) reads as rewritten:

"(d) For the purposes of this section, the following shall be considered the equivalent of a municipal police department:

(1) Campus law-enforcement agencies established pursuant to G.S. 116-40.5(a).

(2) Colleges or universities which are licensed, or exempted from licensure, by G.S. 116-15 and which employ company police officers commissioned by the Attorney General pursuant to Chapter 74E or Chapter 74G of the General Statutes.

~~(3) Butner Public Safety Authority.~~"

VOICE INTEROPERABILITY PLAN FOR EMERGENCY RESPONSE (VIPER) SYSTEM

SECTION 16B.5.(a) It is the intent of the General Assembly to continue to support development and implementation of the State's Voice Interoperability Plan for Emergency Response (VIPER) system in subsequent fiscal years. The Department is hereby authorized to spend up to five million dollars ($5,000,000) during the 2013-2014 fiscal year and ten million dollars ($10,000,000) during the 2014-2015 fiscal year to continue development and implementation of the State's VIPER system by constructing towers that will facilitate system expansion. Notwithstanding any other provision of law, State agencies, offices, commissions, and non-State entities shall not spend more than the amount of State funds authorized in this section for this purpose during the 2013-2015 fiscal biennium. This prohibition shall not be construed to prevent the expenditure of federal funds. This section does not impair or authorize the breach of any contract and instead affects the availability of appropriated funds within the meaning of G.S. 143C-6-8 and the terms of the North Carolina Information Technology Procurement Office General Terms and Conditions for Goods and Related Services related to availability of funds as specified in the applicable contract or contract extension.

SECTION 16B.5.(b) The Department of Public Safety shall report to the Chairs of the Joint Legislative Oversight Committee on Justice and Public Safety on a quarterly basis on the progress of the State's VIPER system.

STATE CAPITOL POLICE/RECEIPT-SUPPORTED POSITIONS

SECTION 16B.6. The State Capitol Police may contract with State agencies for the creation of receipt-supported positions to provide security services to the buildings occupied by those agencies.

ALCOHOL LAW ENFORCEMENT REPORTS

SECTION 16B.7.(a) No later than October 1, 2013, the Department of Public Safety shall report to the Chairs of the Senate Appropriations Committee on Justice and Public Safety and to the Chairs of the House Appropriations Subcommittee on Justice and Public Safety on measures being taken, or that will be taken, to meet the recurring reduction in funding for the Alcohol Law Enforcement Section that is set forth in this act.

SECTION 16B.7.(b) No later than October 1, 2013, the Department of Public Safety shall report to the Chairs of the Joint Legislative Oversight Committee on Justice and

Public Safety on the mission and organization of the Alcohol Law Enforcement Section, changes to the mission or organization of the Section being considered by the Department, and recommendations for any statutory changes that would be needed in order to implement any changes being considered.

SUBPART XVI-C. DIVISION OF ADULT CORRECTION

LIMIT USE OF OPERATIONAL FUNDS

SECTION 16C.1. Funds appropriated in this act to the Department of Public Safety for operational costs for additional facilities shall be used for personnel and operating expenses set forth in the budget approved by the General Assembly. These funds shall not be expended for any other purpose, except as provided for in this act, and shall not be expended for additional prison personnel positions until the new facilities are within 120 days of projected completion, except that the Department may establish critical positions prior to 120 days of completion representing no more than twenty percent (20%) of the total estimated number of positions.

REIMBURSE COUNTIES FOR HOUSING AND EXTRAORDINARY MEDICAL COSTS FOR INMATES, PAROLEES, AND POST-RELEASE SUPERVISEES AWAITING TRANSFER TO STATE PRISON SYSTEM

SECTION 16C.2. Notwithstanding G.S. 143C-6-9, the Department of Public Safety may use funds available to the Department for the 2013-2015 fiscal biennium to pay the sum of forty dollars ($40.00) per day as reimbursement to counties for the cost of housing convicted inmates, parolees, and post-release supervisees awaiting transfer to the State prison system, as provided in G.S. 148-29. The Department shall report quarterly to the Chairs of the Joint Legislative Oversight Committee on Justice and Public Safety and the Chairs of the House of Representatives Appropriations Subcommittee on Justice and Public Safety and Senate Appropriations Committee on Justice and Public Safety on the expenditure of funds to reimburse counties for prisoners awaiting transfer and on its progress in reducing the jail backlog.

CENTER FOR COMMUNITY TRANSITIONS/CONTRACT AND REPORT

SECTION 16C.3. The Department of Public Safety may continue to contract with The Center for Community Transitions, Inc., a nonprofit corporation, for the purchase of prison beds for minimum security female inmates during the 2013-2015 fiscal biennium. The Center for Community Transitions, Inc., shall report by February 1 of each year to the Chairs of the House of Representatives Appropriations Subcommittee on Justice and Public Safety and the Senate Appropriations Committee on Justice and Public Safety on the annual cost per inmate and the average daily inmate population compared to bed capacity using the same methodology as that used by the Department of Public Safety.

INMATE MEDICAL COSTS

SECTION 16C.4.(a) The Department of Public Safety shall reimburse those providers and facilities providing approved inmate medical services outside the correctional facility the lesser amount of either a rate of seventy percent (70%) of the provider's then-current prevailing charge or two times the then-current Medicaid rate for any given service. The Department shall have the right to audit any given provider to determine the actual prevailing charge to ensure compliance with this provision.

This section does apply to vendors providing services that are not billed on a fee-for-service basis, such as temporary staffing. Nothing in this section shall preclude the Department from contracting with a provider for services at rates that provide greater documentable cost avoidance for the State than do the rates contained in this section or at rates that are less favorable to the State but that will ensure the continued access to care.

SECTION 16C.4.(b) The Department of Public Safety shall make every effort to contain inmate medical costs by making use of its own hospital and health care facilities to provide health care services to inmates. To the extent that the Department of Public Safety must utilize other facilities and services to provide health care services to inmates, the Department shall make reasonable efforts to make use of hospitals or other providers with which it has a contract or, if none is reasonably available, hospitals with available capacity or other health care facilities in a region to accomplish that goal. The Department shall make reasonable efforts to equitably distribute inmates among all hospitals or other appropriate health care facilities.

SECTION 16C.4.(c) The Department of Public Safety shall report to the Joint Legislative Oversight Committee on Justice and Public Safety and the Chairs of the House of Representative Appropriations Subcommittee on Justice and Public Safety and the Senate Appropriations Committee on Justice and Public Safety no later than November 1, 2013, and quarterly thereafter on:

(1) The percentage of the total inmates requiring hospitalization or hospital services who receive that treatment at each hospital.
(2) The volume of services provided by community medical providers that can be scheduled in advance and, of that volume, the percentage of those services that are provided by contracted providers.
(3) The volume of services provided by community medical providers that cannot be scheduled in advance and, of that volume, the percentage of those services that are provided by contracted providers.
(4) The volume of services provided by community medical providers that are emergent cases requiring hospital admissions and emergent cases not requiring hospital admissions.
(5) The volume of inpatient medical services provided to Medicaid-eligible inmates, the cost of treatment, and the estimated savings of paying the nonfederal portion of Medicaid for the services.
(6) The status of the Division's efforts to contract with hospitals to provide secure wards in each of the State's five prison regions.

ANNUAL REPORT ON SAFEKEEPERS

SECTION 16C.5. The Department of Public Safety shall report by October 1 of each year to the Chairs of the House of Representatives Appropriations Subcommittee on Justice and Public Safety, the Chairs of the Senate Appropriations Committee on Justice and Public Safety, and the Chairs of the Joint Legislative Oversight Committee on Justice and Public Safety on county prisoners housed in the State prison system pursuant to safekeeping orders under G.S. 162-39(b) to avoid security risks in county jails or due to insufficient or inadequate county facilities. The report shall include:

(1) The number of safekeepers currently housed by the Department.
(2) A list of the facilities where safekeepers are housed and the population of safekeepers by facility.
(3) The average length of stay by a safekeeper in one of those facilities.
(4) The amount paid by counties for housing and extraordinary medical care of safekeepers.
(5) A list of the counties in arrears for safekeeper payments owed to the Department at the end of the fiscal year.

STATEWIDE MISDEMEANANT CONFINEMENT PROGRAM

SECTION 16C.6.(a) G.S. 148-10.4(e) reads as rewritten:

"(e) Operating and Administrative Expenses. – ~~Ten percent (10%)~~Five percent (5%) of the monthly receipts collected and credited to the Statewide Misdemeanant Confinement ~~Fund~~ Fund, not to exceed the sum of one million dollars ($1,000,000) annually, shall be transferred

on a monthly basis to the Sheriffs' Association to be used to support the Program and for administrative and operating expenses of the Association and its staff. One percent (1%) of the monthly receipts collected and credited to the Statewide Misdemeanant Confinement Fund shall be transferred on a monthly basis to the General Fund to be allocated to the Division of Adult Correction for its administrative and operating expenses for the Program."

SECTION 16C.6.(b) The North Carolina Sheriffs' Association shall report by October 1 of each year to the Chairs of the House of Representatives Appropriations Subcommittee on Justice and Public Safety, the Chairs of the Senate Appropriations Committee on Justice and Public Safety, and the Joint Legislative Oversight Committee on Justice and Public Safety on the Statewide Misdemeanant Confinement Program. The report shall include the following with respect to the prior fiscal year:

(1) Revenue collected by the Statewide Misdemeanant Confinement Program.
(2) The cost of housing prisoners by county under the Program.
(3) The cost of transporting prisoners by county under the Program.
(4) Personnel costs by county.
(5) Inmate medical care costs by county.
(6) The number of counties that volunteer to house inmates under the Program.
(7) The administrative costs paid to the Sheriffs' Association and to the Department of Public Safety.

INMATE CONSTRUCTION PROGRAM

SECTION 16C.7. Notwithstanding G.S. 66-58 or any other provision of law, during the 2013-2015 fiscal biennium, the State Construction Office may, wherever feasible, utilize inmates in the custody of the Division of Adult Correction of the Department of Public Safety through the Inmate Construction Program for repair and renovation projects on State-owned facilities, with priority given to Department of Public Safety construction projects.

REPORT ON PROBATION AND PAROLE CASELOADS

SECTION 16C.10. Article 13 of Chapter 143B of the General Statutes is amended by adding a new section to read:

"§ **143B-707.1. Report on probation and parole caseloads.**

(a) The Department of Public Safety shall report by March 1 of each year to the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety and the Joint Legislative Oversight Committee on Justice and Public Safety on caseload averages for probation and parole officers. The report shall include:

(1) Data on current caseload averages and district averages for probation/parole officer positions.
(2) Data on current span of control for chief probation officers.
(3) An analysis of the optimal caseloads for these officer classifications.
(4) The number and role of paraprofessionals in supervising low-risk caseloads.
(5) The process of assigning offenders to an appropriate supervision level based on a risk/needs assessment.
(6) Data on cases supervised solely for the collection of court-ordered payments.

(b) The Department of Public Safety shall report by March 1 of each year to the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety and the Joint Legislative Oversight Committee on Justice and Public Safety on the following:

(1) The number of sex offenders enrolled on active and passive GPS monitoring.
(2) The caseloads of probation officers assigned to GPS-monitored sex offenders.
(3) The number of violations.
(4) The number of absconders.

(5) The projected number of offenders to be enrolled by the end of the fiscal year."

PAROLE ELIGIBILITY REPORT/MUTUAL AGREEMENT PAROLE PROGRAM/MEDICAL RELEASE PROGRAM

SECTION 16C.11.(a) The Post-Release Supervision and Parole Commission shall, with the assistance of the North Carolina Sentencing and Policy Advisory Commission and the Department of Public Safety, analyze the amount of time each inmate who is eligible for parole on or before July 1, 2014, has served compared to the time served by offenders under Structured Sentencing for comparable crimes. The Commission shall determine if the person has served more time in custody than the person would have served if sentenced to the maximum sentence under the provisions of Article 81B of Chapter 15A of the General Statutes. The "maximum sentence," for the purposes of this section, shall be calculated as set forth in subsection (b) of this section.

SECTION 16C.11.(b) For the purposes of this section, the following rules apply for the calculation of the maximum sentence:

(1) The offense upon which the person was convicted shall be classified as the same felony class as the offense would have been classified if committed after the effective date of Article 81B of Chapter 15A of the General Statutes.

(2) The minimum sentence shall be the maximum number of months in the presumptive range of minimum durations in Prior Record Level VI of G.S. 15A-1340.17(c) for the felony class determined under subdivision (1) of this subsection. The maximum sentence shall be calculated using G.S. 15A-1340.17(d), (e), or (e1).

(3) If a person is serving sentences for two or more offenses that are concurrent in any respect, then the offense with the greater classification shall be used to determine a single maximum sentence for the concurrent offenses. The fact that the person has been convicted of multiple offenses may be considered by the Commission in making its determinations under subsection (a) of this section.

SECTION 16C.11.(c) The Post-Release Supervision and Parole Commission shall report to the Chairs of the Joint Legislative Oversight Committee on Justice and Public Safety, the Chairs of the House of Representatives Appropriations Subcommittee on Justice and Public Safety, and the Chairs of the Senate Appropriations Committee on Justice and Public Safety by April 1, 2014. The report shall include the following: the class of the offense for which each parole-eligible inmate was convicted and whether an inmate had multiple criminal convictions. The Commission shall reinitiate the parole review process for each offender who has served more time than that person would have under Structured Sentencing as provided by subsections (a) and (b) of this section.

The Commission shall also report on the number of parole-eligible inmates reconsidered in compliance with this section and the number who were actually paroled.

SECTION 16C.11.(d) Article 13 of Chapter 143B of the General Statutes is amended by adding a new section to read:

"**§ 143B-707.2. Mutual agreement parole program report; medical release program report.**

(a) The Department of Public Safety and the Post-Release Supervision and Parole Commission shall report by March 1 of each year to the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety and to the Chairs of the Joint Legislative Oversight Committee on Justice and Public Safety on the number of inmates enrolled in the mutual agreement parole program, the number completing the program and being paroled, and the number who enrolled but were terminated from the program. The information should be based on the previous calendar year.

(b) The Department of Public Safety and the Post-Release Supervision and Parole Commission shall report by March 1 of each year to the Chairs of the House of Representatives Appropriations Subcommittee on Justice and Public Safety, to the Chairs of the Senate Appropriations Committee on Justice and Public Safety, and to the Chairs of the Joint Legislative Oversight Committee on Justice and Public Safety on the number of inmates proposed for release, considered for release, and granted release under Chapter 84B of Chapter 15A of the General Statutes, providing for the medical release of inmates who are either permanently and totally disabled, terminally ill, or geriatric."

REPORT ON TREATMENT FOR EFFECTIVE COMMUNITY SUPERVISION

SECTION 16C.12. The Division of Community Corrections shall report by March 1 of each year to the Chairs of the House of Representatives Appropriations Subcommittee on Justice and Public Safety, the Chairs of the Senate Appropriations Committee on Justice and Public Safety, and the Chairs of the Joint Legislative Oversight Committee on Justice and Public Safety on the status of the Treatment for Effective Community Supervision (TECS) program. The report shall include the following information:

(1) The amount of funds carried over from the prior fiscal year.
(2) The dollar amount and purpose of contracts awarded to vendors for the current fiscal year.
(3) An update on efforts to ensure that all counties make use of the electronic reporting system, including the number of counties submitting offender participation via the system.
(4) An analysis of offender participation data received, including data on each program's utilization, capacity, and completion rates.
(5) The number of offenders served by each contracted vendor.
(6) The outcome measures for program participants, including the rates of recidivism, employment status, and educational progress of participants.

JUSTICE REINVESTMENT ACT/LIMITED AUTHORITY TO RECLASSIFY VACANT POSITIONS

SECTION 16C.13.(a) Notwithstanding any other provision of law, subject to the approval of the Director of the Budget, the Secretary of Public Safety may reclassify vacant positions within the Department to create up to 30 new field services specialist or chief probation/parole officer positions in order to meet the increasing caseloads resulting from the implementation of the Justice Reinvestment Act of 2011, S.L. 2011-192, as amended.

SECTION 16C.13.(b) The Department of Public Safety shall report to the Chairs of the Senate Appropriations Committee on Justice and Public Safety and the House Appropriations Subcommittee on Justice and Public Safety by March 1, 2014, on the following:

(1) The position number, position type, salary, and position location of each new position created under the authority of this section.
(2) The position number, position type, fund code, and position location of each vacant position used to create new positions under the authority of this section.

REPORT ON USE OF BROADEN ACCESS FOR COMMUNITY TREATMENT PROGRAM FUNDS

SECTION 16C.14. The Division of Community Corrections shall report by September 1, 2015, and September 1, 2016, to the Chairs of the House of Representatives Appropriations Subcommittee on Justice and Public Safety and to the Chairs of the Senate Appropriations Committee on Justice and Public Safety on the status of the Broaden Access for Community Treatment Program. The report shall include the following information:

(1) The amount of funds carried over from the prior fiscal year.

(2) The dollar amount and purpose of contracts awarded to vendors for the current fiscal year.
(3) An analysis of offender participation data received, including data on each program's utilization, capacity, and completion rates.
(4) The number of offenders served by each contracted vendor.
(5) The outcome measures for program participants, including the rates of recidivism, employment status, and educational progress of participants.

REQUIRE THAT ALL INMATES IN THE CUSTODY OF THE DIVISION OF ADULT CORRECTION OF THE DEPARTMENT OF PUBLIC SAFETY BE TESTED FOR HIV INFECTION

SECTION 16C.15.(a) Article 2 of Chapter 148 of the General Statutes is amended by adding a new section to read:

"**§ 148-19.2. Mandatory HIV testing.**

Each person sentenced to imprisonment and committed to the custody of the Division of Adult Correction of the Department of Public Safety shall be tested to determine whether the person is HIV positive.

Each inmate who has not previously tested positive for HIV shall also be tested:

(1) Not less than once every four years from the date of that inmate's initial testing.
(2) Prior to the inmate's release from the custody of the Division of Adult Correction, except that testing is not mandatory prior to the release of an inmate who has been tested within one year of the inmate's release date.

In each case, the results of the test shall be reported to the inmate. If an inmate tests positive for HIV, that inmate shall be referred to public health officials for counseling."

SECTION 16C.15.(b) This section becomes effective July 1, 2013. All inmates in the custody of the Division of Adult Correction on July 1, 2013, who have not previously been tested for HIV shall be tested by October 1, 2013.

ELECTRONIC MONITORING FEE

SECTION 16C.16.(a) G.S. 15A-1343(c2) reads as rewritten:

"(c2) Electronic Monitoring Device ~~Fee.~~ Fees. – Any person placed on house arrest with electronic monitoring under subsection (b1) of this section shall pay a fee of ninety dollars ($90.00) for the electronic monitoring ~~device.~~device and a daily fee in an amount that reflects the actual cost of providing the electronic monitoring. The court may exempt a person from paying the ~~fee~~ fees only for good cause and upon motion of the person placed on house arrest with electronic monitoring. The court may require that the ~~fee~~ fees be paid in advance or in a lump sum or sums, and a probation officer may require payment by those methods if the officer is authorized by subsection (g) of this section to determine the payment schedule. The ~~fee~~ fees must be paid to the clerk of court for the county in which the judgment was entered or the deferred prosecution agreement was filed. Fees collected under this subsection for the electronic monitoring device shall be transmitted to the State for deposit into the State's General Fund. The daily fees collected under this subsection shall be remitted to the Department of Public Safety to cover the costs of providing the electronic monitoring."

SECTION 16C.16.(b) This section becomes effective August 1, 2013, and applies to persons placed on house arrest with electronic monitoring on or after that date.

SUBPART XVI-D. DIVISION OF JUVENILE JUSTICE

ANNUAL EVALUATION OF COMMUNITY PROGRAMS AND MULTIPLE PURPOSE GROUP HOMES

SECTION 16D.1. Subpart B of Part 3 of Article 13 of Chapter 143B of the General Statutes is amended by adding a new section to read:

"**§ 143B-811. Annual evaluation of community programs and multiple purpose group homes.**

The Department of Public Safety shall conduct an annual evaluation of the community programs and of multipurpose group homes. In conducting the evaluation of each of these, the Department shall consider whether participation in each program results in a reduction of court involvement among juveniles. The Department shall also determine whether the programs are achieving the goals and objectives of the Juvenile Justice Reform Act, S.L. 1998-202.

The Department shall report the results of the evaluation to the Chairs of the Joint Legislative Oversight Committee on Justice and Public Safety and the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety by March 1 of each year."

JUVENILE CRIME PREVENTION COUNCIL FUNDS

SECTION 16D.2.(a) Subpart F of Part 3 of Article 13 of Chapter 143B of the General Statutes is amended by adding a new section to read:

"**§ 143B-852. Department of Public Safety to report on Juvenile Crime Prevention Council grants.**

(a) On or before February 1 of each year, the Department of Public Safety shall submit to the Chairs of the Joint Legislative Commission on Governmental Operations and the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety a list of the recipients of the grants awarded, or preapproved for award, from funds appropriated to the Department for local Juvenile Crime Prevention Council (JCPC) grants, including the following information:

(1) The amount of the grant awarded.

(2) The membership of the local committee or council administering the award funds on the local level.

(3) The type of program funded.

(4) A short description of the local services, programs, or projects that will receive funds.

(5) Identification of any programs that received grant funds at one time but for which funding has been eliminated by the Department.

(6) The number of at-risk, diverted, and adjudicated juveniles served by each county.

(7) The Department's actions to ensure that county JCPCs prioritize funding for dispositions of intermediate and community-level sanctions for court-adjudicated juveniles under minimum standards adopted by the Department.

(8) The total cost for each funded program, including the cost per juvenile and the essential elements of the program.

(b) On or before February 1 of each year, the Department of Public Safety shall send to the Fiscal Research Division of the Legislative Services Commission an electronic copy of the list and information required under subsection (a) of this section."

SECTION 16D.2.(b) Of the funds appropriated by this act for the 2013-2015 fiscal biennium to the Department of Public Safety for Juvenile Crime Prevention Council grants, the sum of one hundred twenty-one thousand six hundred dollars ($121,600) for the 2013-2014 fiscal year and the sum of one hundred twenty-one thousand six hundred dollars ($121,600) for the 2014-2015 fiscal year shall be transferred to Project Challenge North Carolina, Inc., to be used for the continued support of Project Challenge programs throughout the State.

YOUTH DEVELOPMENT CENTER ANNUAL REPORT

SECTION 16D.3. Subpart B of Part 3 of Article 13 of Chapter 143B of the General Statutes is amended by adding a new section to read:

"**§ 143B-810. Youth Development Center annual report.**

The Department of Public Safety shall report by October 1 of each year to the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety, the Chairs of the Joint Legislative Oversight Committee on Justice and Public Safety, and the Fiscal Research Division of the Legislative Services Commission on the Youth Development Center (YDC) population, staffing, and capacity in the preceding fiscal year. Specifically, the report shall include all of the following:

(1) The on-campus population of each YDC, including the county the juveniles are from.
(2) The housing capacity of each YDC.
(3) A breakdown of staffing for each YDC, including number, type of position, position title, and position description.
(4) The per-bed and average daily population cost for each facility.
(5) The operating cost for each facility, including personnel and nonpersonnel items.
(6) A brief summary of the treatment model, education, services, and plans for reintegration into the community offered at each facility.
(7) The average length of stay in the YDCs.
(8) The number of incidents of assaults and attacks on staff at each facility."

JUVENILE FACILITY MONTHLY COMMITMENT REPORT

SECTION 16D.4. Subpart C of Part 3 of Article 13 of Chapter 143B of the General Statutes is amended by adding a new section to read:

"**§ 143B-822. Juvenile facility monthly commitment report.**

The Department of Public Safety shall report electronically on the first day of each month to the Fiscal Research Division regarding each juvenile correctional facility and the average daily population for the previous month. The report shall include (i) the average daily population for each detention center and (ii) the monthly summary of the Committed Youth Report."

LIMIT USE OF COMMUNITY PROGRAM FUNDS

SECTION 16D.5.(a) Funds appropriated in this act to the Department of Public Safety for the 2013-2015 fiscal biennium for community program contracts that are not required for or used for community program contracts shall only be used for the following:

(1) Other statewide residential programs that provide Level 2 intermediate dispositional alternatives for juveniles.
(2) Statewide community programs that provide Level 2 intermediate dispositional alternatives for juveniles.
(3) Regional programs that are collaboratives of two or more Juvenile Crime Prevention Councils which provide Level 2 intermediate dispositional alternatives for juveniles.
(4) The Juvenile Crime Prevention Council grants fund to be used for the Level 2 intermediate dispositional alternatives for juveniles listed in G.S. 7B-2506(13) through (23).

SECTION 16D.5.(b) Under no circumstances shall funds appropriated by this act to the Department of Public Safety for the 2013-2015 fiscal biennium for community programs be used for staffing, operations, maintenance, or any other expenses of youth development centers or detention facilities.

SECTION 16D.5.(c) The Department of Public Safety shall submit an electronic report by October 1, 2013, and a second electronic report by October 1, 2014, on all expenditures made from the miscellaneous contract line in Fund Code 1230 to the Chairs of the House of Representatives Appropriations Subcommittee on Justice and Public Safety, the Chairs of the Senate Appropriations Committee on Justice and Public Safety, and the Fiscal Research Division. The report shall include all of the following: an itemized list of the contracts

that have been executed, the amount of each contract, the date the contract was executed, the purpose of the contract, the number of juveniles that will be served and the manner in which they will be served, the amount of money transferred to the Juvenile Crime Prevention Council fund, and an itemized list of grants allocated from the funds transferred to the Juvenile Crime Prevention Council fund.

MULTIPURPOSE GROUP HOME

SECTION 16D.6. Of the funds appropriated in this act to the Department of Public Safety for the Division of Juvenile Justice for the 2013-2015 fiscal biennium, the sum of five hundred fifty thousand dollars ($550,000) for the 2013-2014 fiscal year and the sum of five hundred fifty thousand dollars ($550,000) for the 2014-2015 fiscal year shall be used to continue operating a multipurpose group home in Craven County.

ADMINISTRATION OF JUVENILE JUSTICE DIVISION

SECTION 16D.7.(a) G.S. 143B-600(b) reads as rewritten:

"(b) The powers and duties of the deputy ~~secretaries~~ secretaries, commissioners, directors, and the ~~respective~~ divisions of the Department shall be subject to the direction and control of the Secretary of Public Safety."

SECTION 16D.7.(b) G.S. 143B-806(b), as amended by Section 5 of S.L. 2013-289, reads as rewritten:

"(b) ~~The head of the Division is the Commissioner of Juvenile Justice with the following powers and duties:~~The Secretary shall have the following powers and duties and may delegate those powers and duties to the appropriate deputy secretary, commissioner, or director within the Department of Public Safety:

…."

SECTION 16D.7.(c) G.S. 153A-221.1 reads as rewritten:

"§ **153A-221.1. Standards and inspections.**

The legal responsibility of the ~~Chief Deputy Secretary of~~ Division of Juvenile Justice of the Department of Public Safety for State services to county juvenile detention homes under this Article is hereby confirmed and shall include the following: development of State standards under the prescribed procedures; inspection; consultation; technical assistance; and training.

The Secretary of Health and Human Services, in consultation with the ~~Chief Deputy Secretary of Juvenile Justice of the Department~~ Secretary of Public Safety, shall also develop standards under which a local jail may be approved as a holdover facility for not more than five calendar days pending placement in a juvenile detention home which meets State standards, providing the local jail is so arranged that any child placed in the holdover facility cannot converse with, see, or be seen by the adult population of the jail while in the holdover facility. The personnel responsible for the administration of a jail with an approved holdover facility shall provide close supervision of any child placed in the holdover facility for the protection of the child."

STATE FUNDS MAY BE USED AS FEDERAL MATCHING FUNDS

SECTION 16D.8. Funds appropriated in this act to the Department of Public Safety for each fiscal year of the 2013-2015 fiscal biennium may be used as matching funds for the Juvenile Accountability Incentive Block Grants. If North Carolina receives Juvenile Accountability Incentive Block Grants or a notice of funds to be awarded, the Office of State Budget and Management and the Governor's Crime Commission shall consult with the Department of Public Safety regarding the criteria for awarding federal funds. The Office of State Budget and Management, the Governor's Crime Commission, and the Department of Public Safety shall report to the Chairs of the Senate Appropriations Committee on Justice and Public Safety, the House of Representatives Appropriations Subcommittee on Justice and Public Safety, and the Joint Legislative Commission on Governmental Operations prior to allocation of the federal funds. The report shall identify the amount of funds to be received for

the 2013-2014 fiscal year, the amount of funds anticipated for the 2014-2015 fiscal year, and the allocation of funds by program and purpose.

DOBBS YOUTH DEVELOPMENT CENTER KITCHEN REPAIRS

SECTION 16D.9. The Department of Public Safety shall ensure that the kitchen facility at the Dobbs Youth Development Center is operational by October 1, 2013.

PART XVII. DEPARTMENT OF JUSTICE

ANNUAL REPORTING ON ATTORNEY ACTIVITY

SECTION 17.1.(a) Beginning on August 1, 2014, and every year thereafter, the Attorney General shall report on the work of Department of Justice attorneys during the previous year. The reports required by this section shall be filed with the Chairs of the House of Representatives Appropriations Subcommittee on Justice and Public Safety, with the Chairs of the Senate Appropriations Committee on Justice and Public Safety, with the Chairs of the Joint Legislative Oversight Committee on Justice and Public Safety, and with the Fiscal Research Division as follows:

(1) Litigation. – A report reflecting the amount of time spent by each attorney on litigation. The report shall include the following information:
   a. The amount of time spent working directly on civil litigation in a trial court, administrative forum, or appellate court for each specific State agency, board, commission, official, or other client.
   b. The amount of time spent working directly on civil litigation in a trial court, administrative forum, or appellate court involving cases in which there is not a specific State agency, board, commission, official, or other client named as a defendant.
   c. The amount of time spent working on criminal cases at the trial or appellate level.

(2) Other work. – A report reflecting the amount of time spent by each attorney providing legal services that did not directly involve litigation. The report shall include the following information:
   a. The amount of time spent providing legal services not directly involving litigation for each specific State agency, board, commission, or other client.
   b. The amount of time spent providing legal services for local government bodies, officials, and citizens.

(3) Billing. – A report reflecting the amount billed to each State agency, board, commission, or other client as required by G.S. 114-8.2.

SECTION 17.1.(b) Reports required by this section shall not include detailed information about the work of individual attorneys but shall instead include only summary information about Department of Justice attorney activity during the relevant period, which shall (i) be set forth using commonly employed measures of central tendency and (ii) which shall highlight and explain extreme deviations from applicable norms.

ANNUAL CRIME LAB REPORT

SECTION 17.2. Beginning on October 1, 2013, and yearly thereafter, the Attorney General shall report on the work of the North Carolina State Crime Laboratory during the previous fiscal year. The reports required by this section shall be filed with the Chairs of the Joint Legislative Oversight Committee on Justice and Public Safety and with the Fiscal Research Division. Each report shall include at least the following:

(1) Information about the workload of the Laboratory during the previous fiscal year, including the number of submissions, identified by forensic discipline, received at each location of the Laboratory.

(2) Information about the number of cases completed in the previous fiscal year, identified by forensic discipline, at each location of the Laboratory.
(3) A breakdown by county of the number of submissions received by the Laboratory in the previous fiscal year.
(4) An average estimate of the dollar and time cost to perform each type of procedure and analysis performed by the Laboratory.

DEVELOPMENT OF TRAINING PROGRAM ON PROPER PROCEDURES FOR SUBMISSION OF EVIDENCE TO THE CRIME LAB

SECTION 17.3.(a) The North Carolina State Crime Laboratory, in conjunction with the University of North Carolina School of Government and the Conference of District Attorneys, shall develop a training curriculum for district attorneys that shall include, but not be limited to, instruction on fundamentals of Laboratory forensic science disciplines, the Laboratory's electronic information system, and the Laboratory's case management guidelines. In order to ensure that it will be practicable to require all district attorneys in the State to receive the training in the future, the program shall be (i) designed with the time and resource constraints of district attorneys in mind and (ii) designed in a way that makes the program suitable for regional distribution and distribution through distance learning facilities at community colleges.

SECTION 17.3.(b) No later than October 1, 2013, the North Carolina State Crime Laboratory shall report its progress on developing the training program to the Chairs of the House of Representatives Appropriations Subcommittee on Justice and Public Safety, to the Chairs of the Senate Appropriations Committee on Justice and Public Safety, to the Chairs of the Joint Legislative Oversight Committee on Justice and Public Safety, and to the Fiscal Research Division.

USE OF TOXICOLOGY ANALYSIS FUNDS

SECTION 17.4. If the Attorney General determines that it is not appropriate to outsource toxicology cases due to legal or fiscal concerns involving analyst testimony, funds appropriated in this act for that purpose shall be reallocated to increase toxicology analysis capabilities within the North Carolina State Crime Laboratory.

NO HIRING OF SWORN STAFF POSITIONS FOR THE NORTH CAROLINA STATE CRIME LABORATORY

SECTION 17.5. The Department of Justice shall not hire sworn personnel to fill vacant positions in the North Carolina State Crime Laboratory. Nothing in this section shall be construed to require the termination of sworn personnel, but as vacant positions in the State Laboratory are filled, they shall be filled only with nonsworn personnel. Nothing in this section shall be construed to affect North Carolina State Crime Laboratory personnel who are sworn and employed by the Laboratory as of the effective date of this section and who continue to meet the sworn status retention standards mandated by the NC Criminal Justice Education and Standards Commission.

REMOVE THE NORTH CAROLINA STATE CRIME LABORATORY FROM THE STATE BUREAU OF INVESTIGATION

SECTION 17.6.(a) The North Carolina State Crime Laboratory and the State DNA Database and Databank are hereby transferred from the State Bureau of Investigation and shall be relocated elsewhere within the Department of Justice, as determined by the Attorney General.

SECTION 17.6.(b) No later than July 1, 2014, the Department of Justice shall begin budgeting the North Carolina State Crime Laboratory in a fund code that is separate from the remainder of the Department of Justice.

SECTION 17.6.(c) Chapter 114 of the General Statutes is amended by adding a new Article to read:

"Article 9.
North Carolina State Crime Laboratory."

SECTION 17.6.(d) G.S. 114-16 through G.S. 114-16.2 are recodified as G.S. 114-60 through G.S. 114-62 under Article 9 of Chapter 114 of the General Statutes, as created by subsection (c) of this section.

SECTION 17.6.(e) The following statutes are amended by deleting "SBI" wherever it appears and substituting "North Carolina State Crime Laboratory": G.S. 15A-146 and G.S. 15A-148.

SECTION 17.6.(f) The following statutes are amended by deleting "SBI" wherever it appears and substituting "Crime Laboratory": G.S. 15A-266.3, 15A-266.3A, 15A-266.5, 15A-266.6, 15A-266.7, 15A-266.8, 15A-266.9, 15A-266.12, 15A-267, and 15A-268.

SECTION 17.6.(g) G.S. 7A-304(a) reads as rewritten:

"(a) In every criminal case in the superior or district court, wherein the defendant is convicted, or enters a plea of guilty or nolo contendere, or when costs are assessed against the prosecuting witness, the following costs shall be assessed and collected. No costs may be assessed when a case is dismissed. Only upon entry of a written order, supported by findings of fact and conclusions of law, determining that there is just cause, the court may (i) waive costs assessed under this section or (ii) waive or reduce costs assessed under subdivisions (7) or (8) of this section.

…

(7) For the services of the North Carolina State Crime Laboratory facilities, the district or superior court judge shall, upon conviction, order payment of the sum of six hundred dollars ($600.00) to be remitted to the Department of Justice for support of the ~~State Bureau of Investigation.~~Laboratory. This cost shall be assessed only in cases in which, as part of the investigation leading to the defendant's conviction, the laboratories have performed DNA analysis of the crime, tests of bodily fluids of the defendant for the presence of alcohol or controlled substances, or analysis of any controlled substance possessed by the defendant or the defendant's agent.

(8) For the services of any crime laboratory facility operated by a local government or group of local governments, the district or superior court judge shall, upon conviction, order payment of the sum of six hundred dollars ($600.00) to be remitted to the general fund of the local governmental unit that operates the laboratory to be used for law enforcement purposes. The cost shall be assessed only in cases in which, as part of the investigation leading to the defendant's conviction, the laboratory has performed DNA analysis of the crime, test of bodily fluids of the defendant for the presence of alcohol or controlled substances, or analysis of any controlled substance possessed by the defendant or the defendant's agent. The costs shall be assessed only if the court finds that the work performed at the local government's laboratory is the equivalent of the same kind of work performed by the ~~State Bureau of Investigation~~North Carolina State Crime Laboratory under subdivision (7) of this subsection.

(9) For the support and services of the ~~State Bureau of Investigation~~State DNA Database and DNA Databank, the sum of two dollars ($2.00). This amount is annually appropriated to the Department of Justice for this purpose. Notwithstanding the provisions of subsection (e) of this section, this cost does not apply to infractions.

…."

SECTION 17.6.(h) G.S. 14-269.1(5) reads as rewritten:

"(5) By ordering such weapon turned over to the North Carolina State Crime Laboratory's weapons reference library for official use by that agency. The ~~State Bureau of Investigation~~ Laboratory shall maintain a record and inventory of all such weapons received."

SECTION 17.6.(i) G.S. 15A-266.2 reads as rewritten:

"§ **15A-266.2. Definitions.**

As used in this Article, unless another meaning is specified or the context clearly requires otherwise, the following terms have the meanings specified:

…

(1e) Crime Laboratory. – The North Carolina State Crime Laboratory of the Department of Justice.

…

~~(6) "SBI" means the State Bureau of Investigation. The SBI is responsible for the policy, management, and administration of the State DNA identification record system to support law enforcement and other criminal justice agencies.~~

…

(8) "State DNA Database" means the ~~SBI's~~ Crime Laboratory's DNA identification record system to support law enforcement. It is administered by the ~~SBI~~ Crime Laboratory and provides DNA records to the FBI for storage and maintenance in CODIS. The ~~SBI's~~ Crime Laboratory's DNA Database system is the collective capability provided by computer software and procedures administered by the ~~SBI~~ Crime Laboratory to store and maintain DNA records related to: forensic casework; convicted offenders and arrestees required to provide a DNA sample under this Article; persons required to register as sex offenders under G.S. 14-208.7; unidentified persons or body parts; missing persons; relatives of missing persons; and anonymous DNA profiles used for forensic validation, forensic protocol development, or quality control purposes or establishment of a population statistics database for use by criminal justice agencies."

SECTION 17.6.(j) G.S. 15A-266.3A(h) reads as rewritten:

"(h) The ~~State Bureau of Investigation~~Crime Laboratory shall remove a person's DNA record, and destroy any DNA biological samples that may have been retained, from the State DNA Database and DNA Databank if both of the following are determined pursuant to subsection (i) of this section:

…."

SECTION 17.6.(k) G.S. 15A-269(b1) reads as rewritten:

"(b1) If the court orders DNA testing, such testing shall be conducted by ~~an SBI-approved~~ a Crime Laboratory-approved testing facility, mutually agreed upon by the petitioner and the State and approved by the court. If the parties cannot agree, the court shall designate the testing facility and provide the parties with reasonable opportunity to be heard on the issue."

SECTION 17.6.(l) G.S. 114-12 reads as rewritten:

"§ **114-12. Bureau of Investigation created; powers and duties.**

In order to secure a more effective administration of the criminal laws of the State, to prevent crime, and to procure the speedy apprehension of criminals, the Attorney General shall set up in the Department of Justice a division to be designated as the State Bureau of Investigation. The Division shall have charge of and administer the agencies and activities herein set up for the identification of criminals, for their apprehension, ~~for the scientific analysis of evidence of crime,~~ and investigation and preparation of evidence to be used in criminal courts; and the said Bureau shall have charge of investigation of criminal matters herein especially mentioned, and of such other crimes and criminal procedure as the Governor may direct.

In the personnel of the Bureau shall be included a sufficient number of persons of training and skill in the investigation of crime and in the preparation of evidence as to be of service to local enforcement officers, under the direction of the Governor, in criminal matters of major importance.

The State radio system shall be made available to the Bureau Laboratory for use in its work."

SECTION 17.6.(m) G.S. 114-16, as recodified by subsection (d) of this section, reads as rewritten:

"§ **114-60. Laboratory and clinical facilities; employment of criminologists; services of scientists, etc., employed by State; radio system.**

In the ~~said Bureau~~Department of Justice there shall be provided laboratory facilities for the analysis of evidences of crime, including the determination of presence, quantity and character of poisons, the character of bloodstains, microscopic and other examination material associated with the commission of crime, examination and analysis of projectiles of ballistic imprints and records which might lead to the determination or identification of criminals, the examination and identification of fingerprints, and other evidence leading to the identification, apprehension, or conviction of criminals. A sufficient number of persons skilled in such matters shall be employed to render a reasonable service to the public through the criminal justice system and to the criminal justice system in the discharge of their duties. ~~In the personnel of the Bureau shall be included a sufficient number of persons of training and skill in the investigation of crime and in the preparation of evidence as to be of service to local enforcement officers, under the direction of the Governor, in criminal matters of major importance.~~

The laboratory and clinical facilities of the institutions of the State, both educational and departmental, shall be made available to the ~~Bureau,~~Laboratory, and scientists and doctors now working for the State through its institutions and departments may be called upon by the Governor to aid the ~~Bureau~~ Laboratory in the evaluation, preparation, and preservation of evidence in which scientific methods are employed, and a reasonable fee may be allowed by the Governor for such service.

~~The State radio system shall be made available to the Bureau for use in its work.~~"

SECTION 17.6.(n) G.S. 114-16.2, as recodified by subsection (d) of this section, reads as rewritten:

"§ **114-62. North Carolina State Crime Laboratory Ombudsman.**

The position of ombudsman is created in the North Carolina State Crime Laboratory within the North Carolina Department of Justice. The primary purpose of this position shall be to work with defense counsel, prosecutorial agencies, criminal justice system stakeholders, law enforcement officials, and the general public to ensure all processes, procedures, practices, and protocols at the State Crime Laboratory are consistent with State and federal law, best forensic law practices, and in the best interests of justice in this State. The ombudsman shall mediate complaints brought to the attention of the ombudsman between the ~~SBI~~ Crime Laboratory and defense counsel, prosecutorial agencies, law enforcement agencies, and the general public. The ombudsman shall ensure all criminal justice stakeholders and the general public are aware of the availability, responsibilities, and role of the ombudsman and shall regularly attend meetings of the Conferences of the District Attorneys, District and Superior Court Judges, Public Defenders, the Advocates for Justice, and Bar Criminal Law Sections. The ombudsman shall make recommendations on a regular basis to the Director of the State Crime ~~Laboratory, Director of the SBI,~~ Laboratory and the Attorney General of North Carolina as to policies, procedures, practices, and training of employees needed at the Laboratory to ensure compliance with State and federal law, best forensic law practices, and to resolve any meritorious systemic complaints received by the ombudsman."

SECTION 17.6.(o) G.S. 132-1.4(b)(1) reads as rewritten:

"(1) "Records of criminal investigations" means all records or any information that pertains to a person or group of persons that is compiled by public law enforcement agencies for the purpose of attempting to prevent or solve

violations of the law, including information derived from witnesses, laboratory tests, surveillance, investigators, confidential informants, photographs, and measurements. The term also includes any records, worksheets, reports, or analyses prepared or conducted by the North Carolina State Crime Laboratory at the request of any public law enforcement agency in connection with a criminal investigation."

SECTION 17.6.(p) Article 1 of Chapter 114 of the General Statutes is amended by adding a new section to read:

"**§ 114-8.6. Designation of State Crime Laboratory as Internet Crimes Against Children affiliated agency.**

The Attorney General shall designate the North Carolina State Crime Laboratory as a North Carolina Internet Crimes Against Children (ICAC) affiliated agency."

SECTION 17.6.(q) Article 9 of Chapter 114 of the General Statutes, as enacted by Section 17.6(c) of this section, is amended by adding a new section to read:

"**§ 114-63. Transfer of personnel.**

The Director of the North Carolina State Crime Laboratory shall have authority to transfer employees of the Crime Laboratory from one Crime Laboratory location in the State to another as the Director may deem necessary. When any member of the Crime Laboratory is transferred from one location to another for the convenience of the Crime Laboratory, or otherwise than upon the request of the employee, the Crime Laboratory shall be responsible for transporting the household goods, furniture, and personal effects of the employee and members of his or her household."

OPERATING EFFICIENCIES REDUCTION

SECTION 17.7.(a) Funds appropriated or allocated to the North Carolina State Crime Laboratory shall not be reduced in order to meet any portion of the operating efficiencies reduction set forth in this act.

SECTION 17.7.(b) No later than October 1, 2013, the Department of Justice shall report to the Fiscal Research Division on the reductions that were made to meet the operating efficiencies reduction to the Department of Justice set forth in this act. The report shall include an itemized list of any position eliminations, including the position numbers, titles, and budgeted salaries of each eliminated position.

PLAN FOR TRANSFERRING ASSISTANT ATTORNEY GENERAL POSITIONS TO THE DEPARTMENTS THEY SERVE

SECTION 17.8. The Joint Legislative Oversight Committee on Justice and Public Safety shall develop a plan for transferring Assistant Attorney General positions and related staff to the State agencies they serve and shall report the plan, along with any other findings and recommendations, to the General Assembly prior to its reconvening for the 2014 Regular Session. The plan shall include an analysis of and recommendations concerning all of the following:

(1) The Assistant Attorney General positions to be transferred and the State agencies to which each should be transferred.

(2) Which duties should be performed by the transferred attorneys and which should continue to be performed by the Attorney General's office.

(3) Methods for resolving conflicts between the Attorney General's office and transferred attorneys, where the opportunity for conflict exists.

(4) Statutory changes that would be needed to accomplish the changes recommended in the report.

(5) Costs or cost-savings associated with each potential method of accomplishing the position transfers, including costs associated with any recommended reduction in force, with any fiscal consequences resulting

from applicable provisions of the State Personnel Act, and with any new personnel needs that will arise as a result of the transfers.

(6) Any additional matters that the Committee deems relevant.

PART XVIII. JUDICIAL DEPARTMENT

SUBPART XVIII-A. OFFICE OF INDIGENT DEFENSE SERVICES

OFFICE OF INDIGENT DEFENSE SERVICES REPORT

SECTION 18A.1. The Office of Indigent Defense Services shall report to the Chairs of the Joint Legislative Oversight Committee on Justice and Public Safety, the House of Representatives Appropriations Subcommittee on Justice and Public Safety, and the Senate Appropriations Committee on Justice and Public Safety by March 1 of each year on:

(1) The volume and cost of cases handled in each district by assigned counsel or public defenders;

(2) Actions taken by the Office to improve the cost-effectiveness and quality of indigent defense, including the capital case program;

(3) Plans for changes in rules, standards, or regulations in the upcoming year; and

(4) Any recommended changes in law or funding procedures that would assist the Office in improving the management of funds expended for indigent defense services, including any recommendations concerning the feasibility and desirability of establishing regional public defender offices.

OFFICE OF INDIGENT DEFENSE SERVICES EXPANSION FUNDS

SECTION 18A.2. The Judicial Department, Office of Indigent Defense Services, may use up to the sum of two million one hundred fifty thousand dollars ($2,150,000) in appropriated funds during the 2013-2015 fiscal biennium for the expansion of existing offices currently providing legal services to the indigent population under the oversight of the Office of Indigent Defense Services, for the creation of new public defender offices within existing public defender programs, or for the establishment of regional public defender programs. Notwithstanding the defender districts established by G.S. 7A-498.7, the Office of Indigent Defense Services may use a portion of these funds to create positions within existing public defender programs to handle cases in adjacent counties or districts. These funds may be used to create up to 50 new attorney positions and 25 new support staff positions during the 2013-2015 fiscal biennium and for the salaries, benefits, equipment, and related expenses for these new positions in both years of the biennium. Positions creation will be staggered across the two years of the biennium. Prior to using funds for this purpose, the Office of Indigent Defense Services shall report to the Chairs of the House of Representatives Appropriations Subcommittee on Justice and Public Safety and the Senate Appropriations Committee on Justice and Public Safety on the proposed expansion.

OFFICE OF INDIGENT DEFENSE SERVICES/STATE MATCH FOR GRANTS

SECTION 18A.3. Notwithstanding G.S. 143C-6-9, during the 2013-2015 fiscal biennium, the Office of Indigent Defense Services may use the sum of up to fifty thousand dollars ($50,000) from funds available to provide the State matching funds needed to receive grant funds. Prior to using funds for this purpose, the Office shall report to the Chairs of the House of Representatives Appropriations Subcommittee on Justice and Public Safety, the Senate Appropriations Committee on Justice and Public Safety, and the Joint Legislative Commission on Governmental Operations on the grants to be matched using these funds.

PRIVATE ASSIGNED COUNSEL

SECTION 18A.4. The Office of Indigent Defense Services shall issue a request for proposals from private law firms or not-for-profit legal representation organizations for the provision of all classes of legal cases for indigent clients in all judicial districts. The Office of Indigent Defense Services shall report on the issuance of this request for proposals to the Joint Legislative Commission on Governmental Operations by October 1, 2013. In cases where the proposed contract can provide representation services more efficiently than current costs and ensure that the quality of representation is sufficient to meet applicable constitutional and statutory standards, the Office of Indigent Defense Services shall use private assigned counsel funds to enter into contracts for this purpose. In selecting contracts, the Office of Indigent Defense Services shall consider the cost-effectiveness of the proposed contract. Disputes regarding the ability of the potential contractor to provide effective representation for clients served by the contract shall be determined by the senior resident superior court judge for the district.

SENIOR RESIDENT SUPERIOR COURT JUDGES SHALL APPOINT PUBLIC DEFENDERS

SECTION 18A.5.(a) G.S. 7A-498.7(b) reads as rewritten:

"(b) For each new term, and to fill any vacancy, public defenders shall be appointed from a list of not less than two and not more than three names nominated by written ballot of the attorneys resident in the defender district who are licensed to practice law in North Carolina. The balloting shall be conducted pursuant to rules adopted by the Commission on Indigent Defense Services. The appointment shall be made by the ~~Commission on Indigent Defense Services.~~senior resident superior court judge of the superior court district or set of districts as defined in G.S. 7A-41.1 that includes the county or counties of the defender district for which the public defender is being appointed."

SECTION 18A.5.(b) This section becomes effective on August 1, 2013.

RESOLVING CONFLICTS OF INTEREST IN PUBLIC DEFENDER OFFICES

SECTION 18A.6.(a) G.S. 7A-498.7 is amended by adding a new subsection to read:

"(f1) In cases in which a public defender determines that a conflict of interest exists in the office, whenever practical, rather than obtaining private assigned counsel to resolve the conflict, the public defender may request the appointment of an assistant public defender from another office of public defender in the region to resolve the conflict."

SECTION 18A.6.(b) The Office of Indigent Defense Services shall report to the Chairs of the Joint Legislative Oversight Committee on Justice and Public Safety by October 1, 2013, and by October 1 of each year thereafter, on (i) the number of conflicts of interest that arose in public defender offices during the prior fiscal year and the cost to the State in private assigned counsel funds to resolve them and (ii) beginning with the October 1, 2014, report, the number of conflicts of interest resolved through the authorization in G.S. 7A-498.7(f1) during the prior fiscal year and the savings to the State in private assigned counsel funds as a result.

SUBPART XVIII-B. ADMINISTRATIVE OFFICE OF THE COURTS

GRANT FUNDS

SECTION 18B.1. Notwithstanding G.S. 143C-6-9, the Administrative Office of the Courts may use up to the sum of one million five hundred thousand dollars ($1,500,000) from funds available to the Department to provide the State match needed in order to receive grant funds. Prior to using funds for this purpose, the Department shall report to the Chairs of the House of Representatives Appropriations Subcommittee on Justice and Public Safety, the Senate Appropriations Committee on Justice and Public Safety, and to the Joint Legislative Commission on Governmental Operations on the grants to be matched using these funds.

COLLECTION OF WORTHLESS CHECK FUNDS

SECTION 18B.2. Notwithstanding the provisions of G.S. 7A-308(c), the Judicial Department may use any balance remaining in the Collection of Worthless Checks Fund on June 30, 2013, for the purchase or repair of office or information technology equipment during the 2013-2014 fiscal year. Prior to using any funds under this section, the Judicial Department shall report to the Joint Legislative Commission on Governmental Operations, the Chairs of the House of Representatives Appropriations Subcommittee on Justice and Public Safety, the Chairs of the Senate Appropriations Committee on Justice and Public Safety, and the Office of State Budget and Management on the equipment to be purchased or repaired and the reasons for the purchases.

CONFERENCE OF DISTRICT ATTORNEYS GRANT FUND

SECTION 18B.4. Of the funds appropriated in this act to the Judicial Department, the sum of five hundred thousand dollars ($500,000) in the 2013-2014 fiscal year shall be allocated to the Conference of District Attorneys and shall be used to establish a grant fund to provide district attorneys across the State with the resources to obtain toxicology analysis from local hospitals on persons charged with driving while impaired whose conduct did not result in serious injury or death to others. The Conference of District Attorneys shall report to the Chairs of the Joint Legislative Oversight Committee on Justice and Public Safety by October 1, 2014, on the expenditure of these funds.

MODIFY LEGAL AID DOMESTIC VIOLENCE REPORT

SECTION 18B.5. G.S. 7A-474.20 reads as rewritten:

"§ **7A-474.20. Records and reports.**

The established legal services programs shall keep appropriate records and make periodic reports, as requested, to the North Carolina State Bar. The North Carolina State Bar shall report annually to the ~~General Assembly~~ Chairs of the Joint Legislative Oversight Committee on Justice and Public Safety on the amount of the funds disbursed and the use of the funds by each legal services program receiving funds. The report to the ~~General Assembly~~ Chairs of the Joint Legislative Oversight Committee on Justice and Public Safety shall be made by January 15 of each year beginning January 15, 2006."

FAMILY COURT PROGRAMS

SECTION 18B.6. The Administrative Office of the Courts shall provide direction and oversight to the existing family court programs in order to ensure that each district with a family court program is utilizing best practices and is working effectively and efficiently in the disposition of domestic and juvenile cases. The Administrative Office of the Courts shall report on its efforts in this regard and the results of those efforts to the Chairs of the House of Representatives Appropriations Subcommittee on Justice and Public Safety, the Senate Appropriations Committee on Justice and Public Safety, and the Joint Legislative Oversight Committee on Justice and Public Safety by March 1, 2014.

MAGISTRATE DISTRIBUTION FORMULA

SECTION 18B.7. The Administrative Office of the Courts, in consultation with the National Center for State Courts, shall study its current formula for the distribution of magistrates across the State and consider revisions to that formula designed to take into account regional differences, travel considerations, and the potential for regionalizing magistrates. The Administrative Office of the Courts shall report its findings and recommendations to the Chairs of the Joint Legislative Oversight Committee on Justice and Public Safety by February 1, 2014.

MINUTES MAINTAINED BY THE CLERK OF SUPERIOR COURT TO RECORD CONVENING AND ADJOURNMENT OR RECESS OF BOTH DISTRICT AND SUPERIOR COURT

SECTION 18B.8.(a) G.S. 7A-109(a1) reads as rewritten:

"(a1) The minutes maintained by the clerk pursuant to this subsection shall record the date and time of each convening of district and superior court, as well as the date and time of each recess or adjournment of district and superior court with no further business before the court."

SECTION 18B.8.(b) The Administrative Office of the Courts shall provide on a monthly basis the records of the dates and times of convening, recess, and adjournment of district and superior court collected by each clerk of superior court pursuant to G.S. 7A-109, as amended by subsection (a) of this section, to the National Center for State Courts, the Fiscal Research Division, and the Chairs of the Joint Legislative Oversight Committee on Justice and Public Safety.

SECTION 18B.8.(c) This section becomes effective January 1, 2014.

JUDICIAL FORMS SHALL CONFORM TO JUSTICE REINVESTMENT CHANGES

SECTION 18B.9. The Administrative Office of the Courts shall ensure that all judicial forms being used in the General Court of Justice conform to all of the changes made in the law with the enactment of the Justice Reinvestment Act of 2011, S.L. 2011-192, as amended.

CRIMINAL CASE INFORMATION SYSTEM FOR PUBLIC DEFENDERS

SECTION 18B.10. The Administrative Office of the Courts, in consultation with the Office of Indigent Defense Services, shall use the sum of three hundred fifty thousand dollars ($350,000) in funds available to the Administrative Office of the Courts for the 2013-2015 fiscal biennium and the sum of three hundred fifty thousand dollars ($350,000) in funds available to the Office of Indigent Defense Services for the 2013-2015 fiscal biennium to develop or acquire and to implement a component of the Department's criminal case information system for use by public defenders no later than February 1, 2015. The Administrative Office of the Courts shall make an interim report on the development and implementation of this system by February 1, 2014, and a final report on the completed implementation of the system by March 1, 2015.

CLERKS' ACCEPTANCE OF CREDIT CARDS

SECTION 18B.11. The Judicial Department shall begin implementation of a cost-effective system for the acceptance of credit card payments for court costs to clerks of superior court as provided under this section. The Judicial Department shall select at least five counties that do not currently accept credit card payments, representing a balance of the urban and rural areas of the State, and shall implement the system in those counties by January 1, 2014. The Department shall report on this implementation and on its plans for implementing the system in the remaining counties of the State to the Chairs of the Joint Legislative Oversight Committee on Justice and Public Safety by February 1, 2014. The Department shall implement the system in the remaining counties of the State by January 1, 2015, and shall report on this statewide implementation to the Chairs of the Joint Legislative Oversight Committee on Justice and Public Safety by February 1, 2015.

AMEND CLASS 3 MISDEMEANOR SENTENCES

SECTION 18B.13.(a) G.S. 15A-1340.23 reads as rewritten:

"§ **15A-1340.23. Punishment limits for each class of offense and prior conviction level.**

(a) Offense Classification; Default Classifications. – The offense classification is as specified in the offense for which the sentence is being imposed. If the offense is a misdemeanor for which there is no classification, it is as classified in G.S. 14-3.

(b) Fines. – Any judgment that includes a sentence of imprisonment may also include a fine. Additionally, when the defendant is other than an individual, the judgment may consist of a fine only. If a community punishment is authorized, the judgment may consist of a fine only. Unless otherwise provided for a specific offense, the maximum fine that may be imposed is two hundred dollars ($200.00) for a Class 3 misdemeanor and one thousand dollars ($1,000) for a Class 2 misdemeanor. The amount of the fine for a Class 1 misdemeanor and a Class A1 misdemeanor is in the discretion of the court.

(c) Punishment for Each Class of Offense and Prior Conviction Level; Punishment Chart Described. – Unless otherwise provided for a specific offense, the authorized punishment for each class of offense and prior conviction level is as specified in the chart below. Prior conviction levels are indicated by the Roman numerals placed horizontally on the top of the chart. Classes of offenses are indicated by the Arabic numbers placed vertically on the left side of the chart. Each grid on the chart contains the following components:

(1) A sentence disposition or dispositions: "C" indicates that a community punishment is authorized; "I" indicates that an intermediate punishment is authorized; and "A" indicates that an active punishment is authorized; and

(2) A range of durations for the sentence of imprisonment: any sentence within the duration specified is permitted.

	PRIOR CONVICTION LEVELS		
MISDEMEANOR OFFENSE CLASS	LEVEL I No Prior Convictions	LEVEL II One to Four Prior Convictions	LEVEL III Five or More Prior Convictions
A1	1-60 days C/I/A	1-75 days C/I/A	1-150 days C/I/A
1	1-45 days C	1-45 days C/I/A	1-120 days C/I/A
2	1-30 days C	1-45 days C/I	1-60 days C/I/A
3	1-10 days C	~~1-15 days C/I~~ 1-15 days C if one to three prior convictions 1-15 days C/I if four prior convictions	1-20 days C/I/A.

(d) Fine Only for Certain Class 3 Misdemeanors. – Unless otherwise provided for a specific offense, the judgment for a person convicted of a Class 3 misdemeanor who has no more than three prior convictions shall consist only of a fine."

SECTION 18B.13.(b) This section becomes effective December 1, 2013. Prosecutions for offenses committed before the effective date of this section are not abated or affected by this section, and the statutes that would be applicable but for this section remain applicable to those prosecutions.

RECLASSIFICATION OF CERTAIN CLASS 1 AND CLASS 2 MISDEMEANORS AS CLASS 3 MISDEMEANORS

SECTION 18B.14.(a) G.S. 14-106 reads as rewritten:

"§ **14-106. Obtaining property in return for worthless check, draft or order.**

Every person who, with intent to cheat and defraud another, shall obtain money, credit, goods, wares or any other thing of value by means of a check, draft or order of any kind upon any bank, person, firm or corporation, not indebted to the drawer, or where he has not provided for the payment or acceptance of the same, and the same be not paid upon presentation, shall be guilty of a ~~Class 2 misdemeanor.~~Class 3 misdemeanor. The giving of the aforesaid worthless check, draft, or order shall be prima facie evidence of an intent to cheat and defraud."

SECTION 18B.14.(b) G.S. 14-107(d) reads as rewritten:

"(d) A violation of this section is a Class I felony if the amount of the check or draft is more than two thousand dollars ($2,000). If the amount of the check or draft is two thousand dollars ($2,000) or less, a violation of this section is a misdemeanor punishable as follows:

(1) Except as provided in subdivision (3) or (4) of this subsection, the person is guilty of a ~~Class 2 misdemeanor.~~Class 3 misdemeanor. Provided, however, if the person has been convicted three times of violating this section, the person shall on the fourth and all subsequent convictions (i) be punished as for a Class 1 misdemeanor and (ii) be ordered, as a condition of probation, to refrain from maintaining a checking account or making or uttering a check for three years.

(2) Repealed by Session Laws 1999-408, s. 1.

(3) If the check or draft is drawn upon a nonexistent account, the person is guilty of a Class 1 misdemeanor.

(4) If the check or draft is drawn upon an account that has been closed by the drawer, or that the drawer knows to have been closed by the bank or depository, prior to time the check is drawn, the person is guilty of a Class 1 misdemeanor."

SECTION 18B.14.(c) G.S. 14-167 reads as rewritten:

"§ **14-167. Failure to return hired property.**

Any person who shall rent or hire, any horse, mule or other like animal, or any buggy, wagon, truck, automobile, or other vehicle, aircraft, motor, trailer, appliance, equipment, tool, or other thing of value, and who shall willfully fail to return the same to the possession of the person, firm or corporation from whom such property has been rented or hired at the expiration of the time for which such property has been rented or hired, shall be guilty of a ~~Class 2 misdemeanor.~~Class 3 misdemeanor.

If the value at the time of the rental or hiring of the truck, automobile, or other motor vehicle that is not returned is in excess of four thousand dollars ($4,000), the person who rented or hired it and failed to return it shall be guilty of a Class H felony."

SECTION 18B.14.(d) G.S. 14-168.1 reads as rewritten:

"§ **14-168.1. Conversion by bailee, lessee, tenant or attorney-in-fact.**

Every person entrusted with any property as bailee, lessee, tenant or lodger, or with any power of attorney for the sale or transfer thereof, who fraudulently converts the same, or the proceeds thereof, to his own use, or secretes it with a fraudulent intent to convert it to his own use, shall be guilty of a ~~Class 1 misdemeanor.~~ Class 3 misdemeanor.

If, however, the value of the property converted or secreted, or the proceeds thereof, is in excess of four hundred dollars ($400.00), every person so converting or secreting it is guilty of a Class H felony. In all cases of doubt the jury shall, in the verdict, fix the value of the property converted or secreted."

SECTION 18B.14.(e) G.S. 14-168.4(a) reads as rewritten:

"(a) It shall be a ~~Class 2 misdemeanor~~Class 3 misdemeanor for any person to fail to return rented property with intent to defeat the rights of the owner, which is rented pursuant to a written rental agreement in which there is an option to purchase the property, after the date of termination provided in the agreement has occurred or, if the termination date is the occurrence of a specified event, then that such event has in fact occurred."

SECTION 18B.14.(f) G.S. 20-28(a) reads as rewritten:

"(a) Driving While License Revoked. – Except as provided in subsection (a1) of this section, any person whose drivers license has been revoked who drives any motor vehicle upon the highways of the State while the license is revoked is guilty of a Class 3 misdemeanor unless the person's license was originally revoked for an impaired driving revocation, in which case the person is guilty of a Class 1 misdemeanor. Upon conviction, the person's license shall be revoked for an additional period of one year for the first offense, two years for the second offense, and permanently for a third or subsequent offense.

If the person's license was originally revoked for an impaired driving revocation, the court may order as a condition of probation that the offender abstain from alcohol consumption and verify compliance by use of a continuous alcohol monitoring system, of a type approved by the Division of Adult Correction of the Department of Public Safety, for a minimum period of 90 days.

The restoree of a revoked drivers license who operates a motor vehicle upon the highways of the State without maintaining financial responsibility as provided by law shall be punished as for driving without a license."

SECTION 18B.14.(g) G.S. 20-35 reads as rewritten:

"§ **20-35. Penalties for violating Article; defense to driving without a license.**

(a) Penalty. – ~~A~~Except as otherwise provided in subsection (a1) of this section, a violation of this Article is a Class 2 misdemeanor unless a statute in the Article sets a different punishment for the violation. If a statute in this Article sets a different punishment for a violation of the Article, the different punishment applies.

(a1) The following offenses are Class 3 misdemeanors:

(1) Failure to obtain a license before driving a motor vehicle, in violation of G.S. 20-7(a).

(2) Failure to carry a valid license while driving a motor vehicle, in violation of G.S. 20-7(a).

(3) Failure to comply with license restrictions, in violation of G.S. 20-7(e).

(4) Operation of a motor vehicle with an expired license, in violation of G.S. 20-7(f).

(5) Failure to notify the Division of Motor Vehicles of an address change for a drivers license within 60 days after the change occurs, in violation of G.S. 20-7.1.

(6) Permitting a motor vehicle owned by the person to be operated by an unlicensed person, in violation of G.S. 20-34.

…."

SECTION 18B.14.(h) G.S. 20-176 reads as rewritten:

"§ **20-176. Penalty for misdemeanor or infraction.**

(a) Violation of a provision of Part 9, 10, 10A, or 11 of this Article is an infraction unless the violation is specifically declared by law to be a misdemeanor or felony. Violation of the remaining Parts of this Article is a misdemeanor unless the violation is specifically declared by law to be an infraction or a felony.

(b) Unless a specific penalty is otherwise provided by law, a person found responsible for an infraction contained in this Article may be ordered to pay a penalty of not more than one hundred dollars ($100.00).

(c) ~~Unless~~Except as otherwise provided in subsection (c2) of this section, and unless a specific penalty is otherwise provided by law, a person convicted of a misdemeanor contained in this Article is guilty of a Class 2 misdemeanor. A punishment is specific for purposes of this subsection if it contains a quantitative limit on the term of imprisonment or the amount of fine a judge can impose.

(c1) Notwithstanding any other provision of law, no person convicted of a misdemeanor for the violation of any provision of this Chapter except G.S. 20-28(a) and (b), G.S. 20-141(j), G.S. 20-141.3(b) and (c), G.S. 20-141.4, or a second or subsequent conviction of G.S. 20-138.1 shall be imprisoned in the State prison system unless the person previously has been imprisoned in a local confinement facility, as defined by G.S. 153A-217(5), for a violation of this Chapter.

(c2) A person who does any of the following is guilty of a Class 3 misdemeanor:

(1) Fails to carry the registration card in the vehicle, in violation of G.S. 20-57(c).

(2) Fails to sign the vehicle registration card, in violation of G.S. 20-57(c).

(3) Fails to notify the Division of Motor Vehicles of an address change for a vehicle registration card within 60 days after the change occurs, in violation of G.S. 20-67.

(d) For purposes of determining whether a violation of an offense contained in this Chapter constitutes negligence per se, crimes and infractions shall be treated identically."

SECTION 18B.14.(i) G.S. 20-111 reads as rewritten:

"§ **20-111. Violation of registration provisions.**

It shall be unlawful for any person to commit any of the following acts:

(1) To drive a vehicle on a highway, or knowingly permit a vehicle owned by that person to be driven on a highway, when the vehicle is not registered with the Division in accordance with this Article or does not display a current registration plate. Violation of this subdivision is a Class 3 misdemeanor.

(2) To display or cause or permit to be displayed or to have in possession any registration card, certificate of title or registration number plate knowing the same to be fictitious or to have been canceled, revoked, suspended or altered, or to willfully display an expired license or registration plate on a vehicle knowing the same to be expired. Violation of this subdivision is a Class 3 misdemeanor.

(3) The giving, lending, or borrowing of a license plate for the purpose of using same on some motor vehicle other than that for which issued shall make the giver, lender, or borrower guilty of a Class 3 misdemeanor. Where license plate is found being improperly used, such plate or plates shall be revoked or canceled, and new license plates must be purchased before further operation of the motor vehicle.

(4) To fail or refuse to surrender to the Division, upon demand, any title certificate, registration card or registration number plate which has been suspended, canceled or revoked as in this Article provided. Service of the demand shall be in accordance with G.S. 20-48.

(5) To use a false or fictitious name or address in any application for the registration of any vehicle or for a certificate of title or for any renewal or duplicate thereof, or knowingly to make a false statement or knowingly to conceal a material fact or otherwise commit a fraud in any such application. A violation of this subdivision shall constitute a Class 1 misdemeanor.

(6) To give, lend, sell or obtain a certificate of title for the purpose of such certificate being used for any purpose other than the registration, sale, or other use in connection with the vehicle for which the certificate was issued. Any person violating the provisions of this subdivision shall be guilty of a Class 2 misdemeanor."

SECTION 18B.14.(j) G.S. 20-127(d) reads as rewritten:

"(d) Violations. – A person who does any of the following commits a ~~misdemeanor of the class set in G.S. 20-176:~~ Class 3 misdemeanor:

(1) Applies tinting to the window of a vehicle that is subject to a safety inspection in this State and the resulting tinted window does not meet the window tinting restrictions set in this section.

(2) Drives on a highway or a public vehicular area a vehicle that has a window that does not meet the window tinting restrictions set in this section."

SECTION 18B.14.(k) G.S. 20-141(j1) reads as rewritten:

"(j1) A person who drives a vehicle on a highway at a speed that is either more than 15 miles per hour more than the speed limit established by law for the highway where the offense occurred or over 80 miles per hour is guilty of a ~~Class 2 misdemeanor.~~ Class 3 misdemeanor."

SECTION 18B.14.(l) G.S. 20-313(a) reads as rewritten:

"(a) On or after July 1, 1963, any owner of a motor vehicle registered or required to be registered in this State who shall operate or permit such motor vehicle to be operated in this State without having in full force and effect the financial responsibility required by this Article shall be guilty of a ~~Class 1 misdemeanor.~~Class 3 misdemeanor."

SECTION 18B.14.(m) G.S. 113-135(a) reads as rewritten:

"(a) Any person who violates any provision of this Subchapter or any rule adopted by the Marine Fisheries Commission or the Wildlife Resources Commission, as appropriate, pursuant to the authority of this Subchapter, is guilty of a misdemeanor except that punishment for violation of the rules of the Wildlife Resources Commission is limited as set forth in G.S. 113-135.1. ~~Unless~~Fishing without a license in violation of G.S. 113-174.1(a) or G.S. 113-270.1B(a) is punishable as a Class 3 misdemeanor. Otherwise, unless a different level of punishment is elsewhere set out, anyone convicted of a misdemeanor under this section is punishable as follows:

(1) For a first conviction, as a Class 3 misdemeanor.

(2) For a second or subsequent conviction within three years, as a Class 2 misdemeanor."

SECTION 18B.14.(n) This section becomes effective December 1, 2013. Prosecutions for offenses committed before the effective date of this section are not abated or affected by this section, and the statutes that would be applicable but for this section remain applicable to those prosecutions.

RECLASSIFY CERTAIN VIOLATIONS OF THE BOATING SAFETY ACT FROM CLASS 3 MISDEMEANORS TO INFRACTIONS

SECTION 18B.15.(a) G.S. 75A-6.1(c) reads as rewritten:

"(c) Violation of the navigation rules specified in subsection (a) of this section shall constitute ~~a Class 3 misdemeanor and is punishable only by a fine not to exceed one hundred dollars ($100.00).~~an infraction as provided in G.S. 14-3.1."

SECTION 18B.15.(b) G.S. 75A-13.1 reads as rewritten:

"§ **75A-13.1. Skin and scuba divers.**

(a) No person shall engage in skin diving or scuba diving in the waters of this State that are open to boating, or assist in such diving, without displaying a diver's flag from a mast, buoy, or other structure at the place of diving; and no person shall display such flag except when diving operations are under way or in preparation.

(b) The diver's flag shall be square, not less than 12 inches on a side, and shall be of red background with a diagonal white stripe, of a width equal to one fifth of the flag's height, running from the upper corner adjacent to the mast downward to the opposite outside corner.

(c) No operator of a vessel under way in the waters of this State shall permit the vessel to approach closer than 50 feet to any structure from which a diver's flag is then being displayed, except where the flag is so positioned as to constitute an unreasonable obstruction to navigation; and no person shall engage in skin diving or scuba diving or display a diver's flag in any locality that will unreasonably obstruct vessels from making legitimate navigational use of the water.

(d) A person who violates a provision of this section is ~~guilty of a Class 3 misdemeanor and shall only be subject to a fine not to exceed twenty-five dollars ($25.00).~~responsible for an infraction as provided in G.S. 14-3.1."

SECTION 18B.15.(c) G.S. 75A-13.3(c3) reads as rewritten:

"(c3) A vessel livery shall provide the operator of a leased personal watercraft with basic safety instruction prior to allowing the operation of the leased personal watercraft. "Basic safety instruction" shall include direction on how to safely operate the personal watercraft and a review of the safety provisions of this section. A vessel livery that fails to provide basic safety instruction is ~~guilty of a Class 3 misdemeanor.~~responsible for an infraction as provided in G.S. 14-3.1."

SECTION 18B.15.(d) G.S. 75A-17(f) reads as rewritten:

"(f) Vessels operated on the waters of this State shall slow to a no-wake speed when passing within 100 feet of a law enforcement vessel that is displaying a flashing blue light unless the vessel is in a narrow channel. Vessels operated on the waters of this State in a narrow channel shall slow to a no-wake speed when passing within 50 feet of a law enforcement vessel that is displaying a flashing blue light. A person who violates this subsection is ~~guilty of a Class 3 misdemeanor.~~responsible for an infraction as provided in G.S. 14-3.1."

SECTION 18B.15.(e) G.S. 75A-18(a) reads as rewritten:

"(a) Except as otherwise provided, a person who violates a provision of this Article or who violates a rule adopted under authority of this Chapter is ~~guilty of a Class 3 misdemeanor and shall only be subject to a fine not to exceed two hundred and fifty dollars ($250.00) for each violation.~~responsible for an infraction as provided in G.S. 14-3.1. This limitation shall not apply in a case where a more severe penalty is prescribed in this Chapter."

SECTION 18B.15.(f) This section becomes effective December 1, 2013. Prosecutions for offenses committed before the effective date of this section are not abated or affected by this section, and the statutes that would be applicable but for this section remain applicable to those prosecutions.

EXPUNCTION FEES

SECTION 18B.16.(a) G.S. 15A-145(e) reads as rewritten:

"(e) A person who files a petition for expunction of a criminal record under this section must pay the clerk of superior court a fee of ~~one hundred twenty-five dollars ($125.00)~~ one hundred seventy-five dollars ($175.00) at the time the petition is filed. Fees collected under this subsection ~~shall be deposited in the General Fund.~~ are payable to the Administrative Office of the Courts. The clerk of superior court shall remit one hundred twenty-two dollars and fifty cents ($122.50) of each fee to the North Carolina Department of Justice for the costs of criminal record checks performed in connection with processing petitions for expunctions under this section. The remaining fifty-two dollars and fifty cents ($52.50) of each fee shall be retained by the Administrative Office of the Courts and used to pay the costs of processing petitions for expunctions under this section. This subsection does not apply to petitions filed by an indigent."

SECTION 18B.16.(b) G.S. 15A-145.1 is amended by adding a new subsection to read:

"(d) A person who files a petition for expunction of a criminal record under this section must pay the clerk of superior court a fee of one hundred seventy-five dollars ($175.00) at the time the petition is filed. Fees collected under this subsection are payable to the Administrative Office of the Courts. The clerk of superior court shall remit one hundred twenty-two dollars and fifty cents ($122.50) of each fee to the North Carolina Department of Justice for the costs of criminal record checks performed in connection with processing petitions for expunctions under this section. The remaining fifty-two dollars and fifty cents ($52.50) of each fee shall be retained by the Administrative Office of the Courts and used to pay the costs of processing petitions for expunctions under this section. This subsection does not apply to petitions filed by an indigent."

SECTION 18B.16.(c) G.S. 15A-145.2(d) reads as rewritten:

"(d) A person who files a petition for expunction of a criminal record under this section must pay the clerk of superior court a fee of ~~sixty-five dollars ($65.00)~~ one hundred seventy-five dollars ($175.00) at the time the petition is filed. Fees collected under this subsection ~~shall be deposited in the General Fund.~~ are payable to the Administrative Office of the Courts. The clerk of superior court shall remit one hundred twenty-two dollars and fifty cents ($122.50) of each fee to the North Carolina Department of Justice for the costs of criminal record checks performed in connection with processing petitions for expunctions under this section. The remaining fifty-two dollars and fifty cents ($52.50) of each fee shall be retained by the Administrative Office of the Courts and used to pay the costs of processing

petitions for expunctions under this section. This subsection does not apply to petitions filed by an indigent."

SECTION 18B.16.(d) G.S. 15A-145.3 is amended by adding a new subsection to read:

"(d) A person who files a petition for expunction of a criminal record under this section must pay the clerk of superior court a fee of one hundred seventy-five dollars ($175.00) at the time the petition is filed. Fees collected under this subsection are payable to the Administrative Office of the Courts. The clerk of superior court shall remit one hundred twenty-two dollars and fifty cents ($122.50) of each fee to the North Carolina Department of Justice for the costs of criminal record checks performed in connection with processing petitions for expunctions under this section. The remaining fifty-two dollars and fifty cents ($52.50) of each fee shall be retained by the Administrative Office of the Courts and used to pay the costs of processing petitions for expunctions under this section. This subsection does not apply to petitions filed by an indigent."

SECTION 18B.16.(e) G.S. 15A-145.4 is amended by adding a new subsection to read:

"(j) A person who files a petition for expunction of a criminal record under this section must pay the clerk of superior court a fee of one hundred seventy-five dollars ($175.00) at the time the petition is filed. Fees collected under this subsection are payable to the Administrative Office of the Courts. The clerk of superior court shall remit one hundred twenty-two dollars and fifty cents ($122.50) of each fee to the North Carolina Department of Justice for the costs of criminal record checks performed in connection with processing petitions for expunctions under this section. The remaining fifty-two dollars and fifty cents ($52.50) of each fee shall be retained by the Administrative Office of the Courts and used to pay the costs of processing petitions for expunctions under this section. This subsection does not apply to petitions filed by an indigent."

SECTION 18B.16.(f) G.S. 15A-146 is amended by adding a new subsection to read:

"(d) A person charged with a crime that is dismissed pursuant to compliance with a deferred prosecution agreement and who files a petition for expunction of a criminal record under this section must pay the clerk of superior court a fee of one hundred seventy-five dollars ($175.00) at the time the petition is filed. Fees collected under this subsection are payable to the Administrative Office of the Courts. The clerk of superior court shall remit one hundred twenty-two dollars and fifty cents ($122.50) of each fee to the North Carolina Department of Justice for the costs of criminal record checks performed in connection with processing petitions for expunctions under this section. The remaining fifty-two dollars and fifty cents ($52.50) of each fee shall be retained by the Administrative Office of the Courts and used to pay the costs of processing petitions for expunctions under this section. This subsection does not apply to petitions filed by an indigent."

SECTION 18B.16.(g) The receipts generated by the fees imposed under this section are appropriated to the Administrative Office of the Courts and the Department of Justice for the 2013-2014 fiscal year and for the 2014-2015 fiscal year and may be used to assist with the cost of processing petitions for expunctions and conducting the criminal background checks required for expunctions. The Department of Justice may also use up to one million four hundred thousand dollars ($1,400,000) of the revenue generated by the fees appropriated to the Department of Justice under this section to create and support up to five new staff positions to help process petitions for expunction and conduct criminal record checks required for those petitions.

SECTION 18B.16.(h) Article 5 of Chapter 15A of the General Statutes is amended by adding a new section to read:

"§ **15A-160. Reporting requirement.**

The Department of Justice and the Administrative Office of the Courts shall report jointly to the Chairs of the Joint Legislative Oversight Committee on Justice and Public Safety

Oversight by September 1 of each year regarding expunctions. The report shall include all of the following information:

(1) The number and types of expunctions granted during the fiscal year in which the report is made.

(2) The number and type of expunctions granted each fiscal year for the five fiscal years preceding the date of the report.

(3) A full accounting of how the agencies have spent the receipts generated by the expunction fees received during the fiscal year in which the report is made and for the five preceding fiscal years."

SECTION 18B.16.(i) Subsections (a) through (f) of this section become effective September 1, 2013, and apply to petitions for expunctions filed on or after that date.

AMEND MOTION FEES

SECTION 18B.17.(a) G.S. 7A-305(f), as amended by Section 4(a) of S.L. 2013-225, reads as rewritten:

"(f) For the support of the General Court of Justice, the sum of twenty dollars ($20.00) shall accompany any filing ~~containing one or more motions~~ of a notice of hearing on a motion not listed in G.S. 7A-308 that is filed with the clerk. No costs shall be assessed to a notice of hearing on a motion containing as a sole claim for relief the taxing of costs, including attorneys' fees, to a motion filed pursuant to G.S. 1C-1602 or G.S. 1C-1603, or to a motion filed by a child support enforcement agency established pursuant to Part D of Title IV of the Social Security Act. No more than one fee shall be assessed for any motion for which a notice of hearing is filed, regardless of whether the hearing is continued, rescheduled, or otherwise delayed."

SECTION 18B.17.(b) G.S. 7A-306(g), as amended by Section 4(b) of S.L. 2013-225, reads as rewritten:

"(g) For the support of the General Court of Justice, the sum of twenty dollars ($20.00) shall accompany any filing ~~containing one or more motions~~ of a notice of hearing on a motion not listed in G.S. 7A-308 that is filed with the clerk. No costs shall be assessed to a notice of hearing on a motion containing as a sole claim for relief the taxing of costs, including attorneys' fees, or to a motion filed pursuant to G.S. 1C-1602 or G.S. 1C-1603. No more than one fee shall be assessed for any motion for which a notice of hearing is filed, regardless of whether the hearing is continued, rescheduled, or otherwise delayed."

SECTION 18B.17.(c) G.S. 7A-307(a)(4), as amended by Section 4(c) of S.L. 2013-225, reads as rewritten:

"(4) For the support of the General Court of Justice, the sum of twenty dollars ($20.00) shall accompany any filing ~~requiring a notice of hearing and containing one or more motions~~ of a notice of hearing on a motion not listed in G.S. 7A-308 that is filed with the clerk. No costs shall be assessed to a notice of hearing on a motion containing as a sole claim for relief the taxing of costs, including attorneys' fees, or to a motion filed pursuant to G.S. 1C-1602 or G.S. 1C-1603. No more than one fee shall be assessed for any motion for which a notice of hearing is filed, regardless of whether the hearing is continued, rescheduled, or otherwise delayed."

SECTION 18B.17.(d) This section becomes effective August 1, 2013, and applies to notices of hearing on a motion not listed in G.S. 7A-308 filed on or after that date.

CRIMINAL JUSTICE EDUCATION AND STANDARDS COMMISSION COURT FEE

SECTION 18B.18.(a) G.S. 7A-304(a) reads as rewritten:

"(a) In every criminal case in the superior or district court, wherein the defendant is convicted, or enters a plea of guilty or nolo contendere, or when costs are assessed against the prosecuting witness, the following costs shall be assessed and collected. No costs may be assessed when a case is dismissed. Only upon entry of a written order, supported by findings of

fact and conclusions of law, determining that there is just cause, the court may (i) waive costs assessed under this section or (ii) waive or reduce costs assessed under subdivisions (7) or (8) of this section.

…

(3b) For the services, staffing, and operations of the Criminal Justice Education and Standards ~~Commission and the Sheriffs' Education and Training Standards~~Commission, the sum of two dollars ($2.00) to be remitted to the Department of Justice. ~~One dollar and thirty cents ($1.30) of this sum shall be used exclusively for the Criminal Justice Education and Standards Commission, and seventy cents (70¢) shall be used exclusively for the Sheriffs' Education and Training Standards Commission.~~

…."

SECTION 18B.18.(b) This section becomes effective August 1, 2013, and applies to all costs assessed or collected on or after that date.

COURT COSTS FOR SERVICES OF EXPERT WITNESS PROVIDING TESTIMONY ABOUT A CHEMICAL OR FORENSIC ANALYSIS AT TRIAL

SECTION 18B.19.(a) G.S. 7A-304(a) reads as rewritten:

"(a) In every criminal case in the superior or district court, wherein the defendant is convicted, or enters a plea of guilty or nolo contendere, or when costs are assessed against the prosecuting witness, the following costs shall be assessed and collected. No costs may be assessed when a case is dismissed. Only upon entry of a written order, supported by findings of fact and conclusions of law, determining that there is just cause, the court may (i) waive costs assessed under this section or (ii) waive or reduce costs assessed under ~~subdivisions (7) or (8)~~subdivision (7), (8), (11), or (12) of this section.

…

(11) For the services of an expert witness employed by the North Carolina State Crime Laboratory who completes a chemical analysis pursuant to G.S. 20-139.1 or a forensic analysis pursuant to G.S. 8-58.20 and provides testimony about that analysis in a defendant's trial, the district or superior court judge shall, upon conviction of the defendant, order payment of the sum of six hundred dollars ($600.00) to be remitted to the Department of Justice for support of the State Crime Laboratory. This cost shall be assessed only in cases in which the expert witness provides testimony about the chemical or forensic analysis in the defendant's trial and shall be in addition to any cost assessed under subdivision (7) of this subsection.

(12) For the services of an expert witness employed by a crime laboratory operated by a local government or group of local governments who completes a chemical analysis pursuant to G.S. 20-139.1 or a forensic analysis pursuant to G.S. 8-58.20 and provides testimony about that analysis in a defendant's trial, the district or superior court judge shall, upon conviction of the defendant, order payment of the sum of six hundred dollars ($600.00) to be remitted to the general fund of the local governmental unit that operates the laboratory to be used for local law enforcement. This cost shall be assessed only in cases in which the expert witness provides testimony about the chemical or forensic analysis in the defendant's trial and shall be in addition to any cost assessed under subdivision (8) of this subsection."

SECTION 18B.19.(b) This section becomes effective August 1, 2013, and applies to fees assessed or collected on or after that date.

REIMBURSEMENT FOR USE OF PERSONAL VEHICLES

SECTION 18B.20. Notwithstanding the provisions of G.S. 138-6(a)(1), the Judicial Department, during the 2013-2015 fiscal biennium, may elect to establish a per-mile reimbursement rate for transportation by privately owned vehicles at a rate less than the business standard mileage rate set by the Internal Revenue Service.

STUDY USE AND COMPENSATION OF COURT REPORTERS

SECTION 18B.21. The Administrative Office of the Courts, in consultation with the National Center for State Courts, shall study the most effective and efficient deployment of court reporters to produce timely records of court proceedings and the most appropriate and effective compensation for court reporters. The Administrative Office of the Courts shall report its findings and recommendations to the Chairs of the Joint Legislative Oversight Committee on Justice and Public Safety by February 1, 2014.

COMPENSATION OF COURT REPORTERS

SECTION 18B.21A. The Administrative Office of the Courts shall set the limits on compensation and allowances of court reporters provided for in G.S. 7A-95(e) and G.S. 7A-198(f) during the 2013-2015 fiscal biennium so that (i) the Administrative Office of the Courts pays no more than fifty percent (50%) of the per-transcript-page rate paid by the Administrative Office of the Courts during the 2011-2013 fiscal biennium and (ii) the Office of Indigent Defense Services pays no more than fifty percent (50%) of the per-transcript-page rate paid by the Office of Indigent Defense Services during the 2011-2013 fiscal biennium.

CONSOLIDATE DISTRICT COURT AND PROSECUTORIAL DISTRICTS 6A AND 6B/RESTRUCTURE SUPERIOR COURT, DISTRICT COURT, AND PROSECUTORIAL DISTRICTS 16A, 19B, AND 20A/AUTHORIZE ADDITIONAL DISTRICT COURT JUDGE FOR DISTRICT COURT DISTRICT 21

SECTION 18B.22.(a) G.S. 7A-41(a) reads as rewritten:

"(a) The counties of the State are organized into judicial divisions and superior court districts, and each superior court district has the counties, and the number of regular resident superior court judges set forth in the following table, and for districts of less than a whole county, as set out in subsection (b) of this section:

Judicial Division	Superior Court District	Counties	No. of Resident Judges
First	1	Camden, Chowan, Currituck, Dare, Gates, Pasquotank, Perquimans	2
First	2	Beaufort, Hyde, Martin, Tyrrell, Washington	1
First	3A	Pitt	2
Second	3B	Carteret, Craven, Pamlico	3
Second	4A	Duplin, Jones, Sampson	1
Second	4B	Onslow	1
Second	5A	(part of New Hanover, part of Pender see subsection (b))	1

	5B	(part of New Hanover, part of Pender see subsection (b))	1
	5C	(part of New Hanover, see subsection (b))	1
First	6A	Halifax	1
First	6B	Bertie, Hertford, Northampton	1
First	7A	Nash	1
First	7B	(part of Wilson, part of Edgecombe, see subsection (b))	1
First	7C	(part of Wilson, part of Edgecombe, see subsection (b))	1
Second	8A	Lenoir and Greene	1
Second	8B	Wayne	1
Third	9	Franklin, Granville, Vance, Warren	2
Third	9A	Person, Caswell	1
Third	10A	(part of Wake, see subsection (b))	1
Third	10B	(part of Wake, see subsection (b))	1
Third	10C	(part of Wake, see subsection (b))	1
Third	10D	(part of Wake, see subsection (b))	1
Third	10E	(part of Wake, see subsection (b))	1
Third	10F	(part of Wake, see subsection (b))	1
Fourth	11A	Harnett, Lee	1
Fourth	11B	Johnston	1
Fourth	12A	(part of Cumberland, see subsection (b))	1
Fourth	12B	(part of Cumberland, see subsection (b))	1
Fourth	12C	(part of Cumberland, see subsection (b))	2
Fourth	13A	Bladen, Columbus	1
Fourth	13B	Brunswick	1
Third	14A	(part of Durham, see subsection (b))	1
Third	14B	(part of Durham, see subsection (b))	3
Third	15A	Alamance	2
Third	15B	Orange, Chatham	2
Fourth	16A	Anson, Richmond, Scotland, Hoke	~~1~~2
Fourth	16B	Robeson	2
Fifth	17A	Rockingham	2

Fifth	17B	Stokes, Surry	2
Fifth	18A	(part of Guilford, see subsection (b))	1
Fifth	18B	(part of Guilford, see subsection (b))	1
Fifth	18C	(part of Guilford, see subsection (b))	1
Fifth	18D	(part of Guilford, see subsection (b))	1
Fifth	18E	(part of Guilford, see subsection (b))	1
Sixth	19A	Cabarrus	1
Fifth	19B	Montgomery, Randolph	1
Sixth	19C	Rowan	1
~~Fifth~~Fourth	19D	Moore	1
Sixth	20A	~~Anson, Richmond, Stanley~~Stanly	~~2~~1
Sixth	20B	Union	2
Fifth	21A	(part of Forsyth, see subsection (b))	1
Fifth	21B	(part of Forsyth, see subsection (b))	1
Fifth	21C	(part of Forsyth, see subsection (b))	1
Fifth	21D	(part of Forsyth, see subsection (b))	1
Sixth	22A	Alexander, Iredell	2
Sixth	22B	Davidson, Davie	2
Fifth	23	Alleghany, Ashe, Wilkes, Yadkin	1
Eighth	24	Avery, Madison, Mitchell, Watauga, Yancey	2
Seventh	25A	Burke, Caldwell	2
Seventh	25B	Catawba	2
Seventh	26A	(part of Mecklenburg, see subsection (b))	2
Seventh	26B	(part of Mecklenburg, see subsection (b))	3
Seventh	26C	(part of Mecklenburg, see subsection (b))	2
Seventh	27A	Gaston	2
Seventh	27B	Cleveland, Lincoln	2
Eighth	28	Buncombe	2
Eighth	29A	McDowell, Rutherford	1
Eighth	29B	Henderson, Polk, Transylvania	1
Eighth	30A	Cherokee, Clay, Graham, Macon, Swain	1
Eighth	30B	Haywood, Jackson	1."

SECTION 18B.22.(c) The two superior court judgeships established for Superior Court District 16A by subsection (a) of this section shall be filled by the superior court judge currently serving Superior Court District 16A who resides in Scotland County and by the superior court judge currently serving Superior Court District 20A who resides in Richmond County. The terms of those judges expire December 31, 2016, and successors shall be elected in the 2016 general election for eight-year terms commencing January 1, 2017.

SECTION 18B.22.(e) The superior court judgeship established for Superior Court District 20A by subsection (a) of this section shall be filled by the superior court judge currently serving Superior Court District 20A who resides in Stanly County. The term of that judge expires December 31, 2016, and a successor shall be elected in the 2016 general election for an eight-year term commencing January 1, 2017.

SECTION 18B.22.(f) G.S. 7A-133(a) reads as rewritten:

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

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

9A	2	Person Caswell
9B	2	Warren (part of Vance see subsection (b))
10	19	Wake
11	11	Harnett Johnston Lee
12	10	Cumberland
13	6	Bladen Brunswick Columbus
14	7	Durham
15A	4	Alamance
15B	5	Orange Chatham
16A	~~3~~6	Scotland Hoke Anson Richmond
16B	5	Robeson
17A	3	Rockingham
17B	4	Stokes Surry
18	14	Guilford
19A	4	Cabarrus
19B	7	Montgomery Moore Randolph
19C	5	Rowan
20A	~~4~~2	Stanly ~~Anson~~ ~~Richmond~~
20B	1	(part of Union see subsection (b))
20C	2	(part of Union see subsection (b))
20D	1	Union
21	~~10~~11	Forsyth
22A	5	Alexander Iredell
22B	6	Davidson Davie
23	4	Alleghany Ashe Wilkes Yadkin
24	4	Avery Madison Mitchell Watauga Yancey

25	9	Burke Caldwell Catawba
26	21	Mecklenburg
27A	7	Gaston
27B	5	Cleveland Lincoln
28	7	Buncombe
29A	3	McDowell Rutherford
29B	4	Henderson Polk Transylvania
30	6	Cherokee Clay Graham Haywood Jackson Macon Swain."

SECTION 18B.22.(g) The four district judgeships established for District Court District 6 by subsection (f) of this section shall be filled by:

(1) The three district court judges currently serving District Court District 6A who reside in Halifax County whose terms expire December 31, 2016. Successors shall be elected in the 2016 general election for four-year terms commencing January 1, 2017.

(2) The district court judge currently serving District Court District 6B who resides in Northampton County whose term expires December 31, 2016. A successor shall be elected in the 2016 general election for a four-year term commencing January 1, 2017.

SECTION 18B.22.(h) The six district court judgeships established for District Court District 16A by subsection (f) of this section shall be filled by:

(1) The district court judge currently serving District Court District 16A who resides in Scotland County whose term expires December 31, 2016.

(2) The district court judge currently serving District Court District 20A who resides in Richmond County whose term expires December 31, 2016.

(3) The district court judge currently serving District Court District 20A who resides in Anson County whose term expires December 31, 2016.

(4) Election of three judges in the 2014 general election for four-year terms commencing January 1, 2015.

SECTION 18B.22.(i) The additional district court judgeship authorized for District Court District 21 by subsection (f) of this section shall be filled by election of a district court judge in the 2014 general election for a four-year term commencing January 1, 2015.

SECTION 18B.22.(j) The two district court judgeships established for District Court District 20A by subsection (f) of this section shall be filled by election of two district court judges in the 2014 general election for four-year terms commencing January 1, 2015.

SECTION 18B.22.(k) G.S. 7A-60 reads as rewritten:

"§ **7A-60. District attorneys and prosecutorial districts.**

(a) The State shall be divided into prosecutorial districts, as shown in subsection (a1) of this section. There shall be a district attorney for each prosecutorial district, as provided in subsections (b) and (c) of this section who shall be a resident of the prosecutorial district for which elected. A vacancy in the office of district attorney shall be filled as provided in Article IV, Sec. 19 of the Constitution.

(a1) The counties of the State are organized into prosecutorial districts, and each district has the counties and the number of full-time assistant district attorneys set forth in the following table:

Prosecutorial District	Counties	No. of Full-Time Asst. District Attorneys
1	Camden, Chowan, Currituck, Dare, Gates, Pasquotank, Perquimans	11
2	Beaufort, Hyde, Martin, Tyrrell, Washington	8
3A	Pitt	11
3B	Carteret, Craven, Pamlico	12
4	Duplin, Jones, Onslow, Sampson	18
5	New Hanover, Pender	18
~~6A~~	~~Halifax~~	~~5~~
~~6B~~6	Bertie, Halifax, Hertford, Northampton	~~5~~10
7	Edgecombe, Nash, Wilson	18
8	Greene, Lenoir, Wayne	14
9	Franklin, Granville, Vance, Warren	10
9A	Person, Caswell	6
10	Wake	41
11A	Harnett, Lee	9
11B	Johnston	10
12	Cumberland	23
13	Bladen, Brunswick, Columbus	13
14	Durham	18
15A	Alamance	11
15B	Orange, Chatham	10
16A	Scotland, Hoke	7
16B	Robeson	12
16C	Anson, Richmond	6
17A	Rockingham	7
17B	Stokes, Surry	8
18	Guilford	32
19A	Cabarrus	9
19B	Montgomery, Randolph	9
19C	Rowan	8
19D	Moore	5
20A	~~Anson, Richmond,~~ Stanly	~~11~~5
20B	Union	10
21	Forsyth	25
22A	Alexander, Iredell	11
22B	Davidson, Davie	11
23	Alleghany, Ashe, Wilkes, Yadkin	8
24	Avery, Madison, Mitchell, Watauga, Yancey	7
25	Burke, Caldwell, Catawba	18

26	Mecklenburg	58
27A	Gaston	14
27B	Cleveland, Lincoln	11
28	Buncombe	14
29A	McDowell, Rutherford	7
29B	Henderson, Polk, Transylvania	8
30	Cherokee, Clay, Graham, Haywood, Jackson, Macon, Swain.	10

…."

SECTION 18B.22.(l) The district attorney position established for Prosecutorial District 6 by subsection (k) of this section shall be filled by election in the 2014 general election for a four-year term commencing January 1, 2015. The district attorney positions for current Prosecutorial Districts 6A and 6B shall expire December 31, 2014.

SECTION 18B.22.(n) The district attorney position established for Prosecutorial District 20A by subsection (k) of this section shall be filled by election in the 2014 general election for a four-year term commencing January 1, 2015.

SECTION 18B.22.(p) The district attorney position established for Prosecutorial District 16C by subsection (k) of this section shall be filled by election in the 2014 general election for a four-year term commencing January 1, 2015.

SECTION 18B.22.(q) This section becomes effective January 1, 2015, except that those provisions of this section requiring election in the 2014 general election are effective to provide for those elections when they become law.

PART XIX. DEPARTMENT OF CULTURAL RESOURCES

CULTURAL RESOURCES TO FIND ALTERNATIVE FUNDING FOR STATE HISTORIC SITES

SECTION 19.1. In an effort to reduce funding of the State's 27 Historic Sites, the Department of Cultural Resources shall find alternative funding sources to support these sites by actively seeking support from the following: (i) the local governments where these Historic Sites are located, (ii) the nonprofit groups associated with these Historic Sites, and (iii) other private sources.

ALLOW EXEMPTION TO RULE-MAKING PROCESS FOR ESTABLISHING AND CHANGING ADMISSION AND ACTIVITY FEES AT STATE HISTORIC SITES, MUSEUMS, TRYON PALACE HISTORIC SITES AND GARDENS, AND THE U.S.S. NORTH CAROLINA BATTLESHIP

SECTION 19.2.(a) G.S. 121-7.3, as amended by S.L. 2013-297, reads as rewritten:

"§ **121-7.3. Admission and related activity fees.**

The Department of Cultural Resources may charge a reasonable admission and related activity fee to any historic site or museum administered by the Department. Admission and related activity fees collected under this section are receipts of the Department and shall be deposited in the appropriate special fund. The revenue collected pursuant to this section shall be used only for the individual historic site or museum where the receipts were generated. The Secretary may adopt rules necessary to carry out the provisions of this section. The Department is exempt from the requirements of Chapter 150B of the General Statutes when adopting, amending, or repealing rules for admission fees or related activity fees at historic sites and museums. The Department shall ~~provide~~ submit a ~~quarterly~~ report to the Joint Legislative Commission on Governmental Operations ~~as to the Department's or museums' anticipated use of funds or expenditures of funds pursuant to this section.~~on the amount and purpose of a fee change within 30 days following its effective date."

SECTION 19.2.(b) G.S. 143B-71, as amended by S.L. 2013-297, reads as rewritten:

"§ **143B-71. Tryon Palace Commission – creation, powers and duties.**

There is hereby created the Tryon Palace Commission of the Department of Cultural Resources with the power and duty to adopt, amend and rescind rules and regulations concerning the restoration and maintenance of the Tryon Palace complex, and other powers and duties as provided in Article 2 of Chapter 121 of the General Statutes of North Carolina, including the authority to charge reasonable admission and related activity fees. The Commission is exempt from the requirements of Chapter 150B of the General Statutes when adopting, amending, or repealing rules for admission fees or related activity fees at Tryon Palace Historic Sites and Gardens. The Commission shall submit a report to the Joint Legislative Commission on Governmental Operations on the amount and purpose of a fee change within 30 days following its effective date."

SECTION 19.2.(c) G.S. 143B-73 reads as rewritten:

"§ **143B-73. U.S.S. North Carolina Battleship Commission – creation, powers and duties.**

There is hereby created the U.S.S. North Carolina Battleship Commission of the Department of Cultural Resources with the power and duty to adopt, amend, and rescind rules and regulations under and not inconsistent with the laws of this State necessary in carrying out the provisions and purposes of this Part.

…

(3) The Commission shall adopt rules and regulations consistent with the provisions of this Chapter. The Commission is exempt from the requirements of Chapter 150B of the General Statutes when adopting, amending, or repealing rules for admission fees or related activity fees at the U.S.S. North Carolina Battleship. The Commission shall submit a report to the Joint Legislative Commission on Governmental Operations on the amount and purpose of a fee change within 30 days following its effective date."

SECTION 19.2.(d) G.S. 150B-1(d) is amended by adding the following new subdivisions to read:

"(23) The Department of Cultural Resources with respect to admission fees or related activity fees at historic sites and museums pursuant to G.S. 121-7.3.

(24) Tryon Palace Commission with respect to admission fees or related activity fees pursuant to G.S. 143B-71.

(25) U.S.S. Battleship Commission with respect to admission fees or related activity fees pursuant to G.S. 143B-73."

ALLOW MUSEUMS AND HISTORIC SITES TO GENERATE REVENUE FROM VENDOR SERVICES AND TO SELL CERTAIN MERCHANDISE

SECTION 19.3.(a) Article 3 of Chapter 111 of the General Statutes is amended by adding a new section to read:

"**§ 111-47.2. Food service at museums and historic sites operated by the Department of Cultural Resources.**

Notwithstanding Article 3 of Chapter 111 of the General Statutes, the North Carolina Department of Cultural Resources may operate or contract for the operation of food or vending services at museums and historic sites operated by the Department. Notwithstanding G.S. 111-43, the net proceeds of revenue generated by food and vending services provided at museums and historic sites operated by the Department or a vendor with whom the Department has contracted shall be credited to the appropriate fund of the museum or historic site where the funds were generated and shall be used for the operation of that museum or historic site."

SECTION 19.3.(b) G.S. 111-47.2, as enacted by subsection (a) of this section, shall not be construed to alter any contract for food or vending services at any museum or historic site operated by the Department that is in force at the time this section becomes law.

SECTION 19.3.(c) G.S. 66-58(b) is amended by adding a new subdivision to read:

"(b) The provisions of subsection (a) of this section shall not apply to:

…

(9b) The Department of Cultural Resources for the sale of food pursuant to G.S. 111-47.2 and the sale of books, crafts, gifts, and other tourism-related items at historic sites and museums administered by the Department.

…."

EXECUTIVE MANSION EXCESS PROPERTY

SECTION 19.8.(a) G.S. 143B-79 reads as rewritten:

"§ **143B-79. Executive Mansion Fine Arts Committee – creation, powers and duties.**

There is hereby created the Executive Mansion Fine Arts Committee. The Executive Mansion Fine Arts Committee shall have the following functions and duties:

…

(7) The Committee may dispose of property held in the Executive Mansion after consultation with a review committee comprised of one person from the Executive Mansion Fine Arts Committee, appointed by its chairman; one person from the Department of Administration appointed by the Secretary of Administration; and two qualified professionals from the Department of Cultural Resources, Division of Archives and History, appointed by the Secretary of Cultural Resources. Upon request of the Executive Mansion Fine Arts Committee, the review committee will view proposed items for disposition and make a recommendation to the North Carolina Historical Commission who will make a final decision. The Historical Commission must consider whether the disposition is in the best interest of the State of North Carolina. If ~~such~~ any property is sold, ~~(i) if the records with regard to the property reflect that it was acquired by the State by gift or devise~~ the net proceeds of each ~~such~~ sale shall be deposited in the State Treasury to the credit of the Executive Mansion, Special Fund, and shall be used only for the purchase, conservation, restoration or repair of other property for use in the Executive ~~Mansion and; (ii) if the records with regard to the property reflect that the property was acquired by the State by purchase with appropriated funds or do not show the manner of acquisition, the net proceeds of such sale shall be deposited in the General Fund.~~Mansion."

SECTION 19.8.(b) Notwithstanding G.S. 143B-79(7) or any other law pertaining to surplus State property, the Executive Mansion Fine Arts Committee shall obtain an appraisal of all items held in the Executive Mansion proposed for disposition. If House Bill 153 of the 2013 General Assembly becomes law, the Committee shall, prior to the sale of any item, report to the Joint Legislative Oversight Committee on General Government on the items inventoried and their value. If House Bill 153 of the 2013 General Assembly does not become law, the Committee shall, prior to the sale of any item, report to the Chairs of the House Appropriations Subcommittee on General Government, the Senate Appropriations Committee on General Government and Information Technology, and to the Fiscal Research Division.

ROANOKE ISLAND FUNDING/FRIENDS OF ELIZABETH II SUPPORT

SECTION 19.9. The Roanoke Island Commission shall request financial support from the Friends of Elizabeth II, Inc., in the amount of three hundred twenty-five thousand dollars ($325,000) or a sum equal to the average of the last three consecutive years of the Friends' investment earnings, whichever is greater, for each fiscal year of the 2013-2015 biennium and for each subsequent fiscal year. These funds shall be used pursuant to G.S. 143B-131.2.

PART XX. DEPARTMENT OF INSURANCE

CONSUMER PROTECTION FUND RETAINED AMOUNT

SECTION 20.1. G.S. 58-2-215 reads as rewritten:

"§ **58-2-215. Consumer Protection Fund.**

…

(c) Moneys appropriated by the General Assembly shall be deposited in the Fund and shall become a part of the continuation budget of the Department of Insurance. Such continuation budget amount shall equal the actual expenditures drawn from the Fund during the prior fiscal year plus the official inflation rate designated by the Director of the Budget in the preparation of the State Budget for each ensuing fiscal year; provided that if interest income on the Fund exceeds the amount yielded by the application of the official inflation rate, such continuation budget amount shall be the actual expenditures drawn from the Fund. In the event the amount in the Fund exceeds ~~five hundred thousand dollars ($500,000)~~two hundred fifty thousand dollars ($250,000) at the end of any fiscal year, such excess shall revert to the General Fund."

WORKERS' COMPENSATION FUND/ALLOCATION FOR VOLUNTEER SAFETY WORKERS

SECTION 20.2.(a) G.S. 105-228.5(d)(3) reads as rewritten:

"(d) Tax Rates; Disposition. –

…

(3) Additional Rate on Property Coverage Contracts. – An additional tax at the rate of seventy-four hundredths percent (0.74%) applies to gross premiums on insurance contracts for property coverage. The tax is imposed on ten percent (10%) of the gross premiums from insurance contracts for automobile physical damage coverage and on one hundred percent (100%) of the gross premiums from all other contracts for property coverage. ~~Thirty percent (30%)~~ Twenty-five percent (25%) of the net proceeds of this additional tax must be credited to the Volunteer Fire Department Fund established in Article 87 of Chapter 58 of the General Statutes. ~~Twenty-five percent (25%)~~ Twenty percent (20%) of the net proceeds must be credited to the Department of Insurance for disbursement pursuant to G.S. 58-84-25. ~~The remaining net proceeds must be credited to the General Fund.~~ Up to twenty percent (20%), as determined in accordance with G.S. 58-87-10(f), must be credited to the Workers' Compensation Fund. The remaining net proceeds must be credited to the General Fund.

The following definitions apply in this subdivision:

a. Automobile physical damage. – The following lines of business identified by the NAIC: private passenger automobile physical damage and commercial automobile physical damage.

b. Property coverage. – The following lines of business identified by the NAIC: fire, farm owners multiple peril, homeowners multiple peril, nonliability portion of commercial multiple peril, ocean marine, inland marine, earthquake, private passenger automobile physical damage, commercial automobile physical damage, aircraft, and boiler and machinery. The term also includes insurance contracts for wind damage.

c. NAIC. – National Association of Insurance Commissioners."

SECTION 20.2.(b) G.S. 58-87-1 reads as rewritten:

"§ **58-87-1. Volunteer Fire Department Fund.**

(a) Fund. – The Volunteer Fire Department Fund is created as an interest-bearing, nonreverting fund in the Department to provide matching grants to volunteer fire departments

to purchase equipment and make capital improvements. The Commissioner shall administer the Fund. Up to ~~two percent (2%)~~one percent (1%) of the Fund may be used for additional staff and resources to administer the Fund in each fiscal year.

…."

SECTION 20.2.(c) G.S. 58-84-25 reads as rewritten:

"§ **58-84-25. Disbursement of funds by Insurance Commissioner.**

(a) Distribution. – The Insurance Commissioner shall deduct the sum of three percent (3%) from the tax proceeds credited to the Department pursuant to G.S. 105-228.5(d)(3) and pay the same over to the treasurer of the State Firemen's Association for general purposes. The Insurance Commissioner shall deduct the sum of ~~two percent (2%)~~one percent (1%) from the tax proceeds and retain the same in the budget of the Department of Insurance for the purpose of administering the disbursement of funds by the board of trustees in accordance with the provisions of G.S. 58-84-35. The Insurance Commissioner shall, pursuant to G.S. 58-84-50, credit the amount forfeited by nonmember fire districts to the North Carolina State Firemen's Association. The Insurance Commissioner shall distribute the remaining tax proceeds to the treasurer of each fire district as provided in subsections (b) and (c) of this section.

…."

SECTION 20.2.(d) G.S. 58-87-10 reads as rewritten:

"§ **58-87-10. Workers' Compensation Fund for the benefit of volunteer safety workers.**

(a) Definition. – As used in this section, the term "eligible unit" means a volunteer fire department or volunteer rescue/EMS unit that is not part of a unit of local government and is exempt from State income tax under G.S. 105-130.11.

(b) Creation. – The Workers' Compensation Fund is created in the Department of Insurance as an expendable trust fund. Accordingly, interest and other investment income earned by the Fund accrues to it, and revenue in the Fund at the end of a fiscal year remains in the Fund and does not revert.

(c) Use. – Revenue in the Workers' Compensation Fund shall be used to provide workers' compensation benefits to members of eligible units. Chapter 97 of the General Statutes governs the payment of benefits from the Fund. Benefits are payable for compensable injuries or deaths that occur on or after July 1, 1996.

(d) Administration. – The State Fire and Rescue Commission, established under G.S. 58-78-1, shall administer the Workers' Compensation Fund and shall perform this duty by contracting with a third-party administrator. The contracting procedure is not subject to Article 3C of Chapter 143 of the General Statutes. The reasonable and necessary expenses incurred by the Commission in administering the Fund shall be paid out of the Fund by the State Treasurer. The Commission may adopt rules to implement this section.

(e) Revenue Source. – Revenue is credited to the Workers' Compensation Fund from ~~appropriations made to the Department of Insurance for this purpose.~~ a portion of the proceeds of the tax levied under G.S. 105-228.5(d)(3). In addition, every eligible unit that elects to participate shall pay into the Fund an amount set annually by the State Fire and Rescue Commission to ensure that the Fund will be able to meet its payment obligations under this section. The amount shall be set as a per capita fixed dollar amount for each member of the roster of the eligible unit.

The payment shall be made to the State Fire and Rescue Commission on or before July 1 of each year. The Commission shall remit the payments it receives to the State Treasurer, who shall credit the payments to the Fund.

(f) The amount of the tax imposed by G.S. 105-228.5(d)(3) credited to the Workers' Compensation Fund shall be the maximum allowed under that statute."

SECTION 20.2.(e) G.S. 58-87-10, as amended by subsection (d) of this section, reads as rewritten:

"§ **58-87-10. Workers' Compensation Fund for the benefit of volunteer safety workers.**

…

(f) ~~The amount of the tax imposed by G.S. 105-228.5(d)(3) credited to the Workes' Compensation Fund shall be the maximum allowed under that statute.~~Funding Study. – The Department of Insurance shall conduct a periodic actuarial study to calculate the amount required to meet the needs of the Fund. The study shall be based on a revenue amount that is the greater of the amount paid by members of the Fund as determined under subsection (e) of this section for the fiscal year to which the study applies or the amount paid by members of the Fund as determined under subsection (e) of this section for fiscal year 2012-2013. The study shall be reviewed by the Office of State Budget and Management. On or before March 1 of each year, the Office of State Budget and Management, in consultation with the Department of Insurance, must notify the Secretary of Revenue of the amount required to meet the needs of the Fund, as determined by the study, for the upcoming fiscal year. The Secretary of Revenue shall remit that amount, subject to the twenty percent (20%) limitation in G.S. 105-228.5(d)(3), to the Fund."

SECTION 20.2.(f) Subsection (e) of this section becomes effective April 1, 2016.

SET INSURANCE REGULATORY CHARGE

SECTION 20.3.(a) The percentage rate to be used in calculating the insurance regulatory charge under G.S. 58-6-25 is six percent (6%) for the 2013 and 2014 calendar years.

SECTION 20.3.(b) This section is effective when it becomes law.

PART XXI. STATE BOARD OF ELECTIONS

ELIMINATE NORTH CAROLINA PUBLIC CAMPAIGN FUND

SECTION 21.1.(a) Article 22D of Chapter 163 of the General Statutes is repealed, except that G.S. 163-278.69 is repealed effective upon exhaustion of the funds for publication of the Judicial Voter Guide.

SECTION 21.1.(b) G.S. 84-34 reads as rewritten:

"§ **84-34. Membership fees and list of members.**

Every active member of the North Carolina State Bar shall, prior to the first day of July of each year, pay to the secretary-treasurer an annual membership fee in an amount determined by the Council but not to exceed three hundred dollars ($300.00), ~~plus a surcharge of fifty dollars ($50.00) for the implementation of Article 22D of Chapter 163 of the General Statutes,~~ and every member shall notify the secretary-treasurer of the member's correct mailing address. Any member who fails to pay the required dues by the last day of June of each year shall be subject to a late fee in an amount determined by the Council but not to exceed thirty dollars ($30.00). All dues for prior years shall be as were set forth in the General Statutes then in effect. The membership fee shall be regarded as a service charge for the maintenance of the several services authorized by this Article, and shall be in addition to all fees required in connection with admissions to practice, and in addition to all license taxes required by law. The fee shall not be prorated: Provided, that no fee shall be required of an attorney licensed after this Article shall have gone into effect until the first day of January of the calendar year following that in which the attorney was licensed; but this proviso shall not apply to attorneys from other states admitted on certificate. The fees shall be disbursed by the secretary-treasurer on the order of the Council. ~~The fifty-dollar ($50.00) surcharge shall be sent on a monthly schedule to the State Board of Elections.~~ The secretary-treasurer shall annually, at a time and in a law magazine or daily newspaper to be prescribed by the Council, publish an account of the financial transactions of the Council in a form to be prescribed by it. The secretary-treasurer shall compile and keep currently correct from the names and mailing addresses forwarded to the secretary-treasurer and from any other available sources of information a list of members of the North Carolina State Bar and furnish to the clerk of the superior court in each county, not later than the first day of October in each year, a list showing the name and address of each attorney for that county who has not complied with the provisions of this Article. The name of each of the active members who are in arrears in the payment of membership fees shall be furnished to

the presiding judge at the next term of the superior court after the first day of October of each year, by the clerk of the superior court of each county wherein the member or members reside, and the court shall thereupon take action that is necessary and proper. The names and addresses of attorneys so certified shall be kept available to the public. The Secretary of Revenue is hereby directed to supply the secretary-treasurer, from records of license tax payments, with any information for which the secretary-treasurer may call in order to enable the secretary-treasurer to comply with this requirement.

The list submitted to several clerks of the superior court shall also be submitted to the Council at its October meeting of each year and it shall take the action thereon that is necessary and proper."

SECTION 21.1.(c) G.S. 105-159.2 is repealed.

SECTION 21.1.(d) G.S. 163-278.5 reads as rewritten:

"§ **163-278.5. Scope of Article; severability.**

The provisions of this Article apply to primaries and elections for North Carolina offices and to North Carolina referenda and do not apply to primaries and elections for federal offices or offices in other States or to non-North Carolina referenda. Any provision in this Article that regulates a non-North Carolina entity does so only to the extent that the entity's actions affect elections for North Carolina offices or North Carolina referenda.

The provisions of this Article are severable. If any provision is held invalid by a court of competent jurisdiction, the invalidity does not affect other provisions of the Article that can be given effect without the invalid provision.

This section applies to Articles 22B, ~~22D, 22E, 22F,~~ 22G, 22H, 22J, and 22M of the General Statutes to the same extent that it applies to this Article."

SECTION 21.1.(e) G.S. 163-278.13(e) reads as rewritten:

"(e) Except as provided in subsections ~~(e2), (e3),~~(e3) and (e4) of this section, this section shall not apply to any national, State, district or county executive committee of any political party. For the purposes of this section only, the term "political party" means only those political parties officially recognized under G.S. 163-96."

SECTION 21.1.(f) G.S. 163-278.13(e2) is repealed.

SECTION 21.1.(g) G.S. 163-278.23 reads as rewritten:

"§ **163-278.23. Duties of Executive Director of Board.**

…

This section applies to Articles 22B, ~~22D, 22E, 22F,~~ 22G, 22H, and 22M of the General Statutes to the same extent that it applies to this Article."

SECTION 21.1.(h) G.S. 163-278.97 reads as rewritten:

"§ **163-278.97. Voter-Owned Elections Fund established; sources of funding.**

…

(c) Evaluation and Determination of Fund Amount. – By January 1, 2011, and every four years thereafter, the ~~Board, in conjunction with the Advisory Council established under G.S. 163-278.68(b),~~Board shall prepare and provide to the Joint Legislative Commission on Governmental Operations of the General Assembly a report documenting, evaluating, and making recommendations relating to the administration, implementation, and enforcement of this Article. In its report, the Board shall set out the funds received to date and the expected needs of the Fund during the next election cycle and make recommendations about the feasibility of expanding its provisions to include other candidates for State office based on the experience of this Article and the experience of similar programs in North Carolina and other states. The Board shall also evaluate and make recommendations regarding how to address activities that could undermine the purpose of this Article, including spending that appears to target candidates but is not reached by regulation."

SECTION 21.1.(i) G.S. 163-278.99E(d) is repealed effective upon exhaustion of the funds for publication of the Judicial Voter Guide in G.S. 163-278.69.

SECTION 21.1.(j) The State Board of Elections shall use the money in the North Carolina Public Campaign Fund to only publish Judicial Voter Guides as described in G.S. 163-278.69 until the funds have been exhausted.

SECTION 21.1.(k) The secretary-treasurer of the North Carolina State Bar shall remit any payments of the fifty-dollar ($50.00) surcharge payable for the taxable year January 1, 2013, to the State Board of Elections, and the State Board of Elections must credit the funds received to the North Carolina Public Campaign Fund.

SECTION 21.1.(l) The State Board of Elections shall notify the Revisor of Statutes when the funds have been exhausted for publication of the Judicial Voter Guide.

SECTION 21.1.(m) Subsection (c) of this section is effective for taxable years beginning on or after January 1, 2013. The remainder of this section becomes effective July 1, 2013.

PART XXII. GENERAL ASSEMBLY

LIMIT SELECT AND INTERIM STUDY COMMITTEES

SECTION 22.3. During the 2013-2015 biennium and pursuant to G.S. 120-19.6(a) and (a1) of the General Statutes, the President Pro Tempore of the Senate and the Speaker of the House of Representatives may respectively authorize no more than a cumulative total of 13 select committees and interim study committees to meet in the interim period. This limitation does not apply to any select committee or interim study committee created by law, simple or joint resolution, or joint authorization of the Speaker of the House of Representatives and the President Pro Tempore of the Senate.

MEDICAID ADVISORY GROUP MATCHING FUNDS

SECTION 22.5. Of the funds appropriated to Budget Code 21000 in the General Assembly, up to thirty-seven thousand five hundred dollars ($37,500) for the 2013-2014 fiscal year shall be transferred to the Department of Health and Human Services to provide matching funds for the activities of the Medicaid Advisory Group established in Section 12H.1(e) of this act.

PED/STUDY LICENSURE FEES

SECTION 22.6.(a) The Joint Legislative Program Evaluation Oversight Committee shall include in the 2013-2014 Work Plan for the Program Evaluation Division of the General Assembly a study to review the licensure fees for occupations regulated by the Department of Insurance which are not directly associated with the insurance industry. The Program Evaluation Division (PED) shall include the following within this study:

(1) Determining the applicant's actual expenditure for licensure, excluding education, training, and certification costs.
(2) Determining the advantages and disadvantages of the Department of Insurance using a vendor to process applications for licensure and renewals.
(3) Determining the appropriate licensure fees an applicant should be assessed if the Department of Insurance determines the use of a vendor is the most cost-efficient method for licensing applicants.
(4) Determining the appropriate method for reimbursing a vendor of an amount greater than the licensure fees authorized by Chapter 58 of the General Statutes.
(5) Determining whether any redundancy exists with a vendor and the Department of Insurance in processing applications for licensure or renewal.
(6) Any other issues PED discovers while performing the study.

SECTION 22.6.(b) The Program Evaluation Division shall submit its findings and recommendations from subsection (b) of this section to the Joint Legislative Program Evaluation Oversight Committee and to Chairs of the House of Representatives Appropriations

Subcommittee on General Government and the Senate Appropriations Committee on General Government and Information Technology.

PART XXIV. OFFICE OF STATE BUDGET AND MANAGEMENT

SYMPHONY CHALLENGE GRANT/OSBM-SPECIAL APPROPRIATIONS

SECTION 24.1.(a) Of the funds appropriated in this act to the Office of State Budget and Management-Special Appropriations, the sum of one million five hundred thousand dollars ($1,500,000) in nonrecurring funds for the 2013-2014 fiscal year and the sum of one million five hundred thousand dollars ($1,500,000) in nonrecurring funds for the 2014-2015 fiscal year shall be allocated to the North Carolina Symphony in accordance with this section. It is the intent of the General Assembly that the North Carolina Symphony raise at least eight million dollars ($8,000,000) in non-State funds for the 2013-2014 fiscal year and at least eight million dollars ($8,000,000) in non-State funds for the 2014-2015 fiscal year. The NC Symphony cannot use funds transferred from the organization's endowment to its operating budget to achieve the fund-raising targets set out in subsections (b) and (c) of this section.

SECTION 24.1.(b) For the 2013-2014 fiscal year, the North Carolina Symphony shall receive allocations from the Office of State Budget and Management as follows:

(1) Upon raising the initial sum of four million dollars ($4,000,000) in non-State funding, the NC Symphony shall receive the sum of five hundred thousand dollars ($500,000).

(2) Upon raising an additional sum of two million dollars ($2,000,000) in non-State funding for a total amount of six million dollars ($6,000,000) in non-State funds, the NC Symphony shall receive the sum of five hundred thousand dollars ($500,000).

(3) Upon raising an additional sum of two million dollars ($2,000,000) in non-State funding for a total sum of eight million dollars ($8,000,000) in non-State funds, the NC Symphony shall receive the final sum of five hundred thousand dollars ($500,000) in the 2013-2014 fiscal year.

SECTION 24.1.(c) For the 2014-2015 fiscal year, the North Carolina Symphony shall receive allocations from the Office of State Budget and Management as follows:

(1) Upon raising the initial sum of four million dollars ($4,000,000) in non-State funding, the NC Symphony shall receive the sum of five hundred thousand dollars ($500,000).

(2) Upon raising an additional sum of two million dollars ($2,000,000) in non-State funding for a total amount of six million dollars ($6,000,000) in non-State funds, the NC Symphony shall receive the sum of five hundred thousand dollars ($500,000).

(3) Upon raising an additional sum of two million dollars ($2,000,000) in non-State funding for a total sum of eight million dollars ($8,000,000) in non-State funds, the NC Symphony shall receive the final sum of five hundred thousand dollars ($500,000) in the 2014-2015 fiscal year.

SECTION 24.1.(d) Of the funds appropriated in this act to the Office of State Budget and Management-Special Appropriations, the sum of three hundred thousand dollars ($300,000) in nonrecurring funds for the 2013-2014 fiscal year shall be allocated to The Bridge Downeast, Inc., a nonprofit organization, to purchase a facility to house activities for the youth and senior citizens on Harkers Island and surrounding areas. If these funds are not used for the purpose for which they were appropriated as of June 30, 2014, the funds shall revert to the General Fund.

PART XXVII. DEPARTMENT OF THE SECRETARY OF STATE

INCREASE REGISTRATION FEE FOR LOBBYIST & LOBBYIST PRINCIPAL/ELECTRONIC SUBMISSION OF ALL DOCUMENTS, REPORTS, AND PAYMENTS BY LOBBYISTS

SECTION 27.1.(a) G.S. 120C-201 reads as rewritten:

"§ **120C-201. Lobbyist's registration fee.**

(a) ~~Except as provided for in subsection (b) of this section, a~~A fee of ~~one hundred dollars ($100.00)~~two hundred fifty dollars ($250.00) is due and payable to the Secretary of State at the time of each lobbyist registration. Fees so collected shall be deposited in the General Fund of the State. The Secretary of State shall allow fees required under this section to be paid electronically but shall not require the fees to be paid electronically.

~~(b) The Secretary of State shall adopt rules providing for a waiver or reduction of the fees required by this section for lobbyists registering to represent persons who have been granted nonprofit status under 26 U.S.C. § 501(c)(3).~~"

SECTION 27.1.(b) G.S. 120C-207 reads as rewritten:

"§ **120C-207. Lobbyist principal's fees.**

(a) ~~Except as provided for in subsection (b) of this section, a~~A fee of ~~one hundred dollars ($100.00)~~two hundred fifty dollars ($250.00) is due and payable to the Secretary of State at the time the principal's first authorization statement is filed each calendar year for a lobbyist. Fees so collected shall be deposited in the General Fund of the State. The Secretary of State shall allow fees required under this section to be paid electronically but shall not require the fees to be paid electronically.

~~(b) The Secretary of State shall adopt rules providing for a waiver or reduction of the fees required by this section for lobbyist principals that have been granted nonprofit status under 26 U.S.C. § 501(c)(3).~~"

SECTION 27.1.(c) G.S. 120C-200 reads as rewritten:

"§ **120C-200. Lobbyist registration procedure.**

…

(b) The form of the registration shall be prescribed by the Secretary of ~~State~~State, be filed electronically, and shall include the registrant's full name, firm, complete address, and telephone number; the registrant's place of business; the full name, complete address, and telephone number of each principal the lobbyist represents; and a general description of the matters on which the registrant expects to act as a lobbyist.

(c) Each lobbyist shall electronically file an amended registration form with the Secretary of State no later than 10 business days after any change in the information supplied in the lobbyist's last registration under subsection (b) of this section. Each supplementary registration shall include a complete statement of the information that has changed.

…."

SECTION 27.1.(d) G.S. 120C-201(a), as amended by subsection (a) of this section, reads as rewritten:

"(a) A fee of two hundred fifty dollars ($250.00) is due and payable to the Secretary of State at the time of each lobbyist registration. Fees so collected shall be deposited in the General Fund of the State. The ~~Secretary of State shall allow~~ fees required under this section ~~to~~shall be paid ~~electronically but shall not require the fees to be paid electronically.~~electronically."

SECTION 27.1.(e) G.S. 120C-206 reads as rewritten:

"§ **120C-206. Lobbyist principal's authorization.**

…

(b) The form of the written authorization shall be prescribed by the Secretary of ~~State~~State, be filed electronically, and shall include the lobbyist principal's full name, complete address, and telephone number, name and title of any official authorized to sign for the lobbyist principal, and the name of each lobbyist registered to represent that principal.

(c) An amended authorization shall be electronically filed with the Secretary of State no later than 10 business days after any change in the information on the principal's authorization. Each supplementary authorization shall include a complete statement of the information that has changed."

SECTION 27.1.(f) G.S. 120C-207(a), as amended by subsection (b) of this section, reads as rewritten:

"(a) A fee of two hundred fifty dollars ($250.00) is due and payable to the Secretary of State at the time the principal's first authorization statement is filed each calendar year for a lobbyist. Fees so collected shall be deposited in the General Fund of the State. The ~~Secretary of State shall allow~~ fees required under this section ~~to~~shall be paid ~~electronically but shall not require the fees to be paid electronically.~~electronically."

SECTION 27.1.(g) G.S. 120C-401(d) reads as rewritten:

"(d) Each report required by this Article shall be in the form prescribed by the Secretary of ~~State, which may include electronic reports.~~State and filed electronically."

SECTION 27.1.(h) G.S. 120C-800(f) reads as rewritten:

"(f) Within 15 business days after the end of the quarter in which the reportable expenditure was made, reports required by this section shall be filed electronically with the Secretary of State in a ~~manner~~form prescribed by the Secretary of ~~State, which may include electronic reports.~~State. If the designated individual is required to file a statement of economic interest under G.S. 138A-24, then that designated individual may opt to report any information required by this section in the statement of economic interest."

SECTION 27.1.(i) Subsections (a) and (b) of this section become effective August 1, 2013. This remainder of this section becomes effective October 1, 2013, and applies to all filings, payments due, and registrations, on or after that date.

PART XXIX. OFFICE OF THE STATE CONTROLLER

OVERPAYMENTS AUDIT

SECTION 29.1.(a) During the 2013-2015 fiscal biennium, receipts generated by the collection of inadvertent overpayments by State agencies to vendors as a result of pricing errors, neglected rebates and discounts, miscalculated freight charges, unclaimed refunds, erroneously paid excise taxes, and related errors are to be deposited in Special Reserve Account 24172 as required by G.S. 147-86.22(c).

SECTION 29.1.(b) For each year of the 2013-2015 fiscal biennium, five hundred thousand dollars ($500,000) of the funds in the Special Reserve Account 24172 shall be used by the Office of the State Controller for data processing, debt collection, or e-commerce costs and are hereby appropriated for that purpose.

SECTION 29.1.(c) All funds available in Special Reserve Account 24172 on June 30 of each year of the 2013-2015 fiscal biennium shall revert to the General Fund on that date.

SECTION 29.1.(d) The State Controller shall report quarterly to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division on the revenue deposited into Special Reserve Account 24172 and the disbursement of that revenue.

PART XXX. DEPARTMENT OF ADMINISTRATION

REQUIRE CONTINUATION REVIEW OF THE YOUTH ADVOCACY AND INVOLVEMENT OFFICE

SECTION 30.1.(a) A continuation review of the Youth Advocacy and Involvement Office shall be prepared by the Department of Administration. The review shall be submitted to the House of Representatives Appropriations Subcommittee on General Government and the Senate Appropriations Committee on General Government and Information Technology no later than March 31, 2014. The written report shall include the information listed in subsection (b) of this section.

SECTION 30.1.(b) The continuation review required by this section shall include all of the following information:

(1) A description of the services provided by the Youth Advocacy and Involvement Office and its mission, goals, and objectives.
(2) The statutory objectives of the Office and the problem or need addressed.
(3) The extent to which the objectives of the Office have been achieved.
(4) The functions or programs performed by the Office without specific statutory authority.
(5) The performance measures and the process by which the performance measures determine efficiency and effectiveness.
(6) Recommendations for statutory, budgetary, or administrative changes needed to improve efficiency and effectiveness of services delivered to the public.
(7) The consequences of discontinuing funding.
(8) Recommendations for improving services or reducing costs or duplication.
(9) The identification of policy issues that should be brought to the attention of the General Assembly.
(10) Any other information necessary to fully support this continuation review requirement.

ELIMINATE DISPLACED HOMEMAKERS PROGRAM/FUND

SECTION 30.2.(a) G.S. 7A-305(a2) reads as rewritten:

"(a2) In every action for absolute divorce filed in the district court, a cost of seventy-five dollars ($75.00) shall be assessed against the person filing the divorce action. Costs collected by the clerk pursuant to this subsection shall be remitted to the State Treasurer, who shall deposit ~~fifty-five dollars ($55.00)~~thirty-five dollars ($35.00) to the North Carolina Fund for Displaced Homemakers established under G.S. 143B-394.10 and ~~twenty dollars ($20.00)~~forty dollars ($40.00) to the Domestic Violence Center Fund established under G.S. 50B-9. Costs assessed under this subsection shall be in addition to any other costs assessed under this section."

SECTION 30.2.(a1) G.S. 7A-305(a2), as amended by subsection (a) of this section, reads as rewritten:

"(a2) In every action for absolute divorce filed in the district court, a cost of seventy-five dollars ($75.00) shall be assessed against the person filing the divorce action. Costs collected by the clerk pursuant to this subsection shall be remitted to the State Treasurer, who shall deposit ~~thirty-five dollars ($35.00) to the North Carolina Fund for Displaced Homemakers established under G.S. 143B-394.10 and forty dollars ($40.00)~~seventy-five dollars ($75.00) to the Domestic Violence Center Fund established under G.S. 50B-9. Costs assessed under this subsection shall be in addition to any other costs assessed under this section."

SECTION 30.2.(b) G.S. 143B-393 reads as rewritten:

"§ **143B-393. North Carolina Council for Women – creation; powers and duties.**

There is hereby created the North Carolina Council for Women of the Department of Administration. The North Carolina Council for Women shall have the following functions and duties:

(1) To advise the Governor, the principal State departments, and the State legislature concerning the education and employment of women in the State of North ~~Carolina; and~~Carolina.
(2) To advise the Secretary of Administration upon any matter the Secretary may refer to ~~it; and~~the Council.
~~(3) To establish programs for the assistance of displaced homemakers as set forth in Part 10B of this Article.~~"

SECTION 30.2.(c) Part 10B of Article 9 of Chapter 143B of the General Statutes is repealed.

SECTION 30.2.(d) All unencumbered funds as of June 30, 2014, in the North Carolina Fund for Displaced Homemakers shall be transferred to the Domestic Violence Center Fund established under G.S. 50B-9.

SECTION 30.2.(e) Subsection (a1) of this section becomes effective July 1, 2014.

REPEAL STATEWIDE CAPITAL RESERVE

SECTION 30.3. Section 20.4 of S.L. 2011-145 is repealed. Any funds remaining in the reserve established pursuant to that section shall be transferred to the capital project account associated with the capital project for which they were initially appropriated.

BIENNIAL REVIEW OF STATEMENTS OF ECONOMIC INTEREST BY SEC

SECTION 30.4.(a) G.S. 138A-10(a)(4) reads as rewritten:

"§ **138A-10. Powers and duties.**

(a) In addition to other powers and duties specified in this Chapter, the Commission shall:

…

(4) Receive and review all statements of economic ~~interests~~ interest filed with the Commission by prospective and actual covered ~~persons and~~ persons as provided in G.S. 138A-28. ~~evaluate whether (i) the statements conform to the law and the rules of the Commission, and (ii) the financial interests and other information reported reveals actual or potential conflicts of interest.~~Pursuant to G.S. 138A-24(e), this subdivision does not apply to statements of economic interest of legislators and judicial officers."

SECTION 30.4.(b) Article 3 of Chapter 138A of the General Statutes is amended by adding a new section to read:

"**§ 138A-28. Review and evaluation of statements of economic interest.**

(a) The Commission shall receive and review all statements of economic interest pursuant to G.S. 138A-10(a)(4) and shall evaluate whether (i) the statements conform to the law and the rules of the Commission, and (ii) the financial interests and other information reported by prospective and actual covered persons reveal actual or potential conflicts of interest.

(b) Beginning July 1, 2013, the Commission shall establish a biennial cycle for evaluating statements of economic interest. The Commission shall evaluate each initial filing as provided in subsection (a) of this section.

(c) Notwithstanding subsection (b) of this section, statements filed by the following prospective and actual public servants shall be evaluated on an annual basis:

(1) The University of North Carolina Board of Governors, subject to G.S. 138A-24(f).

(2) The State Board of Community Colleges, subject to G.S. 138A-24(f).

(3) The North Carolina Utilities Commission.

(4) The North Carolina Industrial Commission.

(5) Supplemental statements filed pursuant to Chapter 136 of the General Statutes.

(6) Any other board or commission whose members are elected or confirmed by the General Assembly.

(d) Notwithstanding subsections (a) and (b) of this section, statements of economic interest filed by Constitutional officers of the State and individuals elected or appointed as Constitutional officers of the State prior to taking office shall be evaluated every four years upon election or appointment to office.

(e) A public servant who simultaneously serves on more than one covered board may file one statement of economic interest and that statement shall serve as disclosure for all the covered boards. If, during the biennial cycle, a public servant leaves one covered board and begins membership on another covered board, the public servant is not required to file another

statement of economic interest, and the Commission is not required to evaluate the statement again in light of the subsequent appointment. The public servant must make subsequent filings pursuant to G.S. 138A-22(a) upon the expiration of the biennial cycle.

(f) Nothing in this section shall be construed to impair the Commission's duties and authority under G.S. 138A-25 and G.S. 138A-26."

USE OF E-COMMERCE FUNDS FOR PURCHASE AND CONTRACT OPERATIONS

SECTION 30.5. Notwithstanding the provisions of G.S. 66-58.12(c), the sum of one million two hundred eighteen thousand six hundred fifty-nine dollars ($1,218,659) for the 2013-2014 fiscal year and the sum of one million four hundred seventy-six thousand five hundred forty-three dollars ($1,476,543) for the 2014-2015 fiscal year shall be transferred from the E-Commerce Fund in the Department of Administration Budget Code 24100, Fund 2514, to be used for each year of the 2013-2015 biennium, on a recurring basis, to pay the operating expenses of the Division of Purchase and Contract.

STUDY/E-PROCUREMENT FEE & VENDOR CONTRACT

SECTION 30.6.(a) The Department of Administration shall study the feasibility of reducing or eliminating the e-commerce fee authorized under G.S. 66-58.12(b). The e-commerce fee supports the E-Procurement System operated by the Department. By February 1, 2014, the Department shall report its findings to the Senate Appropriations Committee on General Government and Information Technology, House of Representatives Appropriations Subcommittee on General Government, Joint Legislative Committee on Information Technology, and Office of State Budget and Management. The report shall include the following:

(1) The current rate of the fee and how it was calculated.
(2) The current revenue generated from the fee by departmental users.
(3) The current breakeven point for the operation of the E-Procurement System.
(4) The requirements for the operation and administration of the E-Procurement System, including the term of any contract with an outside vendor for the management of the E-Procurement System.
(5) Total payments to vendors since the initiation of the E-Procurement System.
(6) Total State receipts since the initiation of the E-Procurement System.
(7) Information on E-Procurement Systems currently in operation in other states and within North Carolina, including an analysis of the advantages and disadvantages of each.
(8) The feasibility and cost of utilizing E-Procurement Systems under management by any State institution.
(9) The feasibility of eliminating the fee supporting the E-Procurement System, E-Commerce Fund (2514), and moving the administration of the E-Procurement System to General Fund Support, including any cost-savings to agencies as a result of vendors not assessing the fee on goods purchased through the System.
(10) The feasibility of reducing the fee by assessing the fee on goods and services only.
(11) The potential for savings from training State employees to operate and maintain the System.

SECTION 30.6.(b) If the contract with an outside vendor operating the E-Procurement System expires during the 2013-2015 biennium, the Department of Administration, under the supervision of the Enterprise Project Management Office and the Statewide Information Technology Procurement Office, shall issue a request for proposals and select a vendor through open competition. Any new contract shall comply with all State information technology procurement requirements, including G.S. 143-135.9, and shall include a requirement that the project be hosted on State infrastructure.

PART XXXIV. DEPARTMENT OF TRANSPORTATION

CASH FLOW HIGHWAY FUND AND HIGHWAY TRUST FUND APPROPRIATION

SECTION 34.1.(a) The General Assembly authorizes and certifies anticipated revenues for the Highway Fund as follows:

For Fiscal Year 2015-2016	$1,946.7 million
For Fiscal Year 2016-2017	$2,027.6 million
For Fiscal Year 2017-2018	$2,103.3 million
For Fiscal Year 2018-2019	$2,140.4 million

SECTION 34.1.(b) The General Assembly authorizes and certifies anticipated revenues for the Highway Trust Fund as follows:

For Fiscal Year 2015-2016	$1,160.3 million
For Fiscal Year 2016-2017	$1,215.2 million
For Fiscal Year 2017-2018	$1,256 million
For Fiscal Year 2018-2019	$1,283.7 million

INCREASE DOT PRIVATIZATION

SECTION 34.2.(a) The Department of Transportation shall seek to increase the use of contracts to further privatize preconstruction work where practical, economical, and likely to lead to increased efficiency. In doing so, the Department shall meet each of the following privatization requirements:

(1) Increase the outsourcing of all activities performed by the Department's Preconstruction and Technical Services units to between sixty and sixty-five percent (60%-65%) of the total cost of activities performed by those units by the end of the 2013-2015 fiscal biennium, excluding the cost of activities performed by the Turnpike Authority, the Structures Design and Management unit, and the Bridge Program.

(2) The Right-of-Way, Project Development and Environmental Analysis, and Roadway Design units shall increase the total cost of outsourced activity by five percent (5%) in fiscal year 2013-2014 and by an additional five percent (5%) in fiscal year 2014-2015 from a baseline of fiscal year 2012-2013 actual expenditures for those units.

SECTION 34.2.(b) The Department of Transportation shall increase contracts for construction of transportation projects on a design-build basis awarded under the provisions of G.S. 136-28.11.

SECTION 34.2.(c) G.S. 136-28.11(d) is repealed.

SECTION 34.2.(d) Report. – The Department shall report to the Fiscal Research Division and the Joint Legislative Transportation Oversight Committee regarding its progress in implementing the requirements of this section before the convening of the 2014 Regular Session of the 2013 General Assembly.

SYSTEM PRESERVATION FUNDS PREFERENCE FOR DEFICIENT BRIDGES

SECTION 34.3. The funds allocated to the system preservation program (fund center 1500/157839) for fiscal years 2013-2014 and 2014-2015 shall be used for improvements to structurally deficient and functionally obsolete bridges. All projects funded under this section, with the exception of inspection, pre-engineering, contract preparation, contract administration and oversight, and planning activities, shall be outsourced to private contractors.

SMALL CONSTRUCTION AND CONTINGENCY FUNDS

SECTION 34.4.(a) Of the funds appropriated in this act to the Department of Transportation:

(1) Five million dollars ($5,000,000) in nonrecurring funds shall be allocated in each fiscal year for small construction projects recommended by the Chief

Engineer in consultation with the Chief Operating Officer and approved by the Secretary of the Department of Transportation. These funds shall be allocated equally in each fiscal year of the biennium among the 14 Highway Divisions for small construction projects.

(2) Twelve million dollars ($12,000,000) shall be allocated statewide in each fiscal year for rural or small urban highway improvements and related transportation enhancements to public roads and public facilities, industrial access roads, and spot safety projects, including pedestrian walkways that enhance highway safety. Projects funded pursuant to this subdivision shall be approved by the Secretary of Transportation.

None of these funds used for secondary road improvements during the 2013-2014 fiscal year are subject to the county allocation formulas in G.S. 136-44.5(b).

SECTION 34.4.(b) The Department of Transportation shall report to the members of the General Assembly on projects funded pursuant to this section in each member's district prior to construction. The Department shall make a quarterly comprehensive report on the use of these funds to the Joint Legislative Transportation Oversight Committee and the Fiscal Research Division.

SECTION 34.4.(c) The sum of twenty-seven million sixty thousand eighty-three dollars ($27,060,083) of the unallotted and unexpended balance of funds within the Contingency Fund (fund center 1500/157818) shall be transferred to the Highway Fund as appropriated and allocated by this act.

SECTION 34.4.(d) The sum of twenty-one million nine hundred fourteen thousand four hundred ten dollars ($21,914,410) of the unallotted and unexpended balance of funds within the Division Small Urban Construction Program (fund center 1500/157837) shall be transferred to the Highway Fund as appropriated and allocated by this act.

ACCESS AND PUBLIC SERVICE ROAD FUNDS

SECTION 34.6. The sum of four million eight hundred forty-three thousand four hundred forty-one dollars ($4,843,441) of the unallotted and unexpended balance of funds within the Access and Public Service Road program (fund center 1500/157814) shall be transferred to the Highway Fund as appropriated and allocated by this act.

ECONOMIC DEVELOPMENT PROGRAM FUNDS

SECTION 34.7.(a) The sum of three million three hundred forty-six thousand two hundred fifteen dollars ($3,346,215) of the unallotted and unexpended balance of funds within the Economic Development fund (fund center 1500/157838) shall be transferred to the Highway Fund as appropriated and allocated by this act.

SECTION 34.7.(b) Of the funds appropriated to the Economic Development fund, the sum of three million three hundred forty-six thousand two hundred fifteen dollars ($3,346,215) in fiscal year 2013-2014 and four million thirty-six thousand one hundred seventy-one dollars ($4,036,171) in fiscal year 2014-2015 shall be used for prioritized transportation improvements and infrastructure that expedite commercial growth as well as either job creation or job retention. Projects funded under this section shall be jointly approved by the Secretary of Transportation and the Secretary of Commerce.

CONGESTION AND MOBILITY REPORTING

SECTION 34.8. G.S. 136-44.3 reads as rewritten:

"§ **136-44.3. Maintenance program.**

The Department shall establish performance standards for the maintenance and operation of the State highway system. In each even-numbered year, the Department of Transportation shall survey the condition of the State highway system and shall prepare a report of the findings of the survey. The report shall provide both quantitative and qualitative descriptions of the condition of the system and shall provide estimates of the following:

(1) The annual cost to meet and sustain the established performance standards for the primary and secondary highway system, to include: (i) routine maintenance and operations, (ii) system preservation, and (iii) pavement and bridge rehabilitation.
(2) Projected system condition and corresponding optimal funding requirements for a seven-year plan to sustain established performance standards.
(3) Any significant variations in system conditions among highway divisions.
(4) An assessment of the level of congestion throughout the primary highway system based on traffic data, and a ranking of the most congested areas based on travel time reliability and the average number of congested hours, together with the Department's recommendations for congestion reduction and mobility improvement.

On the basis of the report and from funds available, the Department of Transportation shall develop a statewide annual maintenance program for the State highway system, which shall be subject to the approval of the Board of Transportation and is consistent with performance standards.

The report on the condition of the State highway system and maintenance funding needs shall be presented to the Joint Legislative Transportation Oversight Committee by December 31 of each even-numbered year, and copies shall be made available to any member of the General Assembly upon request."

REPEAL INTERMODAL CONTINUING APPROPRIATIONS

SECTION 34.9. The following statutes are repealed:

(1) G.S. 136-16.4.
(2) G.S. 136-16.5.
(3) G.S. 136-16.7.
(4) G.S. 136-16.8.
(5) G.S. 136-16.9.

FLEXIBLE USE OF FUNDS TO LEVERAGE FEDERAL FUNDS FOR RURAL AND HUMAN SERVICE PUBLIC TRANSPORTATION

SECTION 34.10. In order to ensure maximum funding and to facilitate the use of funds available to the Department, the Department of Transportation, Public Transportation Division, shall have the flexibility to redistribute funding from the "rural capital" grant program and within the "urban technology, human service transportation management, and rural general public" grant program in order to leverage all eligible federal funds for operating assistance to rural and human service transportation systems. The distribution of funds to these systems shall be based on assessed system needs. This section applies only to the 2013-2015 fiscal biennium.

MAXIMIZE LEVERAGE OF FEDERAL PUBLIC TRANSPORTATION OPERATING AND CAPITAL FUNDS FOR LOCAL PUBLIC TRANSPORTATION SYSTEMS

SECTION 34.11. The Department of Transportation, Public Transportation Division, shall provide local public transportation systems with maximum flexibility to use State operating funds from the "urban and regional maintenance" and "urban technology, human service transportation management, and rural general public" grant programs to leverage all eligible federal transit operating assistance funds. This section applies only to the 2013-2015 fiscal biennium.

GRANT FLEXIBILITY FOR BICYCLE AND PEDESTRIAN IMPROVEMENTS

SECTION 34.12. The Department of Transportation, Division of Bicycle and Pedestrian Transportation, may redistribute funds appropriated to the Regional Bicycle Planning Grant program to the Municipal Planning Grant program to award grants to

municipalities based on assessed need and the extent to which the Division finds that the municipality's application for grant funding fulfills applicable selection criteria.

FERRY TOLLING

SECTION 34.13.(a) Notwithstanding the date set forth in Section 24.18(b) of S.L. 2012-142, as rewritten by Section 6.2 of S.L 2012-145, by which the Department of Transportation is required to collect tolls based on the proposed March 2012 amendment to 19 NCAC 02D .0532, the Department shall collect tolls as set forth in this section.

SECTION 34.13.(b) G.S. 136-82 reads as rewritten:

"§ **136-82. Department of Transportation to establish and maintain ferries.**

(a) Powers of Department. – The Department of Transportation is vested with authority to provide for the establishment and maintenance of ferries connecting the parts of the State highway system, whenever in its discretion the public good may ~~so require,~~require, and shall prescribe and collect ~~tolls,~~tolls on the ferry routes as established by the Board of ~~Transportation, on the ferry routes. The Board of Transportation shall establish tolls for all ferry routes, except for the Ocracoke/Hatteras Ferry and the Knotts Island Ferry.~~Transportation following the procedures set forth in this section.

(b) Establishment of Tolling. – The Board of Transportation may establish tolls on any untolled ferry route as set forth in this subsection. Prior to establishing tolls on an untolled ferry route, the Board of Transportation must receive a resolution approved by the Transportation Advisory Committee of each affected local transportation planning organization requesting tolls on that route. No later than March 1, 2014, the Department shall hold a separate public hearing in the geographic area of each untolled ferry route and invite each affected local transportation planning organization. At the public hearing, the Department shall present an explanation of the toll setting methodology, the impact of tolling on the availability of funding for other local transportation priorities, and the minimum and maximum toll rates. After the public hearing, an affected local transportation planning organization may consider and adopt a ferry tolling resolution. The Board of Transportation shall adopt the toll at its next regularly scheduled meeting after receipt of the ferry tolling resolutions required by this subsection. The Department shall collect the toll as soon as is feasible following its adoption, but in no case more than 180 days after adoption of the toll. The establishment of tolls by the Board of Transportation pursuant to the authority granted in this section shall be exempt from the provisions of Chapter 150B of the General Statutes. For purposes of this section, "affected local transportation planning organization" means any Metropolitan Planning Organization or Rural Transportation Planning Organization with geographic jurisdiction over any part of an untolled ferry route, and "untolled ferry route" means any ferry route for which no tolls were in effect as of June 30, 2013.

(c) Revisions of Tolls. – The Department of Transportation shall report to the Fiscal Research Division, the Joint Legislative Transportation Oversight Committee, and all affected local transportation planning organizations 30 days prior to any change in toll rates or change in the toll setting methodology by the Board of Transportation.

(d) Use of Toll Proceeds. – The Department of Transportation shall credit the proceeds from tolls collected on North Carolina Ferry System routes and receipts generated under subsection (e) of this section to reserve accounts within the Highway Fund for each of the Highway Divisions in which system terminals are located and fares are earned. For the purposes of this subsection, fares are earned based on the terminals from which a passenger trip originates and terminates. Commuter pass receipts shall be credited proportionately to each reserve account based on the distribution of trips originating and terminating in each Highway Division. The proceeds credited to each reserve account shall be used exclusively for prioritized North Carolina Ferry System ferry passenger vessel replacement projects in the Division in which the proceeds are earned. Proceeds may be used to fund ferry passenger vessel replacement projects or supplement funds allocated for ferry passenger vessel replacement projects approved in the Transportation Improvement Program.

(e) Powers of Department. – To accomplish the purpose of this ~~section said~~ section, the Department of Transportation is authorized to acquire, own, lease, charter or otherwise control all necessary vessels, boats, terminals or other facilities required for the proper operation of ~~such~~ the ferries or to enter into contracts with persons, firms or corporations for the operation thereof and to pay ~~therefor such~~the reasonable sums ~~as may~~that in the opinion of ~~said~~the Department of Transportation represent the fair value of the public service rendered.

(f) Authority to Generate Certain Receipts. – The Department of Transportation, notwithstanding any other provision of law, may ~~operate,~~operate or contract for the following receipt-generating activities and use the proceeds for ferry passenger vessel replacement projects in the manner set forth in subsection (c) of this section:

(1) ~~operation~~ Operation of, concessions on the ferries and at ferry facilities to provide to passengers on the ferries food, drink, and other refreshments, personal comfort items, Internet access, and souvenirs publicizing the ferry system.

(2) The sale of naming rights to any ferry vessel, ferry route, or ferry facility.

(3) Advertising on or within any ferry vessel, including display advertising and advertising delivered to passengers through the use of video monitors, public address systems installed in passenger areas, and other electronic media.

(4) Any other receipt-generating activity not otherwise forbidden by applicable law pertaining to public health or safety.

(g) Confidentiality of Personal Information. – Identifying information obtained by the Department related to operation of the ferry system is not a public record under Chapter 132 of the General Statutes and is subject to the disclosure limitations in 18 U.S.C. § 2721 of the federal Driver's Privacy Protection Act. The Department shall maintain the confidentiality of all information required to be kept confidential under 18 U.S.C. § 2721(a), as well as any financial information, transaction history, and information related to the collection of a toll or user fee from a person, including, but not limited to, photographs or other recorded images or automatic vehicle identification or driver account information generated by radio-frequency identification or other electronic means. The Department may use identifying information only for purposes of collecting and enforcing tolls. Nothing in this section is intended to limit the right of any person to examine that person's own account information, or the right of any party, by authority of a proper court order, to inspect and examine identifying information."

SECTION 34.13.(c) No later than January 1, 2014, the Board shall adopt a methodology and expected minimum and maximum tolls for use in establishing tolls for ferry routes under G.S. 136-82, as amended by this section. The Board of Transportation shall consider the needs of commuters and other frequent passengers in its adoption of toll rates and the toll rate methodology.

SECTION 34.13.(d) The Department of Transportation shall continue to collect tolls on all ferry routes for which tolls were in effect as of June 30, 2013.

NORTH CAROLINA RAILROAD COMPANY REPORTING AND DIVIDENDS

SECTION 34.14.(a) Reporting and Oversight. – G.S. 124-1 reads as rewritten:

"§ **124-1. Control of internal improvements.**

The Governor and Council of State shall have charge of all the State's interest in all railroads, canals and other works of internal improvements. The Board of Directors of a State-owned railroad company shall be responsible for managing its affairs and for reporting as set forth in ~~G.S. 124-3.~~G.S. 124-17."

SECTION 34.14.(b) Article 2 of Chapter 124 of the General Statutes is amended by adding a new section, G.S. 124-15. G.S. 124-6(b), as amended by Section 3.3(a) of S.L. 1999-431, is recodified as G.S. 124-15(a). G.S. 124-5(b) is recodified as G.S. 124-15(b). G.S. 124-15, as enacted and amended by this subsection, reads as rewritten:

"**§ 124-15. Board of directors; appointment and approval of encumbrances.**

(a) Notwithstanding subsection (a) of ~~this section,~~G.S. 124-6, for any State-owned railroad company ~~organized as a corporation in which the State is the owner of all the voting stock and which~~that has trackage in more than two counties, seven of the members of the Board of Directors shall be appointed by the Governor, three of the members of the Board of Directors shall be appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives in accordance with G.S. 120-121, and three of the members of the Board of Directors shall be appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate in accordance with G.S. 120-121. The Board of Directors shall consist of 13 members. Of the Governor's seven appointments, one shall be from the appointees to the Board of Transportation and one shall be the Secretary of Commerce or the Secretary's designee. Of the initial members appointed by the Governor, three shall be appointed for terms of four years and four shall be appointed for terms of two years. Of the initial members recommended to the General Assembly by the Speaker of the House of Representatives, two shall be appointed for terms of four years and one shall be appointed for a term of two years. Of the initial members recommended to the General Assembly by the President Pro Tempore of the Senate, two shall be appointed for terms of four years and one shall be appointed for a term of two years. Thereafter all Board members shall serve four-year terms. The Board shall elect the chairman from among its membership.

(b) No State-owned railroad company shall sell, lease, mortgage, or otherwise encumber its franchise, right-of-way, or other property, except by and with the approval and consent of the Board of Directors of that corporation. The president or other chief officer of the State-owned railroad company shall report any acquisitions and dispositions in accordance with G.S. 124-3(10)."

SECTION 34.14.(c) Article 2 of Chapter 124 of the General Statutes is amended by adding a new section to read as follows:

"**§ 124-16. Strategic plan and capital investment plan required of State-owned railroad company; performance management system.**

(a) Any State-owned railroad company shall prepare and maintain a comprehensive strategic plan and a capital investment plan. The strategic plan shall include a mission statement describing the purpose of the company and clear goals that address the strategic issues facing the company.

(b) Any State-owned railroad company shall develop and implement a formalized performance management system based on its strategic plan. The performance management system shall measure and monitor progress toward achieving strategic objectives. When performance fails to achieve strategic objectives within the time period established in the plan, a State-owned railroad company shall take corrective action."

SECTION 34.14.(d) Article 2 of Chapter 124 of the General Statutes is amended by adding a new section, G.S. 124-17. G.S. 124-3(b) is recodified as G.S. 124-17(b). G.S. 124-3(c) is recodified as G.S. 124-17(c). G.S. 124-17, as enacted and amended by this subsection, reads as rewritten:

"**§ 124-17. Enhanced annual report of State-owned railroad company; additional reporting requirements to Governor and General Assembly.**

(a) A State-owned railroad company shall submit an annual report to the Joint Legislative Commission on Governmental Operations and the Joint Legislative Transportation Oversight Committee. The report shall include the following:

(1) The information required under G.S. 124-3.

(2) A copy of the strategic plan and the capital investment plan required under G.S. 124-16.

(3) Any failures to meet strategic objectives and what corrective actions were taken under G.S. 124-16(b).

(4) Anticipated dividends for the next three fiscal years.

(5) A description of the State-owned railroad company's business, subsidiaries, and markets in which it operates.

(6) A list of the properties owned by the State-owned railroad company.

(7) A list of the directors and executive officers of the State-owned railroad company and a description of the background and experience of each.

(8) A description of the State-owned railroad company's code of ethics and conflicts of interest policy.

(9) A summary of the fees paid to an accounting firm during the year.

(10) A list of the compensation paid to directors and officers of the State-owned railroad company.

(11) A description of the State-owned railroad company's disagreements with its accountants if there has been a change in accountants.

(12) A description of any transactions between the State-owned railroad company and its directors, officers, and their family members.

(b) Upon the request of the Governor or any committee of the General Assembly, a State-owned railroad company shall provide all additional information and data within its possession or ascertainable from its records. The State-owned railroad company shall not be deemed to have waived any attorney-client privilege when complying with this subsection. At the time a State-owned railroad company provides information under this section, it shall indicate whether the information is confidential. Confidential information shall be subject to subsection (c) of this section.

(c) Confidential information includes (i) information related to a proposed specific business transaction where inspection, examination, or copying of the records would frustrate the purpose for which the records were created, or (ii) information that is subject to confidentiality obligations of a railroad company. Confidential information is exempt from Chapter 132 of the General Statutes and shall not be subject to a request under G.S. 132-6(a)."

SECTION 34.14.(e) The Freight Rail & Rail Crossing Safety Improvement Fund is established within the Highway Fund.

SECTION 34.14.(f) One-Time Cash Dividend. – Notwithstanding G.S. 124-5.1, any State-owned railroad company, as defined under G.S. 124-11, that has trackage in more than two counties shall issue a cash dividend in the amount of fifteen million five hundred thousand dollars ($15,500,000), which shall be deposited into the Freight Rail & Rail Crossing Safety Improvement Fund no later than January 15, 2014.

SECTION 34.14.(g) Annual Cash Dividend. – G.S. 124-5.1 reads as rewritten:

"§ **124-5.1. ~~State use of~~ North Carolina Railroad Company ~~dividends.~~dividends deposited to Highway Fund.**

(a) ~~Notwithstanding the provisions of G.S. 136-16.6, in order to increase the capital of the North Carolina Railroad Company, any dividends of the North Carolina Railroad Company received by the State shall be applied to reduce the obligations described in subsection (c) of Section 32.30 of S.L. 1997-443, as amended by subsection (d) of Section 27.11 of S.L. 1999-237.~~ Any dividends of the North Carolina Railroad Company received by the State shall be ~~used by the Department of Transportation for the improvement of the property of the North Carolina Railroad Company as recommended and approved by the Board of Directors of the North Carolina Railroad Company. The improvements may include the following project types:~~deposited into the Freight Rail & Rail Crossing Safety Improvement Fund within the Highway Fund and administered by the Rail Division of the Department of Transportation. The Fund shall be used for the enhancement of freight rail service and railroad-roadway crossing safety, which may include the following project types:

(1) ~~Railroad and industrial track rehabilitation.~~Track and associated infrastructure improvements for freight service.

(2) ~~Railroad signal and grade crossing protection.~~Grade crossing protection, elimination, and hazard removal.

(3) ~~Bridge improvements.~~Signalization improvements.

(4) ~~Corridor protection.~~Assistance for projects to improve rail access to industrial, port, and military facilities and for freight intermodal facility improvements, provided that funding assistance under this subdivision shall be subject to the same limits as that for short-line railroads under G.S. 136-44.39.

~~(5) Industrial site acquisition.~~

The Fund may also be used to supplement funds allocated for freight rail or railroad-roadway crossing safety projects approved as part of the Transportation Improvement Program.

~~The Department of Transportation shall use the Fund to supplement funds allocated for projects approved as part of the Transportation Improvement Program.~~

~~(b) Effective January 1, 2000, interest shall not be accrued or otherwise charged on the remaining balance of the obligations described in subsection (c) of Section 32.30 of S.L. 1997-443, as amended by subsection (d) of Section 27.11 of S.L. 1999-237. Interest accrued on those obligations relating to periods prior to January 1, 2000, shall be deemed paid and contributed by the State to the capital of the North Carolina Railroad Company.~~"

SECTION 34.14.(h) Article 2 of Chapter 124 of the General Statutes is amended by adding the following new section:

"§ **124-18. Dividends required of State-owned railroad company.**

Any State-owned railroad company that has trackage in more than two counties shall issue an annual cash dividend to the State. The amount of the annual dividend is twenty-five percent (25%) of the company's income from the prior year's trackage rights agreements. The dividend is due by January 15 of each year, and interest shall accrue at the annual rate of prime plus one percent (1%) if the payment is not paid by the due date. The Directors of any State-owned railroad company who vote for or assent to the dividend required under this section shall not be held liable under G.S. 55-8-33."

SECTION 34.14.(i) G.S. 136-16.6 is repealed.

SECTION 34.14.(j) Assess Certain Real Properties. – Any State-owned railroad company, as defined under G.S. 124-11, that has trackage in more than two counties shall assess the company's noncorridor real property that is among the following parcels:

Property Description	**County**	**Nearest Town**	**Parcel ID**
Burke Street Lot	Alamance	Gibsonville	107493
Bridges Street Lot	Carteret	Morehead	638620911461000
Newport Lot	Carteret	Newport	634814246231000
Wye Property Extension	Carteret	Morehead	637616924807000
Wye Property	Carteret	Morehead	637620923019000
Clarks Lot	Craven	Clarks	8-221-035
Tiffany & Bright Sts. Property	Lenoir	Kinston	11185 & 26555
Morrisville Former Depot	Wake	Morrisville	0755-14-6475
Waynesboro Lot	Wayne	Goldsboro	2599119118

The assessment shall identify potential environmental issues; title, encroachment, and other legal property issues; and any other characteristic of the property that would significantly impact the value of the parcels to a prospective purchaser. Any State-owned railroad company, as defined under G.S. 124-11, that has trackage in more than two counties shall report no later than April 1, 2014, to the Joint Legislative Transportation Oversight Committee and the Fiscal Research Division. The report shall include the findings of the assessment required by this subsection, an estimate of the costs to mitigate any environmental issues to meet applicable federal or State standards, the estimated value of the parcels taking into account mitigation costs, and potential alternate State uses for the parcels.

SECTION 34.14.(j1) One-Time Real Property Dividend. – Any State-owned railroad company, as defined under G.S. 124-11, that has trackage in more than two counties shall issue a dividend consisting of any of the company's noncorridor real property that is among the following parcels:

Property Description	**County**	**Nearest Town**	**Parcel ID**
4th Street Lot	Carteret	Morehead	638620808907000
Station & Former Industrial Lot	Carteret	Morehead	638620718127000
Waterfront & Riparian Rights	Carteret	Morehead	638620708857000 & 638620709868000
N. Craven St. Lot	Craven	New Bern	8-003-241-A

The dividend required by this subsection shall be issued no later than June 30, 2014, except as to the N. Craven St. Lot no later than October 1, 2013, and shall be in the form of a transfer of the property to the Department of Administration. Any State-owned railroad making a dividend under this subsection may deduct any tax liabilities under the Internal Revenue Code triggered by this dividend from the amount of the dividend required under subsection (f) of this section.

SECTION 34.14.(j2) The Department of Administration, in collaboration with the Department of Transportation and the North Carolina State Ports Authority (NCSPA), will evaluate the value of the parcels listed in subsection (j1) of this section that are located in Carteret County. The evaluation shall compare the value of the parcels for alternate transportation uses by the Department of Transportation or the NCSPA to the potential proceeds from sale of these properties to a non-State third party. The Departments of Administration and Transportation shall report the results of the evaluation, including recommended alternate uses, to the Joint Legislative Transportation Oversight Committee by April 1, 2014. The Department of Administration shall not sell or transfer the parcels described in this subsection until authorized to do so by an act of the General Assembly.

SECTION 34.14.(j3) Notwithstanding Articles 2 and 7 of Chapter 146 of the General Statutes and G.S. 124-5.1, the Department of Administration shall sell any parcels listed in subsection (j1) of this section that are located in Craven County and deposit the proceeds of the sales into the Freight Rail & Rail Crossing Safety Improvement Fund of the Highway Fund. Notwithstanding any other provision of law, the Department of Administration may deduct the costs of selling the property from the proceeds of the sales.

SECTION 34.14.(k) Subsections (g), (h), and (i) of this section become effective January 1, 2014.

ELIMINATE TELECOMMUNICATIONS AND INSPECTIONS PROGRAM ACCOUNTS

SECTION 34.15.(a) The sum of ten million five hundred thousand dollars ($10,500,000) of the unallotted and unexpended balance of funds within the Inspection Program Account shall be transferred to the Highway Fund as appropriated and allocated by this act. The Inspection Program Account shall be eliminated after all funds allotted as of June 30, 2013, have been expended. The remaining unallotted and unexpended balance of funds shall be transferred to the Reserve for General Maintenance (fund center 1500/150934).

SECTION 34.15.(b) Effective June 30, 2014, G.S. 20-183.7(d1) is repealed, and the unallotted and unexpended balance of funds in the Telecommunications Account on that date shall be transferred to the Reserve for General Maintenance (fund center 1500/150934).

SECTION 34.15.(c) G.S. 20-183.7 reads as rewritten:

"§ **20-183.7. Fees for performing an inspection and issuing an electronic inspection authorization to a vehicle; use of civil penalties.**

…

(c) Fee Distribution. – Fees collected for electronic inspection authorizations are payable to the Division of Motor Vehicles. The amount of each fee listed in the table below shall be credited to the Highway Fund, ~~the Inspection Program Account established in subsection (d) of this section, the Telecommunications Account established in subsection (d1) of this section,~~ the Volunteer Rescue/EMS Fund established in G.S. 58-87-5, the Rescue Squad Workers' Relief Fund established in G.S. 58-88-5, and the Division of Air Quality of the Department of Environment and Natural Resources:

Recipient	Safety Only Electronic Authorization	Emissions and Safety Electronic Authorization
Highway Fund	.55	~~.55~~5.30
~~Inspection Program Account~~	~~.00~~	~~3.00~~
~~Telecommunications Account~~	~~.00~~	~~1.75~~
Volunteer Rescue/EMS Fund	.18	.18
Rescue Squad Workers' Relief Fund	.12	.12
Division of Air Quality	.00	.65.

~~(d) Inspection Program Account. – The Inspection Program Account is created as a nonreverting account within the Highway Fund. The Division shall administer the Account. Revenue in the Account may be used only to fund the vehicle inspection and maintenance program and to fund replacement of the State Titling and Registration System and the State Automated Driver License System.~~

…."

DIVISION OF MOTOR VEHICLES TECHNOLOGY IMPROVEMENT ACCOUNT

SECTION 34.16.(a) The sum of four million five hundred fifty thousand dollars ($4,550,000) of the unallotted and unexpended balance of funds within the Division of Motor Vehicles Technology Improvement Account shall be transferred to the Highway Fund as appropriated and allocated by this act. The Account shall be eliminated after all funds allotted as of June 30, 2013, have been expended. The remaining unallotted and unexpended balance of funds in the Account shall be transferred to the Reserve for General Maintenance (fund center 1500/150934).

SECTION 34.16.(b) G.S. 20-85, as rewritten by S.L. 2013-183, reads as rewritten:

"(a1) One dollar ($1.00) of the fee imposed for any transaction assessed a fee under subdivision (a)(1), (a)(2), (a)(3), (a)(7), (a)(8), or (a)(9) of this section shall be credited to the North Carolina Highway Fund. ~~The Division shall use the fees derived from transactions with the Division for technology improvements.~~ The Division shall use the fees derived from transactions with commission contract agents for the payment of compensation to commission contract agents. An additional fifty cents (50¢) of the fee imposed for any transaction assessed a fee under subdivision (a)(1) of this section shall be credited to the Mercury Switch Removal Account in the Department of Environment and Natural Resources.

…."

DEPARTMENT OF TRANSPORTATION CONTRACTED SERVICES

SECTION 34.17. The Department of Transportation, Business and Contractual Services Unit, shall, in collaboration with the Division of Motor Vehicles, evaluate current contractual models and compensation for the provision of registration, title, tax collection, and other vehicle service transactions by branch agents contracting with the Division of Motor Vehicles. As part of this evaluation, the Department shall conduct an analysis of transaction trends, completion and error rates, and service times by transaction type and branch agent type, and shall assess the appropriateness of the current basis for contractor compensation and rates relative to documented service requirements.

Based on its findings, the Department shall recommend alternatives to the current contractual models for branch agents to standardize contract types, enhance performance, and strengthen contract administration, taking into account citizen accessibility to service centers. In addition, the Department shall submit detailed proposals for alternate options for contractor compensation, including, at a minimum, competitive bidding of branch agent contracts. The Department shall identify anticipated programmatic and fiscal impacts, and include implementation plans for each alternative.

The Department shall report its findings and recommendations to the Joint Legislative Transportation Oversight Committee, Joint Legislative Program Evaluation Oversight Committee, and Fiscal Research Division no later than March 1, 2014.

DRIVER EDUCATION

SECTION 34.20.(a) G.S. 115C-216(g) reads as rewritten:

"(g) Fee for Instruction. – The local boards of education may charge each student participating in a driver education course a fee of up to ~~forty-five dollars ($45.00)~~fifty-five dollars ($55.00) to offset the costs of providing the training and instruction."

SECTION 34.20.(b) The Division of Motor Vehicles and the Department of Public Instruction shall collaborate to revise the driver knowledge test and to create a process for administration of the test and certification of passage by public schools administering driver education programs. The Division and the Department shall report to the Joint Legislative Transportation Oversight Committee, the Joint Legislative Program Evaluation Oversight Committee, the Joint Legislative Education Oversight Committee, and the Fiscal Research Division no later than March 1, 2014, on their progress in meeting the requirements of this subsection.

SECTION 34.20.(c) Subsection (a) of this section is effective when it becomes law and applies to driver education courses beginning on or after that date.

ADDITIONAL ANNUAL FEE FOR ELECTRIC VEHICLES

SECTION 34.21.(a) G.S. 20-87 is amended by adding the following new subdivision to read:

"(13) Additional fee for certain electric vehicles. – At the time of an initial registration or registration renewal, the owner of a plug-in electric vehicle that is not a low-speed vehicle and that does not rely on a nonelectric source of power shall pay a fee in the amount of one hundred dollars ($100.00) in addition to any other required registration fees."

SECTION 34.21.(b) This section becomes effective January 1, 2014, and applies to initial or renewal motor vehicle registrations on or after that date.

VISITOR CENTERS FUNDING

SECTION 34.22. G.S. 20-79.7(c)(2) reads as rewritten:

"(c) Use of Funds in Special Registration Plate Account. –

…

(2) From the funds remaining in the Special Registration Plate Account after the deductions in accordance with subdivision (1) of this subsection, there is annually appropriated from the Special Registration Plate Account the sum of one million three hundred thousand dollars ($1,300,000) to provide operating assistance for the Visitor Centers:

a. on U.S. Highway 17 in Camden County, ~~($100,000)~~ ninety-two thousand eight hundred fifty-seven dollars ($92,857);

b. on U.S. Highway 17 in Brunswick County, ~~($100,000)~~ ninety-two thousand eight hundred fifty-seven dollars ($92,857);

c. on U.S. Highway 441 in Macon County, ~~($100,000)~~ ninety-two thousand eight hundred fifty-seven dollars ($92,857);

d. in the Town of Boone, Watauga County, ~~($100,000)~~ ninety-two thousand eight hundred fifty-seven dollars ($92,857);

e. on U.S. Highway 29 in Caswell County, ~~($100,000)~~ ninety-two thousand eight hundred fifty-seven dollars ($92,857);

f. on U.S. Highway 70 in Carteret County, ~~($100,000)~~ ninety-two thousand eight hundred fifty-seven dollars ($92,857);

g. on U.S. Highway 64 in Tyrrell County, ~~($100,000)~~ ninety-two thousand eight hundred fifty-seven dollars ($92,857);
h. at the intersection of U.S. Highway 701 and N.C. 904 in Columbus County, ~~($100,000)~~ ninety-two thousand eight hundred fifty-seven dollars ($92,857);
i. on U.S. Highway 221 in McDowell County, ~~($100,000)~~ ninety-two thousand eight hundred fifty-seven dollars ($92,857);
j. on Staton Road in Transylvania County, ~~($100,000)~~ ninety-two thousand eight hundred fifty-seven dollars ($92,857);
k. in the Town of Fair Bluff, Columbus County, near the intersection of U.S. Highway 76 and N.C. 904, ~~($100,000)~~ ninety-two thousand eight hundred fifty-seven dollars ($92,857);
l. on U.S. Highway 421 in Wilkes County, ~~($100,000)~~ ninety-two thousand eight hundred fifty-seven dollars ($92,857); and
m. at the intersection of Interstate 73 and Interstate 74 in Randolph County, ~~($100,000)~~ninety-two thousand eight hundred fifty-eight dollars ($92,858) each, for two centers."

STUDY GLOBAL TRANSPARK INFRASTRUCTURE AND RAIL ACCESS

SECTION 34.23. The Department of Transportation, in collaboration with the Department of Commerce and the Department of Agriculture and Consumer Services, shall study the feasibility of infrastructure and access improvements for the Global TransPark and the North Carolina State Port Authority. As part of its study, the Department shall undertake the following:

(1) Evaluate infrastructure improvements which will promote job creation and commerce and advance development of the Global TransPark as an inland terminal, including, at a minimum, specialized transloading equipment, refrigerated and dry storage facilities, and site improvements in support of co-located manufacturing facilities on property owned by the Global TransPark Authority.
(2) Perform financial feasibility analyses for each infrastructure improvement evaluated under subdivision (1) of this section, including the following components:
  a. Project scope and development time line.
  b. Assessment of technical feasibility.
  c. Estimates of preconstruction, construction, maintenance, and operating costs.
  d. Market scenarios, including identification of target industries and commodities and assessments of market demand, impacts on cargo throughput, utilization of Authority facilities, and other associated outputs.
  e. Return on investment, including direct financial return to the Authority or State as well as local and regional economic impact attributable to each project.
  f. Alternatives for project financing.
(3) Assess highway and rail infrastructure improvements or service scenarios that improve access and throughput to the Global TransPark and North Carolina State Port Authority Morehead City Terminal, addressing at a minimum, the relative benefits and costs of each highway or rail project, as well as the impacts on freight movements for the highway system and connecting rail corridors. As part of this assessment, the Department shall, in collaboration with the North Carolina Railroad Company, evaluate alternate

routes to improve rail capacity and access to the Morehead City Terminal and Radio Island site.

(4) In addition, the Department shall perform a financial feasibility analysis of the Wallace to Castle Hayne and Wilmington track restoration project that includes the following components:

a. Project scope and development time line.
b. Assessment of technical feasibility, including traffic flow analysis and railroad capacity modeling.
c. Service models addressing operating scenarios over the line segment and connections to other rail lines, as well as rate implications.
d. Preliminary engineering, construction, maintenance, and operating cost.
e. Service and market demand for rail service, identifying projected utilization by industry and impacts to alternate rail routes.
f. Strategic value assessment, including return on investment, direct financial return to the State, and State, regional, and local economic impact.
g. Strategic value of the corridor to military installations and as a connection to national and regional railroad corridors.
h. Inventory of commercial and industrial sites or terminals benefitting from restored rail service or improved connectivity.
i. Alternatives for project financing.

The Department shall provide a preliminary report of its findings to the Joint Legislative Transportation Oversight Committee no later than March 1, 2014, and a final report, including any recommended legislation, no later than January 1, 2015.

LIFE CYCLE COST ANALYSIS REPORT

SECTION 34.25. The Department of Transportation shall report on its life cycle cost analysis (LCCA) methodology and component factors used to comply with federal requirements to the Fiscal Research Division and the Joint Legislative Transportation Oversight Committee no later than February 1, 2014. The report will also include, at a minimum, the following:

(1) The proportion of the Department's highway projects, by project category, for which the Department has performed an LCCA.
(2) Federal and other statutory or regulatory impediments to the use of LCCA.
(3) A comparison between the Department's LCCA methodology and the LCCA methodology used by the U.S. Department of Transportation and by other states.
(4) Information on the scope and nature of involvement of outside stakeholders in the Department's development and revisions to its LCCA methodology.

OUTSIDE LEGAL COUNSEL/DEPARTMENT OF TRANSPORTATION

SECTION 34.27. The Department of Transportation may engage the services of private counsel with the pertinent expertise to timely defend or otherwise resolve legal challenges to transportation projects undertaken by the Department. The Department shall supervise and manage the private counsel engaged under this section and shall not be required to obtain written permission from the Attorney General under G.S. 114-2.3. The Department shall report the engagement of private counsel authorized by this section within 30 days to the General Assembly, as follows:

(1) If the General Assembly is in session, the Department shall report to the Chairs of the Appropriations Subcommittee on Transportation of the House of Representatives, the Chairs of the Appropriations Committee on Transportation of the Senate, and the Fiscal Research Division.

(2) If the General Assembly is not in session, or adjourns sine die during the 30-day period, the Department shall report to the Chairs of the Joint Legislative Transportation Oversight Committee and the Fiscal Research Division.

LEGISLATIVE OVERSIGHT/DMV LICENSE & THEFT TRANSFERS

SECTION 34.28. The Department of Transportation and the Department of Public Safety shall not transfer any personnel or functions of the License & Theft Bureau of the Department of Transportation's Division of Motor Vehicles or enter into any agreement regarding transfer of personnel or functions of the License & Theft Bureau until passage of an act of the General Assembly authorizing the transfer.

HIGHWAY USE TAX BASE

SECTION 34.29.(a) G.S. 105-187.3(a) reads as rewritten:

"§ **105-187.3. Rate of tax.**

(a) Amount. – The rate of the use tax imposed by this Article is three percent (3%) of the sum of the following:

(1) ~~the~~The retail value of a motor vehicle for which a certificate of title is issued.

(2) Any fee regulated by G.S. 20-101.1.

The tax is payable as provided in G.S. 105-187.4. The maximum tax is one thousand dollars ($1,000) for each certificate of title issued for a Class A or Class B motor vehicle that is a commercial motor vehicle, as defined in G.S. 20-4.01. The maximum tax is one thousand five hundred dollars ($1,500) for each certificate of title issued for a recreational vehicle that is not subject to the one thousand dollar ($1,000) maximum tax."

SECTION 34.29.(b) This section becomes effective January 1, 2014.

TRANSPORTATION INVESTMENTS CONFORMING CHANGE

SECTION 34.30. Section 7.1(b) of S.L. 2013-183 is repealed.

PART XXXV. SALARIES AND BENEFITS

GOVERNOR AND COUNCIL OF STATE

SECTION 35.1.(a) Effective for the 2013-2015 fiscal biennium, the annual salary of the Governor set by G.S. 147-11(a) shall remain unchanged at the amount of one hundred forty-one thousand two hundred sixty-five dollars ($141,265).

SECTION 35.1.(b) Effective for the 2013-2015 fiscal biennium, the annual salaries for members of the Council of State, payable monthly, shall remain unchanged as follows:

Council of State	Annual Salary
Lieutenant Governor	$124,676
Attorney General	124,676
Secretary of State	124,676
State Treasurer	124,676
State Auditor	124,676
Superintendent of Public Instruction	124,676
Agriculture Commissioner	124,676
Insurance Commissioner	124,676
Labor Commissioner	124,676

CERTAIN EXECUTIVE BRANCH OFFICIALS

SECTION 35.2. Effective for the 2013-2015 fiscal biennium, the annual salaries, payable monthly, for the following executive branch officials shall remain unchanged as follows:

Executive Branch Officials	Annual Salary
Chairman, Alcoholic Beverage Control Commission	$110,868
State Controller	155,159
Commissioner of Banks	124,676
Chair, Board of Review, Division of Employment Security	122,255
Members, Board of Review, Division of Employment Security	120,737
Chairman, Parole Commission	101,235
Members of the Parole Commission	93,464
Chairman, Utilities Commission	138,849
Members of the Utilities Commission	124,676
Executive Director, North Carolina Agricultural Finance Authority	107,915

JUDICIAL BRANCH

SECTION 35.3.(a) Effective for the 2013-2015 fiscal biennium, the annual salaries, payable monthly, for specified judicial branch officials shall remain unchanged as follows:

Judicial Branch Officials	Annual Salary
Chief Justice, Supreme Court	$142,623
Associate Justice, Supreme Court	138,896
Chief Judge, Court of Appeals	136,682
Judge, Court of Appeals	133,109
Judge, Senior Regular Resident Superior Court	129,492
Judge, Superior Court	125,875
Chief Judge, District Court	114,301
Judge, District Court	110,684
District Attorney	120,737
Administrative Officer of the Courts	128,259
Assistant Administrative Officer of the Courts	117,152
Public Defender	120,737
Director of Indigent Defense Services	124,498

SECTION 35.3.(b) Effective for the 2013-2015 fiscal biennium, the annual salaries of employees of the Judicial Department shall remain unchanged as follows:

(1) The annual salaries of permanent full-time and part-time employees of the Judicial Department whose salaries are not itemized in this act shall remain unchanged.

(2) Notwithstanding anything to the contrary, the annual salaries of clerks of superior court under G.S. 7A-101(a) shall not change when a county changes from one population group to another.

(3) The annual salaries of assistant and deputy clerks of court set under G.S. 7A-102(c1) shall remain unchanged.

(4) The annual salaries of magistrates set under G.S. 7A-171.1(a) or G.S. 7A-171.1(a1)(1) shall remain unchanged.

LEGISLATIVE BRANCH

SECTION 35.4. For the 2013-2015 fiscal biennium, the salaries of members and officers of the General Assembly shall remain unchanged at the amounts set under G.S. 120-3,

as provided in 1994 by the 1993 General Assembly. Effective for the 2013-2015 fiscal biennium, salaries in the legislative branch shall remain unchanged, as follows:

(1) The annual salaries set by G.S. 120-37(c) for the principal clerks in each house shall remain unchanged.

(2) The annual salaries set by G.S. 120-37(b) of the sergeant-at-arms and the reading clerk in each house shall remain unchanged.

(3) The annual salaries of the Legislative Services Officer and of nonelected employees of the General Assembly set under G.S. 120-32 shall remain unchanged.

COMMUNITY COLLEGES PERSONNEL

SECTION 35.5.(a) The annual salaries of all community college nonfaculty and professional staff whose salaries are supported from the State's General Fund shall remain unchanged for the 2013-2015 fiscal biennium.

SECTION 35.5.(b) For the 2013-2015 fiscal biennium, the annual salaries of all community college faculty whose salaries are supported from the State's General Fund shall remain unchanged. The minimum salaries for nine-month, full-time curriculum community college faculty shall also remain unchanged as follows:

Education Level	Minimum Salary
Vocational Diploma/Certificate or Less	$34,314
Associate Degree or Equivalent	34,819
Bachelor's Degree	37,009
Masters Degree or Education Specialist	38,952
Doctoral Degree	41,753

No full-time faculty member shall earn less than the minimum salary for his or her education level.

The pro rata hourly rate of the minimum salary for each education level shall be used to determine the minimum salary for part-time faculty members.

UNIVERSITY OF NORTH CAROLINA SYSTEM

SECTION 35.6.(a) The annual compensation of all University of North Carolina EPA faculty, EPA nonfaculty, SPA employees, and teachers employed by the North Carolina School of Science and Mathematics shall remain unchanged for the 2013-2015 fiscal biennium.

SECTION 35.6.(b) The annual compensation of all employees of the University of North Carolina Health Care System and the Medical Faculty Practice Plan at East Carolina University shall remain unchanged for the 2013-2015 fiscal biennium.

MOST STATE EMPLOYEES

SECTION 35.7. For the 2013-2015 fiscal biennium, the salaries in effect June 30, 2013, for the following employees shall remain unchanged, effective July 1, 2013:

(1) Permanent full-time State officials and persons whose salaries are set in accordance with the State Personnel Act.

(2) Permanent full-time State officials and persons in positions exempt from the State Personnel Act.

(3) Permanent part-time State employees.

(4) Temporary and permanent hourly State employees.

SALARY ADJUSTMENTS FOR SPECIAL CIRCUMSTANCES/NO AUTOMATIC INCREASES/AUTHORIZED SALARY ADJUSTMENT FUND ACTIONS NOT PROHIBITED

SECTION 35.8.(a) The annual compensation of all employees subject to or exempt from the State Personnel Act, including employees of local boards of education,

community colleges, and The University of North Carolina, for the 2013-2015 fiscal biennium shall remain unchanged from that authorized on June 30, 2013, or the last date in pay status during the 2011-2013 fiscal biennium, if earlier, unless an increase is authorized by this section or under the Salary Adjustment Fund established by this act.

SECTION 35.8.(b) Salary increases may be awarded during the 2013-2015 fiscal biennium under this section only for the following special circumstances:

(1) For all State employees regardless of funding source, and for employees of the North Carolina Community College System and local school boards who are paid from State funds, salaries may be increased for reallocations or promotions, in-range adjustments for job change, career progression adjustments for demonstrated competencies, or any other adjustment related to an increase in job duties or responsibilities, none of which are subject to the salary freeze otherwise provided by this Part. All other salary increases are prohibited.

(1a) For employees of the North Carolina Community College System, notwithstanding subdivision (1) of this subsection, salaries may be increased if the increase is (i) funded from local funding sources or (ii) for the purposes of retention or equity.

(2) For The University of North Carolina, (i) faculty using funds from the Faculty Recruiting and Retention Fund, the Distinguished Professors Endowment Fund, or the University Cancer Research Fund in the case of faculty involved in cancer research supported by that fund; (ii) faculty, nonfaculty, and other employee adjustments, including retention adjustments, funded from non-State funding sources; (iii) faculty, nonfaculty, and other employees for the purposes of retention or equity.

(3) For employees of the judicial branch, for local supplementation as authorized by G.S. 7A-300.1.

The cumulative salary adjustment allowed under this subsection for each fiscal year during the 2013-2015 fiscal biennium may exceed ten percent (10%) of annual salary only if the adjustment is approved in advance by the Office of State Budget and Management, The University of North Carolina Board of Governors, the Board of the North Carolina Community College System, the Legislative Services Commission, the local board of education, or other authorized body as appropriate.

SECTION 35.8.(c) The automatic salary step increases for assistant and deputy clerks of superior court and magistrates are suspended for the 2013-2015 fiscal biennium.

SECTION 35.8.(d) The salary increase provisions of G.S. 20-187.3 are suspended for the 2013-2015 fiscal biennium.

SECTION 35.8.(e) During the 2013-2015 fiscal biennium, notwithstanding G.S. 53C-2-3(c), employees of the Office of the Commissioner of Banks shall not be awarded (i) compensation increases unless allowed under subdivision (1) of subsection (b) of this section or (ii) compensation bonuses.

SECTION 35.8.(f) Employees of the Lottery Commission shall not receive compensation bonuses during the 2013-2015 fiscal biennium.

MONITOR MOST SALARY INCREASES

SECTION 35.9.(a) The Office of State Budget and Management and the Office of State Personnel shall monitor jointly the compliance of the following units of government with the provisions of Section 35.8 of this act and shall submit quarterly reports of their monitoring activities to the President Pro Tempore of the Senate, the Speaker of the House of Representatives, and the Fiscal Research Division: (i) State agencies, departments, and institutions, including authorities, boards, and commissions; (ii) the judicial branch; and (iii) The University of North Carolina and its constituent institutions.

The quarterly reports required by this section shall include the following information:

(1) For agencies reporting through the BEACON HR/Payroll system, (i) a breakdown by action type (including, but not limited to, promotion, reallocation, career progression, salary adjustment, and any similar actions increasing employee pay) of the number and annual amount of those increases and (ii) a breakdown by action reason (including in-range higher level, acting pay, trainee adjustment, and other similar action reasons) of the number and annual amount of those action types coded as salary adjustment.

(2) For The University of North Carolina and its constituent institutions, a breakdown of the number and annual amount of those increases categorized by the University as promotions, changes in job duties or responsibilities, Distinguished Professorships, retention pay, career progression, and any other similar actions increasing employee pay.

(3) A summary of actions taken by the Office of State Budget and Management and the Office of State Personnel with respect to unauthorized salary increases.

SECTION 35.9.(b) The Legislative Services Officer shall report quarterly to the President Pro Tempore of the Senate and the Speaker of the House of Representatives on compliance with Section 35.8 this act.

ESTABLISH SEVERANCE EXPENDITURE RESERVE

SECTION 35.10.(a) There are established in the Office of State Budget and Management General Fund and Highway Fund reserve budget codes for the purpose of funding severance-related obligations to State employees subject to the State Personnel Act, and employees exempt from the State Personnel Act, who are separated from service due to a reduction-in-force action. Severance-related expenditures from these reserves shall include obligations to fund:

(1) A State employee's severance salary continuation with an age adjustment factor as authorized by G.S. 126-8.5, including employer-related contributions for social security, and

(2) Noncontributory health premiums for up to 12 months as authorized by G.S. 135-48.40(b)(8) for employees of employing units as defined by G.S. 135-48.1(11).

SECTION 35.10.(b) The Director of the Budget shall allocate funds appropriated in Sections 2.1 and 3.1 of this act to the Severance Expenditure Reserve to public agencies to fund severance-related obligations incurred by the agencies as a result of reduction-in-force actions that cause State-supported public employees to be terminated from public employment. Funds appropriated to the Severance Expenditure Reserve shall be expended in their entirety before funds appropriated to a public agency for State-supported personal services expenditures may be used to fund any severance-related obligations.

Funds appropriated to the Severance Expenditure Reserve may be allocated to public agencies for positions that are funded by the General Fund or Highway Fund. Funds appropriated to the Severance Expenditure Reserve may also be allocated to public agencies for positions that are funded partially from the General Fund or Highway Fund and partially from sources other than the General Fund or Highway Fund but only to the extent of the proportionate part of the salaries paid from the General Fund or Highway Fund.

For the purposes of this subsection, the term "public employee" means an employee of a State agency, department, or institution; The University of North Carolina; the North Carolina Community College System; or a local school administrative unit.

FLEXIBILITY FOR SALARY DETERMINATIONS FOR CERTAIN LICENSED PROFESSIONAL EMPLOYEES

SECTION 35.10A.(a) State agencies, departments, and institutions shall have salary administration flexibility for licensed physicians, dentists, nurses, physicians assistants, pharmacists, and other allied health professionals and may exercise the flexibility within existing resources. No salary determination made under this section may exceed the maximum of the applicable salary range established by the Office of State Personnel under Chapter 126 of the General Statutes.

SECTION 35.10A.(b) Beginning September 1, 2013, and then quarterly thereafter, the Office of State Personnel shall report to the Joint Legislative Commission on Governmental Operations and to the Fiscal Research Division on the salary actions taken under this section.

SALARY ADJUSTMENT FUND

SECTION 35.10B.(a) The Salary Adjustment Fund is established to make funding available for salary increases in the executive, legislative, and judicial branches for specified purposes only as authorized in this section. Funds appropriated to the Salary Adjustment Fund by this act, or any other provision of law, shall only be used to fund agency requests for the following purposes in order to provide competitive salary rates:

(1) Reallocation of positions to higher level job classifications.
(2) In-range adjustments for job change.
(3) Career progression adjustments for demonstrated competencies.
(4) Salary range revisions.
(5) Geographic site differential adjustments.
(6) In-range adjustments for labor market.
(7) In-range adjustments for equity issues.
(8) Any other adjustments related to an increase in job duties or responsibilities or labor market changes.

These adjustments must be documented through data collection and analysis according to accepted human resource professional practices and standards. Further, funds may only be used for salary adjustments for the stated purposes that are in compliance with State Personnel Commission policies and other provisions of the Act. For the executive branch, funding shall be approved by the State Personnel Commission or Office of State Personnel and shall not be used for any other purposes.

SECTION 35.10B.(b) Employees subject to the State Personnel Act in The University of North Carolina System are eligible for funding authorized in this section. Employees of local school boards and community colleges are not eligible for funding authorized in this section. Funding shall be approved by the State Personnel Commission or Office of State Personnel and shall not be used for any other purposes.

SECTION 35.10B.(c) The Director of the Budget may transfer to General Fund budget codes from the Salary Adjustment Fund amounts required to support salary adjustments authorized by this section. The Director of the Budget shall consult with the Joint Legislative Commission on Governmental Operations prior to transferring any salary adjustment funds pursuant to this section.

SECTION 35.10B.(d) For employees of the Department of Transportation or whose salaries are funded by the Highway Fund, the sum of up to three million dollars ($3,000,000) of funds available to the Department of Transportation for the 2013-2015 fiscal biennium may be used for salary increases consistent with this section. Salary increases awarded under this subsection are special circumstances adjustments under Section 35.8 of this act.

SPECIAL ANNUAL LEAVE BONUS

SECTION 35.10C. Any person (i) who was on July 1, 2013, a full-time permanent employee of the State, a community college institution, or a local board of education or was

under contract on July 1, 2013, to be employed for the 2013-2014 school year in such a position and (ii) who is eligible to earn annual leave shall have a one-time additional five days of annual leave credited on July 1, 2013. The additional leave shall be accounted for separately from the annual leave bonus provided by Section 28.3A of S.L. 2002-126, by Section 30.12B(a) of S.L. 2003-284, and by Section 29.14A of S.L. 2005-276, and must be used by June 30, 2014. Annual leave bonus not used during FY 2013-2014 shall expire on June 30, 2014, and shall not be paid in a lump sum upon termination of employment unless the person effects a retirement from a State-supported retirement system immediately upon termination of employment. Part-time permanent employees shall receive a pro rata amount of the five days.

TEACHER SALARY SCHEDULES

SECTION 35.11.(a) The following monthly salary schedules shall apply for the 2013-2014 fiscal year to certified personnel of the public schools who are classified as teachers. The schedules contain 37 steps, with each step corresponding to one year of teaching experience. Public school employees paid according to this salary schedule and receiving NBPTS certification or obtaining a masters degree shall not be prohibited from receiving the appropriate increase in salary. Provided, however, teachers employed during the 2012-2013 school year who did not work the required number of months to acquire an additional year of experience shall not receive a decrease in salary as otherwise would be required by the salary schedule below.

2013-2014 Monthly Salary Schedule

"A" Teachers

Years of Experience	"A" Teachers	NBPTS Certification
0-2	$3,080	N/A
3-5	$3,080	$3,450
6	$3,122	$3,497
7	$3,167	$3,547
8	$3,303	$3,699
9	$3,445	$3,858
10	$3,580	$4,010
11	$3,711	$4,156
12	$3,816	$4,274
13	$3,865	$4,329
14	$3,914	$4,384
15	$3,965	$4,441
16	$4,015	$4,497
17	$4,066	$4,554
18	$4,118	$4,612
19	$4,171	$4,672
20	$4,226	$4,733
21	$4,282	$4,796
22	$4,337	$4,857
23	$4,397	$4,925
24	$4,456	$4,991
25	$4,515	$5,057
26	$4,577	$5,126
27	$4,639	$5,196
28	$4,706	$5,271
29	$4,771	$5,344
30	$4,836	$5,416
31	$4,903	$5,491
32	$4,972	$5,569

33	$5,044	$5,649
34	$5,116	$5,730
35	$5,215	$5,841
36+	$5,318	$5,956

2013-2014 Monthly Salary Schedule
"M" Teachers

Years of Experience	"M" Teachers	NBPTS Certification
0-2	$3,388	N/A
3-5	$3,388	$3,795
6	$3,434	$3,846
7	$3,484	$3,902
8	$3,633	$4,069
9	$3,790	$4,245
10	$3,938	$4,411
11	$4,082	$4,572
12	$4,198	$4,702
13	$4,252	$4,762
14	$4,305	$4,822
15	$4,362	$4,885
16	$4,417	$4,947
17	$4,473	$5,010
18	$4,530	$5,074
19	$4,588	$5,139
20	$4,649	$5,207
21	$4,710	$5,275
22	$4,771	$5,344
23	$4,837	$5,417
24	$4,902	$5,490
25	$4,967	$5,563
26	$5,035	$5,639
27	$5,103	$5,715
28	$5,177	$5,798
29	$5,248	$5,878
30	$5,320	$5,958
31	$5,393	$6,040
32	$5,469	$6,125
33	$5,548	$6,214
34	$5,628	$6,303
35	$5,737	$6,425
36+	$5,850	$6,552

SECTION 35.11.(b) Annual longevity payments for teachers shall be at the rate of one and one-half percent (1.5%) of base salary for 10 to 14 years of State service, two and twenty-five hundredths percent (2.25%) of base salary for 15 to 19 years of State service, three and twenty-five hundredths percent (3.25%) of base salary for 20 to 24 years of State service, and four and one-half percent (4.5%) of base salary for 25 or more years of State service. The longevity payment shall be paid in a lump sum once a year.

SECTION 35.11.(c) Certified public schoolteachers with certification based on academic preparation at the six-year degree level shall receive a salary supplement of one hundred twenty-six dollars ($126.00) per month in addition to the compensation provided for certified personnel of the public schools who are classified as "M" teachers. Certified public schoolteachers with certification based on academic preparation at the doctoral degree level shall receive a salary supplement of two hundred fifty-three dollars ($253.00) per month in

addition to the compensation provided for certified personnel of the public schools who are classified as "M" teachers.

SECTION 35.11.(d) The first step of the salary schedule for school psychologists shall be equivalent to Step 10, corresponding to 10 years of experience, on the salary schedule established in this section for certified personnel of the public schools who are classified as "M" teachers. Certified psychologists shall be placed on the salary schedule at an appropriate step based on their years of experience. Certified psychologists shall receive longevity payments based on years of State service in the same manner as teachers.

Certified psychologists with certification based on academic preparation at the six-year degree level shall receive a salary supplement of one hundred twenty-six dollars ($126.00) per month in addition to the compensation provided for certified psychologists. Certified psychologists with certification based on academic preparation at the doctoral degree level shall receive a salary supplement of two hundred fifty-three dollars ($253.00) per month in addition to the compensation provided for certified psychologists.

SECTION 35.11.(e) Speech pathologists who are certified as speech pathologists at the masters degree level and audiologists who are certified as audiologists at the masters degree level and who are employed in the public schools as speech and language specialists and audiologists shall be paid on the school psychologist salary schedule.

Speech pathologists and audiologists with certification based on academic preparation at the six-year degree level shall receive a salary supplement of one hundred twenty-six dollars ($126.00) per month in addition to the compensation provided for speech pathologists and audiologists. Speech pathologists and audiologists with certification based on academic preparation at the doctoral degree level shall receive a salary supplement of two hundred fifty-three dollars ($253.00) per month in addition to the compensation provided for speech pathologists and audiologists.

SECTION 35.11.(f) Certified school nurses who are employed in the public schools as nurses shall be paid on the "M" salary schedule.

SECTION 35.11.(g) As used in this section, the term "teacher" shall also include instructional support personnel.

SECTION 35.11.(h) Public school employees and State agency employees paid on the teacher salary schedule shall not move up on salary schedules or receive automatic step increases, or other increments during the 2014-2015 fiscal year unless authorized by the General Assembly.

SCHOOL-BASED ADMINISTRATOR SALARY SCHEDULE

SECTION 35.12.(a) The following base salary schedule for school-based administrators shall apply only to principals and assistant principals. This base salary schedule shall apply for the 2013-2014 fiscal year, commencing July 1, 2013. Provided, however, school-based administrators (i) employed during the 2012-2013 school year who did not work the required number of months to acquire an additional year of experience and (ii) employed during the 2013-2014 school year in the same classification shall not receive a decrease in salary as otherwise would be required by the salary schedule below.

2013-2014 Principal and Assistant Principal Salary Schedules

	Classification				
Years of Exp	Assistant Principal	Prin I (0-10)	Prin II (11-21)	Prin III (22-32)	Prin IV (33-43)
0-9	$3,828	-	-	-	-
10	$3,977	-	-	-	-
11	$4,123	-	-	-	-
12	$4,240	-	-	-	-
13	$4,295	$4,295	-	-	-
14	$4,348	$4,348	-	-	-

15	$4,406	$4,406	$4,461	-	-
16	$4,461	$4,461	$4,518	-	-
17	$4,518	$4,518	$4,575	$4,634	-
18	$4,575	$4,575	$4,634	$4,695	$4,757
19	$4,634	$4,634	$4,695	$4,757	$4,819
20	$4,695	$4,695	$4,757	$4,819	$4,885
21	$4,757	$4,757	$4,819	$4,885	$4,951
22	$4,819	$4,819	$4,885	$4,951	$5,017
23	$4,885	$4,885	$4,951	$5,017	$5,085
24	$4,951	$4,951	$5,017	$5,085	$5,154
25	$5,017	$5,017	$5,085	$5,154	$5,229
26	$5,085	$5,085	$5,154	$5,229	$5,300
27	$5,154	$5,154	$5,229	$5,300	$5,373
28	$5,229	$5,229	$5,300	$5,373	$5,447
29	$5,300	$5,300	$5,373	$5,447	$5,524
30	$5,373	$5,373	$5,447	$5,524	$5,603
31	$5,447	$5,447	$5,524	$5,603	$5,684
32	$5,524	$5,524	$5,603	$5,684	$5,794
33	$5,603	$5,603	$5,684	$5,794	$5,909
34	$5,684	$5,684	$5,794	$5,909	$6,027
35	$5,794	$5,794	$5,909	$6,027	$6,148
36	$5,909	$5,909	$6,027	$6,148	$6,271
37	-	$6,027	$6,148	$6,271	$6,396
38	-	-	$6,271	$6,396	$6,524
39	-	-	$6,396	$6,524	$6,654
40	-	-	-	$6,654	$6,787
41	-	-	-	$6,787	$6,923
42	-	-	-	-	$7,061

2013-2014 Principal and Assistant Principal Salary Schedules

	Classification			
Years of Exp	Prin V (44-54)	Prin VI (55-65)	Prin VII (66-100)	Prin VIII (101+)
0-19	$4,885	-	-	-
20	$4,951	-	-	-
21	$5,017	$5,085	-	-
22	$5,085	$5,154	$5,300	-
23	$5,154	$5,229	$5,373	$5,447
24	$5,229	$5,300	$5,447	$5,524
25	$5,300	$5,373	$5,524	$5,603
26	$5,373	$5,447	$5,603	$5,684
27	$5,447	$5,524	$5,684	$5,794
28	$5,524	$5,603	$5,794	$5,909
29	$5,603	$5,684	$5,909	$6,027
30	$5,684	$5,794	$6,027	$6,148
31	$5,794	$5,909	$6,148	$6,271
32	$5,909	$6,027	$6,271	$6,396
33	$6,027	$6,148	$6,396	$6,524
34	$6,148	$6,271	$6,524	$6,654
35	$6,271	$6,396	$6,654	$6,787
36	$6,396	$6,524	$6,787	$6,923
37	$6,524	$6,654	$6,923	$7,061
38	$6,654	$6,787	$7,061	$7,202

39	$6,787	$6,923	$7,202	$7,346
40	$6,923	$7,061	$7,346	$7,493
41	$7,061	$7,202	$7,493	$7,643
42	$7,202	$7,346	$7,643	$7,796
43	$7,346	$7,493	$7,796	$7,952
44	-	$7,643	$7,952	$8,111
45	-	$7,796	$8,111	$8,273
46+	-	-	$8,273	$8,438

SECTION 35.12.(b) The appropriate classification for placement of principals and assistant principals on the salary schedule, except for principals in alternative schools and in cooperative innovative high schools, shall be determined in accordance with the following schedule:

Classification	Number of Teachers Supervised
Assistant Principal	
Principal I	Fewer than 11 Teachers
Principal II	11-21 Teachers
Principal III	22-32 Teachers
Principal IV	33-43 Teachers
Principal V	44-54 Teachers
Principal VI	55-65 Teachers
Principal VII	66-100 Teachers
Principal VIII	More than 100 Teachers

The number of teachers supervised includes teachers and assistant principals paid from State funds only; it does not include teachers or assistant principals paid from non-State funds or the principal or teacher assistants.

The beginning classification for principals in alternative schools and in cooperative innovative high school programs shall be the Principal III level. Principals in alternative schools who supervise 33 or more teachers shall be classified according to the number of teachers supervised.

SECTION 35.12.(c) A principal shall be placed on the step on the salary schedule that reflects total number of years of experience as a certificated employee of the public schools and an additional step for every three years of experience as a principal. Provided, however, a principal who acquires an additional step for the 2013-2014 or 2014-2015 fiscal years shall not receive a corresponding increase in salary during the 2013-2015 fiscal biennium. A principal or assistant principal shall also continue to receive any additional State-funded percentage increases earned for the 1997-1998, 1998-1999, and 1999-2000 school years for improvement in student performance or maintaining a safe and orderly school.

SECTION 35.12.(d) Principals and assistant principals with certification based on academic preparation at the six-year degree level shall be paid a salary supplement of one hundred twenty-six dollars ($126.00) per month and at the doctoral degree level shall be paid a salary supplement of two hundred fifty-three dollars ($253.00) per month.

SECTION 35.12.(e) Longevity pay for principals and assistant principals shall be as provided for State employees under the State Personnel Act.

SECTION 35.12.(f) If a principal is reassigned to a higher job classification because the principal is transferred to a school within a local school administrative unit with a larger number of State-allotted teachers, the principal shall be placed on the salary schedule as if the principal had served the principal's entire career as a principal at the higher job classification.

If a principal is reassigned to a lower job classification because the principal is transferred to a school within a local school administrative unit with a smaller number of

State-allotted teachers, the principal shall be placed on the salary schedule as if the principal had served the principal's entire career as a principal at the lower job classification.

This subsection applies to all transfers on or after the effective date of this section, except transfers in school systems that have been created, or will be created, by merging two or more school systems. Transfers in these merged systems are exempt from the provisions of this subsection for one calendar year following the date of the merger.

SECTION 35.12.(g) Participants in an approved full-time masters in-school administration program shall receive up to a 10-month stipend at the beginning salary of an assistant principal during the internship period of the masters program. The stipend shall not exceed the difference between the beginning salary of an assistant principal plus the cost of tuition, fees, and books and any fellowship funds received by the intern as a full-time student, including awards of the Principal Fellows Program. The Principal Fellows Program or the school of education where the intern participates in a full-time masters in-school administration program shall supply the Department of Public Instruction with certification of eligible full-time interns.

SECTION 35.12.(h) During the 2013-2015 fiscal biennium, the placement on the salary schedule of an administrator with a one-year provisional assistant principal's certificate shall be at the entry-level salary for an assistant principal or the appropriate step on the teacher salary schedule, whichever is higher.

SECTION 35.12.(i) Public school employees and State agency employees paid on the school based administrator salary schedule shall not move up on salary schedules or receive automatic step increases, or other increments during the 2014-2015 fiscal year unless authorized by the General Assembly.

CENTRAL OFFICE SALARIES

SECTION 35.13.(a) The monthly salary ranges that follow, which apply to assistant superintendents, associate superintendents, directors/coordinators, supervisors, and finance officers, shall remain unchanged for the 2013-2015 fiscal biennium, beginning July 1, 2013.

School Administrator I	$3,349	$6,281
School Administrator II	$3,550	$6,662
School Administrator III	$3,769	$7,068
School Administrator IV	$3,920	$7,349
School Administrator V	$4,078	$7,647
School Administrator VI	$4,326	$8,109
School Administrator VII	$4,500	$8,436

The local board of education shall determine the appropriate category and placement for each assistant superintendent, associate superintendent, director/coordinator, supervisor, or finance officer within the salary ranges and within funds appropriated by the General Assembly for central office administrators and superintendents. The category in which an employee is placed shall be included in the contract of any employee.

SECTION 35.13.(b) The monthly salary ranges that follow, which apply to public school superintendents, shall remain unchanged for the 2013-2015 fiscal biennium, beginning July 1, 2013.

Superintendent I	$4,777	$8,949
Superintendent II	$5,071	$9,490
Superintendent III	$5,380	$10,067
Superintendent IV	$5,710	$10,679
Superintendent V	$6,060	$11,330

The local board of education shall determine the appropriate category and placement for the superintendent based on the average daily membership of the local school

administrative unit and within funds appropriated by the General Assembly for central office administrators and superintendents.

SECTION 35.13.(c) Longevity pay for superintendents, assistant superintendents, associate superintendents, directors/coordinators, supervisors, and finance officers shall be as provided for State employees under the State Personnel Act.

SECTION 35.13.(d) Superintendents, assistant superintendents, associate superintendents, directors/coordinators, supervisors, and finance officers with certification based on academic preparation at the six-year degree level shall receive a salary supplement of one hundred twenty-six dollars ($126.00) per month in addition to the compensation provided pursuant to this section. Superintendents, assistant superintendents, associate superintendents, directors/coordinators, supervisors, and finance officers with certification based on academic preparation at the doctoral degree level shall receive a salary supplement of two hundred fifty-three dollars ($253.00) per month in addition to the compensation provided for under this section.

SECTION 35.13.(e) The State Board of Education shall not permit local school administrative units to transfer State funds from other funding categories for salaries for public school central office administrators.

SECTION 35.13.(f) The salaries of all permanent, full-time personnel paid from the Central Office Allotment shall remain unchanged for the 2013-2015 fiscal biennium.

NONCERTIFIED PERSONNEL SALARIES

SECTION 35.14. The annual salary for permanent, full-time and part-time noncertified public school employees whose salaries are supported from the State's General Fund shall be remain unchanged for the 2013-2015 fiscal biennium.

SALARY-RELATED CONTRIBUTIONS

SECTION 35.15.(a) Effective for the 2013-2015 fiscal biennium, required employer salary-related contributions for employees whose salaries are paid from department, office, institution, or agency receipts shall be paid from the same source as the source of the employee's salary. If an employee's salary is paid in part from the General Fund or Highway Fund and in part from department, office, institution, or agency receipts, required employer salary-related contributions may be paid from the General Fund or Highway Fund only to the extent of the proportionate part paid from the General Fund or Highway Fund in support of the salary of the employee, and the remainder of the employer's requirements shall be paid from the source that supplies the remainder of the employee's salary. The requirements of this section as to source of payment are also applicable to payments on behalf of the employee for hospital medical benefits, longevity pay, unemployment compensation, accumulated leave, workers' compensation, severance pay, separation allowances, and applicable disability income benefits.

Notwithstanding any other provision of law, an employing unit, as defined in G.S. 135-48.1, that hires or has hired as an employee a retiree that is in receipt of monthly retirement benefits from any retirement system supported in whole or in part by contributions of the State shall enroll the retiree in the active group and pay the cost for the hospital medical benefits if that retiree is employed in a position that would require the employer to pay hospital medical benefits if the individual had not been retired.

SECTION 35.15.(b) Effective July 1, 2013, the State's employer contribution rates budgeted for retirement and related benefits as a percentage of covered salaries for the 2013-2015 fiscal biennium are (i) fourteen and sixty-nine hundredths percent (14.69%) – Teachers and State Employees; (ii) nineteen and sixty-nine hundredths percent (19.69%) – State Law Enforcement Officers; (iii) twelve and sixty-eight hundredths percent (12.68%) – University Employees' Optional Retirement Program; (iv) twelve and sixty-eight hundredths percent (12.68%) – Community College Optional Retirement Program; (v) thirty-three and forty-one hundredths percent (33.41%) – Consolidated Judicial Retirement System; and (vi) five and forty hundredths percent (5.40%) – Legislative Retirement System. Each of the

foregoing contribution rates includes five and forty hundredths percent (5.40%) for hospital and medical benefits. The rate for the Teachers and State Employees, State Law Enforcement Officers, University Employees' Optional Retirement Program, and the Community College Optional Retirement Program includes forty-four hundredths percent (0.44%) for the Disability Income Plan. The rates for Teachers and State Employees and State Law Enforcement Officers include sixteen hundredths percent (0.16%) for the Death Benefits Plan. The rate for State Law Enforcement Officers includes five percent (5%) for Supplemental Retirement Income. The rate for Teachers and State Employees and State Law Enforcement Officers includes one hundredths percent (0.01%) for the Qualified Excess Benefit Arrangement.

SECTION 35.15.(c) Effective July 1, 2013, the maximum annual employer contributions, payable monthly, by the State for each covered employee or retiree for the 2013-2014 fiscal year to the State Health Plan for Teachers and State Employees are (i) Medicare eligible employees and retirees – four thousand one hundred seven dollars ($4,107) and (ii) non-Medicare eligible employees and retirees – five thousand two hundred eighty-five dollars ($5,285).

SECTION 35.15.(d) Effective July 1, 2014, the maximum annual employer contributions, payable monthly, by the State for each covered employee or retiree for the 2014-2015 fiscal year to the State Health Plan for Teachers and State Employees are (i) Medicare eligible employees and retirees – four thousand two hundred twenty-four dollars ($4,224) and (ii) non-Medicare eligible employees and retirees – five thousand four hundred thirty-five dollars ($5,435).

SEPARATE INSURANCE BENEFITS PLAN ASSETS/PAYMENT OF HEALTH INSURANCE PREMIUMS FOR LAW ENFORCEMENT OFFICERS

SECTION 35.17.(a) G.S. 143-166.60 is amended by adding a new subsection to read:

"(d1) In addition to the benefits provided under subsection (d) of this section, the assets of the Plan may be used to pay the employer health insurance contributions and contribution rates on behalf of law enforcement officers, as defined in G.S. 135-1(11c), employed by the State and former law enforcement officers receiving a retirement allowance from the Teachers' and State Employees' Retirement System."

SECTION 35.17.(b) During the 2013-2015 fiscal biennium, the Department of Public Safety and the Department of Justice shall report monthly to the Department of State Treasurer a list of the sworn law enforcement officers on whose behalf the departments have paid employer premiums to the State Health Plan. After receiving the reports, the Department of State Treasurer shall review and approve the reports and execute periodic transfers to the General Fund in order to ensure that these State law enforcement employer premium costs are financially supported by the Separate Insurance Benefits Plan established under G.S. 143-166.60.

SECTION 35.17.(c) For each fiscal year of the 2013-2015 fiscal biennium, the Department of State Treasurer shall calculate the total compensation for which the Department of Public Safety and Department of Justice have paid retirement contributions on behalf of sworn law enforcement officers. The Department of State Treasurer shall multiply this total compensation by five and forty hundredths percent (5.40%) for months during the 2013-2014 fiscal year and by five and fifty-five hundredths percent (5.55%) for months during the 2014-2015 fiscal year and shall ensure that the General Fund is fully reimbursed for these costs by executing periodic transfers of the resulting amounts from the Separate Insurance Benefits Plan established under G.S. 143-166.60 to the General Fund.

STATE HEALTH PLAN BOARD TO CONTROL GROWTH OF EMPLOYER PREMIUM

SECTION 35.18. The Board of Trustees of the State Health Plan for Teachers and State Employees shall adopt new plan changes, beyond those already approved as of June 1,

2013, that are expected to reduce the average annual percentage increase in employer premiums needed over the next four years by at least one. The plan changes may include one or more of the following: changes to out-of-pocket requirements, changes to employee or retiree premiums, new plan options, changes in the services and products covered, changes to the provider network structure, changes to provider rates or payment methodology, incentives to Plan members to adopt or maintain healthy behaviors, incentives to Plan members to control utilization, any type of integrated health management program, fraud detection, utilization management, or changes in plan administration.

PART XXXVI. CAPITAL APPROPRIATIONS

GENERAL FUND CAPITAL APPROPRIATIONS/INTRODUCTION

SECTION 36.1. The appropriations made by the 2013 General Assembly for capital improvements are for constructing, repairing, or renovating State buildings, utilities, and other capital facilities, for acquiring sites for them where necessary, and for acquiring buildings and land for State government purposes.

CAPITAL APPROPRIATIONS/GENERAL FUND

SECTION 36.2.(a) There is appropriated from the General Fund for the 2013-2015 fiscal biennium the following amounts for capital improvements:

Capital Improvements – General Fund	**2013-2014**	**2014-2015**
Department of Administration		
Sandhills State Veterans Facility – Committal Enclosure	$ 125,000	-
Goldsboro State Veterans' Cemetery	600,000	-
Department of Environment and Natural Resources		
Water Resources Development Projects	11,522,000	-
Department of Justice		
Western Crime Lab Planning	1,442,000	-
Department of Public Safety		
Samarkand Training Facility	5,250,000	5,173,000
National Guard	5,000,000	3,250,000
The University of North Carolina System		
University of North Carolina Asheville – Land Purchases	2,000,000	-
Appalachian State University – Health Sciences Building Advance Planning	2,000,000	-
TOTAL CAPITAL IMPROVEMENTS – GENERAL FUND	**$ 27,939,000**	**$ 8,423,000**

SECTION 36.2.(b) Funds appropriated in subsection (a) of this section for the Sandhills State Veterans Facility – Committal Enclosure shall be used to match non-State funds. The total project cost authorized is three hundred thousand dollars ($300,000).

SECTION 36.2.(c) Funds appropriated in subsection (a) of this section for the Goldsboro State Veterans' Cemetery shall be used to pay for environmental, architectural, and engineering costs associated with constructing a State Veterans' Cemetery in Goldsboro. The State shall establish, own, operate, maintain, expand, and improve a State Veterans' Cemetery

in Goldsboro in accordance with 38 C.F.R. Part 39 unless subdivision (1) or (2) of subsection (d) of this section is true.

SECTION 36.2.(d) Any unspent and unencumbered funds appropriated in subsection (a) of this section for the Goldsboro State Veterans' Cemetery shall revert to the General Fund three years after the effective date of this act if on that date any of the following are true:

(1) The State has not received federal grant funds in an amount that, when added to the funds appropriated in subsection (a) of this section, is sufficient to pay for the cost of completing the State Veterans' Cemetery authorized in that subsection.

(2) Land in Wayne County sufficient in size and quality to build the State Veterans' Cemetery described in subsection (a) of this section has not been conveyed to the State by the County or some other party.

(3) Any of the funds are not required to complete the Goldsboro State Veterans' Cemetery.

SECTION 36.2.(e) G.S. 65-41 reads as rewritten:

"§ **65-41. Land acquisition.**

The State may accept land for the establishment of not more than ~~three~~ four veterans cemeteries."

SECTION 36.2.(f) Funds appropriated in subsection (a) of this section for the Samarkand Training Facility shall be used to convert the former Samarkand Youth Development Center property and facilities into an overnight Department of Public Safety training facility that shall include a firing range.

WATER RESOURCES DEVELOPMENT PROJECTS

SECTION 36.3.(a) The Department of Environment and Natural Resources shall allocate funds for water resources development projects in accordance with the schedule that follows. The amounts set forth in the schedule include funds appropriated in this act for water resources development projects and funds carried forward from previous fiscal years in accordance with subsection (b) of this section. These funds will provide a State match for an estimated thirty-nine million five hundred forty-eight thousand dollars ($39,548,000) in federal funds.

	Name of Project	**2013-2014**
(1)	B. Everett Jordan Lake Water Supply Storage A	$ 200,000
(2)	Wilmington Harbor Deepening (75/25)	2,266,000
(3)	Morehead City Harbor Maintenance	-
(4)	Wilmington Harbor Maintenance (Disposal Areas 8 & 10)	2,000,000
(5)	Wilmington Harbor Improvements Feasibility (50/50)	503,000
(6)	Planning Assistance to Communities (50/50)	25,000
(7)	Manteo Old House Channel Cap Sec. 204 (65/35)	2,219,000
(8)	Natural Resources Conservation Service EQIP Project (75/25)	1,500,000
(9)	Wrightsville Beach Coastal Storm Damage Reduction Project (65/35)(Full Project)	1,077,000
(10)	Ocean Isle Beach Coastal Storm Damage Reduction Project (65/35)(Full Project)	1,481,000
(11)	Carolina Beach Coastal Storm Damage Reduction Project (65/35)(40% project)	727,000
(12)	Kure Beach Coastal Storm Damage Reduction Project (65/35)(40% project)	808,000
(13)	Surf City/NTB Coastal Storm Damage Reduction Study-PED (75/25)	37,000
(14)	Concord Streams, NC Sec 206 (65/35)	1,023,000

(15)	Aquatic Plant Control, Statewide and Lake Gaston (50/50)	200,000
TOTALS		**$ 14,066,000**

SECTION 36.3.(b) It is the intent of the General Assembly that funds carried forward from previous fiscal years be used to supplement the thirteen million five hundred twenty-two thousand dollars ($11,522,000) appropriated for water resources development projects in Section 36.2(a) of this act. Therefore, the following funds carried forward from previous fiscal years shall be used for the following projects:

	Name of Project	**Amount Carried Forward**
(1)	Wilmington Harbor Maintenance (Disposal Areas 8 & 10)	$ 1,200,000
(2)	Wilmington Harbor Improvements Feasibility (50/50)	57,000
(3)	Manteo Old House Channel Cap Sec. 204 (65/35)	1,250,000
(4)	Surf City/NTB Coastal Storm Damage Reduction Study-PED (75/25)	37,000
TOTALS		**$ 2,544,000**

SECTION 36.3.(c) Where the actual costs are different from the estimated costs under subsection (a) of this section, the Department may adjust the allocations among projects as needed. If any projects funded under subsection (a) of this section are delayed and the budgeted State funds cannot be used during the 2013-2014 fiscal year or if the projects funded under subsection (a) of this section are accomplished at a lower cost, the Department may use the resulting fund availability to fund any of the following:

(1) U.S. Army Corps of Engineers project feasibility studies.
(2) U.S. Army Corps of Engineers projects whose schedules have advanced and require State matching funds in the 2013-2014 fiscal year.
(3) State-local water resources development projects.

Funds subject to this subsection that are not expended or encumbered for the purposes set forth in subdivisions (1) through (3) of this subsection shall revert to the General Fund at the end of the 2014-2015 fiscal year.

SECTION 36.3.(d) The Department shall make semiannual reports on the use of these funds to the Joint Legislative Commission on Governmental Operations, the Fiscal Research Division, and the Office of State Budget and Management. Each report shall include all of the following:

(1) All projects listed in this section.
(2) The estimated cost of each project.
(3) The date that work on each project began or is expected to begin.
(4) The date that work on each project was completed or is expected to be completed.
(5) The actual cost of each project.

The semiannual reports also shall show those projects advanced in schedule, those projects delayed in schedule, and an estimate of the amount of funds expected to revert to the General Fund.

SECTION 36.3.(e) Notwithstanding any provision of law to the contrary, funds appropriated for a water resources development project shall be used to provide no more than fifty percent (50%) of the nonfederal portion of funds for the project. This subsection applies to funds appropriated in this act and to funds appropriated prior to the 2013-2015 fiscal biennium that are unencumbered and proposed for reallocation to provide the nonfederal portion of funds for water resources development projects. The limitation on fund usage contained in this subsection applies only to projects in which a local government or local governments participate.

SECTION 36.3.(f) Up to two hundred fifty thousand dollars ($250,000) of the funds appropriated to the Department of Environment and Natural Resources for the Parks and

Recreation Trust Fund for the 2013-2014 fiscal year may be transferred to the Division of Water Resources of the Department of Environment and Natural Resources to be used for the Lake Waccamaw Hydrilla Eradication Project. The funds transferred under this section shall be transferred to the Division of Water Resources on an as-needed basis.

NON-GENERAL FUND CAPITAL IMPROVEMENT AUTHORIZATIONS

SECTION 36.4.(a) The General Assembly authorizes the following capital projects to be funded with receipts or from other non-General Fund sources available to the appropriate department:

Name of Project	**Amount of Non-General Fund Funding Authorized for FY 2013-2014**
Department of Agriculture and Consumer Services	
Western North Carolina Agricultural Center – Midway Pavilion	$ 125,000
Western North Carolina Agricultural Center – Fill Retention Ponds	250,000
Piedmont Research Station – Calf Barn Construction	150,000
Research Stations – Forest Road Construction	150,000
Raleigh Farmers Market – Parking Improvement/Expansion	200,000
Department of Environment and Natural Resources	
Zoo Ocelot	642,000
Zoo Storage Facility	490,000
Aquariums – Exhibit Improvements & Interior Renovations at Roanoke Island	5,000,000
Department of Public Safety	
Tabor Correctional Visitor Registration Center	121,754
Correction Enterprise Storage Buildings	75,000
NC National Guard	
Albemarle Readiness Center	410,000
Fort Fisher Training Site	1,138,000
Fort Bragg Regional Training Inst.	250,000
USPFO Administration Building	350,000
Camp Butner West Perimeter Road	495,000
J4 Annex Motor Pool New Latrine	30,000
High Point Readiness Center Maintenance Shop	70,000
Camp Butner Classroom Building Phase 1 Design	50,000
Fort Bragg MATES Lower Parking Lot Storm Water Management	499,000
Fort Bragg MATES Lower Parking Lot Concrete Pavement`	740,000
Kinston Field Maintenance Shop #18 Motor Pool Parking Lot Repair	225,000
Electronic Simulation Training Building	750,000
Fire Bucket Storage Building	500,000
Camp Butner Big Top	475,000
Department of Transportation	
Lexington Equipment Shop	2,288,000
Division 2 Equipment Shop	7,044,300
Clay County Equipment Shop	1,210,000
Halifax County Salt Storage Shed	186,000
Lake Junaluska Salt Storage Shed	266,000
Nantahala Salt Storage Shed	35,000
Currituck Ferry Welcome Center	1,200,000

McDowell County Maintenance/Bridge Maintenance Assembly Office	1,500,000
Huntersville Satellite Maintenance Facility	96,300
Elizabeth City District/Resident Engineers Office	1,000,000
Southport Dormitory	862,000
Asheboro Maintenance Warehouse and Sign Subshop	489,000
Hatteras Toll Booth	76,000
Graham County Maintenance Assembly	704,000
Division 8 Office	141,000

Wildlife Resources Commission

Land Purchases	3,750,000
Table Rock Hatchery Building Replacement	500,000
Construction of New Fishing Access Areas	240,000
Construction of New Boating Access Areas	800,000
Construction of New Shooting Ranges	1,500,000
New Cold Water Hatchery – Advance Planning	100,000
Holly Shelter Game Lands – Maintenance Building Replacement	250,000
Sandhills Depot – Building Replacement	600,000
Renovations to Existing BAAs	800,000
ADA Initiative of Existing BAAs	280,000
Infrastructure R&R	1,500,000
Sandhills Depot Shop and Storage Building	435,000
Holly Shelter Shop and Secure Storage Building	250,000
Tiffany Depot Storage Shed and Shop	165,000

TOTAL AMOUNT OF NON-GENERAL FUND CAPITAL PROJECTS AUTHORIZED **$41,453,354**

SECTION 36.4.(b) From funds deposited with the State Treasurer in a capital improvement account to the credit of the Department of Agriculture and Consumer Services pursuant to G.S. 146-30, the sum of thirty thousand dollars ($30,000) for the 2013-2014 fiscal year and the sum of thirty thousand dollars ($30,000) for the 2014-2015 fiscal year shall be transferred to the Department of Agriculture and Consumer Services to be used, notwithstanding G.S. 146-30, by the Department for its plant conservation program under Article 19B of Chapter 106 of the General Statutes for costs incidental to the acquisition of land, such as land appraisals, land surveys, title searches, and environmental studies, and for the management of the plant conservation program preserves owned by the Department.

REPAIRS AND RENOVATIONS RESERVE ALLOCATION

SECTION 36.5.(a) Of the funds in the Reserve for Repairs and Renovations for the 2013-2014 and the 2014-2015 fiscal years, the following allocations shall be made to the following agencies for repairs and renovations pursuant to G.S. 143C-4-3:

(1) Forty percent (40%) shall be allocated to the Board of Governors of The University of North Carolina.

(2) Sixty percent (60%) shall be allocated to the Office of State Budget and Management.

The Office of State Budget and Management and the Board of Governors shall consult with or report to the Joint Legislative Commission on Governmental Operations, as appropriate, in accordance with G.S. 143C-4-3(d).

SECTION 36.5.(b) Notwithstanding G.S. 143C-4-3(d), of the funds allocated to the Board of Governors of The University of North Carolina in subsection (a) of this section, a portion shall be used each fiscal year by the Board of Governors for the installation of fire sprinklers in university residence halls. This portion shall be in addition to funds otherwise appropriated in this act for the same purpose. Such funds shall be allocated among the

university's constituent institutions by the President of The University of North Carolina, who shall consider the following factors when allocating those funds:

(1) The safety and well-being of the residents of campus housing programs.

(2) The current level of housing rents charged to students and how that compares to an institution's public peers and other UNC institutions.

(3) The level of previous authorizations to constituent institutions for the construction or renovation of residence halls funded from the General Fund or from bonds or certificates of participation supported by the General Fund since 1996.

(4) The financial status of each constituent institution's housing system, including debt capacity, debt coverage ratios, credit rankings, required reserves, the planned use of cash balances for other housing system improvements, and the constituent institution's ability to pay for the installation of fire sprinklers in all residence halls.

(5) The total cost of each proposed project, including the cost of installing fire sprinklers and the cost of other construction, such as asbestos removal and additional water supply needs.

The Board of Governors shall submit progress reports to the Joint Legislative Commission on Governmental Operations. Reports shall include the status of completed, current, and planned projects. Reports also shall include information on the financial status of each constituent institution's housing system, the constituent institution's ability to pay for fire protection in residence halls, and the timing of installation of fire sprinklers. Reports shall be submitted on January 1 and July 1 until all residence halls have fire sprinklers.

SECTION 36.5.(c) Notwithstanding G.S. 143C-4-3(d), of the funds allocated to the Board of Governors of The University of North Carolina in subsection (a) of this section, a portion shall be used each fiscal year by the Board of Governors for campus public safety improvements allowable under G.S. 143C-4-3(b).

SECTION 36.5.(d) G.S. 143C-4-3(b), as rewritten by Section 6.12(l) of this act, reads as rewritten:

"(b) Use of Funds. – The funds in the Repairs and Renovations Reserve shall be used only for the repair and renovation of (i) State facilities and related infrastructure that are supported from the General ~~Fund.~~Fund or (ii) State Information Technology Services facilities and related infrastructure. Funds from the Repairs and Renovations Reserve shall be used only for the following types of projects:

(1) Roof repairs and replacements;

(2) Structural repairs;

(3) Repairs and renovations to meet federal and State standards;

(4) Repairs to electrical, plumbing, and heating, ventilating, and air-conditioning systems;

(5) Improvements to meet the requirements of the Americans with Disabilities Act, 42 U.S.C. § 12101, et seq., as amended;

(6) Improvements to meet fire safety needs;

(7) Improvements to existing facilities for energy efficiency;

(8) Improvements to remove asbestos, lead paint, and other contaminants, including the removal and replacement of underground storage tanks;

(9) Improvements and renovations to improve use of existing space;

(10) Historical restoration;

(11) Improvements to roads, walks, drives, utilities infrastructure; and

(12) Drainage and landscape improvements.

Funds from the Repairs and Renovations Reserve shall not be used for new construction or the expansion of the building area (sq. ft.) of an existing facility unless required in order to comply with federal or State codes or standards."

PROCEDURES FOR DISBURSEMENT OF CAPITAL FUNDS

SECTION 36.6. The appropriations made by the 2013 General Assembly for capital improvements shall be disbursed for the purposes provided by this act. Expenditure of funds shall not be made by any State department, institution, or agency until an allotment has been approved by the Governor as Director of the Budget. The allotment shall be approved only after full compliance with the State Budget Act, Chapter 143C of the General Statutes. Prior to the award of construction contracts for projects to be financed in whole or in part with self-liquidating appropriations, the Director of the Budget shall approve the elements of the method of financing of those projects, including the source of funds, interest rate, and liquidation period. Provided, however, that if the Director of the Budget approves the method of financing a project, the Director shall report that action to the Joint Legislative Commission on Governmental Operations at its next meeting.

Where direct capital improvement appropriations include the purpose of furnishing fixed and movable equipment for any project, those funds for equipment shall not be subject to transfer into construction accounts except as authorized by the Director of the Budget. The expenditure of funds for fixed and movable equipment and furnishings shall be reviewed and approved by the Director of the Budget prior to commitment of funds.

Capital improvement projects authorized by the 2013 General Assembly shall be completed, including fixed and movable equipment and furnishings, within the limits of the amounts of the direct or self-liquidating appropriations provided, except as otherwise provided in this act. Capital improvement projects authorized by the 2013 General Assembly for the design phase only shall be designed within the scope of the project as defined by the approved cost estimate filed with the Director of the Budget, including costs associated with site preparation, demolition, and movable and fixed equipment.

REPORTING ON CAPITAL PROJECTS

SECTION 36.7.(a) Definitions. – The following definitions apply in this section:

(1) Capital project. – Any capital improvement, as that term is defined in G.S. 143C-1-1, that is not complete by the effective date of this section and that is funded in whole or in part with State funds, including receipts, non-General Fund sources, or statutorily or constitutionally authorized indebtedness of any kind. This term includes only projects with a total cost of one hundred thousand dollars ($100,000) or more.

(2) Construction phase. – The status of a particular capital project as described using the terms customarily employed in the design and construction industries.

(3) New capital project. – A capital project that is authorized in this act or subsequent to the effective date of this act.

SECTION 36.7.(b) Reporting. – The following reports are required:

(1) By October 1, 2013, and every six months thereafter, each State agency shall report on the status of agency capital projects to the Joint Legislative Commission on Governmental Operations.

(2) By October 1, 2013, and quarterly thereafter, each State agency shall report on the status of agency capital projects to the Fiscal Research Division and to the Office of State Budget and Management.

SECTION 36.7.(c) The reports required by subsection (b) of this section shall include at least the following information about every agency capital project:

(1) The current construction phase of the project.

(2) The anticipated time line from the current construction phase to project completion.

(3) Information about expenditures that have been made in connection with the project, regardless of source of the funds expended.

(4) Information about the adequacy of funding to complete the project, including estimates of how final expenditures will relate to initial estimates of expenditures, and whether or not scope reductions will be necessary in order to complete the project within its budget.

(5) For new capital projects only, an estimate of the operating costs for the project for the first five fiscal years of its operation.

SECTION 36.7.(d) In addition to the other reports required by this section on October 1, 2013, and every six months thereafter, the Office of State Construction shall report on the status of the Facilities Condition Assessment Program (FCAP) to the Joint Legislative Commission on Governmental Operations. The report shall include (i) summary information about the average length of time that passes between FCAP assessments for an average State building; (ii) detailed information about when the last FCAP assessment was for each State building complex; and (iii) detailed information about the condition and repairs and renovations needs of each State building complex.

SECTION 36.7.(e) In addition to the other reports required by this section on October 1, 2013, and quarterly thereafter, the State Construction Office shall report to the General Assembly on the status of plan review, approval, and permitting for each State capital improvement project and community college capital improvement project over which the Office exercises plan review, approval, and permitting authority. Each report shall include (i) summary information about the workload of the Office during the previous quarter, including information about the average length of time spent by the State Construction Office on each major function it performs that is related to capital project approval and (ii) detailed information about the amount of time spent engaged in those functions for each project that the State Construction Office worked on during the previous quarter.

REQUIRE PRIOR LEGISLATIVE AUTHORIZATION FOR SALES, LEASES, OR RENTALS OF CERTAIN PROPERTY BELOW FAIR MARKET VALUE

SECTION 36.8.(a) G.S. 146-29.1 is amended by adding the following new subsections to read:

"(f) If the fair market value of State-owned real property exceeds one million dollars ($1,000,000), a gift of any interest in the property or a sale, lease, or rental of any interest in the property for below fair market value shall not be effective until the later of the following:

(1) If a bill that specifically disapproves the transaction is introduced in either house of the General Assembly before the 31st legislative day of the next regular session of the General Assembly that begins at least 25 days after the date that the agreement making the transfer is entered into, the earlier of (i) the day that an unfavorable final action is taken on the bill or (ii) the day that the General Assembly adjourns without ratifying the bill.

(2) The 31st legislative day of the session of the General Assembly described in subdivision (1) of this section, if a bill disapproving the transaction is not introduced before that day.

(f1) For the purpose of subsection (f) of this section:

(1) "Next regular session" means:

a. For odd-numbered years its initial convening.

b. For even-numbered years the first reconvening of the regular session as provided in the joint resolution setting the date for reconvening.

(2) "Adjourns" means:

a. For odd-numbered years the date the General Assembly adjourns by joint resolution for a period of more than 30 days.

b. For even-numbered years the date of sine die adjournment.

(f2) If the transaction is approved under subsection (f) of this section, but the agreement provides a later effective date, then it takes effect on the date specified in the agreement.

(f3) Nothing in subsection (f) of this section restricts the General Assembly from enacting a law specifically approving the transaction.

(g) If the General Assembly ratifies a disapproving bill, the disapproved transaction shall not be effective unless it is vetoed by the Governor and the veto is not overridden, and in such case the transaction is effective upon sine die adjournment of that regular session.

The terms of any agreement to transfer an interest in real property under this section are deemed to incorporate the provisions of subsections (f) through (f2) of this section, and any transaction that does not comply with these subsections is void."

SECTION 36.8.(b) This section becomes effective September 1, 2013.

AUTHORIZE UNC CARRYFORWARD FUNDS TO BE USED FOR REPAIRS AND RENOVATIONS

SECTION 36.9. Notwithstanding any other provision of law, for purposes of G.S. 143C-8-12, the term "non-General Fund money" includes funds carried forward from one fiscal year to another pursuant to G.S. 116-30.3. However, these funds shall only be used for projects listed in G.S. 143C-4-3(b). This section shall expire on June 30, 2014.

LIMIT UNC REPAIRS AND MAINTENANCE EXEMPTION

SECTION 36.10. G.S. 116-13.1(c) reads as rewritten:

"(c) Approval of Certain Repair and Maintenance Projects. – Notwithstanding G.S. 143C-8-7, the chancellor of a constituent institution may approve the expenditure of available operating funds in an amount not to exceed one million dollars ($1,000,000) per project ~~for repairs to institution facilities, renovations to institution facilities, maintenance of those facilities, and related equipment purchases.~~for projects that are of a type listed in G.S. 143C-4-3(b) and that are for State facilities and related infrastructure that are supported from the General Fund. Funds contractually obligated to an approved project shall not revert at the end of the fiscal year and will remain available to fund the completion of the project. Projects approved pursuant to this subsection shall in all other respects accord with applicable laws governing capital improvement projects. The chancellor of a constituent institution shall report the approval of an expenditure under this subsection to the Office of State Budget and Management and to the Fiscal Research Division of the Legislative Services Commission within 60 days of the approval."

NATIONAL GUARD PROJECTS

SECTION 36.11.(a) The Department of Public Safety shall allocate funds for National Guard capital projects during the 2013-2015 fiscal biennium in accordance with the schedule that follows. These funds will provide a State match for an estimated twenty-one million dollars ($21,000,000) in federal funds. The projects authorized, the allocation of State funds for each project, and the total project cost authorized for each project are as follows:

	Name of Project	**State Fund Allocation**	**Total Project Cost**
(1)	Wilmington Building Expansion/Rehab	$ 375,000	$ 1,125,000
(2)	Wilmington Site Expansion/Rehab	250,000	1,250,000
(3)	Nashville Building Expansion/Rehab	375,000	1,125,000
(4)	Nashville Site Expansion/Rehab	250,000	1,250,000
(5)	Clinton Building Expansion/Rehab	375,000	1,125,000
(6)	Clinton Site Expansion/Rehab	250,000	1,250,000
(7)	Salisbury Building Expansion/Rehab	375,000	1,125,000
(8)	Salisbury Site Expansion/Rehab	250,000	1,250,000
(9)	Parkton Building Expansion/Rehab	375,000	1,125,000
(10)	Parkton Site Expansion/Rehab	250,000	1,250,000
(11)	Benson Building Expansion/Rehab	375,000	1,125,000
(12)	Benson Site Expansion/Rehab	250,000	1,250,000

(13)	Charlotte Building Expansion/Rehab	375,000	1,125,000
(14)	Asheboro Site Expansion/Rehab	250,000	1,250,000
(15)	Winston-Salem Building Expansion/Rehab	375,000	1,125,000
(16)	Winston-Salem Site Expansion/Rehab	250,000	1,250,000
(17)	Concord Building Expansion/Rehab	375,000	1,125,000
(18)	Concord Site Expansion/Rehab	250,000	1,250,000
(19)	Burlington Site Expansion/Rehab	375,000	1,125,000
(20)	Albemarle Site Expansion/Rehab	375,000	1,125,000
(21)	Belmont Building Rehab	375,000	1,125,000
(22)	Beulaville Building Expansion/Rehab	375,000	1,125,000
(23)	Boone Building Expansion/Rehab	375,000	1,125,000
(24)	Dunn Building Expansion/Rehab	375,000	1,125,000
(25)	Durham Building Expansion/Rehab	375,000	1,125,000
TOTALS		**$ 8,250,000**	**29,250,000**

SECTION 36.11.(b) Subject to the limitations imposed by Section 36.2(a) of this act, the Adjutant General of the National Guard may determine which projects listed in subsection (a) of this section shall receive an allocation of State funds in each fiscal year of the biennium.

SECTION 36.11.(c) Where the actual costs are different from the estimated costs under subsection (a) of this section, the Adjutant General of the National Guard may adjust the allocations among projects as needed. However, State funds shall not be allocated to a project in excess of the maximum amount of State funds authorized to be allocated to the project under subsection (a) of this section. If any projects funded under subsection (a) of this section are delayed and the budgeted State funds cannot be used during the 2013-2015 fiscal biennium, or if the projects funded under subsection (a) of this section are accomplished at a lower cost, the Department may use the resulting fund availability to fund any of the following:

(1) Future project feasibility studies.
(2) Survey, testing, and permitting.
(3) Planning and execution for reversion of facilities no longer in use.

SECTION 36.11.(d) No later than June 1, 2015, and every two years thereafter, the Department shall report on the use of these funds to the Joint Legislative Commission on Governmental Operations, the Fiscal Research Division, and the Office of State Budget and Management. Each report shall include all of the following:

(1) The status of all projects listed in this section.
(2) The estimated total cost of each project.
(3) The date that work on each project began or is expected to begin.
(4) The date that work on each project was completed or is expected to be completed.
(5) The actual cost of each project, including federal matching funds.
(6) Facilities planned for closure or reversion.
(7) A list of projects advanced in schedule, those projects delayed in schedule, and an estimate of the amount of funds expected to revert to the General Fund.

SECTION 36.11.(e) Chapter 127A of the General Statutes is amended by adding a new Article to read:

"Article 17.

"Armory and Facility Development Projects and Plan.

"**§ 127A-210. Armory and facility development project plan.**

(a) Plan Prepared. – No later than July 1 of each year, the Department of Public Safety shall prepare a statewide plan for armories for a period of seven years into the future. The plan shall be known as the Armory and Facilities Development Plan. If the plan differs from the Armory and Facilities Development Plan adopted for the preceding calendar year, the

Department shall indicate the changes and the reasons for such changes. The Department shall submit the plan to the Director of the Budget for review.

(b) Projects Listed. – The plan shall list the following armory and facilities projects based on their status as of May 1 of the year in which the plan is prepared:

(1) Projects approved by the Congress of the United States but for which federal funds have not been appropriated.

(2) Projects for which the Congress of the United States has appropriated funds.

(c) Project Priorities and Funding Recommendations. – The Department shall assign a priority to each project within each of the two categories listed under subsection (b) of this section, either by giving the project a number with "1" assigned to the highest priority, or by recommending no funding. The Department shall state its reasons for recommending the funding, deferral, or elimination of a project. The Department shall determine the priority of a project based on the following criteria: federal requirements, a project's proximity to transportation infrastructure and other critical State and federal assets, and a project's ability to further the mission of the National Guard.

(d) Distribution of the Plan. – The Director of the Budget shall provide copies of the plan to the General Assembly along with the recommended biennial budget and the recommended revised budget for the second year of the biennium.

(e) Budget Recommendations. – The Director of the Budget shall determine which projects, if any, will be included in the recommended biennial budget and in the recommended revised budget for the second year of the biennium. The budget document transmitted to the General Assembly shall identify the projects or types of projects recommended for funding.

(f) Definitions. – For purposes of this section, the terms "armory," "armory site," and "facilities" shall have the same meaning as in G.S. 127A-161."

SECTION 36.11.(f) G.S. 127A-169 reads as rewritten:

"§ **127A-169. Unexpended portion of State appropriation.**

The unexpended portion of any appropriation from the General Fund of the State for the purposes set out in this ~~Article,~~Article, or in Article 17 of this Chapter, remaining at the end of any biennium, shall not revert to the General Fund of the State, but shall constitute part of a permanent fund to be expended from time to time in the manner and for the purposes set out in this Article."

CLARIFY GENERAL ASSEMBLY'S AUTHORITY TO MAKE REPAIRS

SECTION 36.13. G.S. 120-32 reads as rewritten:

"§ **120-32. Commission duties.**

The Legislative Services Commission is authorized to:

…

(11) To specify the operating and capital uses within the General Assembly budget of funds appropriated to the General Assembly which remain available for expenditure after the end of the biennial fiscal period, and to revert funds under G.S. 143C-1-2.

…."

REPAIR, MAINTENANCE, AND SELF-CONSTRUCTION TO STATE PROPERTY

SECTION 36.15. Notwithstanding any other provision of the law, an employee of a State agency or institution may perform work involving the installation, construction, maintenance, or repair of any buildings, wiring, piping, devices, appliances, or equipment located in or constituting improvements located on State-owned land without the requirement of licensure under Chapter 87 of the General Statutes if (i) the work performed is valued at less than one hundred thousand dollars ($100,000), (ii) all work is performed as force-account work otherwise authorized by law up to the value authorized, and (iii) the work is performed by an employee who is employed by the State agency or institution. The Office of State Construction may regulate work performed pursuant to this section to ensure compliance with building and

safety codes. Nothing in this section shall be construed to allow an employee of a State agency or institution to engage in any activities described in this section privately or outside the employee's scope of employment without meeting all licensure requirements otherwise required by law.

PART XXXVIII. MISCELLANEOUS PROVISIONS

STATE BUDGET ACT APPLIES

SECTION 38.1. The provisions of the State Budget Act, Chapter 143C of the General Statutes, are reenacted and shall remain in full force and effect and are incorporated in this act by reference.

MOST TEXT APPLIES ONLY TO THE 2013-2015 FISCAL BIENNIUM

SECTION 38.2. Except for statutory changes or other provisions that clearly indicate an intention to have effects beyond the 2013-2015 fiscal biennium, the textual provisions of this act apply only to funds appropriated for, and activities occurring during, the 2013-2015 fiscal biennium.

EFFECT OF HEADINGS

SECTION 38.3. The headings to the parts and sections of this act are a convenience to the reader and are for reference only. The headings do not expand, limit, or define the text of this act except for effective dates referring to a part.

COMMITTEE REPORT

SECTION 38.4.(a) The Joint Conference Committee Report on the Continuation, Expansion, and Capital Budgets for Senate Bill 402, dated July 21, 2013, which was distributed in the Senate and the House of Representatives and used to explain this act, shall indicate action by the General Assembly on this act and shall therefore be used to construe this act, as provided in the State Budget Act, Chapter 143C of the General Statutes, and for these purposes shall be considered a part of this act and as such shall be printed as a part of the Session Laws.

SECTION 38.4.(b) The budget enacted by the General Assembly is for the maintenance of the various departments, institutions, and other spending agencies of the State for the 2013-2015 biennial budget as provided in G.S. 143C-3-5. This budget includes the appropriations of State funds as defined in G.S. 143C-1-1(d)(25).

The Director of the Budget submitted a recommended continuation budget to the General Assembly on March 15 and 18, 2013, in the document "State of North Carolina Recommended Continuation Budget and Fund Purpose Statements, 2013-2015" and in the Budget Support Document for the various departments, institutions, and other spending agencies of the State. The adjustments to these documents made by the General Assembly are set out in the Committee Report.

SECTION 38.4.(c) The budget enacted by the General Assembly shall also be interpreted in accordance with G.S. 143C-5-5, the special provisions in this act, and other appropriate legislation.

In the event that there is a conflict between the line-item budget certified by the Director of the Budget and the budget enacted by the General Assembly, the budget enacted by the General Assembly shall prevail.

REPORT BY FISCAL RESEARCH DIVISION ON CHANGES TO THE BUDGET/PUBLICATION

SECTION 38.4A.(a) The Fiscal Research Division of the Legislative Services Commission shall issue a report on budget actions taken by the 2013 Regular Session of the General Assembly. The report shall be in the form of a revision of the Committee Report

adopted for Senate Bill 402 pursuant to G.S. 143C-5-5 and shall include all modifications made to the 2013-2015 biennial budget prior to sine die adjournment of the 2013 Regular Session.

SECTION 38.4A.(b) The Director of the Fiscal Research Division of the Legislative Services Commission shall send a copy of the report issued pursuant to this section to the Director of the Budget. The report shall be published on the General Assembly's Internet Web site for public access.

ADJUSTMENT OF ALLOCATIONS TO GIVE EFFECT TO THIS ACT FROM JULY 1, 2013

SECTION 38.4B.(a) The appropriations and authorizations to allocate and spend funds set out in S.L. 2013-184 expire when this act becomes law. At such time, this act governs appropriations and expenditures.

When this act becomes law, the Director of the Budget shall adjust allocations to give effect to this act from July 1, 2013.

SECTION 38.4B.(b) Sections 4 and 7 of S.L. 2013-184 are repealed.

SEVERABILITY CLAUSE

SECTION 38.5. If any section or provision of this act is declared unconstitutional or invalid by the courts, it does not affect the validity of this act as a whole or any part other than the part so declared to be unconstitutional or invalid.

EFFECTIVE DATE

SECTION 38.6. Except as otherwise provided, this act becomes effective July 1, 2013.

In the General Assembly read three times and ratified this the 25th day of July, 2013.

Became law upon approval of the Governor at 1:00 p.m. on the 26th day of July, 2013.

Session Law 2013-361 **S.B. 317**

AN ACT TO REDUCE THE SIZE OF THE GUILFORD COUNTY BOARD OF EDUCATION FROM ELEVEN TO NINE MEMBERS, TO ESTABLISH REVISED DISTRICTS FOR THE GUILFORD COUNTY BOARD OF EDUCATION, AND TO PROVIDE FOR PARTISAN ELECTIONS FOR THAT BOARD, AND TO DISTRICT THE STANLY COUNTY BOARD OF COMMISSIONERS AND THE STANLY COUNTY BOARD OF EDUCATION.

The General Assembly of North Carolina enacts:

PART I. GUILFORD COUNTY BOARD OF EDUCATION ELECTION CHANGES

SECTION 1.(a) Members elected to the Guilford County Board of Education in 2014 either for the District 2, 4, 6, or 8 seats or for the at-large seat previously scheduled for election that year are elected to two-year terms. The districts to be used in 2014 for the two-year terms are those established in 2011 by the Guilford County Board of Education under G.S. 115C-37(i).

SECTION 1.(b) Effective on the first Monday in December of 2016 as to the size of the board and effective beginning with the 2016 election cycle for the method of election, Section 2 of Chapter 78 of the 1991 Session Laws reads as rewritten:

"Sec. 2. (a) The Board of Education of the Guilford County School Administrative Unit shall be composed of ~~eleven~~ nine members elected on a partisan basis. ~~nonpartisan primary basis at the time of the regular county primary and general elections except that in 1992 the dates of the primary and general election shall be in accordance with subsections (a1) and (b) of this section. One~~ Beginning in 2016, one shall be elected from each of eight ~~nine~~ single-member districts established under subsection (g) of this section, and ~~two~~ one shall be

elected at large from within the entirety of Guilford County. The results shall be determined in accordance with ~~G.S. 163-294.~~G.S. 163-291.

~~The terms of office of members are staggered to allow for continuity on the Board, and all terms, following the initial terms, shall be for four years.~~

~~(a1) The initial primary election for the Guilford County Board of Education shall be held on Tuesday, March 10, 1992, and the initial general election shall be held on Tuesday, May 5, 1992.~~

(b) ~~On Tuesday, May 5, 1992,~~In the 2016 general election, members for Districts 2, 4, 6 and 8 and the at-large member shall be elected for two-year terms. In 2018 and quadrennially thereafter, members for Districts 2, 4, 6, and 8 and the at-large member shall be elected for four-year terms. In 2016 and quadrennially thereafter, members for Districts 1, 3, 5, and 7 shall be elected for four-year terms. ~~members for Districts 1, 3, 5, 7 and 9 shall be elected for four-year terms. Also, on Tuesday, May 5, 1992, one of the two at-large members shall be elected for a two-year term; and the other at-large member shall be elected for a four-year term. In 1992, the candidate receiving the highest number of votes is elected to a four-year term, and the candidate receiving the next highest number of votes is elected to a two-year term. Thereafter, all members shall be elected for four-year terms~~ Members shall be elected at the same time as the regular primary and general election dates for county officers.

~~(c) The members elected in 1992 shall take the oath of office on Monday, June 1, 1992. At that time, this elected Board shall have and assume the powers and duties set forth in Section 4 of this act. On July 1, 1993, this Board shall have and assume all duties granted by law and shall supersede the previous board or boards that had previously administered and governed the schools in Guilford County.~~

(d) The districts set out in subsection (g) of this section for use in 2016 and thereafter are devised and constituted to meet the requirements of the Voting Rights Act of 1965, as amended, and other applicable constitutional provisions. These districts shall remain the same until changed as provided by ~~law~~G.S. 115C-37(i) and constitutional mandate.

(e) The qualified voters of Guilford County shall elect the at-large members of the board of education.

(f) The qualified voters of each district shall elect the member of the board of education for that district. Candidates must reside in the district for which they seek to be elected.

(g) The districts for use in 2016 and thereafter are as follows:

~~(1) District 1 consists of High Point precincts 3, 5, 6, 7, 9, 11, 12, 17, 18, 21, and 22.~~

~~(2) District 2 consists of High Point precincts 1, 2, 4, 8, 10, 13, 14, 15, 16, 19, 20, 23 and 24, and Deep River.~~

~~(3) District 3 consists of Greensboro precincts 20, 27B, 27C, 34A, 34B, 37B, 38 and 39, and Bruce, North Center Grove, Friendship 1, Oak Ridge and Stokesdale.~~

~~(4) District 4 consists of Greensboro precincts 19, 35B, 35C, 40B and 45, and Gibsonville, GIB G, North Jefferson, South Jefferson, North Madison, South Madison, North Monroe, South Monroe, North Washington and South Washington.~~

~~(5) District 5 consists of Greensboro precincts 24C and 43, and Clay, Fentress 1, Greene, Friendship 2, Jamestown 1, Jamestown 2, Jamestown 3, South Sumner and Whitsett.~~

~~(6) District 6 consists of Greensboro precincts 14, 17, 18, 22, 23, 24A, 26B and 36, and Fentress 2 and North Sumner.~~

~~(7) District 7 consists of Greensboro precincts 10, 11, 12, 13, 16, 21, 27A, 28, 31, 32, 35A, 37A, 40A, 41A and 41B, and South Center Grove.~~

~~(8) District 8 consists of Greensboro precincts 2, 4, 5, 7, 9, 15, 24B, 25, 26A and 30.~~

~~(9) District 9 consists of Greensboro precincts 1, 3, 6, 8, 29, 33, 42 and 44.~~

District 1: Guilford County: VTD: G54, VTD: G55, VTD: G57, VTD: G60, VTD: H03, VTD: H05, VTD: H06, VTD: H07, VTD: H08, VTD: H09, VTD: H10, VTD: H11, VTD: H12, VTD: H17, VTD: H18, VTD: H19A, VTD: JAM4, VTD: SUM1, VTD: SUM2.

District 2: Guilford County: VTD: G36, VTD: G37, VTD: G62, VTD: G64, VTD: G65, VTD: H01, VTD: H02, VTD: H04, VTD: H13, VTD: H14, VTD: H16, VTD: H19B, VTD: H20A, VTD: H20B, VTD: H22, VTD: JAM1, VTD: JAM2, VTD: JAM3, VTD: JAM5, VTD: PG2, VTD: SCLAY, VTD: SUM3, VTD: SUM4.

District 3: Guilford County: VTD: FR3, VTD: FR5, VTD: G15, VTD: G16, VTD: G17, VTD: G33, VTD: G34, VTD: G35, VTD: G39, VTD: G40A1, VTD: G41, VTD: G42, VTD: G45, VTD: G48, VTD: OR1, VTD: OR2, VTD: SF3, VTD: SF4, VTD: STOK.

District 4: Guilford County: VTD: CG3A, VTD: CG3B, VTD: FEN2, VTD: G24, VTD: G25, VTD: G28, VTD: G29, VTD: GIB, VTD: GR, VTD: JEF1, VTD: JEF2, VTD: JEF4, VTD: MON1, VTD: MON3, VTD: NCLAY1, VTD: NCLAY2, VTD: NMAD, VTD: NWASH, VTD: RC1, VTD: RC2, VTD: SMAD, VTD: SWASH.

District 5: Guilford County: VTD: CG1, VTD: CG2, VTD: G11, VTD: G12, VTD: G13, VTD: G14, VTD: G18, VTD: G19, VTD: G20, VTD: G21, VTD: G22, VTD: G23, VTD: G27, VTD: G30, VTD: G31, VTD: G32, VTD: G40A2, VTD: G40B, VTD: G44, VTD: NCGR1, VTD: NCGR2, VTD: SF1, VTD: SF2.

District 6: Guilford County: VTD: FR1, VTD: FR2, VTD: FR4, VTD: G38, VTD: G43, VTD: G66, VTD: H15, VTD: H21, VTD: H23, VTD: H24, VTD: H25, VTD: H26, VTD: H27, VTD: HP, VTD: NDRI, VTD: SDRI.

District 7: Guilford County: VTD: FEN1, VTD: G03, VTD: G05, VTD: G06, VTD: G08, VTD: G09, VTD: G10, VTD: G26, VTD: G53, VTD: G71, VTD: G72, VTD: G74, VTD: G75, VTD: JEF3, VTD: MON2, VTD: PG1.

District 8: Guilford County: VTD: G01, VTD: G02, VTD: G04, VTD: G07, VTD: G46, VTD: G47, VTD: G49, VTD: G50, VTD: G51, VTD: G52, VTD: G56, VTD: G58, VTD: G59, VTD: G61, VTD: G63, VTD: G67, VTD: G68, VTD: G69, VTD: G70, VTD: G73.

(h) The names and boundaries of voting tabulation districts specified in this section are as shown on the 2010 Census Redistricting TIGER/Line Shapefiles. If any voting tabulation district boundary is changed, that change shall not change the boundary of a district, which shall remain the same as it is depicted by the 2010 Census Redistricting TIGER/Line Shapefiles."

SECTION 1.(c) Effective the first Monday in December of 2016, Section 6 of Chapter 78 of the 1991 Session Laws reads as rewritten:

"Sec. 6. Vacancies on the new Guilford County Board of Education shall be filled by vote of a majority of the remaining members of the Board present and voting for the remainder of the unexpired term. Vacancies shall be filled as provided in G.S. 115C-37.1(d). In instances in which the member being replaced was elected from within a single member district, the Board must appoint a resident of the district where the vacancy exists."

SECTION 2. Effective the first Monday in December of 2016, G.S. 115C-37.1(d) reads as rewritten:

"(d) This section shall apply only in the following counties: Alleghany, Brunswick, Graham, Guilford, New Hanover, Vance, and Washington."

PART II. STANLY COUNTY BOARD OF COMMISSIONERS AND BOARD OF EDUCATION ELECTION CHANGES

SECTION 3.(a) Notwithstanding any other provision of law, the Board of County Commissioners of Stanly County shall consist of seven members to be elected as follows:

(1) Five members shall be elected from single-member districts, with the qualified voters of the county electing the member from that district, who shall serve four-year terms.

(2) Two members shall be elected at large, who shall serve four-year terms.

SECTION 3.(b) Each candidate for a district seat must reside in the district for which the election is sought.

SECTION 4.(a) In 2014 and quadrennially thereafter, under the districts set out in or as modified in accordance with this act, there shall be elected to serve on the Board of County Commissioners of Stanly County one member each from District 1, District 2, District 3, District 4, and one member at large to serve a four-year term. In 2016 and quadrennially thereafter, there shall be elected one member from District 5 and one member at large to serve a four-year term. All of the elections shall be held at the time of the general election.

SECTION 4.(b) Nothing in this section shall alter or change the term of office of any member of the Stanly County Board of Commissioners that expires in 2016.

SECTION 4.(c) This section becomes effective July 1, 2014.

SECTION 5.(a) Notwithstanding the Plan for the Merger of the Stanly County and Albemarle City Schools or any other provision of law, the Board of Education of Stanly County shall consist of seven members to be elected as follows:

(1) Five members shall be elected from single-member districts, with the qualified voters of the county electing the member from that district, who shall serve four-year terms.

(2) Two members shall be elected at large, who shall serve four-year terms.

SECTION 5.(b) Each candidate for a district seat must reside in the district for which the election is sought.

SECTION 5.(c) In 2014 and quadrennially thereafter, under the districts set out in or as modified in accordance with this act, there shall be elected to serve on the Board of Education of Stanly County one member from District 1 and one member at large to serve a four-year term. In 2016 and quadrennially thereafter, there shall be elected one member each from District 2, District 3, District 4, District 5, and one member at large to serve a four-year term. All of the elections shall be held at the time of the general election.

SECTION 5.(d) This section becomes effective July 1, 2014.

SECTION 6. Until modified in accordance with this act, the elections for the Stanly County Board of Commissioners and Stanly County Board of Education shall be conducted in the following districts:

District 1: Stanly County: VTD: 0022, VTD: 0023, VTD: 0024, VTD: 0025.

District 2: Stanly County: VTD: 0013: Block(s) 1679310001009, 1679310001010, 1679310001011, 1679310001013, 1679310001014, 1679310001015, 1679310001016, 1679310001017, 1679310001018, 1679310001019, 1679310001020, 1679310001021, 1679310001022, 1679310004009, 1679310004010, 1679310004011, 1679310004012, 1679310004013, 1679310004014, 1679310004015, 1679310004016, 1679310004017, 1679310004018, 1679310004019, 1679310004020, 1679310004021, 1679310004022, 1679310004023, 1679310004024, 1679310004025, 1679310004026, 1679310004027, 1679310004028, 1679310004029, 1679310004030, 1679310004031, 1679310004032, 1679310005000, 1679310005003, 1679310005005, 1679310005006, 1679310005007, 1679310005009, 1679310005022, 1679310005023, 1679310005024, 1679310005029, 1679310005030, 1679310005034, 1679310005038, 1679311001015, 1679312021016, 1679312021019, 1679312021024, 1679312021025, 1679312021030, 1679312021031, 1679312021032, 1679312021033, 1679312021034, 1679312021035, 1679312021036, 1679312021041, 1679312021042, 1679312021043, 1679312023039, 1679312023041, 1679312023042; VTD: 0014, VTD: 0026, VTD: 0027, VTD: 0028.

District 3: Stanly County: VTD: 0012, VTD: 0013: Block(s) 1679312021000, 1679312021001, 1679312021002, 1679312021004, 1679312021005, 1679312021006, 1679312021007, 1679312021008, 1679312021009, 1679312021010, 1679312021011, 1679312021012, 1679312021013, 1679312021014, 1679312021015, 1679312021044, 1679312021046, 1679312021047, 1679312021048, 1679312022031, 1679312022033, 1679312022045; VTD: 0019, VTD: 0020, VTD: 0021.

District 4: Stanly County: VTD: 0015, VTD: 0016, VTD: 0017, VTD: 0018.

District 5: Stanly County: VTD: 0002, VTD: 0003, VTD: 0007, VTD: 0008, VTD: 0010, VTD: 0011.

SECTION 7. Notwithstanding Part 4 of Article 4 of Chapter 153A of the General Statutes, the structure of the Stanly County Board of Commissioners shall not be altered under that Part prior to the return of the 2020 Census. Following the return of the 2020 Census and each Census thereafter, the Stanly County Board of Commissioners may revise the election districts for the Board of Commissioners and the Board of Education. District boundary lines for the two boards shall remain identical. G.S. 153A-22 applies to the Stanly County Board of Commissioners.

SECTION 8. Sections 3, 4, 5, 6, and 7 apply to Stanly County only.

SECTION 9. Except as provided herein, this act is effective when it becomes law. Sections 1 and 2 of this act do not affect the terms of office of members of the Guilford County Board of Education elected in 2010 or 2012.

In the General Assembly read three times and ratified this the 26th day of July, 2013.

Became law on the date it was ratified.

Session Law 2013-362 **S.B. 159**

AN ACT TO CORRECT GENERAL REAPPRAISALS RESULTING IN PROPERTY VALUES THAT DO NOT COMPLY WITH THE REQUIREMENTS OF NORTH CAROLINA LAW BY SETTING FORTH THE STEPS REQUIRED TO BRING THE GENERAL REAPPRAISAL INTO COMPLIANCE WITH THE APPLICABLE PROPERTY TAX MANDATES.

Whereas, the Great Recession has had deleterious effects on the economy and especially on the housing market; and

Whereas, valuation data for a calendar year is used to determine market value for a general reappraisal as of January 1 of the following year; and

Whereas, there were a total of 3,825,637 foreclosure filings during the 2010 calendar year, and 2.23% of all households were in some stage of foreclosure during 2010; and

Whereas, annual analysis of the housing market in North Carolina in 2011 shows tax assessments in nearly half of the counties in the State were higher, on average, than actual market values; and

Whereas, the General Assembly has previously required accelerated general reappraisals when sales values deviated too much from assessed values, but such countywide analyses can fail to properly account for pockets of improperly valued properties or where properties have values that offset improperly valued properties located elsewhere within the county; and

Whereas, these unique and extraordinary conditions have increased the difficulty of accurately appraising real property for tax purposes and increased the number of actual errors in conducting reappraisals; and

Whereas, independent evidence shows instances of high degrees of inequity in valuations among like properties of a type that is not acceptable by widely accepted mass appraisal standards; and

Whereas, independent evidence shows, among other things, that there exist concrete examples of erroneous valuations, for example, that resulted both from the values accepted as initial values and from other inequities produced during the property tax appeals process; and

Whereas, these examples prove the existence of errors that give rise to significant issues that must be addressed to resolve inequities among like and similar properties; and

Whereas, the General Assembly recognizes that the confluence of these issues arising during the time when general reappraisals of real property were occurring has resulted not only in a higher risk but in a higher incidence of assessed values failing to accurately and fairly reflect true market values; Now, therefore,

The General Assembly of North Carolina enacts:

SECTION 1. Notwithstanding G.S. 105-287, 105-325, 105-380, any provision of law restricting the time for which a change in appraisal or valuation may be made, or any other provision of Subchapter II of Chapter 105 of the General Statutes inconsistent with the provisions of this act, a board of county commissioners shall undertake the measures required by this act if all of the following conditions are met:

(1) The county has independent evidence that the majority of commercial neighborhoods in the county reviewed by a qualified appraisal company possess significant issues of inequity.

(2) The county has independent evidence that for residential neighborhoods instances of inequity or erroneous data had an impact on the valuation of the neighborhood as a whole.

(3) The county's last general reappraisal was performed for the 2008 tax year, 2009 tax year, 2010 tax year, 2011 tax year, or 2012 tax year.

(4) The independent evidence resulted from a review performed by a qualified appraisal company selected and retained by the county and registered with the Department of Revenue and had a sample size of no less than 375 properties, the relevant characteristics of which were reviewed on location at the property.

SECTION 2. If all of the conditions of Section 1 of this act are met, a board of county commissioners shall either (i) conduct a reappraisal, using no less than one person certified by the Department of Revenue for mass valuations per 4,250 parcels, pursuant to G.S. 105-286 within 18 months, applicable to all tax years from and including the tax year when the last general reappraisal was performed pursuant to G.S. 105-286 or (ii) have a qualified appraisal company, which may be the same company that provides the evidence in Section 1 of this act, conduct a review of all the values in the county by neighborhoods and make recommendations as to the true value of the properties as of January 1 of the year of the last general reappraisal performed pursuant to G.S. 105-286. After the reappraisal or after each neighborhood review required by this section is complete, the board of county commissioners shall make any change on the abstracts and tax records to ensure that the assessed values of incorrectly appraised properties in the county reflect the true values of those properties effective for the year of the last general reappraisal performed pursuant to G.S. 105-286 and shall apply the adjusted values for those properties for each tax year until the next general reappraisal for real property is performed by the county pursuant to G.S. 105-286 unless those adjusted values are changed in accordance with G.S. 105-287. In making changes to the abstracts and tax records mandated by this act, the board of county commissioners shall make adjustments for previous errors prioritized as follows:

(1) Adjustments to parcels with errors that resulted in the parcels having a significantly overstated value.

(2) Adjustments to parcels with errors that resulted in the parcels having a significantly understated value.

(3) Adjustments to parcels with errors that resulted in the parcels having an overstated value.

(4) Adjustments to parcels with errors that resulted in the parcels having an understated value.

In instances of parcels with errors that resulted in an overpayment of taxes, the governing board shall require that notice of refund and the refund amount be sent to the owner of record as of the date the payment was made. The provisions of G.S. 105-380 do not apply to the issuance of any refund under the provisions of this act.

SECTION 3. Interest on taxes paid on parcels with errors that resulted in the parcels having an overstated value shall be calculated at a rate of five percent (5%) per annum. Additional taxes levied on parcels as a result of errors causing the parcels to have an

understated value shall be treated as taxes on discovered property pursuant to G.S. 105-312, except that the discovery penalties set forth in subsection (h) of G.S. 105-312 shall not apply.

SECTION 4. This act is effective when it becomes law. If any provision of this act or its application is held invalid, the invalidity does not affect other provisions or applications of this act that can be given effect without the invalid provisions or application, and to this end the provisions of this act are severable.

In the General Assembly read three times and ratified this the 18th day of July, 2013.

Became law upon approval of the Governor at 4:37 p.m. on the 26th day of July, 2013.

Session Law 2013-363 **H.B. 112**

AN ACT TO MAKE TECHNICAL, CLARIFYING, AND OTHER MODIFICATIONS TO THE CURRENT OPERATIONS AND CAPITAL IMPROVEMENTS APPROPRIATIONS ACT OF 2013 AND TO RELATED LEGISLATION.

The General Assembly of North Carolina enacts:

PART I. GENERAL PROVISIONS

SECTION 1.1.(a) If Senate Bill 402, 2013 Regular Session, becomes law, then Section 6.18(f) of that act is repealed.

SECTION 1.1.(b) If Senate Bill 402, 2013 Regular Session, becomes law, then Section 6.18(e) of that act reads as rewritten:

"**SECTION 6.18.(e)** The Department of Health and Human Services shall submit to the Centers for Medicare and Medicaid Services by ~~August 1, 2013,~~September 30, 2013, a State Plan Amendment for the Medical Assistance Program and a State Plan Amendment for the Children's Health Insurance Program to allow for income, resource, and asset disregard for compensation payments under Part 30 of Article 9 of Chapter 143B of the General Statutes, the Eugenics Asexualization and Sterilization Compensation Program, as enacted by this act."

SECTION 1.2. If Senate Bill 402, 2013 Regular Session, becomes law, then Section 6.4(c) of that act reads as rewritten:

"**SECTION 6.4.(c)** The Attorney General shall take all necessary actions to implement this section and to notify the court in the action entitled State of North Carolina v. Philip Morris Incorporated, et al., 98 CVS 14377, in the General Court of Justice, Superior Court Division, Wake County, North Carolina, and the administrators of the State Specific Account established under the Master Settlement Agreement of this action by the General Assembly regarding redirection of payments set forth in subsections (a) and (b) of this section."

SECTION 1.4. If Senate Bill 402, 2013 Regular Session, becomes law, then Section 6.1 of that act reads as rewritten:

"**SECTION 6.1.** For the 2013-2015 fiscal biennium and notwithstanding the provisions of G.S. 143C-4-4(b), funds appropriated to the Contingency and Emergency Fund may be used only for expenditures required (i) by a court or Industrial Commission ~~order or~~ order, (ii) to respond to events as authorized under G.S. 166A-19.40(a) of the North Carolina Emergency Management ~~Act.~~ Act, (iii) by the State Treasurer to pay death benefits as authorized under Article 12A of Chapter 143 of the General Statutes, (iv) by the Office of the Governor for crime rewards in accordance with G.S. 15-53 and G.S. 15-53.1, (v) by the Industrial Commission for supplemental awards of compensation, or (vi) by the Department of Justice for legal fees. These funds shall not be used for other statutorily authorized purposes or for any other contingencies and emergencies."

SECTION 1.5. If Senate Bill 402, 2013 Regular Session, becomes law, then G.S. 143C-9-3, as amended by Section 6.4(e) of that act, reads as rewritten:

"§ **143C-9-3. Settlement Reserve Fund.**

(a) The "Settlement Reserve Fund" is established in the General Fund to receive proceeds from tobacco litigation settlement agreements or final orders or judgments of a court in litigation between tobacco companies and the states. Funds credited to the Settlement Reserve Fund each fiscal year shall be included in General Fund availability as nontax ~~revenue for the next fiscal year.~~revenue.

(b), (c) Repealed by Session Laws 2011-145, s. 6.11(i), effective July 1, 2011.

(d) Unless prohibited by federal law, federal funds provided to the State by block grant or otherwise as part of federal legislation implementing a settlement between United States tobacco companies and the states shall be credited to the Settlement Reserve Fund. Unless otherwise encumbered or distributed under a settlement agreement or final order or judgment of the court, funds paid to the State or a State agency pursuant to a tobacco litigation settlement agreement, or a final order or judgment of a court in litigation between tobacco companies and the states, shall be credited to the Settlement Reserve Fund."

PART II. INFORMATION TECHNOLOGY

SECTION 2.1. If Senate Bill 402, 2013 Regular Session, becomes law, then Section 7.17(e) of that act reads as rewritten:

"**SECTION 7.17.(e)** Internal Costs. – For the 2013-2015 fiscal biennium the Department of Revenue may retain an additional sum of eight million eight hundred seventy-four thousand three hundred nineteen dollars ($8,874,319) from benefits generated for the General Fund since the beginning of the public-private partnership described under Section 6A.5(a) of S.L. 2011-145. ~~These funds shall be used~~ The Department may use up to eleven million eight hundred seventy-four thousand three hundred nineteen dollars ($11,874,319) as payment of internal costs for the fiscal biennium, and such funds are hereby appropriated for this purpose."

SECTION 2.2. If Senate Bill 402, 2013 Regular Session, becomes law, then Section 7.22 of that act reads as rewritten:

"**SECTION 7.22.** The State Chief Information Officer (SCIO) shall develop a plan to implement an electronic portal that makes obtaining information, conducting online transactions, and communicating with State agencies more convenient for members of the public. The SCIO shall report to the Joint Legislative Oversight Committee on Information Technology on the details of the plan prior to implementation. The plan shall contain all of the following:

…

(6) A provision requiring that any fees to support the operation of the portal must be authorized by ~~the General Assembly.~~the State Chief Information Officer and reported to the Joint Legislative Oversight Committee on Information Technology."

SECTION 2.3. If Senate Bill 402, 2013 Regular Session, becomes law, then the title of Section 7.8 of that act and Section 7.8 of that act reads as rewritten:

"**INFORMATION TECHNOLOGY ~~PERSONAL SERVICES CONTRACT REQUIREMENTS~~ PERSONAL SERVICE/CONVENIENCE CONTRACT**

"**SECTION 7.8.** Notwithstanding any provision of law to the contrary, no contract for information technology personal services, or that provides personnel to perform information technology functions, may be established or renewed without written approval from the Statewide Information Technology Procurement Office and the Office of State Budget and Management. To facilitate compliance with this requirement, the Statewide Information Technology Procurement Office shall develop and document the following:

(1) Standards for determining whether it is more appropriate for an agency to hire an employee or use the services of a vendor.

(2) A process to monitor all State agency personal services contracts, as well as any other State contracts providing personnel to perform information technology functions.

(3) A process for obtaining approval of contractor positions.

The Statewide Information Technology Procurement Office shall review current personal services contracts and determine if each contractor is performing a function that could more appropriately be performed by a State employee. Where the determination is made that a State employee should be performing the function, the Statewide Information Technology Procurement Office shall work with the impacted ~~agency~~ agency, the Office of State Budget and Management, and the Office of State Personnel to identify or create the position.

Beginning October 1, 2013, the Statewide Information Technology Procurement Office shall report to the Joint Legislative Oversight Committee on Information Technology and the Fiscal Research Division on its progress toward standardizing information technology personal services contracts. In addition, the report shall include detailed information on the number of personal service contractors in each State agency, the cost for each, and the comparable cost (including benefits) of a State employee serving in that capacity rather than a contractor."

SECTION 2.4.(a) If Senate Bill 402, 2013 Regular Session, becomes law, G.S. 143B-426.38A(f)(1), as enacted by Section 7.10(d) of that act, reads as rewritten:

"(f) Data Sharing. –

(1) General duties of all State agencies. – ~~The~~ Except as limited or prohibited by federal law, the head of each State agency, department, and institution shall do all of the following:

…."

SECTION 2.4.(b) This section is effective when it becomes law.

PART III. EDUCATION

SECTION 3.2. If House Bill 269, 2013 Regular Session, becomes law, then Section 5 of that act is rewritten to read:

"**SECTION 5.(a)** Of the funds appropriated to a Reserve for Pending Legislation by Senate Bill 402, 2013 Regular Session, there is allocated to the North Carolina State Education Assistance Authority (NCSEAA) the sum of three million six hundred seventy thousand five hundred dollars ($3,670,500) for the 2013-2014 fiscal year and the sum of four million three hundred forty-one thousand dollars ($4,341,000) for the 2014-2015 fiscal year in recurring funds to implement the requirements of this act. Of the funds allocated to NCSEAA under this section, NCSEAA shall use the sum of three million dollars ($3,000,000) for fiscal year 2013-2014 and the sum of three million dollars ($3,000,000) for fiscal year 2014-2015 to award scholarship grants to eligible students. Any unexpended funds for this purpose shall not revert at the end of each fiscal year but shall remain available to award scholarship grants to eligible students.

Of the remainder of the funds, up to six hundred seventy thousand five hundred dollars ($670,500) for fiscal year 2013-2014 and up to one million three hundred forty-one thousand dollars ($1,341,000) for fiscal year 2014-2015 shall be transferred to the North Carolina Department of Public Instruction to conduct reevaluations of eligible students as required by G.S. 115C-112.3(c), as enacted by this act.

"**SECTION 5.(b)** Of the funds allocated to NCSEAA to be used for the award of scholarship grants to eligible students under subsection (a) of this section, for fiscal year 2013-2014, NCSEAA may retain up to two hundred thousand dollars ($200,000) for administrative costs associated with the scholarship grant program. For fiscal year 2014-2015 and subsequent years, NCSEAA may retain up to two percent (2%) annually for administrative costs associated with the scholarship grant program."

SECTION 3.3.(a) If Senate Bill 402, 2013 Regular Session, becomes law, then G.S. 115C-301 reads as rewritten:

"§ **115C-301. Allocation of teachers; class size.**

(a) Request for Funds. – The State Board of Education, based upon the reports of local boards of education and such other information as the State Board may require from local

boards, shall determine for each local school administrative unit the number of teachers and other instructional personnel to be included in the State budget request.

(b) Allocation of Positions. – The State Board of Education is authorized to adopt rules to allot instructional personnel and teachers, within funds appropriated.

(c) Maximum Class ~~Size.~~Size for Kindergarten Through Third Grade. – The average class size for ~~each grade span~~ kindergarten through third grade in a local school administrative unit shall at no time exceed the funded allotment ratio of teachers to ~~students.~~ students in kindergarten through third grade. At the end of the second school month and for the remainder of the school year, the size of an individual class in kindergarten through third grade shall not exceed the allotment ratio by more than three students. ~~At no time may the General Assembly appropriate funds for higher unit-wide class averages than those for which State funds were provided during the 1984-85 school year.~~In grades four through 12, local school administrative units shall have the maximum flexibility to use allotted teacher positions to maximize student achievement.

~~(d) Maximum Teaching Load. – Students shall be assigned to classes so that from the 15th day of the school year through the end of the school year the number of students for whom teachers in grades 7 through 12 are assigned teaching responsibilities during the course of the day is no more than 150 students, except as provided in subsection (g) of this section.~~

~~(e) Alternative Maximum Class Sizes. – The State Board of Education, in its discretion, may set higher maximum class sizes and daily teaching loads for classes in music, physical education, and other similar subjects, so long as the effectiveness of the instructional programs in those areas is not thereby impaired.~~

(f) Second Month Reports. – At the end of the second month of each school year, each local board of education, through the superintendent, shall file a report for each school within the school unit with the State Board of Education. The report shall be filed in a format prescribed by the State Board of Education and shall include the organization for each school, the duties of each teacher, the size of each class, ~~the teaching load of each teacher,~~ and such other information as the State Board may require. As of February 1 each year, local boards of education, through the superintendent, shall report all exceptions to individual class size ~~and daily teaching load~~ maximums in kindergarten through third grade that occur at that time.

(g) Waivers and Allotment Adjustments. – Local boards of education shall report exceptions to the class size requirements set out for kindergarten through third grade and significant increases in class size at other grade levels to the State Board ~~of Education as provided in G.S. 115C-47(10),~~ and shall request allotment adjustments ~~or~~at any grade level, waivers from the ~~standards set out above.~~requirements for kindergarten through third grade, or both. Within 45 days of receipt of reports, the State Board of Education, within funds available, may ~~allot additional positions or~~ grant waivers for the excess class size ~~or daily load.~~in kindergarten through third grade.

~~(1) If the exception resulted from (i) exceptional circumstances, emergencies, or acts of God, (ii) large changes in student population, (iii) organizational problems caused by remote geographic location, or (iv) classes organized for a solitary curricular area, and~~

~~(2) If the local board cannot organizationally correct the exception.~~

(h) State Board Rules. – The State Board of Education shall adopt rules necessary for the implementation of ~~class size and teaching load provisions.~~this section.

~~(i) Penalty for Noncompliance. – If the State Board of Education determines that a local superintendent has willfully failed to comply with the requirements of this section, no State funds shall be allocated to pay the superintendent's salary for the period of time the superintendent is in noncompliance.~~"

SECTION 3.3.(b) If Senate Bill 402, 2013 Regular Session, becomes law, then G.S. 115C-47(10) reads as rewritten:

"§ **115C-47. Powers and duties generally.**

In addition to the powers and duties designated in G.S. 115C-36, local boards of education shall have the power or duty:

…

(10) To Assure Appropriate Class Size. – It shall be the responsibility of local boards of education to assure that the class size ~~and teaching load~~ requirements set forth in G.S. 115C-301 for kindergarten through third grade are met. Any teacher who believes that the requirements of G.S. 115C-301 have not been met shall make a report to the principal and superintendent, and the superintendent shall immediately determine whether the requirements have in fact not been met. If the superintendent determines the requirements have not been met, he or she shall make a report to the next local board of education meeting. The local board of education shall take action to meet the requirements of the statute. If the local board cannot organizationally correct the ~~exception and if any of the conditions set out in G.S. 115C-301(g)(1) exist,~~ exception, it shall immediately apply to the State Board of Education for additional personnel or a waiver of the class size requirements, as provided in G.S. 115C-301(g).

Upon notification from the State Board of Education that the reported exception does not qualify for an allotment adjustment or a waiver under provisions of G.S. 115C-301, the local board, within 30 days, shall take action necessary to correct the exception.

At the end of the second month of each school year, the local board of education, through the superintendent, shall file a report with the State Board of Education, in a format prescribed by the State Board of Education, describing the organization of each school, the duties of each teacher, and the size of each ~~class, and the teaching load of each teacher.~~class. As of February 1 each year, local boards of education, through the superintendent, shall report all exceptions to individual class size ~~and daily teaching load~~ maximums that exist at that time.

In addition to assuring that the requirements of G.S. 115C-301 are met, each local board of education shall also have the duty to provide an adequate number of classrooms to meet the requirements of that statute."

SECTION 3.3.(c) If Senate Bill 402, 2013 Regular Session, becomes law, then G.S. 115C-276(k) reads as rewritten:

"(k) To Submit Organization Reports and Other Information to the State Board. – Each year the superintendent of each local school administrative unit shall submit to the State Board of Education statistical reports, certified by the chairman of the board of education, showing the organization of the schools in his or her unit and any additional information the State Board may require. At the end of the second month of school each year, local boards of education, through the superintendent, shall report school organization, employees' duties, and class ~~sizes, and teaching loads~~ sizes to the State ~~Board of Education as provided in G.S. 115C-47(10).~~Board. As of February 1 each year, local boards of education, through the superintendent, shall report all exceptions to individual class size ~~and daily teaching load~~ maximums in kindergarten through third grade that occur at that time."

SECTION 3.3.(d) Notwithstanding G.S. 115C-301 or any other law, for the 2013-2015 fiscal biennium, the class size requirements in kindergarten through third grade shall remain unchanged.

SECTION 3.4. If Senate Bill 402, 2013 Regular Session, becomes law, then Section 2.1 of that act reads as rewritten:

"**CURRENT OPERATIONS AND EXPANSION/GENERAL FUND**

"**SECTION 2.1.** Appropriations from the General Fund of the State for the maintenance of the State departments, institutions, and agencies, and for other purposes as enumerated, are made for the fiscal biennium ending June 30, 2015, according to the following schedule:

Current Operations – General Fund	**2013-2014**	**2014-2015**
EDUCATION		
Community Colleges System Office	1,021,295,467	1,016,487,467
Department of Public Instruction	7,867,960,649	8,048,101,622
University of North Carolina – Board of Governors		
Appalachian State University	127,908,903	127,908,903
East Carolina University		
Academic Affairs	220,012,450	220,615,626
Health Affairs	64,841,247	64,841,247
Elizabeth City State University	35,363,212	35,385,057
Fayetteville State University	49,336,186	49,336,186
North Carolina Agricultural and Technical State University	96,882,428	96,882,428
North Carolina Central University	84,084,488	84,084,488
North Carolina State University		
Academic Affairs	389,976,973	390,045,059
Agricultural Extension	39,859,682	39,859,682
Agricultural Research	54,911,053	54,911,053
University of North Carolina at Asheville	37,465,299	37,465,299
University of North Carolina at Chapel Hill		
Academic Affairs	274,632,544	274,515,010
Health Affairs	187,260,403	190,741,444
Area Health Education Centers	42,418,348	42,418,348
University of North Carolina at Charlotte	192,697,970	192,683,456
University of North Carolina at Greensboro	153,838,192	153,783,960
University of North Carolina at Pembroke	54,175,566	54,175,566
University of North Carolina School of the Arts	31,547,460	29,146,203
University of North Carolina at Wilmington	96,484,692	96,484,692
Western Carolina University	83,140,199	83,161,081
Winston-Salem State University	68,957,656	68,980,084
General Administration	34,752,475	34,752,475
University Institutional Programs	(32,137,074)	(52,671,909)
Related Educational Programs	82,160,148	~~117,918,501~~ 107,918,501
North Carolina School of Science and Mathematics	19,126,182	19,126,182
Aid to Private ~~Colleges~~Institutions	93,351,588	~~93,351,588~~ 103,351,588
Total University of North Carolina – Board of Governors	2,583,048,270	2,599,901,709

…."

SECTION 3.5. G.S. 115C-238.70(a) is amended by adding a new subdivision to read:

"§ **115C-238.70. State and local funds.**

(a) The State Board of Education shall allocate to a regional school:

…

(4) If the regional school has a final total average daily membership of 100 or more students, an amount to fund 12 months of employment for the school principal position."

SECTION 3.6. If Senate Bill 402, 2013 Regular Session, becomes law, then G.S. 115C-83.11(b)(7), as enacted by Section 9.4(b) of that act, reads as rewritten:

"(b) Calculation of the School Achievement Score. – In calculating the overall school achievement score earned by schools, the State Board of Education shall total the sum of points earned by a school on all of the following indicators that are measured for that school:

…

(7) One point for each percent of students who complete ~~the Algebra II or Integrated Math III end-of-course test~~ Algebra II or Integrated Math III with a passing grade."

SECTION 3.7. If Senate Bill 402, 2013 Regular Session, becomes law, then Section 10.4A(a) of that act reads as rewritten:

"**SECTION 10.4A.(a)** It is the intent of the General Assembly that, beginning with the 2014-2015 fiscal year, the State Board of Community ~~Colleges~~Colleges, in consultation and cooperation with the Office of State Budget and Management, shall implement a fourth tier in the Tiered Funding Formula adopted by the State Board to allocate funds to community colleges based on the number of full-time equivalent (FTE) students enrolled in curriculum, continuing education, and Basic Skills courses in order to fund curriculum programs leading to immediate employment at the highest available funding level."

SECTION 3.8. If Senate Bill 402, 2013 Regular Session, becomes law, then notwithstanding any provision in that act to the contrary, the reduction to the cash balance of the Teaching Fellows Trust Fund for the 2013-2014 fiscal year shall be taken from Budget Code 63501.

SECTION 3.9. Notwithstanding Section 7A.1(i) of S.L. 2012-142 or any other provision of law to the contrary, the developmental screening and kindergarten entry assessment required by G.S. 115C-83.5 shall be administered beginning with the 2014-2015 school year in at least fifty percent (50%) of local school administrative units with statewide administration implemented no later than the 2015-2016 school year.

SECTION 3.10.(a) If Senate Bill 402, 2013 Regular Session, becomes law, then G.S. 115C-64.10(a), as enacted by Section 8.34(a) of that act, reads as rewritten:

"(a) There is created the North Carolina Education and Workforce Innovation Commission (Commission). The Commission shall be located administratively in the ~~Department of Public Instruction~~ Office of the Governor but shall exercise all its prescribed powers independently of the ~~Department of Public Instruction.~~ Office of the Governor. Of the funds appropriated for the Education and Workforce Innovation Program established under G.S. 115C-64.11, up to two hundred thousand dollars ($200,000) each fiscal year may be used by the ~~Department of Public Instruction~~ Office of the Governor to provide technical assistance and administrative assistance, including staff, to the Commission and reimbursements and expenses for the Commission."

SECTION 3.10.(b) If Senate Bill 402, 2013 Regular Session, becomes law, then Section 2.1 of that act reads as rewritten:

"**SECTION 2.1.** Appropriations from the General Fund of the State for the maintenance of the State departments, institutions, and agencies, and for other purposes as enumerated, are made for the fiscal biennium ending June 30, 2015, according to the following schedule:

Current Operations – General Fund	**2013-2014**	**2014-2015**
EDUCATION		
Community Colleges System Office	1,021,295,467	1,016,487,467
Department of Public Instruction	~~7,867,960,649~~7,865,960,649	~~8,048,101,622~~8,046,101,622
…		
Office of the Governor		
Office of the Governor	~~5,170,050~~7,170,050	~~5,172,132~~7,172,132

…."

SECTION 3.10.(c) If Senate Bill 402, 2013 Regular Session, becomes law, then notwithstanding any provision of that act, the Department of Public Instruction shall not use any of the funds appropriated to it in that act, as amended by this act, for the 2013-2015 fiscal biennium to support the program for competitive grants established in Section 8.34 of that act.

SECTION 3.10.(d) If Senate Bill 402, 2013 Regular Session, becomes law, then of the funds appropriated to the Office of the Governor in that act, as amended by this act, the Office of the Governor shall use the sum of two million dollars ($2,000,000) in recurring funds for each fiscal year of the 2013-2015 fiscal biennium to support the program for competitive grants established in accordance with Section 8.34 of that act, as amended by this act.

SECTION 3.11. If Senate Bill 402, 2013 Regular Session, becomes law, then Section 8.4 of that act reads as rewritten:

"**SECTION 8.4.(a)** Funds for Small School Systems for the 2013-2014 Fiscal Year. – Except as provided in subsection (g) of this section, the State Board of Education shall allocate funds appropriated for small school system supplemental funding for the 2013-2014 fiscal year (i) to each county school administrative unit with an average daily membership of fewer than 3,175 students and (ii) to each county school administrative unit with an average daily membership from 3,175 to 4,000 students if the county in which the local school administrative unit is located has a county-adjusted property tax base per student that is below the State-adjusted property tax base per student and if the total average daily membership of all local school administrative units located within the county is from ~~3,239~~3,175 to ~~4,080~~4,000 students. The allocation formula shall do all of the following:

…

"**SECTION 8.4.(g)** Nonsupplant Requirement for the 2013-2015 Fiscal Biennium. – A county in which a local school administrative unit receives funds under this section shall use the funds to supplement local current expense funds and shall not supplant local current expense funds. For the 2013-2015 fiscal biennium, the State Board of Education shall not allocate funds under this section to a county found to have used these funds to supplant local per student current expense funds. The State Board of Education shall make a finding that a county has used these funds to supplant local current expense funds in the prior year, or the year for which the most recent data are available, if all of the following criteria apply:

(1) The current expense appropriation per student of the county for the current year is less than ninety-five percent (95%) of the average of local ~~expenditures~~ current expense appropriations per student for the three prior fiscal years.

(2) The county cannot show (i) that it has remedied the deficiency in funding or (ii) that extraordinary circumstances caused the county to supplant local current expense funds with funds allocated under this section.

The State Board of Education shall adopt rules to implement the requirements of this subsection.

…."

SECTION 3.12. If Senate Bill 402, 2013 Regular Session, becomes law, then Section 11.10(b) of that act reads as rewritten:

"**SECTION 11.10.(b)** ~~Subsection (d) of Section 9.10 of S.L. 2012-142 is repealed.~~This section expires June 30, 2015."

SECTION 3.14. If Senate Bill 402, 2013 Regular Session, becomes law, then Section 10.15(c) of that act reads as rewritten:

"**SECTION 10.15.(c)** A study of the program audit function under G.S. 115D-5(m) shall be conducted by a committee, located administratively in the Community Colleges System Office, composed of the following 12 members:

(1) The Community Colleges System Office Chief Financial ~~Officer.~~Officer shall serve as a nonvoting member.

(2) Three State Board of Community College members appointed by the chair of the State Board of Community Colleges.

(3) Three college presidents appointed by the North Carolina Association of Community College Presidents.

(4) Three college board of trustee members appointed by the chair of the North Carolina Association of Community College Trustees.

(5) The State Chief Information Officer or ~~designee.~~designee shall serve as a nonvoting member.

(6) The State Auditor or designee shall serve as a nonvoting member.

~~The Community Colleges System Office Chief Financial Officer shall chair the committee.~~ The committee shall elect a chair from its members. The committee shall meet upon the call of the chair. A quorum of the committee shall be a majority of the members.

The committee shall determine how program audit procedures may be streamlined to minimize the administrative burden on the institutions being audited and how funding mechanisms may be changed to reduce reliance on contact hours. The committee shall seek input from community college staff members who are responsible for assistance with the program audits to study the problems associated with the program audit function and potential resolutions for those issues. The committee shall report the results of its study and recommendations to the Joint Legislative Education Oversight Committee by January 1, 2015."

SECTION 3.15. If Senate Bill 402, 2013 Regular Session, becomes law, then Section 10.16(a) of that act reads as rewritten:

"**SECTION 10.16.(a)** Of the funds appropriated in this act to the Community Colleges System Office for the 2013-2014 fiscal year, the sum of four million eight hundred eight thousand dollars ($4,808,000) shall be used for the North Carolina Back-to-Work Program, a retraining program focused on unemployed and underemployed North Carolinians, military veterans, and North Carolina National Guard members. The program shall provide students with occupational skills, employability skills, including a Career Readiness Certificate, and opportunities to earn third-party, industry recognized credentials. Funds may only be allocated to community colleges whose training plans include support for one or more of the following: (i) employers who have committed to assist colleges with the design and implementation of their training plans and to interview program completers for available jobs; (ii) companies with registered apprenticeship programs with the North Carolina Department of Labor; (iii) coordinated projects among two or more colleges that focus on serving the needs of an industry cluster; or (iv) programs developed in collaboration with the North Carolina National Guard Veteran's Connect or veterans' organizations. Funds may only be used for the following activities: student instruction, student support and coaching, and targeted financial assistance for students, including assistance with tuition, registration fees, books, and certification costs."

SECTION 3.16. If Senate Bill 402, 2013 Regular Session becomes law, then Section 11.17 of that act reads as rewritten:

"**SECTION 11.17.(a)** The Joint Legislative Education Oversight Committee, in conjunction with the Board of Governors of The University of North Carolina and the State Board of Community ~~Colleges~~ Colleges, shall ~~jointly~~ study the feasibility of establishing an

alternative undergraduate admission program to be known as the North Carolina Guaranteed Admission Program (NC GAP). The goals of NC GAP shall be to encourage and assist more students to obtain a baccalaureate degree within a shorter time period; to provide students with a college education at significantly lower costs for both the student and the State; to help decrease the amount of debt resulting from loans that a student may owe upon graduation; to provide a student with an interim degree that may increase a student's job opportunities if the student chooses not to continue postsecondary education; and to provide easier access to academic counseling that will assist a student in selecting coursework that reflects the student's educational and career goals and helps the student succeed academically.

NC GAP shall be designed as an alternative admission program for students who apply for admission to a constituent institution and satisfy the admission criteria but whose academic credentials are not as competitive as other students admitted to the institution. A student admitted to a constituent institution through NC GAP must agree to defer enrollment at the institution until the student earns an associate degree from one of the State's community colleges. Counseling and assistance shall be provided by the community college to any student in NC GAP to help the student in selecting coursework that reflects the student's educational and career goals and that provides a smooth transition from the community college to the constituent institution.

Once awarded the associate degree from the community college, the student is entitled to admission as a junior at the constituent institution.

Each constituent institution of higher education would be directed to establish NC GAP as part of its undergraduate admission program.

"**SECTION 11.17.(b)** ~~The Board of Governors of The University of North Carolina and the State Board of Community Colleges~~ The Joint Legislative Education Oversight Committee shall report ~~their~~ its findings and recommendations regarding~~ NC GAP to the Joint Legislative Education Oversight Committee by March 1, 2014.~~ NC GAP, together with any recommended legislation, to the 2014 Regular Session of the 2013 General Assembly, upon its convening. The report shall include a comprehensive description of the proposed program, including the criteria that would be used to determine which students would be required to participate in the program as a condition of enrollment and the academic counseling that would need to be available to help students in NC GAP succeed academically."

SECTION 3.17. If House Bill 269, 2013 Regular Session, becomes law, then Section 7 of that act reads as rewritten:

"**SECTION 7.** Notwithstanding the definition for "eligible student" set forth in G.S. 115C-112.2, as enacted by this act, a child who is otherwise eligible to receive a scholarship grant for the spring semester of the 2013-2014 school year is deemed to have met the requirements of G.S. 115C-112.2(2)f., as enacted by this act, if the child is a dependent child for whom a taxpayer is allowed a credit for the fall semester of the 2013-2014 school year under G.S. 105-151.33 and the taxpayer affirms, under oath, that the taxpayer will claim the credit for that semester. Notwithstanding G.S. 105-259(b), the Department of Revenue shall furnish, upon request, to the Authority a list of claimants that received a credit pursuant to G.S. 105-151.33 for the taxable year beginning on or after January 1, 2013. Notwithstanding the definition for "eligible student" set forth in G.S. 115C-112.2, as enacted by this act, a child who meets the requirements of G.S. 115C-112.2(a) through (e) and who is eligible for enrollment in kindergarten or the first grade in a North Carolina public school during the 2013-2014 school year shall be eligible to receive a scholarship grant for the spring semester of the 2013-2014 school year."

SECTION 3.18. If Senate Bill 402, 2013 Regular Session, becomes law, then G.S. 115C-174.18, as amended by Section 8.27(c) of that act, reads as rewritten:

"§ **115C-174.18. Opportunity to take Preliminary SAT/National Merit Scholarship Qualifying Test (PSAT/NMSQT).**

Every student in the eighth through tenth grades who has completed Algebra I or who is in the last month of Algebra I shall be given an opportunity to take a version of either the

Preliminary SAT/National Merit Scholarship Qualifying Test (PSAT/NMSQT) or the PLAN precursor test to the ACT, at the discretion of the local school administrative unit, one time at no cost to the student. The maximum amount of State funds used for this purpose shall be the cost of the PSAT/NMSQT."

SECTION 3.19. If Senate Bill 402, 2013 Regular Session, becomes law, then Section 8.3(g) of that act reads as rewritten:

"**SECTION 8.3.(g)** Nonsupplant Requirement. – A county in which a local school administrative unit receives funds under this section shall use the funds to supplement local current expense funds and shall not supplant local current expense funds. For the 2013-2015 fiscal biennium, the State Board of Education shall not allocate funds under this section to a county found to have used these funds to supplant local per student current expense funds. The State Board of Education shall make a finding that a county has used these funds to supplant local current expense funds in the prior year, or the year for which the most recent data are available, if all of the following criteria apply:

(1) The current expense appropriation per student of the county for the current year is less than ninety-five percent (95%) of the average of local ~~expenditures~~ current expense appropriations per student for the three prior fiscal years.

(2) The county cannot show (i) that it has remedied the deficiency in funding or (ii) that extraordinary circumstances caused the county to supplant local current expense funds with funds allocated under this section.

The State Board of Education shall adopt rules to implement the requirements of this subsection."

SECTION 3.20. If Senate Bill 402, 2013 Regular Session, becomes law, the Department of Public Instruction shall study the nonsupplant requirement for low-wealth counties supplemental funding as described in Section 8.3(g) of that act, as amended by this act, and the nonsupplant requirement for small county supplemental funding allotments, as described in Section 8.4(g) of that act, as amended by this act. The study shall include consideration of potential modifications to the nonsupplant requirements that would account for increases to the local fund balance from the previous fiscal year. The Department of Public Instruction shall report the results of the study and any recommendations for modifications to the nonsupplant requirements for low-wealth and small county supplemental funding to the Fiscal Research Division by March 15, 2014.

PART IV. HEALTH AND HUMAN SERVICES

SECTION 4.1.(a) If Senate Bill 402, 2013 Regular Session, becomes law, then that act is amended by adding a new section to read:

"**SPECIFY BOARD SELECTION FOR THE NORTH CAROLINA INSTITUTE OF MEDICINE**

"**SECTION 12I.1.(a)** G.S. 90-470 reads as rewritten:

"§ **90-470. Institute of Medicine.**

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

(b) The purposes for which the corporation is organized are to:

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

(2) Monitor and study health matters;

(3) Respond authoritatively when found advisable;

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

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

(c) The North Carolina Institute of Medicine shall be governed by a Board of Directors. The ~~initial members are authorized, prior to expanding the membership,~~ Board of Directors is authorized to establish and amend bylaws, to procure facilities, employ a director and staff, to solicit, receive and administer funds in the name of the North Carolina Institute of Medicine, and carry out other activities necessary to fulfill the purposes of this section.

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

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

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

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

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

(h) The General Assembly reserves the right to alter, amend, or repeal this ~~section.~~ Article."

"**SECTION 12I.1.(b)** Article 31 of Chapter 90 is amended by adding a new section to read as follows:

"**§ 90-471. Board of Directors of the Institute of Medicine.**

(a) The Board of Directors of the North Carolina Institute of Medicine shall be appointed as follows:

(1) Seven individuals appointed by the General Assembly on the recommendation of the Speaker of the House of Representatives.

(2) Seven individuals appointed by the General Assembly on the recommendation of the President Pro Tempore of the Senate.

(3) Seven individuals appointed by the Governor.

(b) The members of the Board of Directors should be distinguished and influential leaders from the major health professions, the hospital industry, the health insurance industry, State and county government and other political units, education, business and industry, the universities, and the university medical centers.

(c) Terms on the Board of Directors shall be for four years, and no individual may serve more than two consecutive terms."

"**SECTION 12I.1.(c)** For the appointments under G.S. 90-471, as enacted by this section, with terms to begin on January 1, 2014, the appointing authorities shall designate certain appointees to serve initial two-year terms as follows:

(1) Of those appointments on the recommendation of the Speaker of the House of Representatives, three shall be designated for two-year terms.

(2) Of those appointments on the recommendation of the President Pro Tempore of the Senate, three shall be designated for two-year terms.

(3) Of those appointments by the Governor, four shall be designated for two-year terms.

A two-year term under this subsection shall count as a term for purposes of the two consecutive term limit provided in G.S. 90-471(c), as enacted by this section.

"**SECTION 12I.1.(d)** The members of the Board of Directors serving as of the effective date of this act may continue to serve until January 1, 2014.

"**SECTION 12I.1.(e)** Subsections (a) and (b) of this section become effective January 1, 2014."

SECTION 4.2. If Senate Bill 402, 2013 Regular Session, becomes law, then G.S. 143B-168.4(b), as amended by Section 12B.1(h) of that act reads as rewritten:

'(b) Members shall be appointed as follows:

(1) Of the Governor's initial appointees, four shall be appointed for terms expiring June 30, 2015, and three shall be appointed for terms expiring June 30, 2016;

(2) Of the General Assembly's initial appointees appointed upon recommendation of the President Pro Tempore of the Senate, ~~two~~ three shall be appointed for terms expiring June 30, 2015, and two shall be appointed for terms expiring June 30, 2016;

(3) Of the General Assembly's initial appointees appointed upon recommendation of the Speaker of the House of Representatives, two shall be appointed for terms expiring June 30, 2015, and ~~two~~ three shall be appointed for terms expiring June 30, 2016.

Appointments by the General Assembly shall be made in accordance with G.S. 120-121. After the initial appointees' terms have expired, all members shall be appointed to serve two-year terms. Any appointment to fill a vacancy on the Commission created by the resignation, dismissal, death, or disability of a member shall be for the balance of the unexpired term.'"

SECTION 4.3. If Senate Bill 402, 2013 Regular Session, becomes law, then Section 12B.1 is amended by adding the following new subsection to read:

"**SECTION 12B.1.(j)** The Department of Health and Human Services, Division of Child Development and Early Education, may exempt from licensure requirements public classrooms currently participating in the NC Pre-K program that are not yet licensed by the Division. In making its decision to exempt a public classroom from the licensure requirements, the Division shall review the available capacity of other licensed facilities in the geographic area. All public classrooms participating in the NC Pre-K program shall be licensed by the Division no later than July 1, 2014."

SECTION 4.4. If Senate Bill 402, 2013 Regular Session, becomes law, then Section 12H.13(g) of that act reads as rewritten:

"**SECTION 12H.13.(g)** In order to achieve cost-savings and improve health outcomes, the Department of Health and Human Services, Division of Medical Assistance, may impose prior authorization requirements and other restrictions on medications prescribed to Medicaid and Health Choice recipients for the treatment of mental illness, including, but not limited to, prior authorization requirements and restrictions on ~~(i) medications on the Preferred Drug List (PDL) that are prescribed for the treatment of mental illness and (ii)~~ medications for attention deficit hyperactivity disorder (ADHD) or attention deficit disorder (ADD) that are prescribed to ~~juveniles for off-label uses.~~ juveniles. Notwithstanding the foregoing, the Department shall not require prior authorization for medications on the Preferred Drug List (PDL) that are prescribed for the treatment of mental illness."

SECTION 4.6. If Senate Bill 402, 2013 Regular Session, becomes law, then G.S. 131E-184(f)(2), as amended by Section 12G.3(b) of that act, reads as rewritten:

"(2) The Department has previously issued a certificate of need for the equipment being ~~replaced.~~replaced. This subdivision does not apply if a certificate of need was not required at the time the equipment being replaced was initially purchased by the licensed health service facility."

SECTION 4.7. If Senate Bill 402, 2013 Regular Session, becomes law, then Section 12B.7 of that act reads as rewritten:

"**ADMINISTRATIVE ALLOWANCE FOR COUNTY DEPARTMENTS OF SOCIAL SERVICES/USE OF SUBSIDY FUNDS FOR FRAUD DETECTION**

"**SECTION 12B.7.(a)** The Department of Health and Human Services, Division of Child Development and Early Education, shall fund the allowance that county departments of social services may use for administrative costs at four percent (4%) of the county's total child care subsidy funds allocated in the Child Care and Development Fund Block Grant plan or eighty thousand dollars ($80,000), whichever is greater.

"**SECTION 12B.7.(b)** Each county department of social services may use up to two percent (2%) of child care subsidy funds allocated to the county for fraud detection and investigation initiatives.

"**SECTION 12B.7.(c)** The ~~Department of Health and Human Services,~~ Division of Child Development and Early ~~Education,~~Education shall submit a progress report on the amount allocated and the use of child care subsidy funds under subsection (b) of this section to the Joint Legislative Oversight Committee on Health and Human Services and the Fiscal Research Division no later than May 1, ~~2014, and~~ 2014. The Division shall submit a follow-up report on the amount allocated and the use of those funds no later than January 1, 2015.

"**SECTION 12B.7.(d)** The Division of Child Development and Early Education may adjust the allocations in the Child Care and Development Fund Block Grant under Section 12J.1(a) of this act according to (i) the final allocations for local departments of social services under subsection (a) of this section and (ii) the funds allocated for fraud detection and investigation initiatives under subsection (b) of this section. The Division shall submit a report on the final adjustments to the allocations of the four percent (4%) administrative costs to the Joint Legislative Oversight Committee on Health and Human Services and the Fiscal Research Division no later than September 30, 2013."

SECTION 4.8. If House Bill 831, 2013 Regular Session, becomes law, then Section 9(a) of that act reads as rewritten:

"**SECTION 9.(a)** Notwithstanding any other law, within 30 days of passage of Senate Bill 402, 2013 Regular Session, Appropriations Act of 2013, the State Board of Education shall ~~identify recurring budget reductions~~ identify, within the funds appropriated to the Department of Public Instruction or to State Aid for Public ~~Schools~~ Schools, the sum ~~in the amount~~ of one million six hundred thousand dollars ($1,600,000) for the 2013-2014 fiscal year and three million two hundred thousand dollars ($3,200,000) for the 2014-2015 fiscal year to ensure the provision of educational services as provided in this act."

SECTION 4.9.(a) If Senate Bill 402, 2013 Regular Session, becomes law, then Section 12H.3 of that act is rewritten to read:

"**GENERAL MEDICAID POLICIES**

"**SECTION 12H.3.(a)** G.S. 108A-54 reads as rewritten:

"§ **108A-54. Authorization of Medical Assistance Program.**

(a) The Department is authorized to establish a Medicaid Program in accordance with Title XIX of the federal Social Security Act. The Department may adopt rules to implement the Program. The State is responsible for the nonfederal share of the costs of medical services provided under the Program. In addition, the State shall pay one hundred percent (100%) of the federal Medicare Part D clawback payments under the Medicare Modernization Act of 2004, P.L. 108-173, as amended. A county is responsible for the county's cost of administering the Program in that county.

…

(c) The Medicaid Program shall be administered and operated in accordance with this Part and the North Carolina Medicaid State Plan and Waivers, as periodically amended by the Department of Health and Human Services in accordance with G.S. 108A-54.1A and approved by the federal government."

"**SECTION 12H.3.(b)** The Department shall not take any actions that the Department determines would jeopardize the State's qualification to receive federal funds through the Medicaid Program."

SECTION 4.9.(b) If Senate Bill 402, 2013 Regular Session, becomes law, then Section 12H.8 of that act is rewritten to read:

"**ELECTRONIC TRANSACTION REQUIREMENTS FOR PROVIDERS**

"**SECTION 12H.8.(a)** Providers shall follow the Department's established procedures for securing electronic payments, and the Department shall not provide routine provider payments by check. Medicaid providers shall file claims electronically, except that nonelectronic claims submission may be required when it is in the best interest of the Department.

"**SECTION 12H.8.(b)** Providers shall submit Preadmission Screening and Annual Resident Reviews (PASARR) through the Department's Web-based tool or through a vendor with interface capability to submit data into the Web-based PASARR.

"**SECTION 12H.8.(c)** Providers shall submit requests for prior authorizations electronically via Web site. Providers shall access their authorizations via online portals rather than receiving hard copies by mail. Providers shall receive copies of adverse decisions electronically, although recipients shall receive adverse decisions via certified mail.

"**SECTION 12H.8.(d)** Providers shall submit their provider enrollment applications online. The Department shall accept electronic signatures rather than require receipt of signed hard copies."

SECTION 4.11. If Senate Bill 402, 2013 Regular Session, becomes law, then Section 12A.4(k) of that act reads as rewritten:

"**SECTION 12A.4.(k)** Subsection (j) of this section becomes effective ~~July 1, 2014.~~January 1, 2015."

SECTION 4.12.(a) If House Bill 399, 2013 Regular Session, becomes law, then Section 12 of that act reads as rewritten:

"**SECTION 12.** Section 10 of this act is effective when this act becomes law. Section 11 of this act becomes effective ~~January 1, 2014.~~April 1, 2014. The remainder of this act becomes effective October 1, 2013."

SECTION 4.12.(b) If House Bill 399, 2013 Regular Session, does not become law, then G.S. 122C-115(a), as amended by Section 4(a) of S.L. 2013-85, reads as rewritten:

"(a) A county shall provide mental health, developmental disabilities, and substance abuse services in accordance with rules, policies, and guidelines adopted pursuant to statewide restructuring of the management responsibilities for the delivery of services for individuals with mental illness, intellectual or other developmental disabilities, and substance abuse disorders under a 1915(b)/(c) Medicaid Waiver through an area authority. Beginning July 1, 2012, the catchment area of an area authority shall contain a minimum population of at least 300,000. Beginning July 1, 2013, the catchment area of an area authority shall contain a minimum population of at least 500,000. To the extent this section conflicts with ~~G.S. 153A-77(a)~~G.S. 153A-77 or G.S. 122C-115.1, the provisions of this section control."

SECTION 4.12.(c) If House Bill 399, 2013 Regular Session, does not become law, then Section 12 of S.L. 2013-85 reads as rewritten:

"**SECTION 12.** Section 4(a) of this act becomes effective ~~January 1, 2014.~~April 1, 2014. The remainder of this act is effective when it becomes law."

SECTION 4.13. If Senate Bill 402, 2013 Regular Session, becomes law, then Section 12H.13(f) of that act reads as rewritten:

"**SECTION 12H.13.(f)** Effective January 1, 2014, the following changes are made to drug reimbursements:

(1) ~~Prices~~Specialty drug prices based on the Wholesale Acquisition Cost (WAC) shall be paid at one hundred one percent (101%) of WAC.

(2) Non-specialty drug prices based on WAC shall be paid at one hundred two and seven-tenths percent (102.7%) of WAC.

~~(2)~~(3) Prices based on the State Medicaid Average Costs (SMAC) shall be paid at one hundred fifty percent (150%) of SMAC.

~~(3)~~(4) The rate for dispensing brand drugs is ~~reduced by one dollar ($1.00).~~two dollars ($2.00).

(5) The rates for dispensing generic drugs are as follows, based on the percentages of generic drugs dispensed by the pharmacy in the previous quarter:

Percentage Tier	**Rate**
Greater than or equal to 80%	$7.75
Greater than or equal to 75% and less than 80%	5.50
Greater than or equal to 70% and less than 75%	2.00
Less than 70%	1.00"

SECTION 4.14.(a) If Senate Bill 402, 2013 Regular Session, becomes law, then Section 12H.2(c) of that act reads as rewritten:

"**SECTION 12H.2.(c)** The Department of Health and Human Services shall take any and all action necessary to amend the Medicaid State Plan, Attachment 4.19-B, Section 5, Page 2, which pertains to supplemental payments that increase reimbursement to the average commercial rate for certain eligible medical professional providers, in order to limit the definition of eligible medical professional providers to only ~~physicians employed by the East Carolina University School of Medicine or the University of North Carolina at Chapel Hill School of Medicine as academic faculty. The supplemental payments shall be made only for services provided at these schools of medicine.~~eligible medical professional providers who were receiving such supplemental payments as of May 22, 2013."

SECTION 4.16. If Senate Bill 402, 2013 Regular Session, becomes law, then Section 12F.7 of that act is amended by adding a new subsection to read:

"**SECTION 12F.7.(c)** Notwithstanding any provision of this act, the total amount of funds appropriated in this act to the Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, for alcohol and drug abuse treatment centers is reduced by twelve percent (12%). The Department is not required to achieve this reduction by reducing the budget for each of the three existing alcohol and drug abuse treatment centers by twelve percent (12%) as long as the Department implements the reduction in a manner that (i) reduces the per bed cost variability across the three centers and (ii) does not result in the closure of any of the three centers."

SECTION 4.17. If Senate Bill 402, 2013 Regular Session, becomes law, then Section 12H.13(a) of that act reads as rewritten:

"**SECTION 12H.13.(a)** Except as otherwise specifically provided in this ~~act,~~act or another act passed during the 2013 Regular Session, the ~~allowable~~authorized State plan services, co-pays, reimbursement rates, and fees shall remain the same as those ~~effective~~authorized as of June 30, 2013. Except as otherwise provided in this act and to the extent allowable under federal law, the adjustments made in this section apply to both the Medicaid Program and the NC Health Choice program."

SECTION 4.18.(a) If House Bill 834, 2013 Regular Session, becomes law, G.S. 90-413.3A, as enacted by Section 14.1 of that act, reads as rewritten:

"§ **90-413.3A. Required participation in NC HIE for some providers.**

(a) The General Assembly makes the following findings:

(1) That controlling escalating health care costs of the Medicaid program is of significant importance to the State, its taxpayers, and its Medicaid recipients.

(2) That the State needs timely access to claims and clinical information in order to assess performance, pinpoint medical expense trends, identify beneficiary health risks, and evaluate how the State is spending Medicaid dollars.

(3) That making this clinical information available through the North Carolina Health Information Exchange will improve care coordination within and across health systems, increase care quality, enable more effective population health management, reduce duplication of medical services, augment syndromic surveillance, allow more accurate measurement of care services and outcomes, increase strategic knowledge about the health of the population, and facilitate health cost-containment.

(b) ~~Notwithstanding any other provision of law, based upon the findings set forth in subsection (a) of this section, any~~Any hospital, as defined in G.S. 131E-76(c), that has an electronic health record system shall connect to the NC HIE and submit individual patient demographic and clinical data on services paid for with Medicaid ~~funds.~~funds, based upon the findings set forth in subsection (a) of this section and notwithstanding the voluntary nature of the NC HIE under G.S. 90-413.2. The NC HIE shall give the Department of Health and Human Services real-time access to data and information contained in the NC HIE."

SECTION 4.18.(b) If House Bill 834, 2013 Regular Session, becomes law, then Section 14.2 of that act reads as rewritten:

"**SECTION 14.2.** ~~This Part becomes effective January 1, 2014.~~ G.S. 90-413.3A, as enacted by Section 4.18(a) of this act, becomes effective upon satisfaction of both of the following conditions precedent:

(1) The Department of Health and Human Services and the NC HIE shall execute an agreement regarding the utilization and sharing of data and information contained in the HIE Network, which shall be in a manner that complies with the Health Information Portability and Accountability Act of 1996, P.L. 104-191, as amended (HIPAA), the rules adopted under HIPAA, and any other applicable federal laws.

(2) The Department of Health and Human Services and the NC HIE shall jointly submit a report to the Joint Legislative Oversight Committees on Information Technology and Health and Human Services on the agreement described in subdivision (1) of this subsection."

PART V. NATURAL AND ECONOMIC RESOURCES

SECTION 5.1. If Senate Bill 402, 2013 Regular Session, becomes law, then Section 15.14(f) of that act reads as rewritten:

"**SECTION 15.14.(f)** By September 1, 2013, and September 1, 2014, ~~the Division of Community Assistance, Department of Commerce,~~the Department of Commerce shall report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division on the use of Community Development Block Grant Funds appropriated in the prior fiscal year. The report shall include the following:

(1) A discussion of each of the categories of funding and how the categories were selected, including information on how a determination was made that there was a statewide need in each of the categories.

(2) Information on the number of applications that were received in each category and the total dollar amount requested in each category.

(3) A list of grantees, including the grantee's name, county, category under which the grant was funded, the amount awarded, and a narrative description of the project."

SECTION 5.2. If Senate Bill 402, 2013 Regular Session, becomes law, then Section 14.1(f) of S.L. 2011-145, as amended by Section 13.1 of S.L. 2012-142 and Section 15.15 of Senate Bill 402, 2013 Regular Session of the General Assembly, reads as rewritten:

"**SECTION 14.1.(f)** By September 1, 2013, ~~the Division of Community Assistance, Department of Commerce,~~the Department of Commerce shall report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division on the use of Community Development Block Grant Funds appropriated in the prior fiscal year. The report shall include the following:

(1) A discussion of each of the categories of funding and how the categories were selected, including information on how a determination was made that there was a statewide need in each of the categories.

(2) Information on the number of applications that were received in each category and the total dollar amount requested in each category.

(3) A list of grantees, including the grantee's name, county, category under which the grant was funded, the amount awarded, and a narrative description of the project."

SECTION 5.3. If Senate Bill 402, 2013 Regular Session, becomes law, then that act is amended by adding a new section to read:

"**CDBG FUNDS FOR INFRASTRUCTURE CATEGORY TRANSFERRED FROM DEPARTMENT OF COMMERCE TO DENR**

"**SECTION 15.15A.** The federal block grant funds allocated to the infrastructure category in Section 15.14(a) and Section 14.1(a) of S.L. 2011-145, as amended by Section 13.1 of S.L. 2012-142 and Section 15.15(a) of this act, shall be transferred from the Department of Commerce to the Department of Environment and Natural Resources. The Division of Water Infrastructure within the Department of Environment and Natural Resources shall be responsible for administering the program whereby local government units are awarded funds by the State Water Infrastructure Authority created in Section 14.21(b) of this act for infrastructure projects from community development block grant funds. For purposes of this section, the term "infrastructure" shall have the same meaning as in Section 15.14(g) and Section 14.1(g) of S.L. 2011-145, as amended by Section 13.1 of S.L. 2012-142 and Section 15.15(a) of this act."

SECTION 5.5. If Senate Bill 402, 2013 Regular Session, becomes law, then Section 15.5 of that act is repealed.

SECTION 5.7.(a) If Senate Bill 402, 2013 Regular Session, becomes law, then Section 15.28(a) of that act reads as rewritten:

"**SECTION 15.28.(a)** ~~Articles 2~~ G.S. 158-8.1 through 158-8.8, G.S. 158-12.1, and Article 4 of Chapter 158 of the General Statutes are repealed."

SECTION 5.7.(b) If Senate Bill 402, 2013 Regular Session, becomes law, then Section 15.28(d) and Section 15.28(e) are repealed.

SECTION 5.8. If Senate Bill 402, 2013 Regular Session, becomes law, then G.S. 113-44.15(b) reads as rewritten:

"(b) Use. – Funds in the Trust Fund are annually appropriated to the North Carolina Parks and Recreation Authority and, unless otherwise specified by the General Assembly or the terms or conditions of a gift or grant, shall be allocated and used as follows:

(1) Sixty-five percent (65%) for the State Parks System for capital projects, repairs and renovations of park facilities, and land ~~acquisition, and to retire debt incurred for these purposes under Article 9 of Chapter 142 of the General Statutes.~~acquisition.

(2) Thirty percent (30%) to provide matching funds to local governmental units or public authorities as defined in G.S. 159-7 on a dollar-for-dollar basis for local park and recreation purposes. The appraised value of land that is donated to a local government unit or public authority may be applied to the matching requirement of this subdivision. These funds shall be allocated by the North Carolina Parks and Recreation Authority based on criteria patterned after the Open Project Selection Process established for the Land and Water Conservation Fund administered by the National Park Service of the United States Department of the Interior.

(3) Five percent (5%) for the Coastal and Estuarine Water Beach Access Program."

SECTION 5.9.(a) If Senate Bill 402, 2013 Regular Session, becomes law, then Section 15.10A(c) of that act reads as rewritten:

"**SECTION 15.10A.(c)** ~~This section becomes effective upon the modification of the Consent Decree~~ The Attorney General shall take all necessary actions to implement the provisions of this section, including notifying the court in the action entitled State of North Carolina v. Philip Morris Incorporated, et al., 98 CVS 14377, in the General Court of Justice, Superior Court Division, Wake County, North ~~Carolina.~~ Carolina, and the administrators of the

State Specific Account established under the Master Settlement Agreement of the intent of the ~~The Attorney General shall file a motion in the cause of State of North Carolina v. Philip Morris Incorporated, et al., 98 CVS 14377, in the General Court of Justice, Superior Court Division, Wake County, North Carolina, seeking a modification of the Consent Decree to permit the~~ General Assembly to direct one or more of the Governor's appointments to the board of directors of the Golden LEAF Foundation, a nonprofit corporation created pursuant to subparagraph VI.A.1 of the Consent Decree and the Final Judgment entered in the action of 98 CVS 14377 on December 21, 1998."

SECTION 5.9.(b) If Senate Bill 402, 2013 Regular Session, becomes law, then Section 15.10A of that act is amended by adding a new subsection to read:

"**SECTION 15.10A.(d)** This section becomes effective upon the Attorney General taking all necessary actions to implement the provisions of this section as provided in subsection (c) of this section."

SECTION 5.10. If Senate Bill 402, 2013 Regular Session, becomes law, then Section 15.12 of that act reads as rewritten:

"**SECTION 15.12.** The Department of Commerce, Labor and Economic Analysis Division (LEAD), shall develop a standardized performance metric to evaluate whether ~~a nonprofit~~ economic development nonprofits allocated State funds by the Department in the 2013-2015 biennium ~~has~~ have achieved ~~its~~ their own goals or performance standards. The metric shall include standards for determining whether jobs were actually created, grants were awarded, or loans were made. The information obtained as a result of the metric shall be used by the General Assembly in determining whether to fund the economic development nonprofits in future fiscal years. In order to be eligible to receive State funds, each economic development nonprofit surveyed shall provide to LEAD any information requested to help develop the metric provided for in this section."

SECTION 5.12. If Senate Bill 402, 2013 Regular Session, becomes law, then G.S. 159G-70(b), as enacted by Section 14.21(b) of that act, reads as rewritten:

"(b) Membership. – The Authority consists of nine members as follows:

(1) The Director of the Division of Water Infrastructure of the Department or the Director's designee who is familiar with the water infrastructure financing, regulatory, and technical assistance programs of the Department.

(2) The Secretary of Commerce or the Secretary's designee who is familiar with the State programs that fund water or other infrastructure improvements for the purpose of promoting economic development.

(3) The Director of the Local Government Commission or the Director's designee who is familiar with the functions of the Commission.

(4) One member who is a professional engineer in the private sector and is familiar with the development of infrastructure necessary for wastewater systems, to be appointed by the Governor to a term that expires on July 1 of even-numbered years.

(5) One member who is knowledgeable about, and has experience related to, direct federal funding programs for wastewater and public water systems, to be appointed by the Governor to a term that expires on July 1 of odd-numbered years.

(6) One member who is ~~a representative of an~~knowledgeable about, and has experience related to, urban local government wastewater ~~system~~ systems or public water ~~system,~~ systems, to be appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate to a term that expires on July 1 of even-numbered years.

(7) One member who is ~~a representative of a~~knowledgeable about, and has experience related to, rural local government wastewater ~~system~~ systems or public water ~~system,~~systems, to be appointed by the General Assembly upon

the recommendation of the President Pro Tempore of the Senate to a term that expires on July 1 of odd-numbered years.

(8) One member who either (i) is a county commissioner of a rural county or (ii) resides in a rural county and is knowledgeable about, and has experience related to, public health services, to be appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives to a term that expires on July 1 of even-numbered years.

(9) One member who is familiar with wastewater, drinking water, and stormwater issues and related State funding sources, to be appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives to a term that expires on July 1 of odd-numbered years.

…."

SECTION 5.13.(a) If Senate Bill 402, 2013 Regular Session, becomes law, then G.S. 143B-472.127(a), as enacted by Section 15.10 of that act, reads as rewritten:

"(a) The Rural Economic Development Division shall be responsible for administering the program whereby economic development grants or loans are awarded by the Rural Infrastructure Authority as provided in G.S. 143B-472.128 to local government ~~units~~ units. The Rural Infrastructure Authority shall, in awarding economic development grants or loans under the provisions of this subsection, give priority to local government units of the counties that have one of the 80 highest rankings under G.S. 143B-437.08 after the adjustment of that section. The funds available for grants or loans under this program may be used as follows:

…."

SECTION 5.13.(b) If Senate Bill 402, 2013 Regular Session, becomes law, then G.S. 143B-472.128(j)(2), as enacted by Section 15.10 of that act, reads as rewritten:

"(2) To award grants or loans as provided in G.S. 143B-472.127. In awarding grants or loans under G.S. 143B-472.127(a), priority shall be given to local government units of the counties that have one of the 80 highest rankings under G.S. 143B-437.08 after the adjustment of that section."

SECTION 5.14. If Senate Bill 402, 2013 Regular Session, becomes law, then Section 14.21(m) of that act reads as rewritten:

"**SECTION 14.21.(m)** Of the funds appropriated to the Department of Environment and Natural Resources in this act, at least three million ~~two~~ five hundred thousand dollars ($3,500,000) for the 2013-2014 fiscal year and at least five million dollars ($5,000,000) for the 2014-2015 fiscal year shall be used for grants to local government units for public water system-related projects and wastewater-related projects. The State Water Infrastructure Authority established by G.S. 159G-70, as enacted by subsection (b) of this section, shall determine the distribution of funds between public water system-related projects and wastewater-related projects, depending upon the number of applications for grants received and the priorities established by the State Water Infrastructure Authority. Grants awarded to local government units for public water system-related projects shall be credited to the Drinking Water Reserve established in G.S. 159G-22 to be used for grants to local government units in accordance with the provisions of Chapter 159G of the General Statutes, as amended by this section. Grants awarded to local government units for wastewater-related projects shall be credited to the Wastewater Reserve established in G.S. 159G-22 to be used for grants to local government units in accordance with the provisions of Chapter 159G of the General Statutes, as amended by this section. Funds allocated by this subsection are limited to projects in development tier one or two areas, as defined by G.S. 143B-437.08. The State Water Infrastructure Authority shall report no later than May 1, 2014, to the Environmental Review Commission, the Senate Appropriations Committee on Natural and Economic Resources, the House of Representatives Appropriations Subcommittee on Natural and Economic Resources, and the Fiscal Research Division on the distribution of grant funds awarded under Chapter 159G of the General Statutes, as amended by the section, and whether changes are needed to the existing grant program under Chapter 159G of the General Statutes or other available grant

programs to better facilitate the dissemination of funds and meet the project needs of rural, economically distressed local governments."

SECTION 5.15.(a) If Senate Bill 402, 2013 Regular Session, becomes law, then Section 15.3 of that act reads as rewritten:

"**UNEMPLOYMENT INSURANCE ~~RESERVE~~FUND**

"**SECTION 15.3.(a)** The Office of State Budget and Management, in conjunction with the Office of the State Controller and the Department of Commerce, shall transfer and allocate to the Unemployment Insurance ~~Reserve within the Office of State Budget and Management~~ Fund any unencumbered cash balance as of June 30, 2013, of each of the following special funds within the Department of Commerce and then close each of these special funds:

(1) Worker Training Trust Fund (Special Fund Code 64654-6400).

(2) Training and Employment Account (Special Fund Code ~~64655-6601).~~64655-6601 and 64655-6602).

"**SECTION 15.3.(b)** ~~The Office of State Budget and Management, in conjunction with the Office of the State Controller and the Department of Commerce, shall transfer the sum of ten million dollars ($10,000,000) for the 2013-2014 fiscal year from the Special Employment Security Administration Fund (Fund Code 64650-6100) to the Unemployment Insurance Reserve within the Office of State Budget and Management.~~There is appropriated from the Special Employment Security Administration Fund to the Unemployment Insurance Fund the sum of ten million dollars ($10,000,000) for the 2013-2014 fiscal year to be used to make principal payments on advances made by the federal government under Title XII of the Social Security Act to the Unemployment Insurance Fund to pay unemployment compensation benefits."

SECTION 5.15.(b) If Senate Bill 402, 2013 Regular Session, becomes law, then that act is amended by adding a new section to read as follows:

"**UNEMPLOYMENT INSURANCE RESERVE**

"**SECTION 24.2.(a)** Funds appropriated to the Unemployment Insurance Reserve within the Office of State Budget and Management shall be used to fund the Unemployment Insurance Reserve for employees of all State agencies, departments, and institutions, The University of North Carolina, as well as State-funded local public school and community college employees. The Office of State Budget and Management shall manage the Unemployment Insurance Reserve to ensure that adequate funds are available to comply with the provisions of S.L. 2013-2.

"**SECTION 24.2.(b)** Notwithstanding any other provision of law, the Director of the Budget shall use funds appropriated for the 2013-2014 fiscal year to ensure that all State agencies comply with the provisions of S.L. 2013-2."

SECTION 5.16.(a) If Senate Bill 402, 2013 Regular Session, becomes law, then Section 15.14(a) of that act reads as rewritten:

"**SECTION 15.14.(a)** Appropriations from federal block grant funds are made for the fiscal years ending June 30, 2014, and June 30, 2015, according to the following schedule:

COMMUNITY DEVELOPMENT BLOCK GRANT

01.	State Administration	$ 1,375,000
02.	Economic Development	~~10,737,500~~15,737,500
03.	Infrastructure	~~30,837,500~~25,837,500
TOTAL COMMUNITY DEVELOPMENT BLOCK GRANT – 2014 Program Year		**$ 42,950,000**
	2015 Program Year	$ **42,950,000**"

SECTION 5.16.(b) If Senate Bill 402, 2013 Regular Session, becomes law, then Section 15.14(d) of that act reads as rewritten:

"**SECTION 15.14.(d)** Limitations on Community Development Block Grant Funds. – Of the funds appropriated in this section for the Community Development Block Grant, the following shall be allocated in each category for each program year: up to one million three hundred seventy-five thousand dollars ($1,375,000) may be used for State Administration; up to ~~ten million seven hundred thirty-seven thousand five hundred dollars ($10,737,500)~~fifteen million seven hundred thirty-seven thousand five hundred dollars ($15,737,500) may be used for Economic Development; and up to ~~thirty million eight hundred thirty-seven thousand five hundred dollars ($30,837,500)~~ twenty-five million eight hundred thirty-seven thousand five hundred dollars ($25,837,500) may be used for Infrastructure. If federal block grant funds are reduced or increased by the Congress of the United States after the effective date of this act, then these reductions or increases shall be allocated in accordance with subsection (b) or (c) of this section, as applicable."

SECTION 5.16.(c) If Senate Bill 402, 2013 Regular Session, becomes law, then Section 15.14(g) of that act reads as rewritten:

"**SECTION 15.14.(g)** For purposes of this section, eligible activities under the category of Infrastructure in subsection (a) of this section ~~shall be defined as provided in the HUD State Administered Community Development Block Grant definition of the term "infrastructure."~~are limited to critical public water and wastewater projects. Notwithstanding any State law or rule, eligible activities as defined in this subsection are limited only by applicable HUD regulations and federal law. Notwithstanding the provisions of subsection (e) of this section, funds allocated to the Infrastructure category in subsection (a) of this section shall not be reallocated to any other category."

SECTION 5.16.(d) If Senate Bill 402, 2013 Regular Session, becomes law, then Section 14.1(a) of S.L. 2011-145, as amended by Section 13.1 of S.L. 2012-142 and Section 15.15(a) of Senate Bill 402, 2013 Regular Session, reads as rewritten:

"**SECTION 14.1.(a)** Appropriations from federal block grant funds are made for the fiscal year ending June 30, 2013, according to the following schedule:

COMMUNITY DEVELOPMENT BLOCK GRANT

01.	State Administration	$1,375,000
04.	Economic Development	~~10,625,000~~15,625,000
07.	Infrastructure	~~30,500,000~~25,500,000
TOTAL COMMUNITY DEVELOPMENT BLOCK GRANT – 2013 Program Year		$42,500,000"

SECTION 5.16.(e) If Senate Bill 402, 2013 Regular Session, becomes law, then Section 14.1(d) of S.L. 2011-145, as amended by Section 13.1 of S.L. 2012-142 and Section 15.15(a) of Senate Bill 402, 2013 Regular Session, reads as rewritten:

"**SECTION 14.1.(d)** Limitations on Community Development Block Grant Funds. – Of the funds appropriated in this section for the Community Development Block Grant, the following shall be allocated in each category for each program year: up to one million three hundred seventy-five thousand dollars ($1,375,000) may be used for State Administration; up to ~~ten million six hundred twenty-five thousand dollars ($10,625,000)~~fifteen million six hundred twenty-five thousand dollars ($15,625,000) may be used for Economic Development; and up to ~~thirty million five hundred thousand dollars ($30,500,000)~~twenty-five million five hundred thousand dollars ($25,500,000) may be used for Infrastructure. If federal block grant funds are reduced or increased by the Congress of the United States after the effective date of this act, then these reductions or increases shall be allocated in accordance with subsection (b) or (c) of this section, as applicable."

SECTION 5.16.(f) If Senate Bill 402, 2013 Regular Session, becomes law, then Section 14.1(g) of S.L. 2011-145, as amended by Section 13.1 of S.L. 2012-142 and Section 15.15(a) of Senate Bill 402, 2013 Regular Session, reads as rewritten:

"**SECTION 14.1.(g)** For purposes of this section, eligible activities under the category of Infrastructure in subsection (a) of this section ~~shall be defined as provided in the HUD State Administered Community Development Block Grant definition of the term "infrastructure."~~are limited to critical public water and wastewater projects. Notwithstanding any State law or rule, eligible activities as defined in this subsection are limited only by applicable HUD regulations and federal law. Notwithstanding the provisions of subsection (e) of this section, funds allocated to the Infrastructure category in subsection (a) of this section shall not be reallocated to any other category."

SECTION 5.17. The Department of Agriculture and Consumer Services shall take all necessary actions to make the Southeastern Agriculture Center fully receipt-supported.

PART VI. JUSTICE AND PUBLC SAFETY

SECTION 6.1. If Senate Bill 402, 2013 Regular Session, becomes law, then the title of Section 18B.22 of that act reads as rewritten:

"**CONSOLIDATE DISTRICT COURT AND PROSECUTORIAL DISTRICTS 6A AND 6B/RESTRUCTURE SEVERAL SUPERIOR COURT, DISTRICT COURT, AND PROSECUTORIAL ~~DISTRICTS 16A, 19B, AND 20A/~~DISTRICTS/AUTHORIZE ADDITIONAL DISTRICT COURT JUDGE FOR DISTRICT COURT DISTRICT 21**"

SECTION 6.2. If Senate Bill 402, 2013 Regular Session, becomes law, then the title of Section 17.8 of that act and Section 17.8 of that act are rewritten to read:

"**TRANSFER OF CERTAIN DEPARTMENT OF JUSTICE POSITIONS TO THE DEPARTMENTS THEY SERVE**

"**SECTION 17.8.(a)** The following positions are transferred from the Department of Justice to the agencies set forth below:

Position Number:	**Recipient Agency:**
60010433	North Carolina Banking Commission
60010434	North Carolina Banking Commission
60093538	North Carolina Banking Commission
65005760	North Carolina Banking Commission
60010379	Department of State Treasurer
60010178	Department of Environment and Natural Resources (DENR)
60010436	DENR
60010282	DENR
60010363	DENR
60010378	DENR
60010482	Office of State Personnel (OSP)
65004804	Department of Health and Human Services (DHHS)
60010352	DHHS
60010346	DHHS
60010471	DHHS
60015008	Department of Transportation (DOT)
60015002	DOT
60010483	DOT
60010317	DOT

"**SECTION 17.8.(b)** Any person employed in a position transferred pursuant to the authority of this section shall report to the appropriate head of the State agency to which the position is transferred and shall perform such legal duties and other duties as may be assigned by the appropriate head of the State agency.

"**SECTION 17.8.(c)** The Office of State Personnel may reclassify the positions transferred by this section into a comparable salary classification.

"**SECTION 17.8.(d)** Prior to October 1, 2013, no vacant position set forth in subsection (a) of this section may be filled, and no person may be transferred into any position set forth in subsection (a) of this section.

"**SECTION 17.8.(e)** Subsection (d) of this act is effective when it becomes law. The remainder of this section becomes effective October 1, 2013."

SECTION 6.3. If Senate Bill 402, 2013 Regular Session becomes law, then Section 18B.21A of that act reads as rewritten:

"**SECTION 18B.21A.(a)** The Administrative Office of the Courts shall set the limits on compensation and allowances of court reporters provided for in G.S. 7A-95(e) and G.S. 7A-198(f) during the 2013-2015 fiscal biennium so that (i) the Administrative Office of the Courts pays no more than fifty percent (50%) of the per-transcript-page rate paid by the Administrative Office of the Courts during the 2011-2013 fiscal biennium and (ii) the Office of Indigent Defense Services pays no more than fifty percent (50%) of the per-transcript-page rate paid by the Office of Indigent Defense Services during the 2011-2013 fiscal biennium.

"**SECTION 18B.21A.(b)** This section becomes effective September 1, 2013, and applies to payments for transcripts that are requested on or after that date."

SECTION 6.5. If Senate Bill 402, 2013 Regular Session, becomes law, then G.S. 143B-707.2(b), as enacted by Section 16C.11(d) of that act, reads as rewritten:

"(b) The Department of Public Safety and the Post-Release Supervision and Parole Commission shall report by March 1 of each year to the Chairs of the House of Representatives Appropriations Subcommittee on Justice and Public Safety, to the Chairs of the Senate Appropriations Committee on Justice and Public Safety, and to the Chairs of the Joint Legislative Oversight Committee on Justice and Public Safety on the number of inmates proposed for release, considered for release, and granted release under ~~Chapter 84B~~Article 84B of Chapter 15A of the General Statutes, providing for the medical release of inmates who are either permanently and totally disabled, terminally ill, or geriatric."

SECTION 6.6. If Senate Bill 402, 2013 Regular Session, becomes law, then notwithstanding any other provision of that act, the conversion of Johnston Correctional Institution from a medium custody prison to a minimum custody prison results in a net savings of 62 positions.

SECTION 6.7.(a) If Senate Bill 402, 2013 Regular Session, becomes law, then G.S. 15A-1343(c2), as amended by Section 16C.16 of that act, reads as rewritten:

"(c2) Electronic Monitoring Device Fees. – Any person placed on house arrest with electronic monitoring under ~~subsection~~ subsection (a1) or (b1) of this section shall pay a fee of ninety dollars ($90.00) for the electronic monitoring device and a daily fee in an amount that reflects the actual cost of providing the electronic monitoring. The court may exempt a person from paying the fees only for good cause and upon motion of the person placed on house arrest with electronic monitoring. The court may require that the fees be paid in advance or in a lump sum or sums, and a probation officer may require payment by those methods if the officer is authorized by subsection (g) of this section to determine the payment schedule. The fees must be paid to the clerk of court for the county in which the judgment was entered or the deferred prosecution agreement was filed. Fees collected under this subsection for the electronic monitoring device shall be transmitted to the State for deposit into the State's General Fund. The daily fees collected under this subsection shall be remitted to the Department of Public Safety to cover the costs of providing the electronic monitoring."

SECTION 6.7.(b) If Senate Bill 402, 2013 Regular Session, becomes law, then G.S. 15A-1368.4(e)(13) reads as rewritten:

"(13) Remain in one or more specified places for a specified period or periods each day, and wear a device that permits the defendant's compliance with the condition to be monitored ~~electronically.~~electronically and pay a fee of ninety dollars ($90.00) for the electronic monitoring device and a daily fee

in an amount that reflects the actual cost of providing the electronic monitoring. The Commission may exempt a person from paying the fees only for a good cause. Fees collected under this subsection for the electronic monitoring device shall be transmitted to the State for deposit in the State's General Fund. The daily fees collected under this subsection shall be remitted to the Department of Public Safety to cover the costs of providing the electronic monitoring."

SECTION 6.7.(c) If Senate Bill 402, 2013 Regular Session, becomes law, then Section 16C.16(c) of that act reads as rewritten:

"**SECTION 16C.16.(b)** This section becomes effective ~~August 1, 2013,~~September 1, 2013, and applies to persons placed on house arrest with electronic monitoring on or after that date."

PART VII. GENERAL GOVERNMENT

SECTION 7.1. If Senate Bill 402, 2013 Regular Session, becomes law, then Section 30.2(e) of that act reads as rewritten:

"**SECTION 30.2.(e)** Subsection (a) of this section becomes effective 30 days after this act becomes law and ~~Subsection~~ subsection (a1) of this section becomes effective July 1, 2014."

PART VIII. TRANSPORTATION

SECTION 8.1. If Senate Bill 402, 2013 Regular Session, becomes law, then Section 34.29(b) of that act reads as rewritten:

"**SECTION 34.29.(b)** This section becomes effective ~~January 1, 2014.~~July 1, 2014."

PART IX. CAPITAL APPROPRIATIONS

SECTION 9.1. If Senate Bill 402, 2013 Regular Session, becomes law, then Section 36.3(b) of that act reads as rewritten:

"**SECTION 36.3.(b)** It is the intent of the General Assembly that funds carried forward from previous fiscal years be used to supplement the ~~thirteen million five hundred twenty-two thousand~~eleven million five hundred twenty-two thousand dollars ($11,522,000) appropriated for water resources development projects in Section 36.2(a) of this act. Therefore, the following funds carried forward from previous fiscal years shall be used for the following projects:

Name of Project		**Amount Carried Forward**
(1)	Wilmington Harbor Maintenance (Disposal Areas 8 & 10)	$ 1,200,000
(2)	Wilmington Harbor Improvements Feasibility (50/50)	57,000
(3)	Manteo Old House Channel Cap Sec. 204 (65/35)	1,250,000
(4)	Surf City/NTB Coastal Storm Damage Reduction Study-PED (75/25)	37,000
TOTALS		**$ 2,544,000**"

SECTION 9.2. If Senate Bill 402, 2013 Regular Session, becomes law, then Section 36.4(a) of that act reads as rewritten:

"**SECTION 36.4.(a)** The General Assembly authorizes the following capital projects to be funded with receipts or from other non-General Fund sources available to the appropriate department:

Name of Project	**Amount of Non-General Fund Funding Authorized for FY 2013-2014**
Department of Agriculture and Consumer Services	
Western North Carolina Agricultural Center – Midway Pavilion	$ 125,000
Western North Carolina Agricultural Center – Fill Retention Ponds	250,000
Piedmont Research Station – Calf Barn Construction	150,000
Research Stations – Forest Road Construction	150,000

Raleigh Farmers Market – Parking Improvement/Expansion	200,000
Southeastern North Carolina Agricultural Center – Horse Stall Barn	700,000

…."

PART XI. FINANCE

SECTION 11.1. Effective when this act becomes law, G.S. 62-140(a) reads as rewritten:

"(a) No public utility shall, as to rates or services, make or grant any unreasonable preference or advantage to any person or subject any person to any unreasonable prejudice or disadvantage. No public utility shall establish or maintain any unreasonable difference as to rates or services either as between localities or as between classes of service. The Commission may determine any questions of fact arising under this section; provided that it shall not be an unreasonable preference or advantage or constitute discrimination against any person, firm or corporation or general rate payer for telephone utilities to contract with motels, hotels and hospitals to pay reasonable commissions in connection with the handling of intrastate toll calls charged to a guest or patient and collected by the motel, hotel or hospital; provided further, that payment of such commissions shall be in accordance with uniform tariffs which shall be subject to the approval of the Commission. Provided further, that it shall not be considered an unreasonable preference or advantage for the Commission to order, if it finds the public interest so requires, a reduction in local telephone rates for low-income residential consumers meeting a means test established by the Commission in order to match any reduction in the interstate subscriber line charge authorized by the Federal Communications Commission. If the State repeals any State funding mechanism for a reduction in the local telephone rates for low-income residential consumers, the Commission shall take appropriate action to eliminate any requirement for the reduced rate funded by the repealed State funding mechanism. For the purposes of this section, a State funding mechanism for a reduction in the local telephone rates includes a tax credit allowed for the public utility to recover the reduction in rates.

Nothing in this section prohibits the Commission from establishing different rates for natural gas service to counties that are substantially unserved, to the extent that those rates reflect the cost of providing service to the unserved counties and upon a finding by the Commission that natural gas service would not otherwise become available to the counties."

SECTION 11.2. Effective July 1, 2014, G.S. 105-164.44K(b), as enacted by Section 4.3(a) of S.L. 2013-316, reads as rewritten:

"(b) Franchise Tax Share. – The quarterly franchise tax share of a city is the total amount of electricity gross receipts franchise tax distributed to the city under repealed G.S. 105-116.1 or repealed provisions of G.S. 159B-27 for the same related quarter that was the last quarter in which taxes were imposed on electric power companies under repealed ~~G.S. 105-116.~~G.S. 105-116 or repealed provisions of G.S. 159B-27. The quarterly franchise tax share of a city includes adjustments made for the hold-harmless amounts under repealed G.S. 105-116. If the franchise tax share of a city, including the hold-harmless adjustments, is less than zero, then the amount is zero. The determination made by the Department with respect to a city's franchise tax share is final and is not subject to administrative or judicial review.

The franchise tax share of a city that has dissolved, merged with another city, or divided into two or more cities since it received a distribution under repealed G.S. 105-116.1 or repealed provisions of G.S. 159B-27 is adjusted as follows:

(1) If a city dissolves and is no longer incorporated, the franchise tax share of the city is added to the amount distributed under subsection (c) of this section.

(2) If two or more cities merge or otherwise consolidate, their franchise tax shares are combined.

(3) If a city divides into two or more cities, the franchise tax share of the city that divides is allocated among the new cities in proportion to the total

amount of ad valorem taxes levied by each on property having a tax situs in the city."

SECTION 11.3.(a) G.S. 105-129.16D(b) reads as rewritten:

"§ **105-129.16D. Credit for constructing renewable fuel facilities.**

(b) Production Credit. – A taxpayer that constructs and places in service in this State a commercial facility for processing renewable fuel is allowed a credit equal to twenty-five percent (25%) of the cost to the taxpayer of constructing and equipping the facility. The entire credit may not be taken for the taxable year in which the facility is placed in service but must be taken in seven equal annual installments beginning with the taxable year in which the facility is placed in service. If, in one of the years in which the installment of a credit accrues, the facility with respect to which the credit was claimed is disposed of or taken out of service, the credit expires and the taxpayer may not take any remaining installment of the credit. The taxpayer may, however, take the portion of an installment that accrued in a previous year and was carried forward to the extent permitted under G.S. 105-129.17.

Notwithstanding subsection (d) of this section, this section is repealed effective for facilities placed in service on or after January 1, 2017, in the case of a taxpayer that meets both of the following conditions:

(1) Signs a letter of commitment with the Department of Commerce on or before September 1, 2013, stating the taxpayer's intent to construct and place into service in this State a commercial facility for processing renewable fuel.

(2) Begins construction of the facility on or before December 31, 2013."

SECTION 11.3.(b) This section is effective when it becomes law.

SECTION 11.4. G.S. 105-164.13E(8)b., as enacted by S.L. 2013-316, reads as rewritten:

"§ **105-164.13E. Exemption for farmers.**

The following tangible personal property, digital property, and services are exempt from sales and use tax if purchased by a qualifying farmer and for use by the farmer in the planting, cultivating, harvesting, or curing of farm crops or in the production of dairy products, eggs, or animals. A qualifying farmer is a farmer who has an annual gross income of ten thousand dollars ($10,000) or more from farming operations for the preceding calendar year and includes a dairy operator, a poultry farmer, an egg producer, a livestock farmer, a farmer of crops, and a farmer of an aquatic species, as defined in G.S. 106-758.

…

(8) Any of the following items concerning the housing, raising, or feeding of animals:

…

b. Building materials, supplies, fixtures, and equipment that become a part of and are used in the construction, repair, or improvement of an enclosure or a structure specifically designed, constructed, and used for housing, raising, or feeding animals or for housing equipment necessary for one of these commercial activities. The ~~refund~~ exemption also applies to commercially manufactured equipment, and parts and accessories for the equipment, used in the enclosure or a structure.

…."

PART XII. EFFECTIVE DATE

SECTION 12. Except as otherwise provided, this act becomes effective July 1, 2013.

In the General Assembly read three times and ratified this the 26th day of July, 2013.

Became law upon approval of the Governor at 4:24 p.m. on the 29th day of July, 2013.

Session Law 2013-364 **H.B. 269**

AN ACT TO CREATE SPECIAL EDUCATION SCHOLARSHIP GRANTS FOR CHILDREN WITH DISABILITIES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-151.33 is repealed.

SECTION 2. Section 2 of S.L. 2011-395 is repealed.

SECTION 3. G.S. 105-160.3(b)(11) is repealed.

SECTION 4. Article 9 of Chapter 115C of the General Statutes is amended by adding a new Part to read:

"Part 1H. Special Education Scholarship Grants for Children With Disabilities.

"**§ 115C-112.2. Definitions.**

The following definitions apply in this Part:

(1) Authority. – The North Carolina State Education Assistance Authority.

(2) Eligible student. – A child with a disability under the age of 22 who meets all of the following criteria:

a. Requires an Individualized Education Plan.

b. Receives special education or related services on a daily basis.

c. Has not been placed in a nonpublic school or facility by a public agency at public expense.

d. Has not spent any time enrolled in a postsecondary institution as a full-time student taking at least 12 hours of academic credit.

e. Has not received a high school diploma.

f. Meets at least one of the following requirements:

1. Was enrolled in a North Carolina public school during the previous semester.

2. Received special education or related services through the North Carolina public schools as a preschool child with a disability during the previous semester.

3. Received a scholarship grant for the previous semester.

4. Is eligible for initial enrollment in kindergarten or the first grade in a North Carolina public school.

(3) Nonpublic school. – A school that meets the requirements of Part 1, 2, or 3 of Article 39 of this Chapter as identified by the Division of Nonpublic Education, Department of Administration.

(4) Scholarship grants. – Grants awarded by the Authority to eligible students.

"**§ 115C-112.3. Scholarship grants.**

(a) The Authority shall make available no later than May 1 annually applications to eligible students for the award of scholarship grants to attend any nonpublic school and to receive special education and related services in a nonpublic school setting. Information about scholarship grants and the application process shall be made available on the Authority's Web site. The Authority shall give priority in awarding scholarship grants to eligible students who received a scholarship grant during the previous semester. Except as otherwise provided by the Authority for prior scholarship grant recipients, scholarship grants shall be awarded to eligible students in the order in which the applications are received.

(b) Scholarship grants awarded to eligible students shall be for amounts of not more than three thousand dollars ($3,000) per semester per eligible student. Eligible students awarded grants may not be enrolled in a public school. Scholarship grants shall be awarded only for the reimbursement of tuition and special education and related services, including those services provided to home schooled students. Parents may only receive reimbursement for tuition if the parent provides documentation that the student was enrolled in nonpublic school for no less than 75 days of the semester for which the parent seeks reimbursement.

Parents may only receive reimbursement for related services provided to home schooled students if the parent provides documentation that the student received related services for no less than 75 days of the semester for which the parent seeks reimbursement. The Authority shall notify parents in writing of their eligibility to receive scholarship grants for costs that will be incurred during the spring semester of the following year by December 1 and for costs incurred during the fall semester of that year by July 1. Following the conclusion of each school semester, the parent of an eligible student shall submit to the Authority any receipts or other documentation approved by the Authority to demonstrate the costs incurred during the semester as well as documentation that the student was enrolled in the nonpublic school for no less than 75 days of the semester for which the parent seeks reimbursement for tuition or documentation that related services were provided to a home schooled student for no less than 75 days of the semester for which the parent seeks reimbursement for related services. The Authority shall award a scholarship grant in the amount of costs demonstrated by the parent up to the maximum amount. If the costs incurred by the parent do not meet the maximum amount, the Authority shall use the remainder of those funds for the award of scholarship grants to eligible students for the following semester. The Authority shall award scholarship grants to the parents of eligible students at least semiannually.

(c) After an eligible student's initial receipt of a scholarship grant, the Authority shall ensure that the student is reevaluated at least every three years by the local educational agency in order to verify that the student continues to be a child with a disability.

(d) The Authority shall establish rules and regulations for the administration and awarding of scholarship grants.

"**§ 115C-112.4. Verification of eligibility.**

(a) The Authority may seek verification of information on any application for scholarship grants from eligible students. If a parent fails to cooperate with verification efforts, the Authority shall revoke the award of the scholarship grant to the eligible student.

(b) Parents of applicants for scholarship grants shall authorize the Authority to access any information held by the local educational agency that is needed for verification efforts.

"**§ 115C-112.5. Authority reporting requirements.**

(a) The Authority shall report annually, no later than October 1, to the Joint Legislative Education Oversight Committee on the Special Education Scholarship Grants for Children with Disabilities.

(b) The annual report shall include all of the following information:

(1) Total number, age, and grade level of eligible students receiving scholarship grants.

(2) Total amount of scholarship grant funding awarded.

(3) Nonpublic schools in which scholarship grant recipients are enrolled and the number of scholarship grant students at that school.

(4) The type of special education or related services for which scholarship grants were awarded."

SECTION 5.(a) There is appropriated from the General Fund to the North Carolina State Education Assistance Authority (NCSEAA) the sum of three million six hundred seventy thousand five hundred dollars ($3,670,500) for the 2013-2014 fiscal year and the sum of four million three hundred forty-one thousand dollars ($4,341,000) for the 2014-2015 fiscal year in recurring funds to implement the requirements of this act. Of the funds appropriated to NCSEAA under this section, NCSEAA shall use the sum of three million dollars ($3,000,000) for fiscal year 2013-2014 and the sum of three million dollars ($3,000,000) for fiscal year 2014-2015 to award scholarship grants to eligible students. Any unexpended funds for this purpose shall not revert at the end of each fiscal year but shall remain available to award scholarship grants to eligible students.

The remainder of the funds, up to six hundred seventy thousand five hundred dollars ($670,500) for fiscal year 2013-2014 and up to one million three hundred forty-one thousand dollars ($1,341,000) for fiscal year 2014-2015 shall be transferred to the North Carolina

Department of Public Instruction to conduct reevaluations of eligible students as required by G.S. 115C-112.3(c), as enacted by this act.

SECTION 5.(b) Of the funds appropriated to NCSEAA to be used for the award of scholarship grants to eligible students under subsection (a) of this section, for fiscal year 2013-2014, NCSEAA may retain up to two hundred thousand dollars ($200,000) for administrative costs associated with the scholarship grant program. For fiscal year 2014-2015 and subsequent years, NCSEAA may retain up to two percent (2%) annually for administrative costs associated with the scholarship grant program.

SECTION 5.(c) Nothing in this act shall require the General Assembly to appropriate funds to implement it. Subsections (a) and (b) of this section become effective only if those funds are appropriated by the Current Operations and Capital Improvements Appropriations Act of 2013.

SECTION 6.(a) Article 32D of Chapter 115C of the General Statutes is repealed.

SECTION 6.(b) The State Controller shall transfer the fund balance from the Fund for Special Education and Related Services to Nontax Budget Code 19978 (Intrastate Transfers) or the appropriate budget code as determined by the State Controller to support General Fund appropriations for the 2013-2014 fiscal year.

SECTION 7. Notwithstanding the definition for "eligible student" set forth in G.S. 115C-112.2, as enacted by this act, a child who is otherwise eligible to receive a scholarship grant for the spring semester of the 2013-2014 school year is deemed to have met the requirements of G.S. 115C-112.2(2)f., as enacted by this act, if the child is a dependent child for whom a taxpayer is allowed a credit for the fall semester of the 2013-2014 school year under G.S. 105-151.33 and the taxpayer affirms, under oath, that the taxpayer will claim the credit for that semester. Notwithstanding G.S. 105-259(b), the Department of Revenue shall furnish, upon request, to the Authority a list of claimants that received a credit pursuant to G.S. 105-151.33 for the taxable year beginning on or after January 1, 2013.

SECTION 8. Sections 1, 2, and 3 of this act are effective for taxable years beginning on or after January 1, 2014. This act does not affect the rights or liabilities of the State, a taxpayer, or another person arising under a statute amended or repealed by this act before the effective date of its amendment or repeal; nor does it affect the right to any refund or credit of a tax that accrued under the amended or repealed statute before the effective date of its amendment or repeal. Sections 5 and 6 of this act become effective July 1, 2013. The remainder of this act is effective when it becomes law and applies beginning with the spring semester of the 2013-2014 school year. Notwithstanding the requirement to make applications available by May 1 in G.S. 115C-112.3(a), as enacted by this act, applications for the 2014 spring semester shall be made available no later than October 1, 2013, and the Authority shall notify parents in writing of the eligibility as soon as practicable.

In the General Assembly read three times and ratified this the 23rd day of July, 2013.

Became law upon approval of the Governor at 4:24 p.m. on the 29th day of July, 2013.

Session Law 2013-365 **S.B. 76**

AN ACT TO (1) PROVIDE FOR AUTOMATIC REVIEW OF MINING AND ENERGY COMMISSION RULES BY THE GENERAL ASSEMBLY; (2) EXEMPT THE MINING AND ENERGY COMMISSION, THE ENVIRONMENTAL MANAGEMENT COMMISSION, AND THE COMMISSION FOR PUBLIC HEALTH FROM PREPARING FISCAL NOTES FOR RULES THAT PERTAIN TO THE MANAGEMENT OF OIL AND GAS EXPLORATION AND DEVELOPMENT; (3) DIRECT THE MINING AND ENERGY COMMISSION TO STUDY DEVELOPMENT OF A COMPREHENSIVE ENVIRONMENTAL PERMIT FOR OIL AND GAS EXPLORATION AND DEVELOPMENT ACTIVITIES USING HORIZONTAL DRILLING AND HYDRAULIC FRACTURING TREATMENTS; (4) REQUIRE THE

MINING AND ENERGY COMMISSION AND THE DEPARTMENT OF REVENUE TO STUDY ESTABLISHMENT OF A TAX FOR THE SEVERANCE OF ENERGY MINERALS FROM THE SOIL OR WATER OF THE STATE IN AN AMOUNT SUFFICIENT TO COVER ALL COSTS ASSOCIATED WITH ADMINISTRATION OF A MODERN REGULATORY PROGRAM FOR THE MANAGEMENT OF OIL AND GAS EXPLORATION AND DEVELOPMENT ACTIVITIES USING THE PROCESSES OF HORIZONTAL DRILLING AND HYDRAULIC FRACTURING TREATMENTS FOR THAT PURPOSE, INCLUDING CREATION OF AN EMERGENCY FUND TO PROTECT AND PRESERVE THE STATE'S NATURAL RESOURCES, CULTURAL HERITAGE, AND QUALITY OF LIFE; (5) DIRECT THE MINING AND ENERGY COMMISSION TO STUDY MATTERS RELATED TO REGISTRATION OF LANDMEN; (6) MODIFY APPOINTMENTS TO THE MINING AND ENERGY COMMISSION; (7) MODIFY PROVISIONS IN THE OIL AND GAS CONSERVATION ACT CONCERNING THE MINING AND ENERGY COMMISSION'S AUTHORITY TO SET "ALLOWABLES"; (8) CLARIFY BONDING REQUIREMENTS ASSOCIATED WITH OIL AND GAS ACTIVITIES; (9) ASSIGN FUTURE REVENUE FROM ENERGY EXPLORATION, DEVELOPMENT, AND PRODUCTION OF ENERGY RESOURCES IN ORDER TO PROTECT AND PRESERVE THE STATE'S NATURAL RESOURCES, CULTURAL HERITAGE, AND QUALITY OF LIFE; (10) ENCOURAGE THE GOVERNOR TO DEVELOP THE REGIONAL INTERSTATE OFFSHORE ENERGY POLICY COMPACT; (11) AMEND THE ENERGY POLICY ACT OF 1975 AND THE ENERGY POLICY COUNCIL; AND (12) DIRECT THE MEDICAL CARE COMMISSION TO ADOPT RULES AUTHORIZING FACILITIES LICENSED BY THE DEPARTMENT OF HEALTH AND HUMAN SERVICES TO USE COMPRESSED NATURAL GAS AS AN EMERGENCY FUEL.

The General Assembly of North Carolina enacts:

PART I. RULES: AUTOMATIC REVIEW; FISCAL NOTE REQUIREMENTS; NO PERMIT ISSUANCE UNTIL RULES BECOME EFFECTIVE AND THE GENERAL ASSEMBLY TAKES AFFIRMATIVE LEGISLATIVE ACTION TO ALLOW ISSUANCE

SECTION 1.(a) All rules required to be adopted pursuant to Section 2(m) of S.L. 2012-143 shall become effective as provided in G.S. 150B-21.3(b1) as though 10 or more written objections had been received as provided by G.S. 150B-21.3(b2).

SECTION 1.(b) The Mining and Energy Commission, the Environmental Management Commission, and the Commission for Public Health are exempt from the provisions of Chapter 150B of the General Statutes that require the preparation of fiscal notes for any rule proposed for the creation of a modern regulatory program for the management of oil and gas exploration and development activities in the State, including the use of horizontal drilling and hydraulic fracturing for that purpose.

SECTION 1.(c) As provided in Section 3(d) of S.L. 2012-143, the issuance of permits for oil and gas exploration and development activities using horizontal drilling and hydraulic fracturing treatments in the State pursuant to G.S. 113-395, or any other provision of law, shall be prohibited in order to allow the Mining and Energy Commission sufficient time for development of a modern regulatory program for the management of oil and gas exploration and development in the State and the use of horizontal drilling and hydraulic fracturing treatments for that purpose, and for adoption of appropriate environmental standards applicable to these activities. No agency of the State, including the Department of Environment and Natural Resources, the Environmental Management Commission, the Commission for Public Health, or the Mining and Energy Commission, shall issue a permit for oil or gas exploration or development activities using horizontal drilling and hydraulic fracturing treatments until (i) all rules required to be adopted by the Mining and Energy Commission, the Environmental Management Commission, and the Commission for Public Health pursuant to S.L. 2012-143

have become effective and (ii) the General Assembly takes affirmative legislative action, including repeal of Section 3(d) of S.L. 2012-143, to allow the issuance of such permits.

PART II. STUDIES: COORDINATED PERMIT PROCESS, SEVERANCE TAXES, AND LANDMEN REGISTRY

SECTION 2.(a) The Mining and Energy Commission, with the assistance of the Department of Environment and Natural Resources, shall study development of a coordinated permitting program for oil and gas exploration and development activities using horizontal drilling and hydraulic fracturing treatments in order that a single comprehensive environmental permit may be issued to a permit applicant to govern the applicant's exploration and development activities at a site, including, but not limited to, regulation of the following matters: well construction, siting, and closure requirements; hydraulic fracturing treatments, including subsurface injection of fluids for that purpose; water quality, including stormwater control, and management of water resources; management of waste; and regulation of air emissions. The Department of Environment and Natural Resources shall seek any approvals necessary from the United States Environmental Protection Agency for a coordinated permitting program to allow issuance of a single comprehensive environmental permit for oil and gas exploration and development activities using horizontal drilling and hydraulic fracturing treatments. The Mining and Energy Commission shall report its findings and recommendations to the Environmental Review Commission and the Joint Legislative Commission on Energy Policy on or before March 1, 2014.

SECTION 2.(b) The Mining and Energy Commission and the Department of Revenue, with the assistance of the Department of Commerce and the Department of Environment and Natural Resources, shall study an appropriate rate of severance tax that should be imposed in association with oil and gas exploration and development activities using horizontal drilling and hydraulic fracturing treatments in the State. In conducting the study, the Commission and the Department shall examine information compiled by the Department of Commerce in Section 5 of the North Carolina Oil and Gas Study issued in April 2012 pursuant to S.L. 2011-276 on potential economic impacts that could be expected if drilling for oil or natural gas were to take place in the State, which included data on severance taxes established in other states. In addition, the Commission and the Department shall consider information compiled pursuant to the ongoing study of appropriate levels of funding and potential sources for that funding required by Section 2(j) of S.L. 2012-143, as amended by Section 12(a) of S.L. 2012-201, which requires examination of (i) funding required to address expected impacts to infrastructure throughout the State and other impacts that may be experienced by local governments in areas where drilling activities may occur and (ii) funding needed to cover any costs to the State for administering an oil and gas regulatory program, including remediation and reclamation of drilling sites when necessary due to abandonment or insolvency of an oil or gas operator or other responsible party. The Commission and the Department shall also formulate recommendations for appropriate levels of funding that should be maintained to address emergency events associated with oil and gas exploration, including sufficient funding for emergency preparation, emergency response, emergency environmental protection, or mitigation associated with a release of liquid hydrocarbons or associated fluids directly related to onshore energy exploration, development, production, or transmission. Any recommendation for emergency funding for this purpose shall provide that the funds shall be used only upon a determination that sufficient funds for corrective action or emergency response cannot be obtained from other sources without incurring a delay that would significantly increase the threat to life or risk of damage to the environment and provide that the State shall pursue recovery of all costs incurred by the State or local governments for any corrective action or emergency response, including attorneys' fees and other expenses of bringing the cost recovery action from the responsible party or parties. The Mining and Energy Commission shall report its findings and recommendations to the Environmental Review Commission on or before April 1, 2014.

SECTION 2.(c) The Mining and Energy Commission, with the assistance of the Department of Environment and Natural Resources, shall study issues related to establishment and implementation of the registration requirements for landmen under G.S. 113-425. At a minimum, the study shall include a review of the number of individuals currently registered in North Carolina; other states' requirements with respect to registration of landmen; and regulations governing landmen operating in other industries in North Carolina and other states. The Commission and the Department shall receive input from the oil and gas industry and other stakeholders on the current registry, its effectiveness, and whether modifications or discontinuance is advisable. The Mining and Energy Commission shall report its findings and recommendations to the Environmental Review Commission and the Joint Legislative Commission on Energy Policy on or before April 1, 2015.

PART III. MINING AND ENERGY COMMISSION APPOINTMENT MODIFICATIONS

SECTION 3.(a) G.S. 143B-293.2 reads as rewritten:

"§ **143B-293.2. North Carolina Mining and Energy Commission – members; selection; removal; compensation; quorum; services.**

(a) Members Selection. – The North Carolina Mining and Energy Commission shall consist of 15 members appointed as follows:

(1) The Chair of the North Carolina State University Minerals Research Laboratory Advisory Committee, or the Chair's designee, ex officio.

(2) The State Geologist, or ~~the State Geologist's designee, ex officio.~~other designee of the Secretary of Environment and Natural Resources.

~~(3) The Assistant Secretary of Energy for the Department of Commerce, ex officio.~~

(3a) One appointed by the Governor, at large.

(4) One appointed by the General Assembly upon recommendation of the Speaker of the House of Representatives who is a member of a nongovernmental conservation interest.

(5) One appointed by the General Assembly upon recommendation of the Speaker of the House of Representatives ~~who~~ who, at the time of initial appointment, is an elected official of a municipal government located in ~~the Triassic Basin of North Carolina.~~a region of North Carolina that has oil and gas potential. A person serving in this seat may complete a term on the Commission even if the person is no longer serving as an elected official of a municipal government but may not be reappointed to a subsequent term.

(6) One appointed by the General Assembly upon recommendation of the Speaker of the House of Representatives who is a representative of the mining industry.

(7) One appointed by the General Assembly upon recommendation of the Speaker of the House of Representatives who shall be a geologist with experience in oil and gas exploration and development.

(8) One appointed by the General Assembly upon recommendation of the President Pro Tempore of the Senate who is a member of a nongovernmental conservation interest.

(9) One appointed by the General Assembly upon recommendation of the President Pro Tempore of the Senate ~~who~~ who, at the time of initial appointment, is a member of a county board of commissioners of a county located in ~~the Triassic Basin of North Carolina.~~a region of North Carolina that has oil and gas potential. A person serving in this seat may complete a term on the Commission even if the person is no longer serving as county commissioner but may not be reappointed to a subsequent term.

(10) One appointed by the General Assembly upon recommendation of the President Pro Tempore of the Senate who is a representative of the mining industry.

(11) One appointed by the General Assembly upon recommendation of the President Pro Tempore of the Senate who shall be an engineer with experience in oil and gas exploration and development.

(12) One appointed by the Governor who shall be a representative of a publicly traded natural gas company.

(13) One appointed by the Governor who shall be a licensed attorney with experience in legal matters associated with oil and gas exploration and development.

(14) One appointed by the Governor who is a member of the Environmental Management ~~Commission and knowledgeable in the principles of water and air resources management.~~Commission.

(15) One appointed by the Governor who is a member of the Commission for Public ~~Health and knowledgeable in the principles of waste management.~~Health.

…

(h) Office May Be Held Concurrently With Others. – Membership on the Mining and Energy Commission is hereby declared to be an office that may be held concurrently with other elective or appointive offices in addition to the maximum number of offices permitted to be held by one person under G.S. 128-1.1.

…."

SECTION 3.(b) This section is effective when it becomes law, however, members serving pursuant to subdivisions (14) and (15) of G.S. 143B-293.2(a) as of the effective date of this act shall be allowed to serve the remainder of their unexpired term.

PART IV. AMEND ALLOWABLES

SECTION 4. G.S. 113-394 reads as rewritten:

"§ **113-394. Limitations on production; allocating and prorating "allowables."**

(a) ~~Whenever the total amount of oil, including condensate, which all the pools in the State can produce, exceeds the amount reasonably required to meet the reasonable market demand for oil, including condensate, produced in this State, then the~~The Commission ~~shall~~ may limit the total amount of oil, including condensate, which may be produced in the State by fixing an amount which shall be designated "allowable" for ~~this State, which will not exceed the reasonable market demand for oil, including condensate, produced in this~~ the State. The Commission ~~shall~~ may then allocate or distribute the "allowable" for the State among the pools on a reasonable basis and in such manner as to avoid undue discrimination, and so that waste will be prevented. In allocating the "allowable" for the State, and in fixing "allowables" for pools producing oil or hydrocarbons forming condensate, or both oil and such hydrocarbons, the Commission ~~shall~~ may take into account the producing conditions and other relevant facts with respect to such pools, including the separate needs for oil, gas and condensate, and ~~shall~~ may formulate rules setting forth standards or a program for the distribution of the "allowable" for the State, and ~~shall~~ distribute the "allowable" for the State in accordance with such standards or program, and where conditions in one pool or area are substantially similar to those in another pool or area, then the same standards or programs shall be applied to such pools and areas so that as far as practicable a uniform program will be followed; provided, however, the Commission shall allow the production of a sufficient amount of natural gas from any pool to supply adequately the reasonable market demand for such gas for light and fuel purposes if such production can be obtained without waste, and the condensate "allowable" for such pool shall not be less than the total amount of condensate produced or obtained in connection with the production of the gas "allowable" for light and fuel purposes, and provided further that, if the amount allocated to pool as its share of the "allowable" for the State is in

excess of the amount which the pool should produce to prevent waste, then the Commission shall fix the "allowable" for the pool so that waste will be prevented.

~~(b) The Commission shall not be required to determine the reasonable market demand applicable to any single pool except in relation to all pools producing oil of similar kind and quality and in relation to the demand applicable to the State, and in relation to the effect of limiting the production of pools in the State.~~ In allocating "allowables" to pools, the Commission shall not be bound by nominations or desires of purchasers to purchase oil from particular fields or areas, and the Commission shall allocate the "allowable" for the State in such manner as will prevent undue discrimination against any pool or area in favor of another or others which would result from selective buying or nominating by purchasers of oil, as such term "selective buying or nominating" is understood in the oil business.

(c) Whenever the Commission limits the total amount of oil or gas which may be produced in any pool in this State to an amount less than that which the pool could produce if no restrictions were imposed (which limitation may be imposed either incidental to, or without, a limitation of the total amount of oil or gas which may be produced in the State), the Commission shall prorate or distribute the "allowable" production among the producers in the pool on a reasonable basis, and so that each producer will have the opportunity to produce or receive his just and equitable share, as such share is set forth in subsection G.S. 113-392(d), subject to the reasonable necessities for the prevention of waste.

(d) Whenever ~~the total amount of gas which can be produced from any pool in this State exceeds the amount of gas reasonably required to meet the reasonable market demand therefrom,~~ the Commission ~~shall limit~~ limits the total amount of gas which may be produced from ~~such pool. The~~a pool, the Commission shall then allocate or distribute the allowable production among the developed areas in the pool on a reasonable basis, so that each producer will have the opportunity to produce his just and equitable share, as such share is set forth in subsection G.S. 113-392(d), whether the restriction for the pool as a whole is accomplished by order or by the automatic operation of the prohibitory provisions of this law. As far as applicable, the provisions of subsection (a) of this section shall be followed in allocating any "allowable" of gas for the State.

(e) After the effective date of any rule or order of the Commission fixing the "allowable" production of oil or gas, or both, or condensate, no person shall produce from any well, lease, or property more than the "allowable" production which is fixed, nor shall such amount be produced in a different manner than that which may be authorized."

PART V. CLARIFY BONDING REQUIREMENTS

SECTION 5.(a) G.S. 113-378 reads as rewritten:

"§ **113-378. Persons drilling for oil or gas to register and furnish bond.**

Any person, firm or corporation before making any drilling exploration in this State for oil or natural gas shall register with the Department of Environment and Natural Resources. To provide for such registration, the drilling operator must furnish the name and address of such person, firm or corporation, and the location of the proposed drilling operations, and file with the Department a bond running to the State of North Carolina in an amount totaling the sum of (i) five thousand dollars ($5,000) plus (ii) one dollar ($1.00) per linear foot proposed to be drilled for the well. Any well opened by the drilling operator shall be plugged upon abandonment in accordance with the rules of the Department."

SECTION 5.(b) G.S. 113-391(a) is amended by adding a new subdivision to read:

"(a) The Mining and Energy Commission, created by G.S. 143B-293.1, in conjunction with rule-making authority specifically reserved to the Environmental Management Commission under subsection (a3) of this section, shall establish a modern regulatory program for the management of oil and gas exploration and development in the State and the use of horizontal drilling and hydraulic fracturing treatments for that purpose. The program shall be designed to protect public health and safety; protect public and private property; protect and conserve the State's air, water, and other natural resources; promote economic development and

expand employment opportunities; and provide for the productive and efficient development of the State's oil and gas resources. To establish the program, the Commission shall adopt rules for all of the following purposes:

…

(13a) Criteria to set the amount of a bond required pursuant to G.S. 113-421(a3), including, at a minimum, the number of wells proposed at a site, the pre-drilling condition of the property, the amount of acreage that would be impacted by the proposed oil and gas activities, and other factors designed to enable establishment of bonds on a site-by-site basis."

SECTION 5.(c) G.S. 113-421(a3) reads as rewritten:

"§ **113-421. Presumptive liability for water contamination; compensation for other damages; responsibility for reclamation.**

…

(a3) Reclamation of Surface Property Required. – An oil or gas developer or operator shall reclaim all surface areas affected by its operations no later than two years following completion of the operations. If the developer or operator is not the surface owner of the property, prior to commencement of activities on the property, the oil or gas developer or operator shall provide a bond running to the surface owner sufficient to cover reclamation of the surface owner's property. Upon registration with the Department pursuant to G.S. 113-378, a developer shall request that the Mining and Energy Commission set the amount of the bond required by this subsection. As part of its request, the developer shall provide supporting documentation, including information about the proposed oil and gas activities to be conducted, the site on which they are to occur, and any additional information required by the Commission. The Commission shall set the amount of the bond in accordance with the criteria adopted by the Commission pursuant to G.S. 113-391(a)(13a) and notify the developer and surface owner of the amount within 30 days of setting the amount of a bond. A surface owner or developer may appeal the amount of a bond set pursuant to this subsection to the Commission within 60 days after receipt of notice from the Commission of the amount required. After evaluation of the appeal and issuance of written findings, the Commission may order that the amount of the bond be modified. Parties aggrieved by a decision of the Commission pursuant to this subsection may appeal the decision as provided under Article 4 of Chapter 150B of the General Statutes within 30 days of the date of the decision."

PART VI. REVENUE FROM OFFSHORE ENERGY PRODUCTION

SECTION 6. Chapter 113B of the General Statutes is amended by adding a new Article to read:

"Article 3.

"Revenues From Offshore Energy Production.

"§ **113B-30. Allocation of revenues from offshore energy production; creation of Offshore Energy Management Fund.**

(a) Any revenues and royalties paid to the State as a result of offshore leasing, exploration, development, and production of all energy resources shall be deposited in the Offshore Emergency Fund until the Fund reaches two hundred fifty million dollars ($250,000,000). The Offshore Energy Management Fund is an interest-bearing special revenue fund to be established within the State treasury. This Fund shall be used only for emergency preparation, emergency response, emergency environmental protection, or mitigation associated with a release of liquid hydrocarbons or associated fluids directly related to offshore energy exploration, development, production, or transmission. Once the Fund balance reaches the amount of two hundred fifty million dollars ($250,000,000), the funds shall be used as provided in subsection (b) of this section. If monies are withdrawn from this Fund to carry out the provisions in this section, all revenues and royalties paid to the State as a result of offshore leasing, exploration, development, and production of all energy resources shall be deposited in the Fund until a total of two hundred fifty million dollars ($250,000,000) is reestablished. Once

the Fund balance reaches the amount of two hundred fifty million dollars ($250,000,000), the funds shall be used as provided in subsection (b) of this section.

(b) Any revenues and royalties paid to the State as a result of offshore leasing, exploration, development, and production of all energy resources in excess of the amount needed to establish the Fund created in subsection (a) of this section are annually appropriated and shall be used for the following purposes:

(1) Seventy-five percent (75%) of such revenues and royalties shall be credited to the General Fund.

(2) Five percent (5%) of such revenues and royalties shall be credited to the North Carolina Highway Trust Fund established under G.S. 136-176.

(3) Five percent (5%) of such revenues and royalties shall be transferred to the Community Colleges System Office to establish and manage a fund for curriculum development and implementation as well as financial assistance for students attending community college to receive vocational training through this curriculum in fields directly related to energy exploration and development and related energy infrastructure.

(4) Five percent (5%) of such revenues and royalties shall be transferred to the Board of Governors of The University of North Carolina System to establish and manage research and development funds for programs directly related to energy research and development.

(5) Five percent (5%) of such revenues and royalties shall be transferred to the Department of Environment and Natural Resources for conservation, protection, and mitigation, including, but not limited to, beach and inlet management projects, dredging operations, channel navigation and maintenance, public beach and water access, water quality management, and habitat restoration.

(6) Three percent (3%) of such revenues and royalties shall be transferred to the State Ports Authority for expansion and maintenance of State Port infrastructure associated with energy-related commerce.

(7) Two percent (2%) of such revenues and royalties shall be transferred to the Department of Commerce for recruitment of energy-related industries to the State."

PART VII. REGIONAL INTERSTATE OFFSHORE ENERGY POLICY COMPACT

SECTION 7.(a) Development of Regional Interstate Offshore Energy Policy Compact. – The Governor is strongly encouraged to commence negotiations on the development of a regional energy compact with the governors of South Carolina and Virginia in order to develop a unified regional strategy for the exploration, development, and production of all commercially viable federal and state offshore energy resources within the three-state region. The Governor shall develop recommendations for the General Assembly to consider for the development of a statutory regional compact, and these recommendations shall reflect the collective agreement of all three governors in the three-state region in order to provide common language for consideration by each state's General Assembly. During the development of these compact recommendations, the Governor or the Governor's designee is authorized to work directly with each of the three states' Congressional delegations, the United States Department of the Interior, the United States Environmental Protection Agency, and other appropriate federal agencies on behalf of the State of North Carolina to develop appropriate strategies to be considered in the development of the three-state compact for increasing domestic energy exploration, development, and production within each state in the three-state region and their adjacent state and federal waters. The compact negotiations and recommendations shall address at least all of the following:

(1) Ensure a timely review and consideration of permits and proposals at both the state and federal level for both state and federal waters adjacent to each state in the three-state region for seismic and other marine geophysical exploration to identify and quantify natural gas and related hydrocarbon resources along the continental margin.

(2) Amend the 2012 to 2017 Five Year Leasing Plan of the United States Department of the Interior to include leasing federal waters adjacent to the State and the three-state region for the exploration, quantification, and development of natural gas and related hydrocarbon energy resources.

(3) Advocate proactively with each state's Congressional delegation and appropriate federal agencies to ensure direct sharing of royalties and revenues related to energy leasing, exploration, development, and production of all offshore energy resources in federal waters adjacent to the State and the three-state region.

(4) Request the United States Department of the Interior to reinstate the federal Offshore Policy Committee with new members and new alternate members to be nominated by the governor of the state represented on the Offshore Policy Committee and appointed by the Secretary of the Interior, six of whom are to be one member and one alternate member each from North Carolina, Virginia, and South Carolina.

(5) Request the United States Department of the Interior to immediately move forward with permitting geological and geophysical data acquisition activities associated with oil and gas exploration in the Mid- and South Atlantic Planning Areas of the Atlantic Outer Continental Shelf immediately as outlined in Alternative A of the Bureau of Ocean Energy Management's Draft Programmatic Environmental Impact Statement entitled "Atlantic OCS Proposed Geological and Geophysical Activities" published in 2012.

SECTION 7.(b) No later than three months after the effective date of this act, and at least every three months thereafter, the Governor or the Governor's designee shall report to the General Assembly on the progress of the Governor and others in complying with the requirements under this section, to include providing copies of correspondence and other relevant materials to or from the Office of the Governor when the correspondence or materials pertain to the subject under this section or to any requirement under this section. The Governor shall report the Governor's final recommendations for the three-state energy compact to the Joint Energy Oversight Committee no later than March 1, 2014.

SECTION 7.(c) In addition to the provisions in Sections 7(a) and 7(b) of this act, the Governor is encouraged to join the Governors of Alaska, Texas, Louisiana, Mississippi, Alabama, South Carolina, and Virginia and any others who may sign on to the Outer Continental Shelf Governors Coalition announced on May 3, 2011, to promote a constructive dialogue among the coastal state governors and the federal government on offshore energy issues important to the future of North Carolina and the United States. The Governor is authorized to expend funds related to membership in the Coalition.

SECTION 7.(d) The Governor is also encouraged to write letters to the North Carolina Congressional delegation, the governors of South Carolina and Virginia, the legislative bodies of South Carolina and Virginia, the Secretary of the United States Department of the Interior, and the President of the United States urging their support of the recommendations set forth in subdivisions (1) through (5) of Section 7(a) of this act.

SECTION 7.(e) Upon ratification, the Secretary of State shall furnish certified copies of this act to each member of the North Carolina Congressional delegation, the governors of South Carolina and Virginia, the legislative bodies of South Carolina and Virginia, the Secretary of the United States Department of the Interior, and the President of the United States.

PART VIII. ENERGY POLICY ACT AND ENERGY POLICY COUNCIL AMENDMENTS

SECTION 8.(a) G.S. 113B-1 reads as rewritten:

"§ **113B-1. Legislative findings and purpose.**

Upon investigation the General Assembly hereby finds that:

(1) Energy is essential to the health, safety and welfare of the people of this State and to the workings of the State ~~economy;~~economy.

~~(2) Growth in the consumption of energy resources is in some part due to wasteful, uneconomic and inefficient uses of energy and a continuation of this trend will adversely affect the future social, economic and environmental development of North Carolina;~~

~~(3)~~ It is ~~the responsibility of State government to encourage~~in the State's best interest to support the development of a reliable and adequate supply of energy for North Carolina ~~at a level consistent with such energy needs required for the protection of public health and safety, and for the promotion of the general welfare; and~~that is secure, stable, and predictable in order to facilitate economic growth, job creation, and expansion of business and industry opportunities.

(3a) It is in the State's best interest to support the exploration, development, and production of domestic energy supplies, preferably from the resources within the State or region and most certainly from within the country.

(3b) It is the duty of State government to protect and preserve the State's natural resources, cultural heritage, and quality of life and, above all, the public health and safety of its residents during the exploration, development, and production of domestic energy resources.

(4) The State ~~has not provided~~must provide the basis for development of a long-range unified energy policy to encompass comprehensive energy resource planning and efficient management of ~~the rate of consumption of~~ existing energy resources in relation to economic growth, to effectively meet an energy crisis, to encourage development of alternative sources of ~~energy,~~energy that are capable of achieving a positive benefit-to-cost ratio, and to ~~prudently conserve~~ ensure efficient utilization of energy resources in a manner consistent with assuring a reliable and adequate supply of energy for North ~~Carolina.~~Carolina, including active support and collaboration with the federal government to ensure access to the nation's energy resources located on the outer continental shelf directly adjacent to the State's coastal waters.

(5) It is the expressed intent of this Chapter to provide for development of such a unified domestic energy policy for the State of North ~~Carolina.~~Carolina as part of a nationwide effort for increased domestic energy production in the interest of national security and economic growth and stability."

SECTION 8.(b) G.S. 113B-2 reads as rewritten:

"§ **113B-2. Creation of Energy Policy Council; purpose of Council.**

(a) ~~There~~ The Energy Policy Council is ~~hereby~~ created ~~a council~~ to advise and make recommendations on increasing domestic energy ~~policy~~ exploration, development, and production within the State and region to promote economic growth and job creation to the Governor and the General ~~Assembly to be known as the Energy Policy~~Assembly. The Energy Policy Council ~~which~~ shall be located within the Department of ~~Commerce.~~Environment and Natural Resources.

(b) Except as otherwise provided in this Chapter, the powers, duties and functions of the Energy Policy Council shall be as prescribed by the Secretary of ~~Commerce.~~Environment and Natural Resources.

(c) The Energy Policy Council shall serve as the central energy policy planning body of the State and shall communicate and cooperate with federal, State, regional and local bodies and agencies to the end of effecting a coordinated energy policy."

SECTION 8.(c) G.S. 113B-3 reads as rewritten:

"§ **113B-3. Composition of Council; appointments; terms of members; qualifications.**

(a) The Energy Policy Council shall consist of ~~16~~ 13 members to be appointed as follows:

~~(1) Two members of the North Carolina House of Representatives to be appointed by the Speaker of the House of Representatives;~~

~~(2) Two members of the North Carolina Senate to be appointed by the President Pro Tempore of the Senate;~~

(2a) The Secretary of Environment and Natural Resources.

(2b) The Secretary of Commerce.

(2c) The Lieutenant Governor.

(3) ~~Twelve~~ Ten public members who are citizens of the State of North ~~Carolina to be appointed by the Governor. The Governor shall designate one of the public members as chair of the Council.~~Carolina and who are appointed in accordance with subsection (c) of this section.

(b) Appointments to the Energy Policy Council shall be made by ~~July 15, 2009,~~October 1, 2013. ~~and each such appointee shall serve until January 31, 2011. Thereafter, the appointed members of the General Assembly shall serve two-year terms, and the appointed public members shall serve four-year terms. A member of the Energy Policy Council shall continue to serve until his successor is duly appointed, but such holdover shall not affect the expiration date of such succeeding term.~~ The terms of office of members of the Council are three years. The terms of members appointed under subdivisions (1), (4), and (6) of subsection (c) of this section shall expire on June 30 of years evenly divisible by three. The terms of members appointed under subdivisions (2), (5), (8), and (10) of subsection (c) of this section shall expire on June 30 of years that precede by one year those years that are evenly divisible by three. The terms of members appointed under subdivisions (3), (7), (11), and (12) of subsection (c) of this section shall expire on June 30 of years that follow by one year those years that are evenly divisible by three. Appointments made by the President Pro Tempore of the Senate and the Speaker of the House of Representatives shall be allowed when the General Assembly is not in session.

(c) The public members of the Energy Policy Council shall have the ~~following qualifications:~~qualifications and shall be appointed as follows:

~~(1) One member shall be experienced in the electric power industry;~~

(2) One member shall ~~be experienced in the natural gas industry;~~have experience in natural gas and associated hydrocarbon exploration, development, and production, to be appointed by the Governor.

~~(2a) One member shall be experienced in energy policy matters;~~

(3) One member shall be ~~experienced in alternative fuels and biofuels;~~a representative of an investor-owned natural gas public utility, to be appointed by the Speaker of the House of Representatives.

(4) One member shall be ~~experienced in energy efficient building design or construction;~~an energy economist or a person with experience in the financing or business development of an energy-related business, to be appointed by the President Pro Tempore of the Senate.

(5) One member shall ~~be experienced in environmental protection;~~have experience in energy policy, to be appointed by the President Pro Tempore of the Senate.

(6) One member ~~who is engaged in a business providing renewable energy or other energy services;~~shall be an industrial energy consumer, to be appointed by the Speaker of the House of Representatives.

(7) One member shall be knowledgeable of alternative and renewable sources of ~~energy;~~energy, to be appointed by the Governor.

(8) One member ~~who, at the time of appointment, is a county commissioner; or elected municipal officer; provided, the member's term on the Council shall expire immediately in the event that he or she vacates office as a county commissioner or municipal officer;~~shall have experience in trucking, rail, or shipping transportation, to be appointed by the Speaker of the House of Representatives.

(9) Repealed by Session Laws 2009-446, s. 4, effective August 7, 2009.

(10) ~~One member shall be knowledgeable in the finance, business development, or technology development of energy-related business;~~One member shall have experience in energy research and development, to be appointed by the President Pro Tempore of the Senate.

(11) ~~One member shall be experienced in low-income energy policy matters or low-income residential weatherization.~~One member shall have experience in environmental management, to be appointed by the Speaker of the House of Representatives.

(12) One member shall be ~~experienced in the petroleum industry.~~a representative of an investor-owned electric public utility, to be appointed by the President Pro Tempore of the Senate."

SECTION 8.(d) G.S. 113B-4 reads as rewritten:

"§ **113B-4. Chairman of Council; replacement; reimbursement of members.**

(a) ~~On August 15, 2009, on January 31, 2011, and every four years thereafter, the Governor shall appoint a chair of the Council.~~The Lieutenant Governor shall serve as chair of the Council.

(b) In case of a vacancy in the membership on the Energy Policy Council prior to the expiration of a member's term, a successor shall be appointed within 30 days of such vacancy for the remainder of the unexpired term by the appropriate official pursuant to the provisions of G.S. 113B-3.

(c) Members of the Energy Policy Council shall be reimbursed for their services pursuant to the provisions of G.S. 138-5."

SECTION 8.(e) G.S. 113B-6 reads as rewritten:

"§ **113B-6. General duties and responsibilities.**

The goal of the Energy Policy Council is to identify and utilize all domestic energy resources in order to ensure a secure, stable, and predictable energy supply and to protect the economy of the State, promote job creation, and expand business and industry opportunities while ensuring the protection and preservation of the State's natural resources, cultural heritage, and quality of life. The Energy Policy Council ~~shall~~ may delegate its duties where appropriate to the Division of Energy, Mineral, and Land Resources of the Department of Environment and Natural Resources. The Council shall provide oversight and approval to the duties delegated to the Division. The Energy Policy Council shall have the following general duties and responsibilities:

(1) To develop and recommend to the Governor and the General Assembly a comprehensive ~~long-range~~ State energy policy that addresses requirements in the short term (10 years), in the midterm (25 years), and in the long term (50 years) to achieve maximum effective management and use of present and future sources of energy, such policy to include but not be limited to energy efficiency, renewable and alternative sources of energy, research and development into alternative energy technologies, and improvements to the State's energy infrastructure and energy ~~economy;~~economy, including smart grid and domestic energy resources that shall include at least natural gas, coal, hydroelectric power, solar, wind, nuclear energy, and biomass. For utilities regulated under Chapter 62 of the General Statutes, the policy

developed under this subdivision shall be consistent with the analysis and plan developed under G.S. 62-110.1(c).

(2) To conduct an ongoing assessment of the opportunities and constraints presented by various uses of all forms of energy to facilitate the expansion of the domestic energy supply and to encourage the efficient use of all such energy forms in a manner consistent with State energy ~~policy;~~policy.

(3) To continually review and coordinate all State government research, education and management programs relating to energy ~~matters and~~matters, to continually educate and inform the general public regarding such energy ~~matters;~~matters, and to actively engage in discussions with the federal government, its agencies, and its leaders to identify opportunities to increase domestic energy supply within North Carolina and its adjacent offshore waters.

(4) To recommend to the Governor and to the General Assembly needed energy legislation and rule making, and to recommend for implementation such modifications of energy policy, ~~plans~~ plans, and programs as the Council considers necessary and desirable."

SECTION 8.(f) G.S. 113B-7 reads as rewritten:

"§ **113B-7. Energy Efficiency Program; components.**

(a) The Energy Policy Council shall prepare a recommended Energy Efficiency Program for transmittal to the Governor, the initial plan to be completed by January 30, 1976.

(b) The Energy Efficiency Program shall be designed to assure the public health and safety of the people of North Carolina and to ~~encourage and promote~~ consider the conservation of energy through reducing wasteful, inefficient or uneconomical uses of energy resources.

(c) The Energy Efficiency Program ~~shall~~ may include but not be limited to the following recommendations:

(1) Recommendations to the Building Code Council for lighting, insulation, climate control systems and other building design and construction standards which increase the efficient use of energy and are economically feasible to implement;

(2) Recommendations to the Building Code Council for per unit energy requirement allotments based upon square footage for various classes of buildings which would reduce energy consumption, yet are both technically and economically feasible and not injurious to public health and safety;

(3) Recommendations for minimum levels of operating efficiency for all appliances whose use requires a significant amount of energy based upon both technical and economic feasibility considerations;

(4) Recommendations for State government purchases of supplies, vehicles and equipment and such operating practices as will make possible more efficient use of energy;

(5) Recommendations on energy conservation policies, programs and procedures for local units of government;

(6) Any other recommendations which the Energy Policy Council considers to be a significant part of a statewide conservation effort and which include provisions for sufficient incentives to further energy conservation;

(7) An economic and environmental impact analysis of the recommended program.

(d) In addition to specific conservation recommendations, the Energy Efficiency Program shall contain proposals for implementation of such recommendations as can be carried out by executive order. Upon completion of a draft recommended program, the Council shall arrange for its distribution to interested parties and shall make the program available to the public and the Council further shall set a date for public hearing on said program.

(e) Upon completion of the Energy Efficiency Program, the Council shall transmit said program, to be known as the State Energy Efficiency Program, to the Governor for approval or disapproval. Upon approval, the Governor shall assign administrative responsibility for such implementation as can be carried out by executive order to appropriate agencies of State government, and submit to the General Assembly such proposals which require legislative action for implementation. The Governor shall have the authority to accept, administer, and enforce federal programs, program measures and permissive delegations of authority delegated to the Governor by the President of the United States, Congress, or the United States Department of Energy, on behalf of the State of North Carolina, which pertain to the conservation of energy resources.

(f) The Governor shall transmit the approved Energy Efficiency Program to the President Pro Tempore of the Senate, to the Speaker of the House of Representatives, to the heads of all State agencies and shall further seek to publicize such plan and make it available to all units of local government and to the public at large.

(g) At least every ~~two~~ five years and whenever such changes take place as would significantly affect energy supply or demand in North Carolina, the Energy Policy Council shall review and, if necessary, revise the Energy Efficiency Program, transmitting such revised plan to the Governor pursuant to the procedures contained in subsections (e) and (f) of this section."

SECTION 8.(g) G.S. 113B-9 reads as rewritten:

"§ **113B-9. Emergency Energy Program; components.**

(a) The Energy Policy Council shall, in accordance with the provisions of this Article, develop contingency and emergency plans to deal with possible shortages of energy to protect public health, safety and welfare, such plans to be compiled into an Emergency Energy Program.

(b) ~~Within four months of July 1, 1975:~~If required for an update of the program provided under subsection (j) of this section:

(1) Each electric utility and natural gas utility in the State shall prepare and submit to the Energy Policy Council a proposed emergency curtailment plan setting forth proposals for identifying priority loads or users in the event of the declaration of an energy crisis pursuant to G.S. 113B-20, and proposals for supply allocation to such priority loads or users. Utilities regulated under Chapter 62 of the General Statutes may satisfy this requirement by submitting the General Load Reduction and System Restoration Plan that is prepared annually for the Utilities Commission.

(2) Each major oil producer doing business in this State as determined by the Energy Policy Council shall prepare and submit to the Energy Policy Council an analysis of how any national supply curtailment pursuant to federal regulations shall affect the supply for North Carolina and how priority users will be determined and available supplies allocated to such users.

(c) The Energy Policy Council shall encourage the preparation of joint emergency curtailment plans and analyses. If such cooperative plans and analyses are developed between two or more utilities, major producers or by an association of such companies, the joint plans or analyses may be submitted to the Energy Policy Council in lieu of information required pursuant to subsection (b) of this section.

(d) The Energy Policy Council shall collect from all relevant governmental agencies any existing contingency plans for dealing with sudden energy shortages or information related thereto.

(e) The Energy Policy Council shall hold one or more public hearings, investigate and review the plans submitted pursuant to this section, and, within nine months after July 1, 1975, the Energy Policy Council shall approve and recommend to the Governor guidelines for emergency curtailment to be known as the Emergency Energy Program and to be implemented

upon adoption by the Governor after the declaration of an energy crisis and pursuant to G.S. 113B-20 and 113B-23. Said program shall be based upon the plans presented to the Energy Policy Council, upon independent analysis and study by the Council, and upon information provided at the hearing or hearings, provided, however, that they are consistent with such federal programs and regulations as are already in effect at that time.

(f) The Emergency Energy Program shall provide for the maintenance of essential services, the protection of public health, safety, and welfare, and the maintenance of a sound basic State economy. For utilities regulated under Chapter 62 of the General Statutes, the program shall be consistent with the General Load Reduction and System Restoration Plan that is prepared annually for the Utilities Commission. Provisions also shall be made in said program to differentiate curtailment of energy consumption by users on the basis of ability to accommodate such curtailments, and shall also include, but not be limited to, the following:

(1) A variety of strategies and staged conservation measures of increasing intensity and authority to reduce energy use during an energy crisis, as defined in G.S. 113B-20 and guidelines and criteria for allocation of energy sources to priority users. The program shall contain alternative conservation actions and allocation plans to reasonably meet various foreseeable shortage circumstances and to allow a choice of appropriate responses;

(2) Evidence that the program is consistent with requirements of federal emergency energy conservation and allocation laws and regulations;

(3) Proposals to assist such individuals, institutions, agriculture and businesses which have engaged in energy saving measures;

(g) The Energy Policy Council shall carry out such investigations and studies as are necessary to determine if and when potentially serious shortages of energy are likely to affect North Carolina and the Council shall make recommendations to the Governor concerning administrative and legislative actions required to avert such shortages, such recommendations to be included as a section of the Emergency Energy Program.

(h) In addition to the above information and recommendations, the program shall contain proposals for implementation of such recommendations which include procedures, rules and regulations and agency administrative responsibilities for implementation, and shall further contain procedures for fair and equitable review of complaints and requests for special exemptions from emergency conservation measures or emergency allocations. Upon completion of a draft recommended plan, the Council shall arrange for its distribution to interested parties and shall make such plan available to the public and the Council further shall set a date for public hearing on said plan.

(i) Upon completion of the Emergency Energy Allocation Program, the Council and the Governor shall follow the procedures as outlined in G.S. 113B-7(e) and (f).

(j) The Council shall update the Emergency Energy Allocation Program ~~said program~~ upon ~~a~~ finding ~~by it~~ that an update is ~~justified and~~justified. The Council shall follow the procedures for adoption pursuant to G.S. 113B-7(e) and (f).

(k) The Governor shall have the authority to accept, administer and enforce federal programs, program measures and permissive delegations of authority delegated to the Governor by the President of the United States, Congress, or the United States Department of Energy, on behalf of the State of North Carolina, which pertain to actions necessary to deal with an actual or impending energy shortage."

SECTION 8.(h) G.S. 113B-11 reads as rewritten:

"§ **113B-11. Powers and authority.**

(a) The Energy Policy Council is authorized to secure directly from any officer, office, department, commission, board, bureau, institution and other agency of the State and its political subdivisions any information it deems necessary to carry out its functions; and all such officers and agencies shall cooperate with the Council and, to the extent permitted by law, furnish such information to the Council as it may request.

…

(e) Staff support required by the Council shall be supplied by the Division of Energy, Mineral, and Land Resources of the Department of Environment and Natural Resources. ~~The Department of Commerce shall provide the staffing capability to the Energy Policy Council so as to fully and effectively develop recommendations for a comprehensive State energy policy as contained in the provisions of this Article.~~ The Department of Commerce and the Utilities Commission ~~is~~ are hereby authorized to make ~~its~~ their staff available to the Council to assist in the development of a State energy policy."

SECTION 8.(i) G.S. 113B-12 reads as rewritten:

"§ **113B-12. Annual reports; contents.**

(a) ~~Beginning January 1, 1977, and every year thereafter,~~ Every two years the Energy Policy Council shall transmit to the Governor, the Speaker of the House of Representatives, the President Pro Tempore of the Senate, the Environmental Review Commission, the Joint Legislative Commission on Energy Policy, and the chairman of the Utilities Commission ~~Commission and the appropriate chairmen of the House and Senate committees concerned with energy matters,~~ a comprehensive report providing a general overview of energy conditions in the State. ~~On January 1, 1976, the Energy Policy Council shall transmit a progress report to the public officials named above.~~

(b) The report shall include, but not be limited to, the following:

(1) An overview of statewide growth and development as they relate to future requirements for energy, including patterns of urban and metropolitan expansion, shifts in transportation modes, modifications in building types and design, and other trends and factors which, as determined by the Council, will significantly affect energy needs;

(2) The level of statewide and multi-county regional energy demand for a five, 10- and 20-year forecast period which, in the judgment of the Council, can reasonably be met, with proposals as to possible energy supply sources;

(3) An assessment of growth trends in energy consumption and production and an identification of potential adverse social, economic, or environmental impacts which might be imposed by continuation of the present trends, including energy costs to consumers, significant increases in air, water, and other forms of pollution, threats to public health and safety, and loss of scenic and natural areas;

(4) An analysis of the role of energy efficiency, renewable energy, improvements to the State's energy infrastructure, and other means in meeting the State's current and projected energy demand;

(5) Repealed by Session Laws 2009-446, s. 9, effective August 7, 2009.

(6) Recommendations to the Governor and the General Assembly for additional administrative and legislative actions on energy matters;

(7) A summary of the Council's activities since ~~its inception,~~the last report, a description of major plans developed by the Council, an assessment of plan implementation, and a review of Council plans and programs for the coming biennium."

SECTION 8.(j) G.S. 113B-21(a) reads as rewritten:

"(a) ~~There is hereby created~~Upon the declaration of an energy crisis by the Governor, a Legislative Committee on Energy Crisis Management shall be created to consist of the Speaker, ~~as chairman,~~ the Speaker ~~pro tempore~~Pro Tempore of the House of ~~Representatives and~~Representatives, the President ~~pro tempore~~ Pro Tempore of the Senate, and the majority leader of the Senate. The Lieutenant Governor shall serve as chair and shall be a nonvoting ex officio member, provided, however, that ~~he~~ the chair shall vote to break a tie."

SECTION 8.(k) G.S. 113B-23 reads as rewritten:

"§ **113B-23. Administration of plans and procedures.**

(a) Upon the declaration of an energy crisis, pursuant to G.S. 113B-20, the Energy Policy Council shall become the emergency energy coordinating body for the State and shall carry out the following duties:

(1) Identify and determine the nature and severity of expected energy shortages;

(2) Provide for daily communications with and gather information from significant energy producers, distributors, transporters and major consumers, as determined by the Energy Policy Council, to carry out its responsibilities pursuant to this section;

(3) Provide data, carry out continuing assessments of the crisis situation, and make recommendations to the Governor and to the Legislative Committee on Energy Crisis Management for further action.

(b) Upon the declaration of an energy crisis, the Governor shall order the Energy Policy Council, the Utilities Commission, the Attorney General and other appropriate State and local agencies to implement and enforce the Emergency Energy Program pursuant to G.S. 113B-9 and any emergency rules, orders or regulations approved pursuant to G.S. 113B-22.

(c) Upon the declaration of an energy crisis, the Governor may employ such measures and give such direction to State and local offices and agencies as may be reasonable and necessary for the purpose of securing compliance with the provisions of this Article and with emergency rules, orders and regulations issued pursuant to G.S. 113B-22."

SECTION 8.(l) G.S. 114-4.2D reads as rewritten:

"§ **114-4.2D. Employment of attorney for Energy Policy Council of the Department of Environment and Natural Resources and the Energy Efficiency Program of the Department of Commerce.**

The Attorney General shall assign an attorney to work full time with the Energy Policy Council of the Department of Environment and Natural Resources and the Energy Efficiency Program of the Department of Commerce. Such attorney shall be subject to all provisions of Chapter 126 of the General Statutes relating to the State Personnel System. Such attorney shall also perform such additional duties as may be assigned by the Attorney General."

SECTION 8.(m) Article 7 of Chapter 143B of the General Statutes is amended by adding a new Part to read:

"Part 31. Energy Policy Council.

"**§ 143B-281.1. Energy Policy Council – transfer.**

The Energy Policy Council, as established by Chapter 113B of the General Statutes and other applicable laws of this State, is hereby transferred to the Department of Environment and Natural Resources by a Type II transfer as defined in G.S. 143A-6."

SECTION 8.(n) Notwithstanding G.S. 113B-3 or any other law to the contrary, the terms of all members of the Energy Policy Council serving as of the effective date of this act shall expire on the effective date of this act. Initial appointments shall be made pursuant to G.S. 113B-3(c), as amended by Section 8(e) of this act, no later than September 1, 2013.

PART IX. MODIFY ELECTRICAL REQUIREMENTS RULE TO ALLOW HOSPITALS TO USE COMPRESSED NATURAL GAS AS EMERGENCY FUEL

SECTION 9.(a) Definitions. – "Electrical Requirements Rule" means 10A NCAC 13B .6227 (Licensing of Hospitals: Electrical Requirements) for purposes of this section and its implementation.

SECTION 9.(b) Electrical Requirements Rule. – Until the effective date of the revised permanent rule that the Medical Care Commission is required to adopt pursuant to Section 9(c) of this act, the Commission and the Department of Health and Human Services shall implement the Electrical Requirements Rule, as provided in Section 9(c) of this act.

SECTION 9.(c) Implementation. – Notwithstanding subdivision (2) of subsection (f) of the Electrical Requirements Rule, the Commission shall authorize facilities licensed by the Department to use bi-fuel generators that operate with both liquid fuel and natural gas

(methane) that is not stored on the site, provided that the natural gas is delivered via pipe or pipeline by a natural gas utility. These bi-fuel generators shall be exempt from liquid fuel capacity standards established by the Commission. Bi-fuel generators that operate on both liquid and other gaseous fuels, including propane and butane, that are stored on the site shall also be authorized, provided that the combined capacity of both liquid and gaseous fuels meet minimum on-site fuel requirements established by the Commission. The Commission may adopt rules to require a licensed facility with a bi-fuel generator to develop a contingency plan for liquid fuel delivery onto the site in the event of a natural gas (methane) supply disruption.

SECTION 9.(d) Additional Rule-Making Authority. – The Commission shall adopt a rule to replace the Electrical Requirements Rule. Notwithstanding G.S. 150B-19(4), the rule adopted by the Commission pursuant to this section shall be substantively identical to the provisions of Section 9(c) of this act. Rules adopted pursuant to this section are not subject to Part 3 of Article 2A of Chapter 150B of the General Statutes. Rules adopted pursuant to this section shall become effective as provided in G.S. 150B-21.3(b1) as though 10 or more written objections had been received as provided by G.S. 150B-21.3(b2).

SECTION 9.(e) Effective Date. – Subsection (b) of this section expires when permanent rules to replace subsection (b) of this section have become effective, as provided by subsection (c) of this section.

PART X. EFFECTIVE DATE

SECTION 10. G.S. 113B-30, enacted by Section 6 of this act, becomes effective only if authorized by the General Assembly in the Current Operations and Capital Improvements Appropriations Act of 2013. The first report due pursuant to G.S. 113B-12, as amended by Section 8(m) of this act, shall be transmitted on or before January 1, 2014. Except as otherwise provided, the remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 24th day of July, 2013.

Became law upon approval of the Governor at 4:25 p.m. on the 29th day of July, 2013.

Session Law 2013-366 **S.B. 353**

AN ACT TO MODIFY CERTAIN LAWS PERTAINING TO ABORTION, TO LIMIT ABORTION COVERAGE UNDER HEALTH INSURANCE PLANS OFFERED UNDER A HEALTH BENEFIT EXCHANGE OPERATING IN NORTH CAROLINA OR OFFERED BY A COUNTY OR MUNICIPALITY, TO PROHIBIT A PERSON FROM PERFORMING OR ATTEMPTING TO PERFORM AN ABORTION WHEN THE SEX OF THE UNBORN CHILD IS A SIGNIFICANT FACTOR IN SEEKING THE ABORTION, TO DIRECT THE DEPARTMENT OF HEALTH AND HUMAN SERVICES TO AMEND RULES AND CONDUCT A STUDY PERTAINING TO CLINICS CERTIFIED BY THE DEPARTMENT OF HEALTH AND HUMAN SERVICES TO BE SUITABLE FACILITIES FOR THE PERFORMANCE OF ABORTIONS, TO AMEND THE WOMEN'S RIGHT TO KNOW ACT, AND TO INCREASE PENALTIES FOR UNSAFE MOVEMENTS BY DRIVERS THAT THREATEN THE PROPERTY AND SAFETY OF MOTORCYCLISTS.

The General Assembly of North Carolina enacts:

PART I. HEALTH CARE CONSCIENCE PROTECTION

SECTION 1.(a) G.S. 14-45.1(e) reads as rewritten:

"(e) Nothing in this section shall require a physician licensed to practice medicine in North ~~Carolina or~~ Carolina, any ~~nurse~~ nurse, or any other health care provider who shall state an objection to abortion on moral, ethical, or religious grounds, to perform or participate in medical procedures which result in an abortion. The refusal of ~~such physician~~ a physician,

nurse, or health care provider to perform or participate in these medical procedures shall not be a basis for damages for ~~such~~ the refusal, or for any disciplinary or any other recriminatory action against ~~such physician.~~the physician, nurse, or health care provider. For purposes of this section, the phrase "health care provider" shall have the same meaning as defined under G.S. 90-410(1)."

SECTION 1.(b) G.S. 14-45.1(f) reads as rewritten:

"(f) Nothing in this section shall require a ~~hospital or~~hospital, other health care ~~institution~~ institution, or other health care provider to perform an abortion or to provide abortion services."

SECTION 1.(c) This section becomes effective 30 days after it becomes law.

PART II. LIMITS ON ABORTION FUNDING UNDER HEALTH INSURANCE PLANS OFFERED THROUGH A HEALTH INSURANCE EXCHANGE OR BY LOCAL GOVERNMENTS

SECTION 2.(a) Article 51 of Chapter 58 of the General Statutes is amended by adding the following new section to read:

"**§ 58-51-63. Coverage for abortions not allowed in plans offered through Exchange.**

(a) Pursuant to the authority granted to states under 42 U.S.C. § 18023(a), no qualified health plan offered through an Exchange created under Subchapter III of Chapter 157 of Title 42 of the U.S. Code and operating within this State shall include coverage for abortion services.

(b) The coverage limitation in subsection (a) of this section shall not apply to an abortion performed when the pregnancy is the result of an act of rape or incest or the life of the mother is endangered by a physical disorder, physical illness, or physical injury, including a life-endangering physical condition caused by or arising from the pregnancy itself."

SECTION 2.(b) G.S. 153A-92(d) reads as rewritten:

"(d) A county may purchase life insurance or health insurance or both for the benefit of all or any class of county officers and employees as a part of their compensation. A county may provide other fringe benefits for county officers and employees. In providing health insurance to county officers and employees, a county shall not provide abortion coverage greater than that provided by the State Health Plan for Teachers and State Employees under Article 3B of Chapter 135 of the General Statutes."

SECTION 2.(c) G.S. 160A-162(b) reads as rewritten:

"(b) The council may purchase life, health, and any other forms of insurance for the benefit of all or any class of city employees and their dependents, and may provide other fringe benefits for city employees. In providing health insurance to city employees, the council shall not provide abortion coverage greater than that provided by the State Health Plan for Teachers and State Employees under Article 3B of Chapter 135 of the General Statutes."

SECTION 2.(d) Subsections (a) and (d) of this section are effective when they become law. Subsections (b) and (c) of this section apply to insurance contracts or policies issued, renewed, or amended on or after October 1, 2013.

PART III. CLARIFY LAW/PROHIBIT SEX-SELECTIVE ABORTION

SECTION 3.(a) Chapter 90 of the General Statutes is amended by adding the following new Article to read:

"Article 1K.

"Certain Abortions Prohibited.

"**§ 90-21.120. Definitions.**

The following definitions apply in this Article:

(1) Abortion. – As defined in G.S. 90-21.81(1).

(2) Attempt to perform an abortion. – As defined in G.S. 90-21.81(2).

(3) Woman. – As defined in G.S. 90-21.81(11).

"§ **90-21.121. Sex-selective abortion prohibited.**

(a) Notwithstanding any of the provisions of G.S. 14-45.1, no person shall perform or attempt to perform an abortion upon a woman in this State with knowledge, or an objective reason to know, that a significant factor in the woman seeking the abortion is related to the sex of the unborn child.

(b) Nothing in this section shall be construed as placing an affirmative duty on a physician to inquire as to whether the sex of the unborn child is a significant factor in the pregnant woman seeking the abortion.

"§ **90-21.122. Civil remedies.**

(a) Any person who violates any provision of this Article shall be liable for damages, including punitive damages pursuant to Chapter 1D of the General Statutes, and may be enjoined from future acts.

(b) A claim for damages against any person who has violated a provision of this Article may be sought by (i) the woman upon whom an abortion was performed or attempted in violation of this Article, (ii) any person who is the spouse or guardian of the woman upon whom an abortion was performed or attempted in violation of this Article, or (iii) a parent of the woman upon whom an abortion was performed or attempted in violation of this Article if the woman was a minor at the time the abortion was performed or attempted.

(c) A claim for injunctive relief against any person who has violated a provision of this Article may be sought by (i) the woman upon whom an abortion was performed or attempted in violation of this Article, (ii) any person who is the spouse, guardian, or current or former licensed health care provider of the woman upon whom an abortion was performed or attempted in violation of this Article, or (iii) a parent of the woman upon whom an abortion was performed or attempted in violation of this Article if the woman was a minor at the time the abortion was performed or attempted.

(d) Any person who violates the terms of an injunction issued in accordance with this section shall be subject to civil contempt and shall be fined ten thousand dollars ($10,000) for the first violation, fifty thousand dollars ($50,000) for the second violation, and one hundred thousand dollars ($100,000) for the third violation and each subsequent violation. Each performance or attempted performance of an abortion in violation of the terms of an injunction is a separate violation. The fine shall be the exclusive penalty for civil contempt under this subsection. The fine under this subsection shall be cumulative. No fine shall be assessed against the woman upon whom an abortion is performed or attempted.

(e) The clear proceeds of any civil penalty assessed under this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.

"§ **90-21.123. Protection of privacy in court proceedings.**

In every proceeding or action brought under this Article, the court shall rule whether the anonymity of any woman upon whom an abortion has been performed or attempted shall be preserved from public disclosure if the woman does not give her consent to the disclosure. The court, upon motion or sua sponte, shall make the ruling and, upon determining that the woman's anonymity should be preserved, shall issue orders to the parties, witnesses, and counsel and shall direct the sealing of the record and exclusion of individuals from courtrooms or hearing rooms to the extent necessary to safeguard the woman's identity from public disclosure. Each order issued pursuant to this section shall be accompanied by specific written findings explaining (i) why the anonymity of the woman should be preserved from public disclosure, (ii) why the order is essential to that end, (iii) how the order is narrowly tailored to serve that interest, and (iv) why no reasonable, less restrictive alternative exists. In the absence of written consent of the woman upon whom an abortion has been performed or attempted, anyone who brings an action under G.S. 90-21.122 shall do so under a pseudonym. This section may not be construed to conceal the identity of the plaintiff or of witnesses from the defendant."

SECTION 3.(b) G.S. 90-21.81(2) reads as rewritten:

"§ **90-21.81. Definitions.**

The following definitions apply in this Article:

…

(2) Attempt to perform an abortion. – An act, or an omission of a statutorily required act, that, under the circumstances as the actor believes them to be, constitutes a substantial step in a course of conduct planned to culminate in the performance of an abortion in violation of this ~~Article.~~Article or Article 1K of this Chapter.

…."

SECTION 3.(c) This section becomes effective October 1, 2013, and applies to violations occurring on or after that date.

PART IV. AMEND WOMEN'S RIGHT TO KNOW ACT

SECTION 4.(a) G.S. 90-21.82(1) reads as rewritten:

"§ **90-21.82. Informed consent to abortion.**

No abortion shall be performed upon a woman in this State without her voluntary and informed consent. Except in the case of a medical emergency, consent to an abortion is voluntary and informed only if all of the following conditions are satisfied:

(1) At least 24 hours prior to the abortion, a physician or qualified professional has orally informed the woman, by telephone or in person, of all of the following:

a. The name of the physician who will perform the ~~abortion.~~abortion to ensure the safety of the procedure and prompt medical attention to any complications that may arise. The physician performing a surgical abortion shall be physically present during the performance of the entire abortion procedure. The physician prescribing, dispensing, or otherwise providing any drug or chemical for the purpose of inducing an abortion shall be physically present in the same room as the patient when the first drug or chemical is administered to the patient.

…."

SECTION 4.(b) G.S. 90-21.83 is amended by adding a new subsection to read:

"(d) The Department shall cause to be available on the State Web site a list of resources the woman may contact for assistance upon receiving information from the physician performing the ultrasound that the unborn child may have a disability or serious abnormality and shall do so in a manner prescribed by subsection (b) of this section."

SECTION 4.(c) The Department of Health and Human Services (Department) shall amend its rules pertaining to clinics certified by the Department to be suitable facilities for the performance of abortions under G.S. 14-45.1. The Department is authorized to apply any requirement for the licensure of ambulatory surgical centers to the standards applicable to clinics certified by the Department to be suitable facilities for the performance of abortions. The rules shall ensure that standards for clinics certified by the Department address the on-site recovery phase of patient care at the clinic, protect patient privacy, provide quality assurance, and ensure that patients with complications receive the necessary medical attention, while not unduly restricting access. The Department may issue temporary rules, in addition to its permanent rulemaking authority, to enforce this subsection. No later than January 1, 2014, the Department shall report to the Joint Legislative Oversight Committee on Health and Human Services on its progress in amending the rules.

SECTION 4.(d) The Department of Health and Human Services, Division of Health Service Regulations, shall study what resources the Division needs to adequately enforce regulations for clinics certified by the Department to be suitable facilities for the performance of abortions. By April 1, 2014, the Department shall report the findings and any recommendations of this study to the Joint Legislative Oversight Committee on Health and Human Services and the Fiscal Research Division.

SECTION 4.(e) This section becomes effective October 1, 2013.

PART V. MOTORCYCLE SAFETY

SECTION 5.(a) G.S. 20-154 reads as rewritten:

"§ **20-154. Signals on starting, stopping or turning.**

…

(a1) A person who violates subsection (a) of this section and causes a motorcycle operator to change travel lanes or leave that portion of any public street or highway designated as travel lanes shall be responsible for an infraction and shall be assessed a fine of not less than two hundred dollars ($200.00). A person who violates subsection (a) of this section that results in a crash causing property damage or personal injury to a motorcycle operator or passenger shall be responsible for an infraction and shall be assessed a fine of not less than five hundred dollars ~~($500.00).~~($500.00) unless subsection (a2) of this section applies.

(a2) A person who violates subsection (a) of this section and the violation results in a crash causing property damage in excess of five thousand dollars ($5,000) or a serious bodily injury as defined in G.S. 20-160.1(b) to a motorcycle operator or passenger shall be responsible for an infraction and shall be assessed a fine of not less than seven hundred fifty dollars ($750.00). A violation of this subsection shall be treated as a failure to yield right-of-way to a motorcycle for purposes of assessment of points under G.S. 20-16(c). In addition, the trial judge shall have the authority to order the license of any driver violating this subsection suspended for a period not to exceed 30 days. If a judge orders suspension of a person's drivers license pursuant to this subsection, the judge may allow the licensee a limited driving privilege for a period not to exceed the period of suspension. The limited driving privilege shall be issued in the same manner and under the terms and conditions prescribed in G.S. 20-16.1(b)(1), (2), (3), (4), (5), and G.S. 20-16.1(g).

…."

SECTION 5.(b) This section becomes effective October 1, 2013, and applies to violations committed on or after that date.

PART VI. SEVERABILITY AND EFFECTIVE DATE

SECTION 6.(a) If any provision of this act or its application is held invalid, the invalidity does not affect other provisions or applications of this act that can be given effect without the invalid provisions or application, and to this end the provisions of this act are severable. If any provision of this act is temporarily or permanently restrained or enjoined by judicial order, this act shall be enforced as though such restrained or enjoined provisions had not been adopted, provided that whenever such temporary or permanent restraining order or injunction is stayed, dissolved, or otherwise ceases to have effect, such provisions shall have full force and effect.

SECTION 6.(b) This act is effective as provided herein. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 26th day of July, 2013.

Became law upon approval of the Governor at 4:25 p.m. on the 29th day of July, 2013.

Session Law 2013-367 **S.B. 379**

AN ACT AUTHORIZING ECONOMIC DEVELOPMENT INCENTIVE PROGRAMS TO UTILIZE FUNDS TO SUPPORT NEW AND EXPANDED NATURAL GAS SERVICE AND TO SUPPORT PROPANE GAS SERVICE FOR AGRICULTURAL PROJECTS.

The General Assembly of North Carolina enacts:

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

"§ **143B-437.020. Utilization of economic development incentive programs to support new and expanded natural gas service and to support propane gas service for agricultural projects.**

(a) Definitions.

(1) Agriculture. – Activities defined in G.S. 106-581.1, whether performed on or off the farm.

(2) Economic development incentive programs. – All economic development incentives set forth in G.S. 143B-437.07(c).

(3) Eligible project. – A discrete and specific economic development project that would expand agricultural production or processing capabilities that requires new or expanded natural gas or propane gas service.

(4) Excess infrastructure costs. – Any project carrying costs incurred by a natural gas local distribution company to provide new or expanded natural gas service to an eligible project that exceed the income the infrastructure generates for the local natural gas distribution company, including any standard rates, special contract rates, minimum margin agreements, and contributions in aid of construction collected by the natural gas local distribution company.

(5) Project carrying costs. – All costs, including depreciation, taxes, operation and maintenance expenses, and, for a natural gas local distribution company, a return on investment equal to the rate of return approved by the Utilities Commission in the natural gas local distribution company's most recent general rate case under G.S. 62-133.

(b) Facilitation of New and Expanded Natural Gas Service to Agricultural Projects. Economic development incentive programs may utilize funds for agricultural projects for the following purposes:

(1) To allow the owner of an eligible project to pay for excess infrastructure costs associated with the eligible project.

(2) To allow the owner of an eligible project to pay for cost-effective alternatives that would reduce excess infrastructure costs, including:

a. Relocating equipment that uses natural gas to a different location on the property nearer existing natural gas lines to reduce or eliminate the project carrying costs.

b. Adding supplemental uses of natural gas to increase annual volume throughput and enhance the feasibility of new natural gas service, including fuel for tractors and equipment, greenhouses, plant or animal production, feed grain drying, and natural gas powered irrigation pumps.

(c) Facilitation of New and Expanded Propane Gas Service to Agricultural Production. – Economic development incentive programs may utilize funds for agricultural projects to allow the owner of an eligible project to pay for cost-effective alternatives that would reduce infrastructure costs or that would increase energy efficiency by adding supplemental uses of propane gas to increase annual volume throughput, reduce energy consumption, reduce energy costs, or to enhance the feasibility of the project or the provision of propane gas service, including the conversion or repowering of tractors, trucks, vehicles, and mowers to use propane gas, or to provide propane gas powered tractors, equipment, appliances, irrigation pumps, and dryers to service agricultural production facilities or operations, or to provide a dispensing station for the project owner's use.

(d) Use of Incentive Funds. – Incentive funds utilized in accordance with subsections (b) and (c) of this section shall be paid directly to the owner of the eligible project.

(e) Termination. – Incentive funds utilized in accordance with subsection (b) of this section shall terminate when there are no longer excess infrastructure costs.

(f) Reimbursement. – The owner of an eligible project who receives incentive funds in accordance with subsections (b) or (c) of this section shall be responsible for reimbursing the incentive funds if, for any reason, the eligible project does not maintain business operations for a period of at least five years from the date of the initial utilization of incentive funds.

(g) Limits on Eligible Project Incentive Funds. – Total incentive funds for all eligible projects under subsections (b) and (c) of this section shall not cumulatively exceed five million dollars ($5,000,000) per biennium. The managers of economic development incentive programs shall promptly report payments made in accordance with subsections (b) and (c) of this section to the Department of Commerce, and the Department of Commerce shall promptly notify the managers of economic development incentive programs when the limitation provided by this subsection has been reached for the biennium.

(h) Mechanism not Exclusive. – The utilization of incentive funds in accordance with subsections (b) or (c) of this section is intended to supplement other available mechanisms for the extension of service to new or expanding customers and may be used in conjunction with special contract arrangements, minimum margin agreements, and contributions in aid of construction."

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

In the General Assembly read three times and ratified this the 22nd day of July, 2013.

Became law upon approval of the Governor at 4:25 p.m. on the 29th day of July, 2013.

Session Law 2013-368 **S.B. 683**

AN ACT TO CREATE A SAFE HARBOR FOR VICTIMS OF HUMAN TRAFFICKING AND FOR PROSTITUTED MINORS, MODIFY THE MEMBERSHIP OF THE NORTH CAROLINA HUMAN TRAFFICKING COMMISSION, AND PROVIDE FOR PAROLE CONSIDERATION OF CERTAIN INMATES SENTENCED UNDER THE FAIR SENTENCING ACT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 14-43.11 reads as rewritten:

"§ **14-43.11. Human trafficking.**

(a) A person commits the offense of human trafficking when that ~~person~~ person (i) knowingly or in reckless disregard of the consequences of the action recruits, entices, harbors, transports, provides, or obtains by any means another person with the intent that the other person be held in involuntary servitude or sexual ~~servitude.~~servitude or (ii) willfully or in reckless disregard of the consequences of the action causes a minor to be held in involuntary servitude or sexual servitude.

(b) A person who violates this section is guilty of a Class F felony if the victim of the offense is an adult. A person who violates this section is guilty of a Class C felony if the victim of the offense is a minor.

(c) Each violation of this section constitutes a separate offense and shall not merge with any other offense. Evidence of failure to deliver benefits or perform services standing alone shall not be sufficient to authorize a conviction under this section.

(c1) Mistake of age is not a defense to prosecution under this section. Consent of a minor is not a defense to prosecution under this section.

(d) A person who is not a legal resident of North Carolina, and would consequently be ineligible for State public benefits or services, shall be eligible for the public benefits and services of any State agency if the person is otherwise eligible for the public benefit and is a victim of an offense charged under this section. Eligibility for public benefits and services shall terminate at such time as the victim's eligibility to remain in the United States is terminated under federal law."

SECTION 2. G.S. 14-43.12 reads as rewritten:

"§ **14-43.12. Involuntary servitude.**

(a) A person commits the offense of involuntary servitude when that person knowingly and willfully or in reckless disregard of the consequences of the action holds another in involuntary servitude.

(b) A person who violates this section is guilty of a Class F felony if the victim of the offense is an adult. A person who violates this section is guilty of a Class C felony if the victim of the offense is a minor.

(c) Each violation of this section constitutes a separate offense and shall not merge with any other offense. Evidence of failure to deliver benefits or perform services standing alone shall not be sufficient to authorize a conviction under this section.

(c1) Mistake of age is not a defense to prosecution under this section. Consent of a minor is not a defense to prosecution under this section.

(d) Nothing in this section shall be construed to affect the laws governing the relationship between an unemancipated minor and his or her parents or legal guardian.

(e) If any person reports a violation of this section, which violation arises out of any contract for labor, to any party to the contract, the party shall immediately report the violation to the sheriff of the county in which the violation is alleged to have occurred for appropriate action. A person violating this subsection shall be guilty of a Class 1 misdemeanor."

SECTION 3. G.S. 14-43.13 reads as rewritten:

"§ **14-43.13. Sexual servitude.**

(a) A person commits the offense of sexual servitude when that person knowingly or in reckless disregard of the consequences of the action subjects or maintains another in sexual servitude.

(b) A person who violates this section is guilty of a ~~Class F~~ Class D felony if the victim of the offense is an adult. A person who violates this section is guilty of a Class C felony if the victim of the offense is a minor.

(b1) Mistake of age is not a defense to prosecution under this section. Consent of a minor is not a defense to prosecution under this section.

(c) Each violation of this section constitutes a separate offense and shall not merge with any other offense. Evidence of failure to deliver benefits or perform services standing alone shall not be sufficient to authorize a conviction under this section."

SECTION 4. The following statutes are repealed: G.S. 14-190.18, 14-190.19, 14-204.1, 14-205, 14-207, and 14-208.

SECTION 5. Article 27 of Chapter 14 of the General Statutes reads as rewritten:

"Article 27.

"Prostitution.

"§ **14-203. Definition of terms.**

~~The term "prostitution" shall be construed to include the offering or receiving of the body for sexual intercourse for hire, and shall also be construed to include the offering or receiving of the body for indiscriminate sexual intercourse without hire. The term "assignation" shall be construed to include the making of any appointment or engagement for prostitution or any act in furtherance of such appointment or engagement.~~

The following definitions apply in this Article:

(1) Advance prostitution. – The term includes all of the following:

a. Soliciting for a prostitute by performing any of the following acts when acting as other than a prostitute or a patron of a prostitute:

1. Soliciting another for the purpose of prostitution.

2. Arranging or offering to arrange a meeting of persons for the purpose of prostitution.

3. Directing another to a place knowing the direction is for the purpose of prostitution.

4. Using the Internet, including any social media Web site, to solicit another for the purpose of prostitution.

b. Keeping a place of prostitution by controlling or exercising control over the use of any place that could offer seclusion or shelter for the practice of prostitution and performing any of the following acts when acting as other than a prostitute or a patron of a prostitute:

1. Knowingly granting or permitting the use of the place for the purpose of prostitution.
2. Granting or permitting the use of the place under circumstances from which the person should reasonably know that the place is used or is to be used for purposes of prostitution.
3. Permitting the continued use of the place after becoming aware of facts or circumstances from which the person should know that the place is being used for the purpose of prostitution.

(2) Minor. – Any person who is less than 18 years of age.

(3) Profit from prostitution. – When acting as other than a prostitute, to receive anything of value for personally rendered prostitution services or to receive anything of value from a prostitute, if the thing received is not for lawful consideration and the person knows it was earned in whole or in part from the practice of prostitution.

(4) Prostitute. – A person who engages in prostitution.

(5) Prostitution. – The performance of, offer of, or agreement to perform vaginal intercourse, any sexual act as defined in G.S. 14-27.1, or any sexual contact as defined in G.S. 14-27.1, for the purpose of sexual arousal or gratification for any money or other consideration.

"§ **14-204. ~~Prostitution and various acts abetting prostitution unlawful.~~Prostitution.**

~~It shall be unlawful:~~

~~(1) To keep, set up, maintain, or operate any place, structure, building or conveyance for the purpose of prostitution or assignation.~~

~~(2) To occupy any place, structure, building, or conveyance for the purpose of prostitution or assignation; or for any person to permit any place, structure, building or conveyance owned by him or under his control to be used for the purpose of prostitution or assignation, with knowledge or reasonable cause to know that the same is, or is to be, used for such purpose.~~

~~(3) To receive, or to offer or agree to receive any person into any place, structure, building, or conveyance for the purpose of prostitution or assignation, or to permit any person to remain there for such purpose.~~

~~(4) To direct, take, or transport, or to offer or agree to take or transport, any person to any place, structure, or building or to any other person, with knowledge or reasonable cause to know that the purpose of such directing, taking, or transporting is prostitution or assignation.~~

~~(5) To procure, or to solicit, or to offer to procure or solicit for the purpose of prostitution or assignation.~~

~~(6) To reside in, enter, or remain in any place, structure, or building, or to enter or remain in any conveyance, for the purpose of prostitution or assignation.~~

~~(7) To engage in prostitution or assignation, or to aid or abet prostitution or assignation by any means whatsoever.~~

(a) Offense. – Any person who willfully engages in prostitution is guilty of a Class 1 misdemeanor.

(b) First Offender; Conditional Discharge. –

(1) Whenever any person who has not previously been convicted of or placed on probation for a violation of this section pleads guilty to or is found guilty of a violation of this section, the court, without entering a judgment and with the consent of such person, shall place the person on probation pursuant to this subsection.

(2) When a person is placed on probation, the court shall enter an order specifying a period of probation of 12 months and shall defer further proceedings in the case until the conclusion of the period of probation or until the filing of a petition alleging violation of a term or condition of probation.

(3) The conditions of probation shall be that the person (i) not violate any criminal statute of any jurisdiction, (ii) refrain from possessing a firearm or other dangerous weapon, (iii) submit to periodic drug testing at a time and in a manner as ordered by the court, but no less than three times during the period of the probation, with the cost of the testing to be paid by the probationer, (iv) obtain a vocational assessment administered by a program approved by the court, and (v) attend no fewer than 10 counseling sessions administered by a program approved by the court.

(4) The court may, in addition to other conditions, require that the person do any of the following:

a. Make a report to and appear in person before or participate with the court or such courts, person, or social service agency as directed by the court in the order of probation.

b. Pay a fine and costs.

c. Attend or reside in a facility established for the instruction or residence of defendants on probation.

d. Support the person's dependents.

e. Refrain from having in the person's body the presence of any illicit drug prohibited by the North Carolina Controlled Substances Act, unless prescribed by a physician, and submit samples of the person's blood or urine or both for tests to determine the presence of any illicit drug.

(5) Upon violation of a term or condition of probation, the court may enter a judgment on its original finding of guilt and proceed as otherwise provided.

(6) Upon fulfillment of the terms and conditions of probation, the court shall discharge the person and dismiss the proceedings against the person. Upon the discharge of the person and dismissal of the proceedings against the person under this subsection, the person is eligible to apply for expunction of records pursuant to G.S. 15A-145.6.

(7) Discharge and dismissal under this subsection shall not be deemed a conviction for purposes of structured sentencing or for purposes of disqualifications or disabilities imposed by law upon conviction of a crime.

(8) There may be only one discharge and dismissal under this section.

(c) Immunity From Prosecution for Minors. – Notwithstanding any other provision of this section, if it is determined, after a reasonable detention for investigative purposes, that a person suspected of or charged with a violation of this section is a minor, that person shall be immune from prosecution under this section and instead shall be taken into temporary protective custody as an undisciplined juvenile pursuant to Article 19 of Chapter 7B of the General Statutes. Pursuant to the provisions of G.S. 7B-301, a law enforcement officer who takes a minor into custody under this section shall immediately report an allegation of a violation of G.S. 14-43.11 and G.S. 14-43.13 to the director of the department of social services in the county where the minor resides or is found, as appropriate, which shall commence an

initial investigation into child abuse or child neglect within 24 hours pursuant to G.S. 7B-301 and G.S. 7B-302.

"**§ 14-205.1. Solicitation of prostitution.**

Except as otherwise provided in this section, any person who solicits another for the purpose of prostitution is guilty of a Class 1 misdemeanor for a first offense and a Class H felony for a second or subsequent offense. Any person 18 years of age or older who willfully solicits a minor for the purpose of prostitution is guilty of a Class G felony. Any person who willfully solicits a person who is severely or profoundly mentally disabled for the purpose of prostitution is guilty of a Class E felony. Punishment under this section may include participation in a program devised for the education and prevention of sexual exploitation (i.e. "John School"), where available. A person who violates this subsection shall not be eligible for a disposition of prayer for judgment continued under any circumstances.

"**§ 14-205.2. Patronizing a prostitute.**

(a) Any person who willfully performs any of the following acts with a person not his or her spouse commits the offense of patronizing a prostitute:

(1) Engages in vaginal intercourse, any sexual act as defined in G.S. 14-27.1, or any sexual contact as defined in G.S. 14-27.1, for the purpose of sexual arousal or gratification with a prostitute.

(2) Enters or remains in a place of prostitution with intent to engage in vaginal intercourse, any sexual act as defined in G.S. 14-27.1, or any sexual contact as defined in G.S. 14-27.1, for the purpose of sexual arousal or gratification.

(b) Except as provided in subsections (c) and (d) of this section, a first violation of this section is a Class A1 misdemeanor. Unless a higher penalty applies, a second or subsequent violation of this section is a Class G felony.

(c) A violation of this section is a Class F felony if the defendant is 18 years of age or older and the prostitute is a minor.

(d) A violation of this section is a Class D felony if the prostitute is a severely or profoundly mentally disabled person.

"**§ 14-205.3. Promoting prostitution.**

(a) Any person who willfully performs any of the following acts commits promoting prostitution:

(1) Advances prostitution as defined in G.S. 14-203.

(2) Profits from prostitution by doing any of the following:

a. Compelling a person to become a prostitute.

b. Receiving a portion of the earnings from a prostitute for arranging or offering to arrange a situation in which the person may practice prostitution.

c. Any means other than those described in sub-subdivisions a. and b. of this subdivision, including from a person who patronizes a prostitute. This sub-subdivision does not apply to a person engaged in prostitution who is a minor. A person cannot be convicted of promoting prostitution under this sub-subdivision if the practice of prostitution underlying the offense consists exclusively of the accused's own acts of prostitution under G.S. 14-204.

(b) Any person who willfully performs any of the following acts commits the offense of promoting prostitution of a minor or mentally disabled person:

(1) Advances prostitution as defined in G.S. 14-203, where a minor or severely or profoundly mentally disabled person engaged in prostitution, or any person engaged in prostitution in the place of prostitution is a minor or is severely or profoundly mentally disabled at the time of the offense.

(2) Profits from prostitution by any means where the prostitute is a minor or is severely or profoundly mentally disabled at the time of the offense.

(3) Confines a minor or a severely or profoundly mentally disabled person against the person's will by the infliction or threat of imminent infliction of great bodily harm, permanent disability, or disfigurement or by administering to the minor or severely or profoundly mentally disabled person, without the person's consent or by threat or deception and for other than medical purposes, any alcoholic intoxicant or a drug as defined in Article 5 of Chapter 90 of the General Statutes (North Carolina Controlled Substances Act) and does any of the following:

a. Compels the minor or severely or profoundly mentally disabled person to engage in prostitution.

b. Arranges a situation in which the minor or severely or profoundly mentally disabled person may practice prostitution.

c. Profits from prostitution by the minor or severely or profoundly mentally disabled person.

For purposes of this subsection, administering drugs or an alcoholic intoxicant to a minor or a severely or profoundly mentally disabled person, as described in subdivision (3) of this subsection, shall be deemed to be without consent if the administering is done without the consent of the parents or legal guardian or if the administering is performed or permitted by the parents or legal guardian for other than medical purposes. Mistake of age is not a defense to a prosecution under this subsection.

(c) Unless a higher penalty applies, a violation of subsection (a) of this section is a Class F felony. A violation of subsection (a) of this section by a person with a prior conviction for a violation of this section or a violation of G.S. 14-204 (prostitution), G.S. 14-204.1 (solicitation of prostitution), or G.S. 14-204.2 (patronizing a prostitute) is a Class E felony.

(d) Unless a higher penalty applies, a violation of subdivision (1) or (2) of subsection (b) of this section is a Class D felony. A violation of subdivision (3) of subsection (b) of this section is a Class C felony. Any violation of subsection (b) of this section by a person with a prior conviction for a violation of this section or a violation of G.S. 14-204 (prostitution), G.S. 14-204.1 (solicitation of prostitution), G.S. 14-204.2 (patronizing a prostitute) is a Class C felony.

"§ **14-205.4. Certain probation conditions.**

(a) The court may order any convicted defendant to be examined for sexually transmitted infections. If a person convicted of a crime under this Article receives a sentence which includes probation and that person is infected with a sexually transmitted infection, the period of probation may commence only upon such terms and conditions as shall ensure medical treatment and prevent the spread of the infection.

(b) No female convicted under this Article shall be placed on probation in the care or charge of any person except a female probation officer.

"§ **14-206. Reputation and prior conviction admissible as evidence.**

In the trial of any person charged with a violation of any of the provisions of this Article, testimony of a prior conviction, or testimony concerning the reputation of any place, structure, or building, and of the person or persons who reside in or frequent the same, and of the defendant, shall be admissible in evidence in support of the charge."

SECTION 6. G.S. 15A-290(c)(1) reads as rewritten:

"(c) Orders authorizing or approving the interception of wire, oral, or electronic communications may be granted, subject to the provisions of this Article and Chapter 119 of the United States Code, when the interception may provide, or has provided, evidence of any of the following offenses, or any conspiracy to commit these offenses, or when the interception may expedite the apprehension of persons indicted for the commission of these offenses:

(1) Any felony offense against a minor, including any violation of G.S. 14-27.7 (Intercourse and sexual offenses with certain victims; consent no defense), G.S. 14-41 (Abduction of children), G.S. 14-43.11 (Human trafficking), G.S. 14-43.12 (Involuntary servitude), G.S. 14-43.13 (Sexual servitude),

G.S. 14-190.16 (First degree sexual exploitation of a minor), G.S. 14-190.17 (Second degree sexual exploitation of a minor), ~~G.S. 14-190.18 (Promoting prostitution of a minor), G.S. 14-190.19 (Participating in prostitution of a minor), or~~ G.S. 14-202.1 (Taking indecent liberties with ~~children).~~children), G.S. 14-205.2(c) or (d) (Patronizing a prostitute who is a minor or a mentally disabled person), or G.S. 14-205.3(b) (Promoting prostitution of a minor or a mentally disabled person).

...."

SECTION 7. G.S. 15A-1341 is amended by adding a new subsection to read:

"(a3) Deferred Prosecution for Prostitution. – A defendant whose prosecution is deferred pursuant to G.S. 14-204(c) may be placed on probation as provided in this Article."

SECTION 8. G.S. 15A-1342(a1) reads as rewritten:

"(a1) Supervision of Defendants on Deferred Prosecution. – The Section of Community Corrections of the Division of Adult Correction of the Department of Public Safety may be ordered by the court to supervise an offender's compliance with the terms of a deferred prosecution agreement entered into under ~~G.S. 15A-1341(a1).~~G.S. 15A-1341(a1) or (a3). Violations of the terms of the agreement shall be reported to the court as provided in this Article and to the district attorney in the district in which the agreement was entered."

SECTION 9. G.S. 15A-1415(b) is amended by adding a new subdivision to read:

"(10) The defendant was convicted of a first offense of prostitution under G.S. 14-204, and the court did not discharge the defendant and dismiss the charge pursuant to G.S. 14-204(b); the defendant's participation in the offense was a result of having been a victim of human trafficking under G.S. 14-43.11, sexual servitude under G.S. 14-43.13, or the federal Trafficking Victims Protection Act (22 U.S.C. § 7102(13)); and the defendant seeks to have the conviction vacated."

SECTION 10. Article 89 of Chapter 15A of the General Statutes is amended by adding a new section to read:

"**§ 15A-1416.1. Motion by the defendant to vacate prostitution conviction for sex trafficking victim.**

(a) A motion for appropriate relief seeking to vacate a conviction for prostitution based on the grounds set out in G.S. 15A-1415(b)(10) shall be filed in the court where the conviction occurred. The motion may be filed at any time following the entry of a verdict or finding of guilty under G.S. 14-204. Any motion for appropriate relief filed under this section shall state why the facts giving rise to this motion were not presented to the trial court and shall be made with due diligence after the defendant has ceased to be a victim of such trafficking or has sought services for victims of such offenses, subject to reasonable concerns for the safety of the defendant, family members of the defendant, or other victims of such trafficking that may be jeopardized by the bringing of such motion or for other reasons consistent with the purpose of this section. Reasonable notice of the motion shall be served upon the State.

(b) The court may grant the motion if, in the discretion of the court, the violation was a result of the defendant having been a victim of human trafficking or sexual servitude. Evidence of such may include any of the following documents listed in subdivisions (1) through (3) of this subsection; alternatively, the court may consider such other evidence as it deems of sufficient credibility and probative value in determining whether the defendant is a trafficking victim:

(1) Certified records of federal or State court proceedings which demonstrate that the defendant was a victim of a person charged with an offense under G.S. 14-43.11, G.S. 14-43.13, or under 22 U.S.C. Chapter 78.

(2) Certified records of "approval notices" or "enforcement certifications" generated from federal immigration proceedings available to such victims.

(3) A sworn statement from a trained professional staff of a victim services organization, an attorney, a member of the clergy, or a medical or other

professional from whom the defendant has sought assistance in addressing the trauma associated with being trafficked.

(c) If the court grants a motion under this section, the court must vacate the conviction and may take such additional action as is appropriate in the circumstances."

SECTION 11. Article 5 of Chapter 14 of the General Statutes is amended by adding a new section to read:

"**§ 15A-145.6. Expunctions for certain defendants convicted of prostitution.**

(a) The following definitions apply in this section:

(1) Prostitution offense. – A conviction for (i) violation of G.S. 14-204 or (ii) engaging in prostitution in violation of G.S. 14-204(7) for an offense that occurred prior to October 1, 2013.

(2) Violent felony or violent misdemeanor. – A Class A through G felony or a Class A1 misdemeanor that includes assault as an essential element of the offense.

(b) A person who has been convicted of a prostitution offense may file a petition in the court where the person was convicted for expunction of the prostitution offense from the person's criminal record provided that all the following criteria are met:

(1) The person has not previously been convicted of any violent felony or violent misdemeanor under the laws of the United States or the laws of this State or any other state.

(2) The person satisfies any one of the following criteria:

a. The person's participation in the prostitution offense was a result of having been a trafficking victim under G.S. 14-43.11 (human trafficking) or G.S. 14-43.13 (sexual servitude) or a victim of a severe form of trafficking under the federal Trafficking Victims Protection Act (22 U.S.C. § 7102(13)).

b. The person has no prior convictions for a prostitution offense and at least three years have passed since the date of conviction or the completion of any active sentence, period of probation, and post-release supervision, whichever occurs later.

c. The person received a conditional discharge pursuant to G.S. 14-204(b).

(c) The petition shall contain all of the following:

(1) An affidavit by the petitioner that the petitioner (i) has no prior conviction of a violent felony or violent misdemeanor, (ii) has been of good moral character since the date of conviction of the prostitution offense in question, and (iii) has not been convicted of any felony or misdemeanor under the laws of the United States or the laws of this State or any other state since the date of the conviction of the prostitution offense in question.

(2) Verified affidavits of two persons, who are not related to the petitioner or to each other by blood or marriage, that they know the character and reputation of the petitioner in the community in which the petitioner lives and that the petitioner's character and reputation are good.

(3) A statement that the petition is a motion in the cause in the case wherein the petitioner was convicted.

(4) An application on a form approved by the Administrative Office of the Courts requesting and authorizing (i) a State and national criminal history record check by the Department of Justice using any information required by the Administrative Office of the Courts to identify the individual; (ii) a search by the Department of Justice for any outstanding warrants or pending criminal cases; and (iii) a search of the confidential record of expunctions maintained by the Administrative Office of the Courts. The application shall be forwarded to the Department of Justice and to the Administrative Office

of the Courts, which shall conduct the searches and report their findings to the court.

(5) An affidavit by the petitioner that no restitution orders or civil judgments representing amounts ordered for restitution entered against the petitioner are outstanding.

(d) The petition shall be served upon the district attorney of the court wherein the case was tried resulting in conviction. The district attorney shall have 30 days thereafter in which to file any objection thereto and shall be duly notified as to the date of the hearing of the petition.

(e) The court in which the petition was filed shall take the following steps and shall consider the following issues in rendering a decision upon a petition for expunction of records of a prostitution offense under this section:

(1) Call upon a probation officer for additional investigation or verification of the petitioner's conduct during the period since the date of conviction of the prostitution offense in question.

(2) Review any other information the court deems relevant, including, but not limited to, affidavits or other testimony provided by law enforcement officers and district attorneys.

(f) The court shall order that the person be restored, in the contemplation of the law, to the status the person occupied before the arrest or indictment or information if the court finds all of the following after a hearing:

(1) The criteria set out in subsection (b) of this section are satisfied.

(2) The petitioner has remained of good moral character and has been free of conviction of any felony or misdemeanor, other than a traffic violation, since the date of conviction of the prostitution offense in question.

(3) The petitioner has no outstanding warrants or pending criminal cases.

(4) The petitioner has no outstanding restitution orders or civil judgments representing amounts ordered for restitution entered against the petitioner.

(5) The search of the confidential records of expunctions conducted by the Administrative Office of the Courts shows that the petitioner has not been previously granted an expunction, other than an expunction for a prostitution offense.

(g) No person as to whom an order has been entered pursuant to subsection (f) of this section shall be held thereafter under any provision of any laws to be guilty of perjury or otherwise giving a false statement by reason of that person's failure to recite or acknowledge the arrest, indictment, information, trial, or conviction. Persons pursuing certification under the provisions of Chapter 17C or 17E of the General Statutes, however, shall disclose any and all prostitution convictions to the certifying Commission regardless of whether or not the prostitution convictions were expunged pursuant to the provisions of this section.

Persons required by State law to obtain a criminal history record check on a prospective employee shall not be deemed to have knowledge of any convictions expunged under this section.

(h) The court shall also order that the conviction of the prostitution offense be expunged from the records of the court and direct all law enforcement agencies bearing record of the same to expunge their records of the conviction. The clerk shall notify State and local agencies of the court's order as provided in G.S. 15A-150.

(i) Any other applicable State or local government agency shall expunge from its records entries made as a result of the conviction ordered expunged under this section. The agency shall also reverse any administrative actions taken against a person whose record is expunged under this section as a result of the charges or convictions expunged. This subsection shall not apply to the Department of Justice for DNA records and samples stored in the State DNA Database and the State DNA Databank.

(j) Any person eligible for expunction of a criminal record under this section shall be notified about the provisions of this section by the probation officer assigned to that person. If

no probation officer is assigned, notification of the provisions of this section shall be provided by the court at the time of the conviction of the prostitution offense which is to be expunged under this section."

SECTION 12. G.S. 15A-150(a) reads as rewritten:

"(a) Notification to AOC. – The clerk of superior court in each county in North Carolina shall, as soon as practicable after each term of court, file with the Administrative Office of the Courts the names of the following:

(1) Persons granted an expunction under this Article.
(2) Persons granted a conditional discharge under G.S. 14-50.29.
(3) Persons granted a conditional discharge under G.S. 90-96 or G.S. 90-113.14.
(4) Repealed by Session Laws 2010-174, s. 7, effective October 1, 2010.
(5) Persons granted a conditional discharge under G.S. 14-204."

SECTION 13. G.S. 15A-151(a) reads as rewritten:

"(a) The Administrative Office of the Courts shall maintain a confidential file containing the names of those people for whom it received a notice under G.S. 15A-150. The information contained in the file may be disclosed only as follows:

(1) To a judge of the General Court of Justice of North Carolina for the purpose of ascertaining whether a person charged with an offense has been previously granted a discharge or an expunction.
(2) To a person requesting confirmation of the person's own discharge or expunction, as provided in G.S. 15A-152.
(3) To the General Court of Justice of North Carolina in response to a subpoena or other court order issued pursuant to a civil action under G.S. 15A-152.
(4) If the criminal record was expunged pursuant to G.S. 15A-145.4 or G.S. 15A-145.5, to State and local law enforcement agencies for employment purposes only.
(5) If the criminal record was expunged pursuant to ~~G.S. 15A-145.4 or G.S. 15A-145.5,~~G.S. 15A-145.4, 15A-145.5, or 145.6, to the North Carolina Criminal Justice Education and Training Standards Commission for certification purposes only.
(6) If the criminal record was expunged pursuant to ~~G.S. 15A-145.4 or G.S. 15A-145.5,~~G.S. 15A-145.4, 15A-145.5, or 15A-145.6, to the North Carolina Sheriffs' Education and Training Standards Commission for certification purposes only."

SECTION 14. G.S. 15A-1340.16(d) is amended by adding the following subdivisions to read:

"(19a) The offense is a violation of G.S. 14-43.11 (human trafficking), G.S. 14-43.12 (involuntary servitude), or G.S. 14-43.13 (sexual servitude) and involved multiple victims.
(19b) The offense is a violation of G.S. 14-43.11 (human trafficking), G.S. 14-43.12 (involuntary servitude), or G.S. 14-43.13 (sexual servitude), and the victim suffered serious injury as a result of the offense."

SECTION 15. G.S. 15B-2(2) reads as rewritten:

"§ **15B-2. Definitions.**

As used in this Article, the following definitions apply, unless the context requires otherwise:

…

(2) Claimant. – Any of the following persons who claims an award of compensation under this Article:
a. A victim;
b. A dependent of a deceased victim;

c. A third person who is not a collateral source and who provided benefit to the victim or his family other than in the course or scope of his employment, business, or profession;

d. A person who is authorized to act on behalf of a victim, a dependent, or a third person described in ~~subdivision c.~~sub-subdivision c. of this subdivision;

e. A person who was convicted of a first offense under G.S. 14-204 and whose participation in the offense was a result of having been a trafficking victim under G.S. 14-43.11 or G.S. 14-43.13 or a victim of a severe form of trafficking under the federal Trafficking Victims Protection Act (22 U.S.C. § 7102(13)).

The claimant, however, may not be the offender or an accomplice of the offender who committed the criminally injurious ~~conduct.~~conduct, except as provided in sub-subdivision e. of this subdivision.

…."

SECTION 16. G.S. 7B-101(1) reads as rewritten:

"§ **7B-101. Definitions.**

As used in this Subchapter, unless the context clearly requires otherwise, the following words have the listed meanings:

(1) Abused juveniles. – Any juvenile less than 18 years of age whose parent, guardian, custodian, or caretaker:

a. Inflicts or allows to be inflicted upon the juvenile a serious physical injury by other than accidental means;

b. Creates or allows to be created a substantial risk of serious physical injury to the juvenile by other than accidental means;

c. Uses or allows to be used upon the juvenile cruel or grossly inappropriate procedures or cruel or grossly inappropriate devices to modify behavior;

d. Commits, permits, or encourages the commission of a violation of the following laws by, with, or upon the juvenile: first-degree rape, as provided in G.S. 14-27.2; rape of a child by an adult offender, as provided in G.S. 14-27.2A; second degree rape as provided in G.S. 14-27.3; first-degree sexual offense, as provided in G.S. 14-27.4; sexual offense with a child by an adult offender, as provided in G.S. 14-27.4A; second degree sexual offense, as provided in G.S. 14-27.5; sexual act by a custodian, as provided in G.S. 14-27.7; unlawful sale, surrender, or purchase of a minor, as provided in G.S. 14-43.14; crime against nature, as provided in G.S. 14-177; incest, as provided in G.S. 14-178; preparation of obscene photographs, slides, or motion pictures of the juvenile, as provided in G.S. 14-190.5; employing or permitting the juvenile to assist in a violation of the obscenity laws as provided in G.S. 14-190.6; dissemination of obscene material to the juvenile as provided in G.S. 14-190.7 and G.S. 14-190.8; displaying or disseminating material harmful to the juvenile as provided in G.S. 14-190.14 and G.S. 14-190.15; first and second degree sexual exploitation of the juvenile as provided in G.S. 14-190.16 and G.S. 14-190.17; promoting the prostitution of the juvenile as provided in ~~G.S. 14-190.18;~~ G.S. 14-205.3(b); and taking indecent liberties with the juvenile, as provided in G.S. 14-202.1;

e. Creates or allows to be created serious emotional damage to the juvenile; serious emotional damage is evidenced by a juvenile's

severe anxiety, depression, withdrawal, or aggressive behavior toward himself or others; ~~or~~

f. Encourages, directs, or approves of delinquent acts involving moral turpitude committed by the ~~juvenile.~~juvenile; or

g. Commits or allows to be committed an offense under G.S. 14-43.11 (human trafficking), G.S. 14-43.12 (involuntary servitude), or G.S. 14-43.13 (sexual servitude) against the child.

…."

SECTION 17. Article 10A of Chapter 14 of the General Statutes is amended by adding a new section to read:

"**§ 14-43.20. Mandatory restitution; victim services; forfeiture.**

(a) Definition. – For purposes of this section, a "victim" is a person subjected to the practices set forth in G.S. 14-43.11, 14-43.12, or 14-43.13.

(b) Restitution. – Restitution for a victim is mandatory under this Article. At a minimum, the court shall order restitution in an amount equal to the value of the victim's labor as guaranteed under the Minimum Wage Law and overtime provisions of the Fair Labor Standards Act (FLSA). In addition, the judge may order any other amount of loss identified, including the gross income or value to the defendant of the victim's labor or services.

(c) Trafficking Victim Services. – Subject to the availability of funds, the Department of Health and Human Services may provide or fund emergency services and assistance to individuals who are victims of one or more offenses under G.S. 14-43.11, 14-43.12, or 14-43.13.

(d) Certification. – The Attorney General, a district attorney, or any law enforcement official shall certify in writing to the United States Department of Justice or other federal agency, such as the United States Department of Homeland Security, that an investigation or prosecution under this Article for a violation of G.S. 14-43.11, 14-43.12, or 14-43.13 has begun and the individual who is a likely victim of one of those crimes is willing to cooperate or is cooperating with the investigation to enable the individual, if eligible under federal law, to qualify for an appropriate special immigrant visa and to access available federal benefits. Cooperation with law enforcement shall not be required of victims who are under 18 years of age. This certification shall be made available to the victim and the victim's designated legal representative.

(e) A person who commits a violation of G.S. 14-43.11, 14-43.12, or 14-43.13 is subject to the property forfeiture provisions set forth in G.S. 14-2.3."

SECTION 18. The introductory language in G.S. 14-190.13 reads as rewritten:

"§ **14-190.13. Definitions for certain offenses concerning minors.**

The following definitions apply to G.S. 14-190.14, displaying material harmful to minors; G.S. 14-190.15, disseminating or exhibiting to minors harmful material or performances; G.S. 14-190.16, first degree sexual exploitation of a minor; G.S. 14-190.17, second degree sexual exploitation of a minor; G.S. 14-190.17A, third degree sexual exploitation of a ~~minor; G.S. 14-190.18, promoting prostitution of a minor; G.S. 14-190.19, participating in prostitution of a minor.~~minor."

SECTION 19. G.S. 14-208.6(5) reads as rewritten:

"(5) "Sexually violent offense" means a violation of G.S. 14-27.2 (first degree rape), G.S. 14-27.2A (rape of a child; adult offender), G.S. 14-27.3 (second degree rape), G.S. 14-27.4 (first degree sexual offense), G.S. 14-27.4A (sex offense with a child; adult offender), G.S. 14-27.5 (second degree sexual offense), G.S. 14-27.5A (sexual battery), former G.S. 14-27.6 (attempted rape or sexual offense), G.S. 14-27.7 (intercourse and sexual offense with certain victims), G.S. 14-27.7A(a)(statutory rape or sexual offense of person who is 13-, 14-, or 15-years-old where the defendant is at least six years older), G.S. 14-43.13 (subjecting or maintaining a person for sexual servitude), G.S. 14-178 (incest between near relatives), G.S. 14-190.6

(employing or permitting minor to assist in offenses against public morality and decency), G.S. 14-190.9(a1)(felonious indecent exposure), G.S. 14-190.16 (first degree sexual exploitation of a minor), G.S. 14-190.17 (second degree sexual exploitation of a minor), G.S. 14-190.17A (third degree sexual exploitation of a minor), ~~G.S. 14-190.18 (promoting prostitution of a minor), G.S. 14-190.19 (participating in the prostitution of a minor),~~ G.S. 14-202.1 (taking indecent liberties with children), G.S. 14-202.3 (Solicitation of child by computer or certain other electronic devices to commit an unlawful sex act), G.S. 14-202.4(a)(taking indecent liberties with a student), G.S. 14-205.2(c) or (d) (patronizing a prostitute who is a minor or a mentally disabled person), G.S. 14-205.3(b) (promoting prostitution of a minor or a mentally disabled person), G.S. 14-318.4(a1)(parent or caretaker commit or permit act of prostitution with or by a juvenile), or G.S. 14-318.4(a2)(commission or allowing of sexual act upon a juvenile by parent or guardian). The term also includes the following: a solicitation or conspiracy to commit any of these offenses; aiding and abetting any of these offenses."

SECTION 20. G.S. 15A-1371(a) reads as rewritten:

"(a) Eligibility. – Unless his sentence includes a minimum sentence, a prisoner serving a term of imprisonment for a conviction of impaired driving under G.S. 20-138.1 other than one included in a sentence of special probation imposed under authority of this Subchapter is eligible for release on parole at any time. A prisoner whose sentence includes a minimum term of imprisonment imposed under authority of this Subchapter is eligible for release on parole only upon completion of the service of that minimum term or one fifth of the maximum penalty allowed by law for the offense for which the prisoner is sentenced, whichever is less, less any credit allowed under G.S. 15A-1355(c) and Article 19A of Chapter 15 of the General Statutes. A prisoner sentenced under the Fair Sentencing Act for a Class D through Class J felony, who meets the criteria established pursuant to this section, is eligible for parole consideration after completion of the service of at least 20 years imprisonment less any credit allowed under applicable State law."

SECTION 21. G.S. 15A-622 is amended by adding a new subsection to read:

"(i) An investigative grand jury may be convened pursuant to subsection (h) of this section if the petition alleges the commission of, attempt to commit or solicitation to commit, or a conspiracy to commit a violation of G.S. 14-43.11 (human trafficking), G.S. 14-43.12 (involuntary servitude), or G.S. 14-43.13 (sexual servitude)."

SECTION 22. G.S. 115C-296(d)(2) reads as rewritten:

"(2) The State Board shall automatically revoke the license of a teacher or school administrator without the right to a hearing upon receiving verification of the identity of the teacher or school administrator together with a certified copy of a criminal record showing that the teacher or school administrator has entered a plea of guilty or nolo contendere to or has been finally convicted of any of the following crimes: Murder in the first or second degree, G.S. 14-17; Conspiracy or solicitation to commit murder, G.S. 14-18.1; Rape or sexual offense as defined in Article 7A of Chapter 14 of the General Statutes. Felonious assault with deadly weapon with intent to kill or inflicting serious injury, G.S. 14-32; Kidnapping, G.S. 14-39; Abduction of children, G.S. 14-41; Crime against nature, G.S. 14-177; Incest, G.S. 14-178 or G.S. 14-179; Employing or permitting minor to assist in offense against public morality and decency, G.S. 14-190.6; Dissemination to minors under the age of 16 years, G.S. 14-190.7; Dissemination to minors under the age of 13 years, G.S. 14-190.8; Displaying material harmful to minors, G.S. 14-190.14; Disseminating harmful material to minors, G.S. 14-190.15; First degree sexual exploitation of a minor, G.S. 14-190.16; Second degree

sexual exploitation of a minor, G.S. 14-190.17; Third degree sexual exploitation of a minor, G.S. 14-190.17A; ~~Promoting prostitution of a minor, G.S. 14-190.18; Participating in prostitution of a minor, G.S. 14-190.19;~~ Taking indecent liberties with children, G.S. 14-202.1; Solicitation of child by computer to commit an unlawful sex act, G.S. 14-202.3; Taking indecent liberties with a student, G.S. 14-202.4; Prostitution, G.S. 14-204; Patronizing a prostitute who is a minor or a mentally disabled person, G.S. 14-205.2(c) or (d); Promoting prostitution of a minor or a mentally disabled person, G.S. 14-205.3(b); and child abuse under G.S. 14-318.4. The Board shall mail notice of its intent to act pursuant to this subdivision by certified mail, return receipt requested, directed to the teacher or school administrator at their last known address. The notice shall inform the teacher or school administrator that it will revoke the person's license unless the teacher or school administrator notifies the Board in writing within 10 days after receipt of the notice that the defendant identified in the criminal record is not the same person as the teacher or school administrator. If the teacher or school administrator provides this written notice to the Board, the Board shall not revoke the license unless it can establish as a fact that the defendant and the teacher or school administrator are the same person."

SECTION 23. Subsections (a) through (k) of Section 15.3A of S.L. 2012-142 are codified as subsections (a) through (k) of G.S. 143A-55.10, respectively.

SECTION 24. G.S. 143A-55.10, as codified by Section 21 of this act, reads as rewritten:

"§ **143A–55.10. North Carolina Human Trafficking Commission.**

(a) Establishment. – There is established in the Department of Justice the North Carolina Human Trafficking Commission. For purposes of this section, "Commission" means the North Carolina Human Trafficking Commission.

(b) ~~Members.~~Membership. – The Commission shall consist of 12 members as follows:

(1) The President Pro Tempore of the Senate shall appoint one representative from each of the following:
  a. The public at large.
  b. A county sheriff's department.
  c. A city or town police department.
  d. Legal Aid of North Carolina.

(2) The Speaker of the House of Representatives shall appoint one representative from each of the following:
  a. The public at large.
  ~~b. A county sheriff's department.~~
  ~~c. A city or town police department.~~
  b. North Carolina Coalition Against Human Trafficking.
  c. A faith-based shelter or benefits organization providing services to victims of human trafficking.
  d. A district attorney.

(3) The Governor shall appoint one representative from ~~the public at large.~~each of the following:
  a. The Department of Labor.
  b. The Department of Justice.
  c. The Department of Public Safety.
  d. A health care representative.

~~(4) The following persons, or their designees, shall serve as ex officio members of the Commission:~~
  ~~a. The Secretary of Public Safety.~~
  ~~b. The Secretary of Administration.~~

~~c. The Secretary of Labor.~~
~~d. The Secretary of Health and Human Services.~~
~~e. The Attorney General.~~

(c) Powers. – The Commission shall have the following powers:

(1) To apply for and receive, on behalf of the State, funding from federal, public or private initiatives, grant programs, or donors that will assist in examining and countering the problem of human trafficking in North Carolina.

(2) To commission, fund, and facilitate quantitative and qualitative research to explore the specific ways human trafficking is occurring in North Carolina and the links to international and domestic human trafficking, and to assist in creating measurement, assessment, and accountability mechanisms.

(3) To contribute to efforts to inform and educate law enforcement personnel, social services providers, and the general public about human trafficking so that human traffickers can be prosecuted and victim-survivors can receive appropriate services.

(4) To suggest new policies, procedures, or legislation to further the work of eradicating human trafficking and to provide assistance and review with new policies, procedures, and legislation.

(5) To assist in developing regional response teams or other coordinated efforts to counter human trafficking at the level of law enforcement, legal services, social services, and nonprofits.

(6) To identify gaps in law enforcement or service provision and recommend solutions to those gaps.

(7) To consider whether human trafficking should be added to the list of criminal convictions that require registration under the sex offender and public protection registration program.

(d) ~~Terms.~~Terms and Chair. – Members shall serve ~~until the Commission terminates.~~two-year terms, with no prohibition against being reappointed. Any individual appointed to serve on the Commission shall serve until his or her successor is appointed and qualified. The chair shall be appointed biennially by the Governor from among the membership of the Commission.

(e) Meetings. – The chair shall convene the Commission. Meetings shall be held as often as necessary, but not less than four times a year.

(f) Quorum. – A majority of the members of the Commission shall constitute a quorum for the transaction of business. The affirmative vote of a majority of the members present at meetings of the Commission shall be necessary for action to be taken by the Commission.

(g) Vacancies. – A vacancy on the Commission or as chair of the Commission resulting from the resignation of a member or otherwise shall be filled in the same manner in which the original appointment was made, and the term shall be for the balance of the unexpired term.

(h) Removal. – The Commission may remove a member for misfeasance, malfeasance, nonfeasance, or neglect of duty.

(i) Compensation. – Commission members shall receive no per diem for their services but shall be entitled to receive travel allowances in accordance with the provisions of G.S. 138-5 or G.S. 138-6, as appropriate.

(j) Staffing. – The Department of Justice shall be responsible for staffing the Commission.

(k) ~~Termination.~~Funding. – ~~The Commission established under this section shall terminate on December 31, 2014.~~From funds available to the Department of Justice, the Attorney General shall allocate monies to fund the work of the Commission."

SECTION 25. Section 20 of this act is effective when it becomes law. The remainder of this act becomes effective October 1, 2013, and applies to offenses committed on or after that date. Prosecutions for offenses committed before the effective date of this act are

not abated or affected by this act, and the statutes that would be applicable but for this act remain applicable to those prosecutions.

In the General Assembly read three times and ratified this the 25th day of July, 2013.

Became law upon approval of the Governor at 4:25 p.m. on the 29th day of July, 2013.

Session Law 2013-369 **H.B. 937**

AN ACT TO AMEND STATE FIREARMS LAWS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 14-269 is amended by adding a new subsection to read:

"(a2) This prohibition does not apply to a person who has a concealed handgun permit issued in accordance with Article 54B of this Chapter, has a concealed handgun permit considered valid under G.S. 14-415.24, or is exempt from obtaining a permit pursuant to G.S. 14-415.25, provided the weapon is a handgun, is in a closed compartment or container within the person's locked vehicle, and the vehicle is in a parking area that is owned or leased by State government. A person may unlock the vehicle to enter or exit the vehicle, provided the handgun remains in the closed compartment at all times and the vehicle is locked immediately following the entrance or exit."

SECTION 2. G.S. 14-269.2 is amended by adding the following new subsections to read:

"(i) The provisions of this section shall not apply to an employee of an institution of higher education as defined in G.S. 116-143.1 or a nonpublic post-secondary educational institution who resides on the campus of the institution at which the person is employed when all of the following criteria are met:

(1) The employee's residence is a detached, single-family dwelling in which only the employee and the employee's immediate family reside.

(2) The institution is either:

a. An institution of higher education as defined by G.S. 116-143.1.

b. A nonpublic post-secondary educational institution that has not specifically prohibited the possession of a handgun pursuant to this subsection.

(3) The weapon is a handgun.

(4) The handgun is possessed in one of the following manners as appropriate:

a. If the employee has a concealed handgun permit that is valid under Article 54B of this Chapter, or who is exempt from obtaining a permit pursuant to that Article, the handgun may be on the premises of the employee's residence or in a closed compartment or container within the employee's locked vehicle that is located in a parking area of the educational property of the institution at which the person is employed and resides. Except for direct transfer between the residence and the vehicle, the handgun must remain at all times either on the premises of the employee's residence or in the closed compartment of the employee's locked vehicle. The employee may unlock the vehicle to enter or exit, but must lock the vehicle immediately following the entrance or exit if the handgun is in the vehicle.

b. If the employee is not authorized to carry a concealed handgun pursuant to Article 54B of this Chapter, the handgun may be on the premises of the employee's residence, and may only be in the employee's vehicle when the vehicle is occupied by the employee and the employee is immediately leaving the campus or is driving

directly to their residence from off campus. The employee may possess the handgun on the employee's person outside the premises of the employee's residence when making a direct transfer of the handgun from the residence to the employee's vehicle when the employee is immediately leaving the campus or from the employee's vehicle to the residence when the employee is arriving at the residence from off campus.

(j) The provisions of this section shall not apply to an employee of a public or nonpublic school who resides on the campus of the school at which the person is employed when all of the following criteria are met:

(1) The employee's residence is a detached, single-family dwelling in which only the employee and the employee's immediate family reside.

(2) The school is either:

a. A public school which provides residential housing for enrolled students.

b. A nonpublic school which provides residential housing for enrolled students and has not specifically prohibited the possession of a handgun pursuant to this subsection.

(3) The weapon is a handgun.

(4) The handgun is possessed in one of the following manners as appropriate:

a. If the employee has a concealed handgun permit that is valid under Article 54B of this Chapter, or who is exempt from obtaining a permit pursuant to that Article, the handgun may be on the premises of the employee's residence or in a closed compartment or container within the employee's locked vehicle that is located in a parking area of the educational property of the school at which the person is employed and resides. Except for direct transfer between the residence and the vehicle, the handgun must remain at all times either on the premises of the employee's residence or in the closed compartment of the employee's locked vehicle. The employee may unlock the vehicle to enter or exit, but must lock the vehicle immediately following the entrance or exit if the handgun is in the vehicle.

b. If the employee is not authorized to carry a concealed handgun pursuant to Article 54B of this Chapter, the handgun may be on the premises of the employee's residence, and may only be in the employee's vehicle when the vehicle is occupied by the employee and the employee is immediately leaving the campus or is driving directly to their residence from off campus. The employee may possess the handgun on the employee's person outside the premises of the employee's residence when making a direct transfer of the handgun from the residence to the employee's vehicle when the employee is immediately leaving the campus or from the employee's vehicle to the residence when the employee is arriving at the residence from off campus.

(k) The provisions of this section shall not apply to a person who has a concealed handgun permit that is valid under Article 54B of this Chapter, or who is exempt from obtaining a permit pursuant to that Article, who has a handgun in a closed compartment or container within the person's locked vehicle or in a locked container securely affixed to the person's vehicle. A person may unlock the vehicle to enter or exit the vehicle provided the firearm remains in the closed compartment at all times and the vehicle is locked immediately following the entrance or exit."

SECTION 3. G.S. 14-269.3(b) reads as rewritten:

"(b) This section shall not apply to any of the following:

(1) A person exempted from the provisions of ~~G.S. 14-269;~~G.S. 14-269.

(2) The owner or lessee of the premises or business ~~establishment;~~establishment.

(3) A person participating in the event, if ~~he~~ the person is carrying a gun, rifle, or pistol with the permission of the owner, lessee, or person or organization sponsoring the ~~event; and~~event.

(4) A person registered or hired as a security guard by the owner, lessee, or person or organization sponsoring the event.

(5) A person carrying a handgun if the person has a valid concealed handgun permit issued in accordance with Article 54B of this Chapter, has a concealed handgun permit considered valid under G.S. 14-415.24, or is exempt from obtaining a permit pursuant to G.S. 14-415.25. This subdivision shall not be construed to permit a person to carry a handgun on any premises where the person in legal possession or control of the premises has posted a conspicuous notice prohibiting the carrying of a concealed handgun on the premises in accordance with G.S. 14-415.11(c)."

SECTION 4. G.S. 14-316 reads as rewritten:

"§ **14-316. Permitting young children to use dangerous firearms.**

(a) It shall be unlawful for any ~~parent, guardian, or person standing in loco parentis,~~person to knowingly permit ~~his~~ a child under the age of 12 years to have ~~the~~ access to, or possession, custody or use in any manner whatever, of any gun, pistol or other dangerous firearm, whether such weapon be loaded or unloaded, ~~except when such~~ unless the person has the permission of the child's parent or guardian, and the child is under the supervision of ~~the parent, guardian or person standing in loco parentis. It shall be unlawful for any other person to knowingly furnish such child any weapon enumerated herein.~~an adult. Any person violating the provisions of this section shall be guilty of a Class 2 misdemeanor.

(b) Air rifles, air pistols, and BB guns shall not be deemed "dangerous firearms" within the meaning of subsection (a) of this section except in the following counties: Anson, Caldwell, Caswell, Chowan, Cleveland, Cumberland, Durham, Forsyth, Gaston, Harnett, Haywood, Mecklenburg, Stanly, Stokes, Surry, Union, Vance."

SECTION 5. G.S. 15A-1340.16A reads as rewritten:

"§ **15A-1340.16A. Enhanced sentence if defendant is convicted of a Class A, B1, B2, C, D, or E felony and the defendant used, displayed, or threatened to use or display a firearm or deadly weapon during the commission of the felony.**

(a), (b) Repealed by Session Laws 2003-378, s. 2, effective August 1, 2003.

(c) If a person is convicted of a ~~Class A, B1, B2, C, D, or E~~ felony and it is found as provided in this section that: (i) the person committed the felony by using, displaying, or threatening the use or display of a firearm or deadly weapon and (ii) the person actually possessed the firearm or deadly weapon about his or her person, then the person shall have the minimum term of imprisonment to which the person is sentenced for that felony increased ~~by 60 months. The maximum term of imprisonment shall be the maximum term that corresponds to the minimum term after it is increased by 60 months, as specified in G.S. 15A-1340.17(e) and (e1).~~ as follows:

(1) If the felony is a Class A, B1, B2, C, D, or E felony, the minimum term of imprisonment to which the person is sentenced for that felony shall be increased by 72 months. The maximum term of imprisonment shall be the maximum term that corresponds to the minimum term after it is increased by 72 months, as specified in G.S. 15A-1340.17(e) and (e1).

(2) If the felony is a Class F or G felony, the minimum term of imprisonment to which the person is sentenced for that felony shall be increased by 36 months. The maximum term of imprisonment shall be the maximum term that corresponds to the minimum term after it is increased by 36 months, as specified in G.S. 15A-1340.17(d).

(3) If the felony is a Class H or I felony, the minimum term of imprisonment to which the person is sentenced for that felony shall be increased by 12 months. The maximum term of imprisonment shall be the maximum term that corresponds to the minimum term after it is increased by 12 months, as specified in G.S. 15A-1340.17(d).

(d) An indictment or information for the ~~Class A, B1, B2, C, D, or E~~ felony shall allege in that indictment or information the facts set out in subsection (c) of this section. The pleading is sufficient if it alleges that the defendant committed the felony by using, displaying, or threatening the use or display of a firearm or deadly weapon and the defendant actually possessed the firearm or deadly weapon about the defendant's person. One pleading is sufficient for all ~~Class A, B1, B2, C, D, or E~~ felonies that are tried at a single trial.

(e) The State shall prove the issues set out in subsection (c) of this section beyond a reasonable doubt during the same trial in which the defendant is tried for the felony unless the defendant pleads guilty or no contest to the issues. If the defendant pleads guilty or no contest to the felony but pleads not guilty to the issues set out in subsection (c) of this section, then a jury shall be impaneled to determine the issues.

(f) Subsection (c) of this section does not apply if the evidence of the use, display, or threatened use or display of the firearm or deadly weapon is needed to prove an element of the felony or if the person is not sentenced to an active term of imprisonment."

SECTION 6. G.S. 14-415.23 reads as rewritten:

"§ **14-415.23. Statewide uniformity.**

(a) It is the intent of the General Assembly to prescribe a uniform system for the regulation of legally carrying a concealed handgun. To insure uniformity, no political subdivisions, boards, or agencies of the State nor any county, city, municipality, municipal corporation, town, township, village, nor any department or agency thereof, may enact ordinances, rules, or regulations concerning legally carrying a concealed handgun. A unit of local government may adopt an ordinance to permit the posting of a prohibition against carrying a concealed handgun, in accordance with G.S. 14-415.11(c), on local government buildings and their appurtenant premises.

(b) A unit of local government may adopt an ordinance to prohibit, by posting, the carrying of a concealed handgun on municipal and county recreational facilities that are specifically identified by the unit of local government. If a unit of local government adopts such an ordinance with regard to recreational facilities, then the concealed handgun permittee may, nevertheless, secure the handgun in a locked vehicle within the trunk, glove box, or other enclosed compartment or area within or on the motor vehicle.

(c) For purposes of this section, the term "recreational facilities" includes only the following: ~~a playground, an athletic field, a swimming pool, and an athletic facility.~~

(1) An athletic field, including any appurtenant facilities such as restrooms, during an organized athletic event if the field had been scheduled for use with the municipality or county office responsible for operation of the park or recreational area.

(2) A swimming pool, including any appurtenant facilities used for dressing, storage of personal items, or other uses relating to the swimming pool.

(3) A facility used for athletic events, including, but not limited to, a gymnasium.

(d) For the purposes of this section, the term "recreational facilities" does not include any greenway, designated biking or walking path, an area that is customarily used as a walkway or bike path although not specifically designated for such use, open areas or fields where athletic events may occur unless the area qualifies as an "athletic field" pursuant to subdivision (1) of subsection (c) of this section, and any other area that is not specifically described in subsection (c) of this section."

SECTION 7. G.S. 122C-54(d1) reads as rewritten:

"(d1) ~~After a judicial determination that an individual shall be involuntarily committed for either inpatient or outpatient mental health treatment pursuant to Article 5 of this Chapter, the clerk of superior court in the county where the judicial determination was made shall, as soon as practicable, cause a report of the commitment to be transmitted to the National Instant Criminal Background Check System (NICS). Reporting of an individual involuntarily committed to outpatient mental health treatment under this subsection shall only be reported if the individual is found to be a danger to self or others. The clerk shall also cause to be transmitted to NICS a record where an individual is found not guilty by reason of insanity or found mentally incompetent to proceed to criminal trial. The clerk, upon receipt of documentation that an affected individual has received a relief from disabilities pursuant to G.S. 122C-54.1 or any applicable federal law, shall cause the individual's record in NICS to be updated.~~ Excluding Saturdays, Sundays, and holidays, not later than 48 hours after receiving notice of any of the following judicial determinations or findings, the clerk of superior court in the county where the determination or finding was made shall cause a record of the determination or finding to be transmitted to the National Instant Criminal Background Check System (NICS):

(1) A determination that an individual shall be involuntarily committed to a facility for inpatient mental health treatment upon a finding that the individual is mentally ill and a danger to self or others.

(2) A determination that an individual shall be involuntarily committed to a facility for outpatient mental health treatment upon a finding that the individual is mentally ill and, based on the individual's treatment history, in need of treatment in order to prevent further disability or deterioration that would predictably result in a danger to self or others.

(3) A determination that an individual shall be involuntarily committed to a facility for substance abuse treatment upon a finding that the individual is a substance abuser and a danger to self or others.

(4) A finding that an individual is not guilty by reason of insanity.

(5) A finding that an individual is mentally incompetent to proceed to criminal trial.

(6) A finding that an individual lacks the capacity to manage the individual's own affairs due to marked subnormal intelligence or mental illness, incompetency, condition, or disease.

(7) A determination to grant a petition to an individual for the removal of disabilities pursuant to G.S. 122C-54.1 or any applicable federal law.

The 48-hour period for transmitting a record of a judicial determination or finding to the NICS under this subsection begins upon receipt by the clerk of a copy of the judicial determination or finding."

SECTION 8. The last two sentences of G.S. 122C-54(d1) are recodified as G.S. 122C-54(d2) and read as rewritten:

"(d2) The record of involuntary commitment for inpatient or outpatient mental health treatment or for substance abuse treatment required by subsection (d1) of this section shall be accessible only by an entity having proper access to NICS and shall remain otherwise confidential as provided by this Article. ~~The clerk shall effect the transmissions to NICS required by the subsection according to protocols which shall be established by the Administrative Office of the Courts.~~The Administrative Office of the Courts shall adopt rules to require clerks of court to transmit information to the NICS as required by subsection (d1) of this section in a uniform manner."

SECTION 9. G.S. 122C-54.1 reads as rewritten:

"§ **122C-54.1. Restoration process to remove mental commitment bar.**

(a) Any individual over the age of 18 may petition for the removal of the ~~mental commitment bar to purchase, possess, or transfer a firearm when the individual no longer suffers from the condition that resulted in the individual's involuntary commitment for either~~

~~inpatient or outpatient mental health treatment pursuant to Article 5 of this Chapter and no longer poses a danger to self or others for purposes of the purchase, possession, or transfer of firearms pursuant to 18 U.S.C. § 922, G.S. 14-404, and G.S. 14-415.12.~~disabilities pursuant to 18 U.S.C. § 922(d)(4) and (g)(4), G.S. 14-415.3, and G.S. 14-415.12 arising out of a determination or finding required to be transmitted to the National Instant Criminal Background Check System by subdivisions (1) through (6) of subsection (d1) of G.S. 122C-54. The individual may file the petition with a district court judge upon the expiration of any current inpatient or outpatient commitment. ~~No individual who has been found not guilty by reason of insanity may petition a court for restoration under this section.~~

(b) The petition must be filed in the district court of the county where the respondent was the subject of the most recent judicial determination or finding~~that either inpatient or outpatient treatment was appropriate~~ or in the district court of the county of the petitioner's residence. ~~An individual disqualified from firearms possession due to a comparable out-of-State mental commitment shall make application in the county of residence.~~ The clerk of court upon receipt of the petition shall schedule a hearing using the regularly scheduled commitment court time and provide notice of the hearing to the petitioner and the ~~district attorney.~~ attorney who represented the State in the underlying case, or that attorney's successor. Copies of the petition must be served on the director of the relevant inpatient ~~and~~ or outpatient treatment ~~facility, in-State or out-of-State,~~facility and the district attorney in the petitioner's current county of residence.

(c) The burden is on the petitioner to establish by a preponderance of the evidence that the petitioner ~~no longer suffers from the condition that resulted in commitment and no longer poses a danger to self or others for purposes of the purchase, possession, or transfer of firearms pursuant to 18 U.S.C. § 922, G.S. 14-404, and G.S. 14-415.12.~~will not be likely to act in a manner dangerous to public safety and that the granting of the relief would not be contrary to the public interest. The district attorney shall present any and all relevant information to the contrary. For these purposes, the district attorney may access and use any and all mental health records, juvenile records, and criminal history of the petitioner wherever maintained. The applicant must sign a release for the district attorney to receive any mental health records of the applicant. This hearing shall be closed to the public, unless the court finds that the public interest would be better served by conducting the hearing in public. If the court determines the hearing should be open to the public, upon motion by the petitioner, the court may allow for the in camera inspection of any mental health records. The court may allow the use of the record but shall restrict it from public disclosure, unless it finds that the public interest would be better served by making the record public. The district court shall enter an order that the petitioner ~~does or does not continue to suffer from the condition that resulted in commitment and does or does not continue to pose a danger to self or others for purposes of the purchase, possession, or transfer of firearms pursuant to 18 U.S.C. § 922, G.S. 14-404, and G.S. 14-415.12.~~is or is not likely to act in a manner dangerous to public safety and that the granting of the relief would or would not be contrary to the public interest. The court shall include in its order the specific findings of fact on which it bases its decision. In making its determination, the court shall consider the circumstances regarding the firearm disabilities from which relief is sought, the petitioner's mental health and criminal history records, the petitioner's reputation, developed at a minimum through character witness statements, testimony, or other character evidence, and any changes in the petitioner's condition or circumstances since the original determination or finding relevant to the relief sought. The decision of the district court may be appealed to the superior court for a hearing de novo. After a denial by the superior court, the applicant must wait a minimum of one year before reapplying. Attorneys designated by the Attorney General shall be available to represent the State, or assist in the representation of the State, in a restoration proceeding when requested to do so by a district attorney and approved by the Attorney General. An attorney so designated shall have all the powers of the district attorney under this section.

(d) Upon a judicial determination to grant a petition under this section, the clerk of superior court in the county where the petition was granted shall forward the order to the National Instant Criminal Background Check System (NICS) for updating of the respondent's record."

SECTION 10. G.S. 14-415.3 is amended by adding a new subsection to read:

"(c) The provisions of this section shall not apply to a person whose rights have been restored pursuant to G.S. 122C-54.1."

SECTION 11. G.S. 14-415.12(c) reads as rewritten:

"(c) An applicant shall not be ineligible to receive a concealed carry permit under subdivision (6) of subsection (b) of this section because of an adjudication of mental incapacity or illness or an involuntary commitment to mental health services if the individual's rights have been restored under G.S. 122C-54.1."

SECTION 12. G.S. 14-415.17 reads as rewritten:

"§ **14-415.17. Permit; sheriff to retain ~~and make available to law enforcement agencies a~~ list of ~~permittees.~~permittees; confidentiality of list and permit application information; availability to law enforcement agencies.**

(a) The permit shall be in a certificate form, as prescribed by the Administrative Office of the Courts, that is approximately the size of a North Carolina drivers license. It shall bear the signature, name, address, date of birth, and the drivers license identification number used in applying for the permit.

(b) The sheriff shall maintain a listing, including the identifying information, of those persons who are issued a permit. ~~The permit information shall be available upon request to all State and local law enforcement agencies.~~ Within five days of the date a permit is issued, the sheriff shall send a copy of the permit to the State Bureau of Investigation. ~~The State Bureau of Investigation shall make this information available to law enforcement officers and clerks of court on a statewide system.~~

(c) Except as provided otherwise by this subsection, the list of permit holders and the information collected by the sheriff to process an application for a permit are confidential and are not a public record under G.S. 132-1. The sheriff shall make the list of permit holders and the permit information available upon request to all State and local law enforcement agencies. The State Bureau of Investigation shall make the list of permit holders and the information collected by the sheriff to process an application for a permit available to law enforcement officers and clerks of court on a statewide system."

SECTION 13. G.S. 14-406 reads as rewritten:

"§ **14-406. Dealer to keep record of ~~sales.~~ sales; confidentiality of records.**

(a) Every dealer in pistols and other weapons mentioned in this Article shall keep an accurate record of all sales thereof, including the name, place of residence, date of sale, etc., of each person, firm, or corporation to whom or which such sales are ~~made, which record shall be open to the inspection of any duly constituted State, county or police officer, within this State.~~made. The records maintained by a dealer pursuant to this section are confidential and are not a public record under G.S. 132-1; provided, however, that the dealer shall make the records available upon request to all State and local law enforcement agencies.

(b) Repealed by Session Laws 2011-56, s. 3, effective April 28, 2011."

SECTION 14. G.S. 14-269.4 reads as rewritten:

"§ **14-269.4. Weapons on certain State property and in courthouses.**

It shall be unlawful for any person to possess, or carry, whether openly or concealed, any deadly weapon, not used solely for instructional or officially sanctioned ceremonial purposes in the State Capitol Building, the Executive Mansion, the Western Residence of the Governor, or on the grounds of any of these buildings, and in any building housing any court of the General Court of Justice. If a court is housed in a building containing nonpublic uses in addition to the court, then this prohibition shall apply only to that portion of the building used for court purposes while the building is being used for court purposes.

This section shall not apply to any of the following:

…

(6) A person with a permit issued in accordance with Article 54B of this ~~Chapter or~~Chapter, with a permit considered valid under ~~G.S. 14-415.24~~G.S. 14-415.24, or who is exempt from obtaining a permit pursuant to G.S. 14-415.25, who has a firearm in a closed compartment or container within the person's locked vehicle or in a locked container securely affixed to the person's vehicle. A person may unlock the vehicle to enter or exit the vehicle provided the firearm remains in the closed compartment at all times and the vehicle is locked immediately following the entrance or exit.

Any person violating the provisions of this section shall be guilty of a Class 1 misdemeanor."

SECTION 15. G.S. 14-277.2 is amended by adding a new subsection to read:

"(d) The provisions of this section shall not apply to concealed carry of a handgun at a parade or funeral procession by a person with a valid permit issued in accordance with Article 54B of this Chapter, with a permit considered valid under G.S. 14-415.24, or who is exempt from obtaining a permit pursuant to G.S. 14-415.25. This subsection shall not be construed to permit a person to carry a concealed handgun on any premises where the person in legal possession or control of the premises has posted a conspicuous notice prohibiting the carrying of a concealed handgun on the premises in accordance with G.S. 14-415.11(c)."

SECTION 16. G.S. 14-415.21 reads as rewritten:

"§ **14-415.21. Violations of this Article punishable as an infraction.**

(a) A person who has been issued a valid permit who is found to be carrying a concealed handgun without the permit in the person's possession or who fails to disclose to any law enforcement officer that the person holds a valid permit and is carrying a concealed handgun, as required by G.S. 14-415.11, shall be guilty of an infraction and shall be punished in accordance with G.S. 14-3.1. In lieu of paying a fine the person may surrender the permit.

(a1) A person who has been issued a valid permit who is found to be carrying a concealed handgun in violation of subdivision (c)(8) or subsection (c2) of G.S. 14-415.11 shall be guilty of a Class 1 misdemeanor.

(b) A person who violates the provisions of this Article other than as set forth in subsection (a) or (a1) of this section is guilty of a Class 2 misdemeanor."

SECTION 17.1. G.S. 14-403 reads as rewritten:

"§ **14-403. Permit issued by sheriff; form of permit; expiration of permit.**

The sheriffs of any and all counties of this State shall issue to any person, firm, or corporation in any county a ~~license or~~ permit to purchase or receive any weapon mentioned in this Article from any person, firm, or corporation offering to sell or dispose of the weapon. The ~~license or~~ permit shall expire five years from the date of issuance. The ~~license or~~ permit shall be in the following form:

North Carolina,

_____ County.

I, _____, Sheriff of said County, do hereby certify that I have conducted a criminal background check of the applicant, _____ whose place of residence is _____ in _____ (or) in _____ Township, _____ County, North Carolina, and have received no information to indicate that it would be a violation of State or federal law for the applicant to purchase, transfer, receive, or possess a handgun. The applicant has further satisfied me as to his, her (or) their good moral character. Therefore, a ~~license or~~ permit is issued to _____ to purchase one pistol from any person, firm or corporation authorized to dispose of the same.

This ~~license or~~ permit expires five years from its date of issuance.

This ____ day of _____, _____.

_____

Sheriff."

SECTION 17.2.(a) G.S. 14-404 reads as rewritten:

"§ **14-404. Issuance or refusal of permit; appeal from refusal; grounds for refusal; sheriff's fee.**

(a) Upon application, the sheriff shall issue the ~~license or~~ permit to a resident of that county, unless the purpose of the permit is for collecting, in which case a sheriff can issue a permit to a nonresident, when the sheriff has done all of the following:

(1) Verified, before the issuance of a permit, by a criminal history background investigation that it is not a violation of State or federal law for the applicant to purchase, transfer, receive, or possess a handgun. The sheriff shall determine the criminal and background history of any applicant by accessing computerized criminal history records as maintained by the State Bureau of Investigation and the Federal Bureau of Investigation, by conducting a national criminal history records check, by conducting a check through the National Instant Criminal Background Check System (NICS), and by conducting a criminal history check through the Administrative Office of the Courts.

(2) Fully satisfied himself or herself by affidavits, oral evidence, or otherwise, as to the good moral character of the applicant.

(3) Fully satisfied himself or herself that the applicant desires the possession of the weapon mentioned for (i) the protection of the home, business, person, family or property, (ii) target shooting, (iii) collecting, or (iv) hunting.

(b) If the sheriff is not fully satisfied, the sheriff may, for good cause shown, decline to issue the ~~license or~~ permit and shall provide to the applicant within seven days of the refusal a written statement of the reason(s) for the refusal. The statement shall cite the specific facts upon which the sheriff concluded that the applicant was not qualified for the issuance of a permit and list, by statute number, the applicable law upon which the denial is based. An appeal from the refusal shall lie by way of petition to the chief judge of the district court for the district in which the application was filed. The determination by the court, on appeal, shall be upon the facts, the law, and the reasonableness of the sheriff's refusal, and shall be final.

(b1) The sheriff shall keep a list of all permit denials, with the specific reasons for the denials noted. The list shall not include any information that would identify the applicant whose application was denied. The list, as described in this subsection, shall be a public record, and the sheriff shall make the list available upon request to any member of the public. The list shall be organized by the quarters of the year, showing the number of denials and the reasons in each three-month period, and the list shall only be released for past, completed quarters.

(c) A permit may not be issued to the following persons:

(1) One who is under an indictment or information for or has been convicted in any state, or in any court of the United States, of a felony (other than an offense pertaining to antitrust violations, unfair trade practices, or restraints of trade). However, a person who has been convicted of a felony in a court of any state or in a court of the United States and (i) who is later pardoned, or (ii) whose firearms rights have been restored pursuant to G.S. 14-415.4, may obtain a permit, if the purchase or receipt of a pistol permitted in this Article does not violate a condition of the pardon or restoration of firearms rights.

(2) One who is a fugitive from justice.

(3) One who is an unlawful user of or addicted to marijuana or any depressant, stimulant, or narcotic drug (as defined in 21 U.S.C. § 802).

(4) One who has been adjudicated mentally incompetent or has been committed to any mental institution.

(5) One who is an alien illegally or unlawfully in the United States.

(6) One who has been discharged from the Armed Forces of the United States under dishonorable conditions.

(7) One who, having been a citizen of the United States, has renounced his or her citizenship.

(8) One who is subject to a court order that:

a. Was issued after a hearing of which the person received actual notice, and at which the person had an opportunity to participate;

b. Restrains the person from harassing, stalking, or threatening an intimate partner of the person or child of the intimate partner of the person, or engaging in other conduct that would place an intimate partner in reasonable fear of bodily injury to the partner or child; and

c. Includes a finding that the person represents a credible threat to the physical safety of the intimate partner or child; or by its terms explicitly prohibits the use, attempted use, or threatened use of physical force against the intimate partner or child that would reasonably be expected to cause bodily injury.

(c1) Excluding Saturdays, Sundays, and holidays, not later than 48 hours after receiving notice of any of the judicial findings, court orders, or other factual matters, relevant to any of the disqualifying conditions specified in subsection (c) of this section, the clerk of superior court shall cause a record of the determination or finding to be transmitted to the National Instant Criminal Background Check System (NICS). The record shall include a reference to the relevant statutory provision of G.S. 14-404 that precludes the issuance of a permit. The 48-hour period for transmitting a record of a judicial determination or finding to the NICS under this subsection begins upon receipt by the clerk of a copy of the judicial determination or finding.

(d) Nothing in this Article shall apply to officers authorized by law to carry firearms if the officers identify themselves to the vendor or donor as being officers authorized by law to carry firearms and provide any of the following:

(1) A letter signed by the officer's supervisor or superior officer stating that the officer is authorized by law to carry a firearm.

(2) A current photographic identification card issued by the officer's employer.

(3) A current photographic identification card issued by a State agency that identifies the individual as a law enforcement officer certified by the State of North Carolina.

(4) A current identification card issued by the officer's employer and another form of current photographic identification.

(e) The sheriff shall charge for the sheriff's services upon issuing the ~~license or~~ permit a fee of five dollars ($5.00). There shall be no limit as to the number or frequency of permit applications and no other costs or fees other than provided in this subsection shall be charged for the permit, including, but not limited to, any costs for investigation, processing, or medical background checks by the sheriff or others providing records to the sheriff.

(f) Each applicant for a license or permit shall be informed by the sheriff within ~~30~~ 14 days of the date of the application whether the license or permit will be granted or denied and, if granted, the license or permit shall be immediately issued to the applicant.

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

(h) The sheriff shall revoke any permit upon the occurrence of any event or condition subsequent to the issuance of the permit, or the applicant's subsequent inability to meet a requirement under this Article, which would have resulted in a denial of the application submitted to obtain the permit if the event, condition, or the applicant's current inability to meet a statutory requirement had existed at the time of the application and prior to the issuance of the permit. The following procedures apply to a revocation:

(1) The sheriff shall provide written notice to the permittee, pursuant to the provisions of G.S. 1A-1, Rule 4(j), that the permit is revoked upon the

service of the notice. The notice shall provide the permittee with information on the process to appeal the revocation.

(2) Upon receipt of the written notice of revocation, the permittee shall surrender the permit to the sheriff. Any law enforcement officer serving the notice is authorized to take immediate possession of the permit from the permittee. If the notice is served by means other than by a law enforcement officer, the permittee shall surrender the permit to the sheriff no later than 48 hours after service of the notice.

(3) The sheriff shall insure that the list of permits which have been revoked is immediately updated so that any potential transferor calling to check the validity of the permit will be informed of the revocation.

(4) A permittee may appeal the revocation of a permit pursuant to this subsection by petitioning a district court judge of the district in which the permittee resides.

(5) Any person who willfully fails to surrender a permit upon notice of revocation shall be guilty of a Class 2 misdemeanor."

SECTION 17.2.(b) The Administrative Office of the Courts shall report to the Joint Legislative Oversight Committee on Justice and Public Safety by October 1, 2013, on the progress towards implementation of the requirement in G.S. 14-404(c1), as enacted by subsection (a) of this section, and with any recommendation for legislation relating to that requirement.

SECTION 17.2.(c) G.S. 14-404(c1), as enacted by subsection (a) of this section, becomes effective July 1, 2014. The remainder of G.S. 14-404, as enacted by subsection (a) of this section, becomes effective October 1, 2013. The remainder of this section is effective when it becomes law.

SECTION 17.3. In order to ensure the validity of existing and unexpired permits, no later than January 31, 2014, the sheriff shall determine whether any of these permits are subject to revocation pursuant to the standard set forth in G.S. 14-404(h). If a permit is subject to revocation, the sheriff shall immediately initiate the procedures set forth in G.S. 14-404(h)(1)-(3). No later than March 31, 2014, each sheriff shall submit a written report to the Joint Legislative Oversight Committee on Justice and Public Safety with the results of the review required by this section. The North Carolina Sheriffs' Association may compile the reports and submit a single report with the information from each county in lieu of each county submitting individual reports.

SECTION 17.4. G.S. 14-405 reads as rewritten:

"§ **14-405. Record of permits kept by ~~sheriff.~~ sheriff; confidentiality of permit information.**

(a) The sheriff shall keep a ~~book, to be provided by the board of commissioners of each county, in which he shall keep a~~ record of all ~~licenses or~~ permits issued under this article, including the name, date, place of residence, age, former place of residence, etc., of each such person, firm, or corporation to whom or which a ~~license or~~ permit is issued. The record shall include the date that a permit was revoked, the date that the permittee received notice of the revocation, whether the permit was surrendered, and the reason for the revocation.

(b) The records maintained by the sheriff pursuant to this section are confidential and are not a public record under G.S. 132-1; provided, however, that the sheriff shall make the records available upon request to any federal, State, and local law enforcement agencies and shall also make the records available to the court if the records are required to be released pursuant to a court order. Any application to a court for release of the list of permit holders and permit application information shall be by a petition to the chief judge of the district court for the district in which the person seeking the information resides."

SECTION 18. G.S. 14-315(b1)(1) reads as rewritten:

"(b1) Defense. – It shall be a defense to a violation of this section if all of the following conditions are met:

(1) The person shows that the minor produced an apparently valid permit to receive the weapon, if such a permit would be required under G.S. 14-402 ~~or G.S. 14-409.1~~ for transfer of the weapon to an adult."

SECTION 19. G.S. 20-187.2(a) reads as rewritten:

"(a) Surviving spouses, or in the event such members die unsurvived by a spouse, surviving children of members of North Carolina State, city and county law-enforcement agencies killed in the line of duty or who are members of such agencies at the time of their deaths, and retiring members of such agencies shall receive upon request and at no cost to them, the badge worn or carried by such deceased or retiring member. The governing body of a law-enforcement agency may, in its discretion, also award to a retiring member or surviving relatives as provided herein, upon request, the service side arm of such deceased or retiring members, at a price determined by such governing body, ~~upon securing a permit as required by G.S. 14-402 et seq. or 14-409.1 et seq.,~~ upon determining that the person receiving the weapon is not ineligible to own, possess, or receive a firearm under the provisions of State or federal law, or ~~without such permit provided the weapon shall have~~if the weapon has been rendered incapable of being fired. Governing body shall mean for county and local alcohol beverage control officers, the county or local board of alcoholic control; for all other law-enforcement officers with jurisdiction limited to a municipality or town, the city or town council; for all other law-enforcement officers with countywide jurisdiction, the board of county commissioners; for all State law-enforcement officers, the head of the department."

SECTION 20. G.S. 14-415.18 reads as rewritten:

"§ **14-415.18. Revocation or suspension of permit.**

(a) The sheriff of the county where the permit was issued or the sheriff of the county where the person resides may revoke a permit subsequent to a hearing for any of the following reasons:

(1) Fraud or intentional and material misrepresentation in the obtaining of a permit.

(2) Misuse of a permit, including lending or giving a permit or a duplicate permit to another person, materially altering a permit, or using a permit with the intent to unlawfully cause harm to a person or property. It shall not be considered misuse of a permit to provide a duplicate of the permit to a vender for record-keeping purposes.

(3) The doing of an act or existence of a condition which would have been grounds for the denial of the permit by the sheriff.

(4) The violation of any of the terms of this Article.

~~(5) The applicant is adjudicated guilty of or receives a prayer for judgment continued for a crime which would have disqualified the applicant from initially receiving a permit.~~

A permittee may appeal the revocation, or nonrenewal of a permit by petitioning a district court judge of the district in which the applicant resides. The determination by the court, on appeal, shall be upon the facts, the law, and the reasonableness of the sheriff's refusal.

(a1) The sheriff of the county where the permit was issued or the sheriff of the county where the person resides shall revoke a permit of any permittee who is adjudicated guilty of or receives a prayer for judgment continued for a crime which would have disqualified the permittee from initially receiving a permit. Upon determining that a permit should be revoked pursuant to this subsection, the sheriff shall provide written notice to the permittee, pursuant to the provisions of G.S. 1A-1, Rule 4(j), that the permit is revoked upon the service of the notice. The notice shall provide the permittee with information on the process to appeal the revocation.

Upon receipt of the written notice of revocation, the permittee shall surrender the permit to the sheriff. Any law enforcement officer serving the notice is authorized to take immediate possession of the permit from the permittee. If the notice is served by means other than by a law enforcement officer, the permittee shall surrender the permit to the sheriff no later than 48 hours after service of the notice.

A permittee may appeal the revocation of a permit pursuant to this subsection by petitioning a district court judge of the district in which the permittee resides. The determination by the court, on appeal, shall be limited to whether the permittee was adjudicated guilty of or received a prayer for judgment continued for a crime which would have disqualified the permittee from initially receiving a permit. Revocation of the permit is not stayed pending appeal.

(b) The court may suspend a permit as part of and for the duration of any orders permitted under Chapter 50B of the General Statutes."

SECTION 21. G.S. 14-269(b) is amended by adding the following new subdivisions to read:

"(4d) Any person who is a North Carolina district court judge, North Carolina superior court judge, or a North Carolina magistrate and who has a concealed handgun permit issued in accordance with Article 54B of this Chapter or considered valid under G.S. 14-415.24; provided that the person shall not carry a concealed weapon at any time while consuming alcohol or an unlawful controlled substance or while alcohol or an unlawful controlled substance remains in the person's body. The judge or magistrate shall secure the weapon in a locked compartment when the weapon is not on the person of the judge or magistrate;

(4e) Any person who is serving as a clerk of court or as a register of deeds and who has a concealed handgun permit issued in accordance with Article 54B of this Chapter or considered valid under G.S. 14-415.24; provided that the person shall not carry a concealed weapon at any time while consuming alcohol or an unlawful controlled substance or while alcohol or an unlawful controlled substance remains in the person's body. The clerk of court or register of deeds shall secure the weapon in a locked compartment when the weapon is not on the person of the clerk of court or register of deeds. This subdivision does not apply to assistants, deputies, or other employees of the clerk of court or register of deeds;"

SECTION 22. G.S. 14-415.27 reads as rewritten:

"§ **14-415.27. Expanded permit scope for ~~district attorneys, assistant district attorneys, and investigators employed by office of the district attorney~~certain persons.**

Notwithstanding G.S. 14-415.11(c), any ~~person who is a district attorney, an assistant district attorney, or an investigator employed by the office of a district attorney and~~ of the following persons who has a concealed handgun permit issued pursuant to this Article or that is considered valid under G.S. 14-415.24 is not subject to the area prohibitions set out in G.S. 14-415.11(c) and may carry a concealed handgun in the areas listed in G.S. 14-415.11(c) unless otherwise prohibited by federal ~~law.~~law:

(1) A district attorney.

(2) An assistant district attorney.

(3) An investigator employed by the office of a district attorney.

(4) A North Carolina district or superior court judge.

(5) A magistrate.

(6) A person who is elected and serving as a clerk of court.

(7) A person who is elected and serving as a register of deeds."

SECTION 23. G.S. 113-291.1(c) reads as rewritten:

"(c) It is a Class 1 misdemeanor for any person taking wildlife to have in ~~his~~ the person's possession any:

~~(1) Firearm equipped with a silencer or any device designed to silence, muffle, or minimize the report of the firearm. The firearm is considered equipped with the silencer or device whether it is attached to the firearm or separate but reasonably accessible for attachment during the taking of the wildlife.~~

(2) Weapon of mass death and destruction as defined in ~~G.S. 14-288.8.~~G.S. 14-288.8, other than a suppressor or other device

designed to muffle or minimize the report of a firearm that is lawfully possessed by a person in compliance with 26 U.S.C. Chapter 53 §§ 5801-5871.

The Wildlife Resources Commission may prohibit individuals training dogs or taking particular species from carrying axes, saws, tree-climbing equipment, and other implements that may facilitate the unlawful taking of wildlife, except tree-climbing equipment may be carried and used by persons lawfully taking raccoons and opossums during open season."

SECTION 24. G.S. 14-415.10 reads as rewritten:

"§ **14-415.10. Definitions.**

The following definitions apply to this Article:

…

(4a) Qualified retired law enforcement officer. – An individual who meets the definition of "qualified retired law enforcement officer" contained in section 926C of Title 18 of the United States Code.~~all of the following qualifications:~~

~~a. Retired in good standing from service with a public agency located in the United States as a law enforcement officer, other than for reasons of mental instability.~~

~~b. Prior to retirement, was authorized by law to engage in or supervise the prevention, detection, investigation, or prosecution of, or the incarceration of, any person for any violation of law, and had statutory powers of arrest.~~

~~c. Prior to retirement, was regularly employed as a law enforcement officer for a total of 15 years or more, or retired after completing probationary periods of service due to a service-connected disability, as determined by the agency.~~

~~d. Has a vested right to benefits under the retirement plan of the agency.~~

…."

SECTION 25. G.S. 14-269(b) reads as rewritten:

"(b) This prohibition shall not apply to the following persons:

…

(4b) Any person who is a qualified retired law enforcement officer as defined in G.S. 14-415.10 and meets ~~all~~ any one of the following conditions:

~~a. Is a qualified retired law enforcement officer as defined in G.S. 14-415.10.~~

~~b.~~a. Is the holder of a concealed handgun permit in accordance with Article 54B of this Chapter.

b. Is exempt from obtaining a permit pursuant to G.S. 14-415.25.

c. Is certified by the North Carolina Criminal Justice Education and Training Standards Commission pursuant to G.S. 14-415.26;

…."

SECTION 26. Chapter 14 of the General Statutes is amended by adding a new Article to read:

"Article 3D.

"Armed Habitual Felon.

"§ **14-7.35. Definitions.**

The following definitions apply in this Article:

(1) "Convicted." – The person has been adjudged guilty of or has entered a plea of guilty or no contest to the firearm-related felony.

(2) "Firearm-related felony." – Any felony committed by a person in which the person used or displayed a firearm while committing the felony.

(3) "Status offender." – A person who is an armed habitual felon as described in G.S. 14-7.36.

"**§ 14-7.36. Armed habitual felon.**

Any person who has been convicted of or pled guilty to one or more prior firearm-related felony offenses in any federal court or state court in the United States, or combination thereof, is guilty of the status offense of armed habitual felon and may be charged with that status offense pursuant to this Article.

This Article does not apply to a second firearm-related felony unless it is committed after the conviction of a firearm-related felony in which evidence of the person's use, display, or threatened use or display of a firearm was needed to prove an element of the felony or was needed to establish the requirement for an enhanced or aggravated sentence. For purposes of this Article, firearm-related felonies committed before the person is 18 years of age shall not constitute more than one firearm-related felony. Any firearm-related felony to which a pardon has been extended shall not, for the purposes of this Article, constitute a firearm-related felony.

"**§ 14-7.37. Punishment.**

When any person is charged with a firearm-related felony and is also charged with being a status offender, the person must, upon conviction, be sentenced and punished as a status offender as provided by this Article.

"**§ 14-7.38. Charge of status offense as an armed habitual felon.**

(a) The district attorney, in the district attorney's discretion, may charge a person as a status offender pursuant to this Article. To sustain a conviction of a person as a status offender, the person must be charged separately for the principal firearm-related felony and for the status offense of armed habitual felon. The indictment charging the defendant as a status offender shall be separate from the indictment charging the person with the principal firearm-related felony.

(b) An indictment that charges a person with being a status offender must set forth all of the following information regarding the prior firearm-related felony:

(1) The date the offense was committed.

(2) The name of the state or other sovereign against whom the offense was committed.

(3) The dates that the plea of guilty was entered into or conviction returned in the offense.

(4) The identity of the court in which the plea or conviction took place.

(c) No defendant charged with being a status offender in a bill of indictment shall be required to go to trial on the charge within 20 days of the finding of a true bill by the grand jury; provided, the defendant may waive this 20-day period.

"**§ 14-7.39. Evidence of prior convictions of firearm-related felonies.**

In all cases in which a person is charged under the provisions of this Article with being a status offender, the record of prior conviction of the firearm-related felony shall be admissible in evidence, but only for the purpose of proving that the person has been convicted of a former firearm-related felony. A prior conviction may be proved by stipulation of the parties or by the original or a certified copy of the court record of the prior conviction. The original or certified copy of the court record, bearing the same name as that by which the defendant is charged, shall be prima facie evidence that the defendant named therein is the same as the defendant before the court and shall be prima facie evidence of the facts set out therein.

"**§ 14-7.40. Verdict and judgment.**

(a) When an indictment charges a person with a firearm-related felony as provided by this Article and an indictment also charges that the person is a status offender, the defendant shall be tried for the principal firearm-related felony as provided by law. The indictment that the person is a status offender shall not be revealed to the jury unless the jury shall find that the defendant is guilty of the principal firearm-related felony with which the defendant is charged.

(b) If the jury finds the defendant guilty of the principal firearm-related felony, and it is found as provided in this section that (i) the person committed the felony by using, displaying, or threatening the use or display of a firearm or deadly weapon and (ii) the person actually possessed the firearm or deadly weapon about his or her person, the bill of indictment charging

the defendant as a status offender may be presented to the same jury. Except that the same jury may be used, the proceedings shall be as if the issue of status offender were a principal charge.

(c) If the jury finds that the defendant is a status offender, the trial judge shall enter judgment according to the provisions of this Article. If the jury finds that the defendant is not a status offender, the trial judge shall pronounce judgment on the principal firearm-related felony offense as provided by law.

"**§ 14-7.41. Sentencing of armed habitual felon.**

(a) A person who is convicted of a firearm-related felony and is also convicted of the status offense must, upon conviction or plea of guilty under indictment as provided in this Article, be sentenced as a Class C felon (except where the felon has been sentenced as a Class A, B1, or B2 felon). However, in no case shall the person receive a minimum term of imprisonment of less than 120 months. The court may not suspend the sentence and may not place the person sentenced on probation.

(b) In determining the prior record level, any conviction used to establish a person's status as an armed habitual felon shall not be used. Sentences imposed under this Article shall run consecutively with and shall commence at the expiration of any sentence being served by the person sentenced under this section.

(c) A conviction as a status offender under this Article shall not constitute commission of a felony for the purpose of either Article 2A or Article 2B of Chapter 14 of the General Statutes.

(d) A sentence imposed under this Article may not be enhanced pursuant to G.S. 15A-1340.16A."

SECTION 27. Article 86 Chapter 15A of the General Statutes is amended by adding a new section to read:

"**§ 15A-1382.2. Sentencing court to include in judgment whether firearm was used.**

When a person is found guilty of a felony offense, the presiding judge shall determine whether the defendant used or displayed a firearm while committing the felony. If the judge determines that the defendant used or displayed a firearm while committing the felony, the sentencing court shall include that fact when entering the judgment that imposes the sentence for the felony conviction."

SECTION 28. Sections 1 through 6, 14 through 16, 18, 21, 23, 25, and 26 of this act become effective October 1, 2013, and apply to offenses committed on or after that date. Section 17.3 and this section are effective when they become law. Section 27 of this act becomes effective October 1, 2013, and applies to any judgment entered for a felony conviction on or after that date. Except as otherwise provided in this act, the remainder of this act becomes effective October 1, 2013. Prosecutions for offenses committed before the effective date of this act are not abated or affected by this act, and the statutes that would be applicable but for this act remain applicable to those prosecutions.

In the General Assembly read three times and ratified this the 24th day of July, 2013.

Became law upon approval of the Governor at 4:25 p.m. on the 29th day of July, 2013.

Session Law 2013-370 **S.B. 18**

AN ACT AMENDING THE LOCKSMITH LICENSING ACT, EXPANDING THE AUTHORITY OF THE LOCKSMITH LICENSING BOARD TO REGULATE INSTITUTIONAL LOCKSMITHS, AND RAISING THE CEILING ON CERTAIN FEES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 74F-3 reads as rewritten:

"**§ 74F-3. Licenses ~~required.~~required; violation.**

No person shall perform or offer to perform locksmith services in this State unless the person has been licensed under the provisions of this Chapter. Every person providing

locksmith services as defined under G.S. 74F-4(5) to buildings containing medical records, pharmaceutical records, educational records, criminal records, voting records, tax records, legal records, or personnel records, including any person providing locksmith services who is employed by or working for a school, college, university, hospital, company, institution, or government facility shall be licensed in accordance with the provisions of this Chapter. A violation of this section is a Class 3 misdemeanor unless the conduct is covered under some other provision of law providing greater punishment."

SECTION 2. G.S. 74F-3, as amended by Section 1 of this act, reads as rewritten:

"§ **74F-3. Licenses required; violation.**

(a) No person shall perform or offer to perform locksmith services in this State unless the person has been licensed under the provisions of this Chapter. Every person providing locksmith services as defined under G.S. 74F-4(5) to buildings containing medical records, pharmaceutical records, educational records, criminal records, voting records, tax records, legal records, or personnel records, including any person providing locksmith services who is employed by or working for a school, college, university, hospital, company, institution, government facility, or multi-family unit, such as an apartment or condominium, shall be licensed in accordance with the provisions of this Chapter.

(b) ~~A~~ Unless the conduct is covered under some other provision of law providing greater punishment, a violation of this section is a Class ~~3~~1 misdemeanor ~~unless the conduct is covered under some other provision of law providing greater punishment.~~for the first offense. A second or subsequent offense is a Class I felony."

SECTION 3. G.S. 74F-4 reads as rewritten:

"§ **74F-4. Definitions.**

The following definitions apply in this Chapter:

(1) Apprentice. – A person who has been issued an apprenticeship designation by the Board.

(1a) Board. – The North Carolina Locksmith Licensing Board.

(2) Code book. – A compilation, in any form, of key codes and combinations.

(3) License. – A certificate issued by the Board recognizing the person named therein as having met the requirements to perform locksmith services as defined in this Chapter.

(4) Locksmith. – A person who has been issued a license by the Board.

(5) Locksmith services. – ~~Repairing,~~Services that include repairing, rebuilding, rekeying, repinning, servicing, adjusting, or installing locks, mechanical or electronic locking devices, access control devices, egress control devices, safes, vaults, and safe-deposit boxes for compensation or other consideration, including services performed by safe technicians. The definition also includes any method of bypassing a locking mechanism of any kind, whether in a commercial, residential, or automotive setting, for compensation.

(6) Locksmith tools. – Any tools that are designed or used to open a mechanical or electrical locking device in a way other than that which was intended by the manufacturer."

SECTION 4. G.S. 74F-6 is amended by adding a new subdivision to read:

"§ **74F-6. Powers of the Board.**

The Board shall have the power and duty to:

…

(17) Authorize the chair, by majority vote, to issue subpoenas allowing the Board to obtain the records of a person or company offering locksmith services, including an employee of a company, a contractor, or a subcontractor. The records obtained shall include invoices and receipts, specifically any invoices and receipts that pertain to locksmith tools, equipment, or parts."

SECTION 5. G.S. 74F-9 reads as rewritten:

"§ **74F-9. Fees.**

The Board shall establish fees not exceeding the following amounts:

(1)	Issuance of a license	~~$100.00~~$300.00
(2)	Renewal of a license	~~$100.00~~$300.00
(3)	Examination	$200.00
(4)	Reinstatement	~~$150.00~~$250.00
(5)	Late fees	~~$150.00~~$300.00
(6)	Apprentice license fee	~~$100.00~~$300.00
(7)	Apprentice transfer fee	$25.00."

SECTION 6. G.S. 74F-10(b) reads as rewritten:

"(b) All licenses shall expire three years after the date they were issued unless renewed. All applications for renewal shall be filed with the Board and shall be accompanied by the renewal fee as required by G.S. 74F-9. A license that has expired for failure to renew may be reinstated after the applicant pays the late and reinstatement fees as required by G.S. 74F-9. If an applicant whose license has expired can show good cause to the Board the reason for allowing the license to expire, the Board, in its discretion, may adjust the renewal and reinstatement fees accordingly."

SECTION 7. G.S. 74F-12(b) reads as rewritten:

"(b) ~~Every person advertising locksmith services performed by the person shall include in the advertisement the identification number that is printed on the license issued by the Board.~~All advertisements for locksmith services shall include a valid license number issued by the Board. The license number of the owner of the locksmith company shall satisfy the requirements of this subsection."

SECTION 8. G.S. 74F-15 reads as rewritten:

"§ **74F-15. Disciplinary procedures.**

(a) The Board may deny or refuse to renew, suspend, or revoke a license or apprenticeship designation if the licensee, apprentice, or applicant:

(1) Gives false information to or withholds information from the Board in procuring or attempting to procure a license.

(2) Has been convicted of or pled guilty or no contest to any of the crimes listed in G.S. 74F-18(a)(2).

(3) Has demonstrated gross negligence, incompetency, or misconduct in performing locksmith services.

(4) Has willfully violated any of the provisions of this Chapter.

(b) The Board may assess the costs of disciplinary action, including attorneys' fees, against an applicant or licensee found to be in violation of this Chapter or rules adopted by the Board."

SECTION 9. G.S. 74F-16 reads as rewritten:

"§ **74F-16. Exemptions.**

The provisions of this Chapter do not apply to:

(1) An employee of a licensed locksmith when acting under the direct control and supervision of the licensed locksmith. For purposes of this subdivision, "direct control and supervision" means that a licensed locksmith is required to physically accompany the employee to the premises where locksmith services are to be performed.

(1a) An employee of a locksmith company performing administrative duties only. For purposes of this section, "administrative duties" means managing the daily operations of an office in a locksmith company, including performing clerical tasks, answering telephones, and greeting customers.

(2) A person working as an apprentice pursuant to G.S. 74F-7.1.

(3) A person or business required to be licensed or registered by the North Carolina Alarm Systems Licensing Board pursuant to Chapter 74D of the

General Statutes, when acting within the scope and course of the alarm systems license or registration.

(4) ~~An employee of a towing service or an automotive repair business providing services in the normal course of its business, a repossessor, a taxi cab service, a~~ A person or business providing any of the following services so long as the person or business does not represent himself, herself, or itself as a locksmith:

a. A towing service, or its employee, when providing services in the normal course of its business.

b. An automotive repair business, or its employee, when opening a vehicle to perform service on the vehicle.

c. A repossessing company, or its employee, while repossessing a vehicle.

d. A motor vehicle dealer as defined in G.S. 20-286(11), or a motor club as defined in G.S. 58-69-1 when opening automotive locks in the normal course of ~~their duties, so long as the employee does not represent himself or herself as a locksmith.~~the dealer or club's business duties.

(5) A property owner, or the owner's employee, when providing locksmith services on the property owner's property, so long as the owner or employee does not represent himself or herself as a locksmith. For purposes of this section, "property" means, but is not limited to, a hotel, motel, apartment, condominium, commercial rental property, and residential rental property.

(6) A merchant, or retail or hardware store, when ~~it lawfully~~ the merchant or store does not purport to be a locksmith and lawfully (i) rekeys a lock at the time of sale of the lock, (ii) duplicates ~~keys or installs, services, repairs, rebuilds, reprograms, rekeys, or maintains locks in the normal course of its business,~~a key, except for duplicating a transponder-type key that requires programming, or (iii) installs as a service a lock on a door if both the door and lock were purchased from the same ~~so long as the merchant or store does not represent itself as a locksmith.~~merchant.

(7) A member of a law enforcement agency, fire department, or other government agency who, when acting within the scope and course of the member's employment with the agency or department, opens locked doors to vehicles, homes, or businesses.

(8) A salesperson while demonstrating the use of locksmith tools to persons licensed under this Chapter.

(9) A general contractor licensed under Article 1 of Chapter 87 of the General Statutes when acting within the scope and course of the general contractor license, or an agent or subcontractor of a licensed general contractor when acting within the ordinary course of business.

(10) A person or business when lawfully installing or maintaining a safety lock device on a wastewater system when the safety lock device is required by permit or requested by the owner of the wastewater system, provided the person or business does not represent itself as a locksmith. For purposes of this subdivision, "wastewater system" has the same meaning as in G.S. 130A-334.

(11) Any person or firm that sells gun safes or locking devices for firearms ~~when acting within the scope and~~during the course of the sale of gun safes or locking devices for ~~firearms.~~firearms, so long as the person or firm, or the firm's employee, does not represent himself, herself, or itself as a locksmith.

(12) A person while performing a locksmith service in an emergency situation without receiving any compensation for this service and who does not advertise those services."

SECTION 10. For the purposes of this section, an "institutional locksmith" is a person who is employed by or working for a school, college, university, hospital, company, institution, or government facility and who provides locksmith services as defined under G.S. 74F-4(5) as part of the person's employment. Any person who submits proof to the Board that the person has been actively engaged as an institutional locksmith in this State for at least two consecutive years prior to October 1, 2013, and pays the required fee for the issuance of a license under G.S. 74F-9 shall be licensed without having to satisfy the requirements of G.S. 74F-7(3). All institutional locksmiths who do not apply to the Board by October 1, 2014, shall be required to complete all requirements prescribed by the Board and to otherwise comply with the provisions of Chapter 74F of the General Statutes.

SECTION 11. Section 2 of this act becomes effective December 1, 2013, and applies to offenses committed on or after that date. Sections 5 and 11 of this act are effective when it becomes law. The remainder of this act becomes effective October 1, 2013.

In the General Assembly read three times and ratified this the 25th day of July, 2013.

Became law upon approval of the Governor at 5:07 p.m. on the 29th day of July, 2013.

Session Law 2013-371 **S.B. 103**

AN ACT TO EXTEND AND AMEND THE AUTHORITY COUNTIES AND CITIES HAVE TO USE SPECIAL ASSESSMENTS TO ADDRESS CRITICAL INFRASTRUCTURE NEEDS.

The General Assembly of North Carolina enacts:

SECTION 1.(a) G.S. 153A-210.1 reads as rewritten:

"§ **153A-210.1. ~~Purpose.~~Purpose; sunset.**

(a) Purpose. – This Article enables counties that face increased demands for infrastructure improvements as a result of rapid growth and development to issue revenue bonds payable from special assessments imposed under this Article on benefited property. This Article supplements the authority counties have in Article 9 of this Chapter. The provisions of Article 9 of this Chapter apply to this Article, to the extent they do not conflict with this Article.

(b) Sunset. – This Article expires July 1, 2015. The expiration does not affect the validity of assessments imposed or bonds issued or authorized under the provisions of this Article prior to the effective date of the expiration."

SECTION 1.(b) G.S. 153A-210.2(c) reads as rewritten:

"(c) Method. – The board of commissioners must establish an assessment method that will most accurately assess each lot or parcel of land subject to the assessments according to the benefits conferred upon it by the project for which the assessment is made. In addition to ~~the~~ other bases upon which assessments may be made under G.S. 153A-186, the board may select any other method designed to allocate the costs in accordance with benefits conferred. In doing so, the board may provide that the benefits conferred are measured on the basis of use being made on the lot or parcel of land and provide for adjustments of assessments upon a change in use, provided that the total amount of all assessments is sufficient to pay the costs of the project after the adjustments have been made."

SECTION 1.(c) G.S. 153A-210.3(a) reads as rewritten:

"(a) Petition. – The board of commissioners may not impose a special assessment under this Article unless it receives a petition for the project to be financed by the assessment signed by (i) at least a majority of the owners of real property to be assessed and (ii) owners who ~~must~~ represent at least sixty-six percent (66%) of the assessed value of all real property to be

assessed. For purposes of determining whether the petition has been signed by a majority of owners, an owner who holds title to a parcel of real property alone shall be treated as having one vote each, and an owner who shares title to a parcel of real property with one or more other owners shall have a vote equal to one vote multiplied by a fraction, the numerator of which is one, and the denominator of which is the total number of owners of the parcel. For purposes of determining whether the assessed value represented by those signing the petition constitutes at least sixty-six percent (66%) of the assessed value of all real property to be assessed, an owner who holds title to a parcel of real property alone shall have the full assessed value of the parcel included in the calculation, and an owner who shares title to a parcel of real property with one or more other owners shall have their proportionate share of the full assessed value of the parcel included in the calculation. The petition must include the following:

(1) A statement of the project proposed to be financed in whole or in part by the imposition of an assessment under this Article.

(2) An estimate of the cost of the project.

(3) An estimate of the portion of the cost of the project to be assessed."

SECTION 2.(a) G.S. 160A-239.1 reads as rewritten:

"§ **160A-239.1. ~~Purpose.~~Purpose; sunset.**

(a) Purpose. – This Article enables cities that face increased demands for infrastructure improvements as a result of rapid growth and development to issue revenue bonds payable from special assessments imposed under this Article on benefited property. This Article supplements the authority cities have in Article 10 of this Chapter. The provisions of Article 10 of this Chapter apply to this Article, to the extent they do not conflict with this Article.

(b) Sunset. – This Article expires July 1, 2015. The expiration does not affect the validity of assessments imposed or bonds issued or authorized under the provisions of this Article prior to the effective date of the expiration."

SECTION 2.(b) G.S. 160A-239.2(c) reads as rewritten:

"(c) Method. – The city council must establish an assessment method that will most accurately assess each lot or parcel of land subject to the assessments according to the benefits conferred upon it by the project for which the assessment is made. In addition to ~~the~~ other bases upon which assessments may be made under G.S. 160A-218, the council may select any other method designed to allocate the costs in accordance with benefits conferred. In doing so, the council may provide that the benefits conferred are measured on the basis of use being made on the lot or parcel of land and provide for adjustments of assessments upon a change in use, provided that the total amount of all assessments is sufficient to pay the costs of the project after the adjustments have been made."

SECTION 2.(c) G.S. 160A-239.3(a) reads as rewritten:

"(a) Petition. – The city council may not impose a special assessment under this Article unless it receives a petition for the project to be financed by the assessment signed by (i) at least a majority of the owners of real property to be assessed and (ii) owners who ~~must~~ represent at least sixty-six percent (66%) of the assessed value of all real property to be assessed. For purposes of determining whether the petition has been signed by a majority of owners, an owner who holds title to a parcel of real property alone shall be treated as having one vote each, and an owner who shares title to a parcel of real property with one or more other owners shall have a vote equal to one vote multiplied by a fraction, the numerator of which is one, and the denominator of which is the total number of owners of the parcel. For purposes of determining whether the assessed value represented by those signing the petition constitutes at least sixty-six percent (66%) of the assessed value of all real property to be assessed, an owner who holds title to a parcel of real property alone shall have the full assessed value of the parcel included in the calculation, and an owner who shares title to a parcel of real property with one or more other owners shall have their proportionate share of the full assessed value of the parcel included in the calculation. The petition must include the following:

(1) A statement of the project proposed to be financed in whole or in part by the imposition of an assessment under this Article.

(2) An estimate of the cost of the project.

(3) An estimate of the portion of the cost of the project to be assessed."

SECTION 3. Section 5 of S.L. 2008-165 reads as rewritten:

"**SECTION 5.** This act is effective when it becomes law. ~~Sections 2 and 3 of this act expire July 1, 2013. The expiration does not affect the validity of assessments imposed or bonds issued or authorized under the provisions of this act prior to the effective date of the expiration.~~"

SECTION 4. This act becomes effective June 30, 2013, and applies retroactively to special assessments imposed on or after that date.

In the General Assembly read three times and ratified this the 25th day of July, 2013.

Became law upon approval of the Governor at 5:07 p.m. on the 29th day of July, 2013.

Session Law 2013-372 **S.B. 305**

AN ACT TO IMPROVE THE PUBLIC/PRIVATE PARTNERSHIP BY WHICH THE DIVISION OF MOTOR VEHICLES ISSUES MOTOR VEHICLE TITLES AND REGISTRATIONS.

The General Assembly of North Carolina enacts:

SECTION 1.(a) Article 3 of Chapter 20 of the General Statutes is amended by adding a new section to read:

"**§ 20-63.02. Advisory committee of commission contractors.**

(a) Committee and Duties. – An advisory committee is established and is designated the License Plate Agent (LPA) Advisory Committee. The Division and the LPA Advisory Committee are directed to work together to ensure excellent and efficient customer service with respect to vehicle titling and registration services provided through commission contracts awarded under G.S. 20-63. As part of this effort, the Division and the Committee must periodically review all forms and instructions used in the vehicle titling and registration process to ensure that they are readily understandable and not duplicative. The Committee must meet at least quarterly.

(b) Membership and Terms. – The LPA Advisory Committee consists of persons who are on the staff of the Division of Motor Vehicles and six persons appointed by the North Carolina Association of Motor Vehicle Registration Contractors. The Commissioner determines the number of Division staff persons to appoint to the Committee and designates the chair of the Committee. Members of the Committee appointed by the Commissioner serve ex officio. Members of the Committee appointed by the Association serve two-year terms beginning on July 1 of an odd-numbered year. A member who serves for a specific term continues to serve after the expiration of the member's term until a successor is appointed.

(c) Expenses. – Members of the LPA Advisory Committee are allowed the per diem, subsistence, and travel allowances established under G.S. 138-5 for service on State boards and commissions."

SECTION 1.(b) The License Plate Agent Advisory Committee, established in subsection (a) of this section, and the Division of Motor Vehicles shall review the standard operating procedures applicable to commission contractors to determine if any changes are needed and shall recommend to the 2013 Regular Session of the General Assembly when it reconvenes in 2014 a process by which the Division is required to give notice of proposed changes and receive comments on proposed changes before they are implemented.

SECTION 1.(c) The terms of the initial appointments by the North Carolina Association of Motor Vehicle Registration Contractors to the License Plate Agent Advisory Committee, established in subsection (a) of this section, begin upon appointment and expire on July 1, 2015.

SECTION 2.(a) G.S. 20-63(h) reads as rewritten:

"(h) Commission Contracts for Issuance of Plates and Certificates. – All registration plates, registration certificates, and certificates of title issued by the Division, outside of those issued from the Charlotte, Fort Bragg and Raleigh offices of the Division and those issued and handled through the United States mail, shall be issued insofar as practicable and possible through commission contracts entered into by the Division for the issuance of the plates and certificates in localities throughout North Carolina, including military installations within this State, with persons, firms, corporations or governmental subdivisions of the State of North Carolina. The Division shall make a reasonable effort in every locality, except as noted above, to enter into a commission contract for the issuance of the plates and certificates and a record of these efforts shall be maintained in the Division. In the event the Division is unsuccessful in making commission contracts, it shall issue the plates and certificates through the regular employees of the Division. Whenever registration plates, registration certificates, and certificates of title are issued by the Division through commission contract arrangements, the Division shall provide proper supervision of the distribution. Nothing contained in this subsection will allow or permit the operation of fewer outlets in any county in this State than are now being operated.

Commission contracts entered into by the Division under this subsection shall provide for the payment of compensation on a per transaction basis. The collection of the highway use tax ~~shall be~~ is considered a separate transaction for which one dollar and twenty-seven cents ($1.27) compensation shall be paid. The issuance of a limited registration "T" sticker and the collection of property tax are each considered a separate transaction for which compensation at the rate of one dollar and twenty-seven cents ($1.27) and seventy-one cents ($0.71), respectively, shall be paid by counties and municipalities as a cost of the combined motor vehicle registration renewal and property tax collection system. The performance at the same time of one or more of the ~~remaining~~ transactions ~~listed in this subsection shall be~~below is considered a single transaction for which one dollar and forty-three cents ($1.43) compensation shall be ~~paid.~~ paid:

~~A transaction is any of the following activities:~~

(1) Issuance of a registration plate, a registration ~~card issued without collection of property taxes or fees under G.S. 105-330.5,~~card, a registration ~~renewal~~ sticker, or a certificate of title.

(2) Issuance of a handicapped placard or handicapped identification card.

(3) Acceptance of an application for a personalized registration plate.

(4) Acceptance of a surrendered registration plate, registration card, or registration renewal sticker, or acceptance of an affidavit stating why a person cannot surrender a registration plate, registration card, or registration renewal sticker.

(5) Cancellation of a title because the vehicle has been junked.

(6) Acceptance of an application for, or issuance of, a refund for a fee or a tax, other than the highway use tax.

(7) Receipt of the civil penalty imposed by G.S. 20-311 for a lapse in financial responsibility or receipt of the restoration fee imposed by that statute.

(8) Acceptance of a notice of failure to maintain financial responsibility for a motor vehicle.

(8a) Collection of civil penalties imposed for violations of G.S. 20-183.8A.

~~(8b) Sale of one or more inspection stickers in a single transaction to a licensed inspection station.~~

~~(9) Collection of the highway use tax.~~

(10) Acceptance of a temporary lien filing."

SECTION 2.(b) G.S. 105-330.5(b) reads as rewritten:

"(b) Distribution and Collection Fees. – The Property Tax Division of the Department of Revenue or a third-party contractor selected by the Property Tax Division must send a copy of the combined tax and registration notice for a registered classified motor vehicle to the motor

vehicle owner, as defined in G.S. 20-4.01. The Department must establish a fee equal to the actual cost of preparing, printing, and sending the notice. The Department may receive a fee for each notice generated for a vehicle registered in a county or municipal corporation from the taxes and fees remitted to the county or municipal corporation in which the vehicle is registered. The collecting authority is responsible for collecting county and municipal taxes and fees assessed under this Article and may receive a fee for collecting these taxes and fees. The amount of this fee must equal at least ~~one-third of the compensation paid for registration renewals conducted by contract agents~~the applicable amount set under G.S. 20-63(h). The Property Tax Division must establish procedures to ensure that tax payments and fees received pursuant to this Article and Chapter 20 of the General Statutes are properly accounted for and taxes and fees due other taxing units and the Division of Motor Vehicles are remitted at least once each month."

SECTION 2.(c) Notwithstanding G.S. 20-63(h), as amended by subsection (a) of this section, the transaction rate of one dollar and six cents ($1.06) applies to the collection of property tax by commission contractors for vehicles whose registration renewals expire on or between September 30, 2013, and February 28, 2014.

SECTION 3. Implementation by the Division of Motor Vehicles of the Department of Transportation of an integrated computer system that combines vehicle registration with the collection of property tax includes training commission contractors under G.S. 20-63(h) on the use of that integrated computer system. The cost of the system training required of the commission contractors on or after April 1, 2013, and before July 1, 2013, is a cost of the combined motor vehicle registration renewal and property tax collection system and is payable from the Combined Motor Vehicle and Registration Account, established under G.S. 105-330.10.

SECTION 3.1. The Revenue Laws Study Committee is directed to study the per transaction compensation amounts provided in Commission contracts entered into by the Division of Motor Vehicles for the issuance of registration plates, registration certificates, and certificates of title. The Committee shall report its findings and recommendation on the per transaction compensation amounts to the 2014 Regular Session of the 2013 General Assembly.

SECTION 4. Section 2 of this act becomes effective July 1, 2013. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 22nd day of July, 2013.

Became law upon approval of the Governor at 5:07 p.m. on the 29th day of July, 2013.

Session Law 2013-373 **S.B. 354**

AN ACT TO REVISE THE RESPONSIBILITIES OF THE STATE AUDITOR BY REMOVING THE STATE AUDITOR FROM EX OFFICIO MEMBERSHIP ON THE COMMITTEE ON ACTUARIAL VALUATION OF RETIRED EMPLOYEES' HEALTH BENEFITS AND BY SOLIDIFYING THE STATE AUDITOR'S ROLE IN AUDITING SCHOOLS IN THE UNIVERSITY OF NORTH CAROLINA SYSTEM.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 135-48.12(b)(2) is repealed.

SECTION 2. G.S. 116-30.8 reads as rewritten:

"§ **116-30.8. Special responsibility constituent institutions: annual audit by State ~~Auditor or certified public accountant.~~Auditor.**

Each special responsibility constituent institution shall be audited ~~annually.~~annually by the State Auditor.~~The Chancellor of the special responsibility constituent institution may use State funds to contract with the State Auditor or with a certified public accountant to perform the audit. The contract for audit services may be for up to three years in duration.~~ The audit shall be

provided to the Chancellor and Board of Trustees of the special responsibility institution, and the Board of Governors of The University of North ~~Carolina, and the State Auditor.~~Carolina. The audit shall also be included in the State's Comprehensive Annual Financial Report (CAFR).

The Board of Governors of The University of North Carolina shall ensure that all special responsibility constituent institutions are audited in accordance with this section."

SECTION 3. This act becomes effective October 1, 2013.

In the General Assembly read three times and ratified this the 26th day of July, 2013.

Became law upon approval of the Governor at 5:08 p.m. on the 29th day of July, 2013.

Session Law 2013-374 **S.B. 381**

AN ACT TO TRANSFER THE GATES CORRECTIONAL FACILITY TO THE GATES COUNTY BOARD OF COMMISSIONERS.

The General Assembly of North Carolina enacts:

SECTION 1. The State of North Carolina shall convey to the Gates County Board of Commissioners, for consideration of one dollar ($1.00), all its right, title, and interest in the property used for the former Gates County Correctional Facility, more particularly described as that Parcel 01-00566 Gates County, deed reference Book 82, Page 465, consisting of approximately 19.59 acres currently allocated to the Department of Public Safety, Division of Adult Corrections. The conveyance is subject to a reversionary interest reserved by the State. The property shall be conveyed to the Gates County Board of Commissioners for so long as it is utilized for county government purposes.

SECTION 2. The State of North Carolina shall convey the real property described in Section 1 of this act "as is" "where is" without warranty. The State makes no representations or warranties concerning the title to the property, the boundaries of the property, the uses to which the property may be put, zoning, local ordinances, or any physical, environmental, health, and safety conditions relating to the property. All costs associated with the conveyance of the property shall be borne by Gates County.

SECTION 3. The conveyance of the State's right, title, and interest in the Gates County Correctional Facility shall be exempt from the provisions of Article 7 of Chapter 146 of the General Statutes. The conveyance shall comply with the provisions of Article 16 of Chapter 146 of the General Statutes; provided that the provisions of G.S. 146-74 shall not apply.

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

In the General Assembly read three times and ratified this the 24th day of July, 2013.

Became law upon approval of the Governor at 5:08 p.m. on the 29th day of July, 2013.

Session Law 2013-375 **S.B. 485**

AN ACT TO ELIMINATE A DUPLICATIVE REPORTING REQUIREMENT REGARDING PERSONAL SERVICE CONTRACTS FOR THE UNIVERSITY OF NORTH CAROLINA, TO ALLOW THE BOARD OF GOVERNORS TO PROVIDE FOR THE IMPLEMENTATION AND EXPANSION OF E-COMMERCE INFRASTRUCTURE, AND TO CLARIFY THE PROPERTY TAX STATUS OF CERTAIN IMPROVEMENTS ON UNIVERSITY LANDS THAT ARE OWNED BY CERTAIN SOCIAL ORGANIZATIONS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143-64.70 is amended by adding a new subsection to read:

"(c) This section does not apply to The University of North Carolina."

SECTION 2. G.S. 116-40.22 is amended by adding a new subsection to read:

"(e) Electronic Commerce. – The University is authorized to contract with service providers specializing in services offered to institutions of higher learning that offer systems or services under arrangements that provide for the receipt of funds electronically, provided the services are in compliance with the requirements of the payment industry security standards. For any funds collected and remitted to the University that are on deposit with the State Treasurer pursuant to G.S. 147-77, the funds shall be subject to the daily deposit requirements of the statute; provided that the State Treasurer may exempt the applicability of the daily deposit requirement for any standard business process resulting in a delay in the University receiving the funds from a service provider, when the exemption is based upon an acceptable business case that demonstrates an overall efficiency to the University and State. Such business case must first be endorsed by the University of North Carolina General Administration before submission to the State Treasurer for consideration."

SECTION 3.(a) G.S. 105-275 is amended by adding a new subdivision to read:

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

The following classes of property are designated special classes under Article V, Sec. 2(2), of the North Carolina Constitution and are excluded from tax:

…

(19a) Improvements to real property that are (i) owned by social fraternities, sororities, and similar college, university, or high school organizations and (ii) located on land owned by or allocated to The University of North Carolina or one if its constituent institutions.

…."

SECTION 3.(b) This section is effective for taxes imposed for taxable years beginning on or after July 1, 2013.

SECTION 4. Except as provided herein, this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 18th day of July, 2013.

Became law upon approval of the Governor at 5:08 p.m. on the 29th day of July, 2013.

Session Law 2013-376 **S.B. 571**

AN ACT TO AUTHORIZE THE DIVISION OF MOTOR VEHICLES TO ISSUE VARIOUS SPECIAL REGISTRATION PLATES AND TO AMEND PROVISIONS FOR VARIOUS SPECIAL REGISTRATION PLATES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-79.4(b) reads as rewritten:

"§ **20-79.4. Special registration plates.**

(b) Types. – The Division shall issue the following types of special registration plates:

…

(29) Bronze Star ~~Combat~~ Valor Recipient. – Issuable to a recipient of the Bronze Star Medal for valor in combat. The plate shall bear the emblem of the Bronze Star with a "Combat V" emblem and the words "Bronze Star." To be eligible for this plate, the applicant must provide documentation that the medal was issued for valor in combat.

…

() Charlotte Checkers. – Issuable to the registered owner of a motor vehicle in accordance with G.S. 20-81.12. The plate shall bear the phrase "GOCHECKERS.COM" and the logo of the Charlotte Checkers.

…

() First Tee. – Issuable to the registered owner of a motor vehicle in accordance with G.S. 20-81.12. The plate may bear a phrase and logo representing youth golf or The First Tee, Inc.

…

() Flag of the United States of America. – Issuable to the registered owner of a motor vehicle. The plate shall bear an image of a waving American flag. The Division may not issue the plate authorized by this subdivision unless it receives at least 300 applications for the plate.

…

(105) Legion of Valor. – Issuable to a recipient of one of the following military decorations: the Congressional Medal of Honor, the Distinguished Service Cross, the Navy Cross, ~~or~~ the Air Force ~~Cross.~~ Cross, or the Coast Guard Cross. The plate shall bear the emblem and name of the recipient's decoration.

…

() I.B.P.O.E.W. – Issuable to the registered owner of a motor vehicle in accordance with G.S. 20-81.12. The plate shall bear the phrase "The Improved Benevolent and Protective Order of Elks of the World" and the logo of the Improved Benevolent and Protective Order of Elks of the World.

…

() Mission Foundation. – Issuable to the registered owner of a motor vehicle in accordance with G.S. 20-81.12. The plate may bear a phrase and logo selected by Mission Healthcare Foundation, Inc.

…

() Morehead Planetarium. – Issuable to the registered owner of a motor vehicle in accordance with G.S. 20-81.12. The plate shall bear a phrase and logo selected by the Morehead Planetarium and Science Center.

…

() Municipality Plate. – Issuable to the registered owner of a motor vehicle in accordance with G.S. 20-81.12. The plate shall bear a graphic selected by the municipality represented by the plate and approved by the Division.

…

() National Law Enforcement Officers Memorial. – Issuable to the registered owner of a motor vehicle in accordance with G.S. 20-81.12. The plate shall bear the phrase "National Law Enforcement Officers Memorial" and the logo of the National Law Enforcement Officers Memorial.

…

() Native Brook Trout. – Issuable to the registered owner of a motor vehicle in accordance with G.S. 20-81.12. The plate shall bear the phrase "Native Brook Trout" with a picture of a brook trout native to North Carolina in the background.

…

() NC FIRST Robotics. – Issuable to the registered owner of a motor vehicle in accordance with G.S. 20-81.12. The plate shall bear the logo of NC FIRST Robotics and the phrase "NC FIRST Robotics."

…

(41) ~~City/County Clerk. –~~ NCAMC/NCACC Clerk. – Issuable to a clerk of a ~~city or town~~municipal governing board or a clerk of a county board of commissioners of a ~~city~~municipality or county in this State. For a ~~city~~municipal clerk, the plate shall bear the words ~~"City~~"NCAMC Clerk" followed by a number representing the ~~city~~municipal clerk's city or town. The number of a city shall be the order of the city in an alphabetical list of cities that assigns number one to the first city in the list. For a county clerk,

the plate shall bear the words ~~"County~~"NCACC Clerk" followed by a number representing the county clerk's county. The number of a county shall be the order of the county in an alphabetical list of counties that assigns number one to the first county in the list. The Division may not issue the plate authorized by this subdivision unless it receives at least 300 applications for the plate.

…

() NCSC. – Issuable to the registered owner of a motor vehicle in accordance with G.S. 20-81.12. The plate shall bear the phrase "NC Sportsmen's Caucus" and a logo provided by the Congressional Sportsmen's Foundation.

…

() North Carolina Bluegrass Association. – Issuable to the registered owner of a motor vehicle in accordance with G.S. 20-81.12. The plate shall bear a graphic selected by the NC Bluegrass Association.

…

() North Carolina Cattlemen's Association. – Issuable to the registered owner of a motor vehicle in accordance with G.S. 20-81.12. The plate shall bear the seal of the North Carolina Cattlemen's Association.

…

() Operation Coming Home. – Issuable to the registered owner of a motor vehicle in accordance with G.S. 20-81.12. The plate shall bear the phrase "Operation Coming Home" with a logo designed by Operation Coming Home Foundation, Inc.

…

() Order of the Long Leaf Pine. – Issuable to a person who has received the award of membership in the Order of the Long Leaf Pine from the Governor. The plate shall bear the phrase "Order of the Long Leaf Pine."

…

() Pancreatic Cancer Awareness. – Issuable to the registered owner of a motor vehicle in accordance with G.S. 20-81.12. The plate shall bear a representation of a purple ribbon on the right side of the plate.

…

~~(163) Phi Beta Sigma Fraternity. – Issuable to the registered owner of a motor vehicle in accordance with G.S. 20-81.12. The plate shall bear the phrase "Phi Beta Sigma Fraternity" and the logo of the Phi Beta Sigma Fraternity, Inc.~~

…

() Professional Engineer. – Issuable to the registered owner of a motor vehicle in accordance with G.S. 20-81.12. The plate may bear a phrase and logo representing the Professional Engineers of North Carolina.

...

() Red Drum. – Issuable to the registered owner of a motor vehicle in accordance with G.S. 20-81.12. The plate shall bear the phrase "Red Drum" with a picture of a red drum native to North Carolina in the background.

…

(172) Register of Deeds. – Issuable to a register of deeds. The plate shall bear the words "Register of Deeds" and the letter "R" followed by a number representing the county of the register of deeds. The number of a county shall be the order of the county in an alphabetical list of counties that assigns number one to the first county in the list. A plate issued to a retired register of deeds shall bear the phrase "Register of Deeds, Retired," followed by a number that indicates the county where the register of deeds served and a designation indicating the retired status of the register of deeds.

…

(175) Retired Legislator. – Issuable to a retired member of the North Carolina General Assembly in accordance with G.S. 20-81.12. A person who has served in the North Carolina General Assembly is a retired member for purposes of this subdivision. The plate shall bear "The Great Seal of the State of North Carolina" and, as appropriate, the phrase "Retired Senate Member" or "Retired House Member" followed by a number representing the retired member's district with the letters "RM". If more than one retired member is from the same district, then the number shall be followed by a letter from A through Z. The plates shall be issued in the order applications are received.

…

() RiverLink. – Issuable to the registered owner of a motor vehicle in accordance with G.S. 20-81.12. The plate shall bear the phrase "RiverLink.org" and a logo representing RiverLink, Inc.

…

() Sneads Ferry Shrimp Festival. – Issuable to the registered owner of a motor vehicle in accordance with G.S. 20-81.12. The plate may bear a phrase and logo representing the Sneads Ferry Shrimp Festival.

…

() Turtle Rescue Team. – Issuable to the registered owner of a motor vehicle in accordance with G.S. 20-81.12. The plate shall bear a phrase and logo selected by the North Carolina State University College of Veterinary Medicine Turtle Rescue Team.

…

(224) Vietnam Veterans of America. – Issuable to a member of the Vietnam Veterans of America. The plate shall bear the words "Vietnam Veterans of America" or "VVA" and the emblem of the VVA. A person may obtain from the Division a special registration plate under this subdivision for a motor vehicle or a motorcycle registered in that person's name. The registration fees and the restrictions on the issuance of a specialized registration plate for a motorcycle are the same as for any motor vehicle. The Division may not issue either type of the plate authorized by this subdivision unless it receives at least 300 applications for the plate.

…

() Volunteers in Law Enforcement. – Issuable to a volunteer member of a State or local law enforcement agency. The plate shall bear the phrase "Volunteers in Law Enforcement."

…

() YMCA. – Issuable to the registered owner of a motor vehicle in accordance with G.S. 20-81.12. The plate shall bear the logo of the YMCA on the right side of the plate.

…."

SECTION 2. G.S. 20-79.4(b)(52) and G.S. 20-79.4(b)(119) are reenacted.

SECTION 3. G.S. 20-79.7(a) reads as rewritten:

"(a) ~~Fees.~~ Free of Charge. – Upon request, the Division shall annually provide and issue free of charge a single special registration plate listed in this subsection to a person qualified to receive the plate in accordance with G.S. 20-79.4(a2). This subsection does not apply to a special registration plate issued for a vehicle that has a registered weight greater than 6,000 pounds. The regular motor vehicle registration fees in G.S. 20-88 apply if the registered weight of the vehicle is greater than 6,000 pounds.

(1) A Legion of ~~Valor,~~ Valor registration plate to a recipient of the Legion of Valor award.

(2) A 100% Disabled ~~Veteran,~~Veteran registration plate to a 100% disabled veteran.

(3) An ~~and~~ Ex-Prisoner of War registration plate to ~~a recipient of a Legion of Valor award, a 100% disabled veteran, and~~ an ex-prisoner of ~~war each year. The preceding special registration plates are subject to the regular motor vehicle registration fees in G.S. 20-88, if the registered weight of the vehicle is greater than 6,000 pounds.~~war.

(4) A Bronze Star Valor registration plate to a recipient of the Bronze Star Medal for valor in combat award.

(5) A Silver Star registration plate to a recipient of the Silver Star award.

(a1) Fees. - All other special registration plates are subject to the regular motor vehicle registration fee in G.S. 20-87 or G.S. 20-88 plus an additional fee in the following amount:

Special Plate	Additional Fee Amount
American Red Cross	$30.00
Animal Lovers	$30.00
Arthritis Foundation	$30.00
ARTS NC	$30.00
Back Country Horsemen of NC	$30.00
Boy Scouts of America	$30.00
Brenner Children's Hospital	$30.00
Carolina Raptor Center	$30.00
Carolinas Credit Union Foundation	$30.00
Carolinas Golf Association	$30.00
Coastal Conservation Association	$30.00
Coastal Land Trust	$30.00
Crystal Coast	$30.00
Daniel Stowe Botanical Garden	$30.00
El Pueblo	$30.00
Farmland Preservation	$30.00
First in Forestry	$30.00
First Tee	$30.00
Girl Scouts	$30.00
Greensboro Symphony Guild	$30.00
Historical Attraction	$30.00
Home Care and Hospice	$30.00
Home of American Golf	$30.00
HOMES4NC	$30.00
Hospice Care	$30.00
In God We Trust	$30.00
Maggie Valley Trout Festival	$30.00
Morehead Planetarium	$30.00
Morgan Horse Club	$30.00
Mountains-to-Sea Trail	$30.00
Municipality Plate	$30.00
NC Civil War	$30.00
NC Coastal Federation	$30.00
NC FIRST Robotics	$30.00
NCSC	$30.00
NC Veterinary Medical Association	$30.00
National Kidney Foundation	$30.00
National Law Enforcement Officers Memorial	$30.00
Native Brook Trout	$30.00
North Carolina 4-H Development Fund	$30.00

North Carolina Bluegrass Association	$30.00
North Carolina Cattlemen's Association	$30.00
North Carolina Emergency Management Association	$30.00
North Carolina Green Industry Council	$30.00
North Carolina Libraries	$30.00
Operation Coming Home	$30.00
Outer Banks Preservation Association	$30.00
Pamlico-Tar River Foundation	$30.00
Pancreatic Cancer Awareness	$30.00
P.E.O. Sisterhood	$30.00
Personalized	$30.00
Red Drum	$30.00
Retired Legislator	$30.00
RiverLink	$30.00
Ronald McDonald House	$30.00
Share the Road	$30.00
S.T.A.R.	$30.00
State Attraction	$30.00
Stock Car Racing Theme	$30.00
Support NC Education	$30.00
Support Our Troops	$30.00
Sustainable Fisheries	$30.00
Toastmasters Club	$30.00
Topsail Island Shoreline Protection	$30.00
Travel and Tourism	$30.00
Turtle Rescue Team	$30.00
Volunteers in Law Enforcement	$30.00
YMCA	$30.00
AIDS Awareness	$25.00
Buffalo Soldiers	$25.00
Charlotte Checkers	$25.00
Choose Life	$25.00
Collegiate Insignia	$25.00
First in Turf	$25.00
Goodness Grows	$25.00
High School Insignia	$25.00
I.B.P.O.E.W.	$25.00
Kids First	$25.00
National Multiple Sclerosis Society	$25.00
National Wild Turkey Federation	$25.00
NC Agribusiness	$25.00
NC Children's Promise	$25.00
Nurses	$25.00
Olympic Games	$25.00
Professional Engineer	$25.00
Rocky Mountain Elk Foundation	$25.00
Special Olympics	$25.00
Support Soccer	$25.00
Surveyor Plate	$25.00
The V Foundation for Cancer Research Division	$25.00
University Health Systems of Eastern Carolina	$25.00
Alpha Phi Alpha Fraternity	$20.00
ALS Association, Jim "Catfish" Hunter Chapter	$20.00

ARC of North Carolina	$20.00
Audubon North Carolina	$20.00
Autism Society of North Carolina	$20.00
Battle of Kings Mountain	$20.00
Be Active NC	$20.00
Brain Injury Awareness	$20.00
Breast Cancer Earlier Detection	$20.00
Buddy Pelletier Surfing Foundation	$20.00
Concerned Bikers Association/ABATE of North Carolina	$20.00
Daughters of the American Revolution	$20.00
Donate Life	$20.00
Ducks Unlimited	$20.00
Fraternal Order of Police	$20.00
Greyhound Friends of North Carolina	$20.00
Guilford Battleground Company	$20.00
Harley Owners' Group	$20.00
Jaycees	$20.00
Juvenile Diabetes Research Foundation	$20.00
Kappa Alpha Order	$20.00
Litter Prevention	$20.00
March of Dimes	$20.00
Mission Foundation	$20.00
Native American	$20.00
NC Fisheries Association	$20.00
NC Horse Council	$20.00
NC Mining	$20.00
NC Tennis Foundation	$20.00
NC Trout Unlimited	$20.00
NC Victim Assistance	$20.00
NC Wildlife Federation	$20.00
NC Wildlife Habitat Foundation	$20.00
NC Youth Soccer Association	$20.00
North Carolina Master Gardener	$20.00
Omega Psi Phi Fraternity	$20.00
Order of the Long Leaf Pine	$20.00
~~Phi Beta Sigma Fraternity~~	~~$20.00~~
Piedmont Airlines	$20.00
Prince Hall Mason	$20.00
Save the Sea Turtles	$20.00
Scenic Rivers	$20.00
School Technology	$20.00
SCUBA	$20.00
Soil and Water Conservation	$20.00
Special Forces Association	$20.00
Support Public Schools	$20.00
US Equine Rescue League	$20.00
USO of NC	$20.00
Wildlife Resources	$20.00
Zeta Phi Beta Sorority	$20.00
Carolina Regional Volleyball Association	$15.00
Carolina's Aviation Museum	$15.00
Leukemia & Lymphoma Society	$15.00
Lung Cancer Research	$15.00

NC Beekeepers	$15.00
Shag Dancing	$15.00
Active Member of the National Guard	None
Bronze Star Combat Recipient	None
Bronze Star Recipient	None
Combat Veteran	None
100% Disabled Veteran	None
Ex-Prisoner of War	None
Gold Star Lapel Button	None
Legion of Merit	None
Legion of Valor	None
Military Veteran	None
Military Wartime Veteran	None
Partially Disabled Veteran	None
Pearl Harbor Survivor	None
Purple Heart Recipient	None
Silver Star Recipient	None
All Other Special Plates	$10.00."

SECTION 4. G.S. 20-79.7(b) reads as rewritten:

"(b) Distribution of Fees. – The Special Registration Plate Account and the Collegiate and Cultural Attraction Plate Account are established within the Highway Fund. The Division must credit the additional fee imposed for the special registration plates listed in subsection (a) of this section among the Special Registration Plate Account (SRPA), the Collegiate and Cultural Attraction Plate Account (CCAPA), the Natural Heritage Trust Fund (NHTF), which is established under G.S. 113-77.7, and the Parks and Recreation Trust Fund, which is established under G.S. 113-44.15, as follows:

Special Plate	SRPA	CCAPA	NHTF	PRTF
AIDS Awareness	$10	$15	0	0
Alpha Phi Alpha Fraternity	$10	$10	0	0
ALS Association, Jim "Catfish" Hunter Chapter	$10	$10	0	0
American Red Cross	$10	$20	0	0
Animal Lovers	$10	$20	0	0
ARC of North Carolina	$10	$10	0	0
Arthritis Foundation	$10	$20	0	0
ARTS NC	$10	$20	0	0
Audubon North Carolina	$10	$10	0	0
Autism Society of North Carolina	$10	$10	0	0
Back Country Horsemen of NC	$10	$20	0	0
Battle of Kings Mountain	$10	$10	0	0
Be Active NC	$10	$10	0	0
Boy Scouts of America	$10	$20	0	0
Brain Injury Awareness	$10	$10	0	0
Breast Cancer Earlier Detection	$10	$10	0	0
Brenner Children's Hospital	$10	$20	0	0
Buddy Pelletier Surfing Foundation	$10	$10	0	0
Buffalo Soldiers	$10	$15	0	0
Carolina Raptor Center	$10	$20	0	0
Carolina Regional Volleyball Association	$10	$5	0	0
Carolina's Aviation Museum	$10	$5	0	0

Carolinas Credit Union Foundation	$10	$20	0	0
Carolinas Golf Association	$10	$20	0	0
Charlotte Checkers	$10	$15	0	0
Choose Life	$10	$15	0	0
Coastal Conservation Association	$10	$20	0	0
Coastal Land Trust	$10	$20	0	0
Concerned Bikers Association/ ABATE of North Carolina	$10	$10	0	0
Crystal Coast	$10	$20	0	0
Daniel Stowe Botanical Gardens	$10	$20	0	0
Daughters of the American Revolution	$10	$10	0	0
Donate Life	$10	$10	0	0
Ducks Unlimited	$10	$10	0	0
El Pueblo	$10	$20	0	0
Farmland Preservation	$10	$20	0	0
First in Forestry	$10	$10	$10	0
First in Turf	$10	$15	0	0
First Tee	$10	$20	0	0
Fraternal Order of Police	$10	$10	0	0
Girl Scouts	$10	$20	0	0
Goodness Grows	$10	$15	0	0
Greensboro Symphony Guild	$10	$20	0	0
Greyhound Friends of North Carolina	$10	$10	0	0
Guilford Battleground Company	$10	$10	0	0
Harley Owners' Group	$10	$10	0	0
High School Insignia	$10	$15	0	0
Historical Attraction	$10	$20	0	0
Home Care and Hospice	$10	$20	0	0
Home of American Golf	$10	$20	0	0
HOMES4NC	$10	$20	0	0
Hospice Care	$10	$20	0	0
I.B.P.O.E.W.	$10	$15	0	0
In God We Trust	$10	$20	0	0
In-State Collegiate Insignia	$10	$15	0	0
Jaycees	$10	$10	0	0
Juvenile Diabetes Research Foundation	$10	$10	0	0
Kappa Alpha Order	$10	$10	0	0
Kids First	$10	$15	0	0
Leukemia & Lymphoma Society	$10	$5	0	0
Litter Prevention	$10	$10	0	0
Lung Cancer Research	$10	$5	0	0
Maggie Valley Trout Festival	$10	$20	0	0
March of Dimes	$10	$10	0	0
Mission Foundation	$10	$10	0	0
Morgan Horse Club	$10	$20	0	0

Morehead Planetarium`	$10	$20	0	0
Mountains-to-Sea Trail	$10	$20	0	0
Municipality Plate	$10	$20	0	0
National Kidney Foundation	$10	$20	0	0
National Law Enforcement Officers Memorial	$10	$20	0	0
National Multiple Sclerosis Society	$10	$15	0	0
National Wild Turkey Federation	$10	$15	0	0
Native American	$10	$10	0	0
NC Agribusiness	$10	$15	0	0
NC Beekeepers	$10	$5	0	0
NC Children's Promise	$10	$15	0	0
NC Civil War	$10	$20	0	0
NC Coastal Federation	$10	$20	0	0
NC 4-H Development Fund	$10	$20	0	0
NC FIRST Robotics	$10	$20	0	0
NC Fisheries Association	$10	$10	0	0
NC Horse Council	$10	$10	0	0
NC Mining	$10	$10	0	0
NCSC	$10	$20	0	0
NC Tennis Foundation	$10	$10	0	0
NC Trout Unlimited	$10	$10	0	0
NC Veterinary Medical Association	$10	$20	0	0
NC Victim Assistance	$10	$10	0	0
NC Wildlife Federation	$10	$10	0	0
NC Wildlife Habitat Foundation	$10	$10	0	0
NC Youth Soccer Association	$10	$10	0	0
North Carolina Bluegrass Association	$10	$20	0	0
North Carolina Cattlemen's Association	$10	$20	0	0
North Carolina Emergency Management Association	$10	$20	0	0
North Carolina Green Industry Council	$10	$20	0	0
North Carolina Libraries	$10	$20	0	0
North Carolina Master Gardener	$10	$10	0	0
Nurses	$10	$15	0	0
Olympic Games	$10	$15	0	0
Omega Psi Phi Fraternity	$10	$10	0	0
Operation Coming Home	$10	$20	0	0
Order of the Long Leaf Pine	$10	$10	0	0
Out-of-state Collegiate Insignia	$10	0	$15	0
Outer Banks Preservation Association	$10	$20	0	0
Pamlico-Tar River Foundation	$10	$20	0	0
Pancreatic Cancer Awareness	$10	$20	0	0
P.E.O. Sisterhood	$10	$20	0	0
Personalized	$10	0	$15	$5
~~Phi Beta Sigma Fraternity~~	~~$10~~	~~$10~~	~~0~~	~~0~~

Piedmont Airlines	$10	$10	0	0
Prince Hall Mason	$10	$10	0	0
Professional Engineer	$10	$15	0	0
Retired Legislator	$10	$20	0	0
RiverLink	$10	$20	0	0
Rocky Mountain Elk Foundation	$10	$15	0	0
Ronald McDonald House	$10	$20	0	0
Save the Sea Turtles	$10	$10	0	0
Scenic Rivers	$10	$10	0	0
School Technology	$10	$10	0	0
SCUBA	$10	$10	0	0
Shag Dancing	$10	$5	0	0
Share the Road	$10	$20	0	0
Sneads Ferry Shrimp Festival	$10	0	0	0
Soil and Water Conservation	$10	$10	0	0
Special Forces Association	$10	$10	0	0
Special Olympics	$10	$15	0	0
S.T.A.R.	$10	$20	0	0
State Attraction	$10	$20	0	0
Stock Car Racing Theme	$10	$20	0	0
Support NC Education	$10	$20	0	0
Support Our Troops	$10	$20	0	0
Support Public Schools	$10	$10	0	0
Support Soccer	$10	$15	0	0
Surveyor Plate	$10	$15	0	0
Sustainable Fisheries	$10	$20	0	0
The V Foundation for Cancer Research	$10	$15	0	0
Toastmasters Club	$10	$20	0	0
Topsail Island Shoreline Protection	$10	$20	0	0
Travel and Tourism	$10	$20	0	0
Turtle Rescue Team	$10	$20	0	0
University Health Systems of Eastern Carolina	$10	$15	0	0
US Equine Rescue League	$10	$10	0	0
USO of NC	$10	$10	0	0
Volunteers in Law Enforcement	$10	$20	0	0
Wildlife Resources	$10	$10	0	0
YMCA	$10	$20	0	0
Zeta Phi Beta Sorority	$10	$10	0	0
All other Special Plates	$10	0	0	0."

SECTION 5. G.S. 20-81.12(b2) reads as rewritten:

"(b2) State Attraction Plates. – The Division must receive 300 or more applications for a State attraction plate before the plate may be developed. The Division must transfer quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of State attraction plates to the organizations named below in proportion to the number of State attraction plates sold representing that organization:

…

(11) The North Carolina Transportation Museum. – The revenue derived from the special plate shall be transferred quarterly to the North Carolina Transportation Museum Foundation to be used for educational programs and

conservation programs and for operating expenses of the North Carolina Transportation Museum.

~~(11)~~(12) The North Carolina Zoological Society. – The revenue derived from the special plate shall be transferred quarterly to The North Carolina Zoological Society, Incorporated, to be used for educational programs and conservation programs at the North Carolina Zoo at Asheboro and for operating expenses of the North Carolina Zoo at Asheboro.

~~(12)~~(13) U.S.S. North Carolina Battleship Commission. – The revenue derived from the special plate shall be transferred quarterly to the U.S.S. North Carolina Battleship Commission to be used for educational programs and preservation programs on the U.S.S. North Carolina (BB-55) and for operating expenses of the U.S.S. North Carolina Battleship Commission."

SECTION 6. G.S. 20-81.12 is amended by adding the following new subsections to read:

"(b126) Charlotte Checkers. – The Division must receive 300 or more applications for a Charlotte Checkers plate before the plate may be developed. The Division shall transfer quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of Charlotte Checkers plates to the Charlotte Checkers Charitable Foundation to support school programming, athletics, and various children's related nonprofit groups that promote and encourage education, physical fitness, and development of character.

(b127) First Tee. – The Division must receive 300 or more applications for a First Tee plate before the plate may be developed. The Division shall transfer quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of First Tee plates to The Carol S. Petrea Youth Golf Foundation, Inc., to support its mission of helping to shape the lives of young people from all walks of life by reinforcing values like integrity, respect, and perseverance through the game of golf.

(b128) Fraternal Order of Police. – The Division shall transfer quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of Fraternal Order of Police plates to The North Carolina Fraternal Order of Police to support the State Lodge.

(b129) I.B.P.O.E.W. – The Division must receive 300 or more applications for an I.B.P.O.E.W. plate before the plate may be developed. The Division shall transfer quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of I.B.P.O.E.W. plates to the North Carolina Alliance of Boys and Girls Clubs to support its mission of promoting the social welfare of boys and girls as served by various Boys and Girls Clubs in North Carolina that are affiliated with the Boys and Girls Clubs of America.

(b130) Mission Foundation. – The Division must receive 300 or more applications for a Mission Foundation plate before the plate may be developed. The Division shall transfer quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of Mission Foundation plates to Mission Healthcare Foundation, Inc., to support its mission of sustaining and expanding its provision of health services to Western North Carolina.

(b131) Morehead Planetarium. – The Division must receive 300 or more applications for a Morehead Planetarium plate before the plate may be developed. The Division shall transfer quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of Morehead Planetarium plates to the Morehead Planetarium and Science Center to support its mission of informing and inspiring the public about the foundations and frontiers of scientific discovery.

(b132) Municipality Plate. – The Division must receive 300 or more applications for a municipality plate for a municipality before a municipality plate may be developed. The color and design for the plate must be approved by both the Division and the municipality. The Division shall transfer quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of a municipality plate to the municipality represented by the plate.

(b133) National Law Enforcement Officers Memorial. – The Division must receive 300 or more applications for a National Law Enforcement Officers Memorial plate before the plate may be developed. The Division shall transfer quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of "National Law Enforcement Officers Memorial" plates to the National Law Enforcement Officers Memorial Fund to support the National Law Enforcement Officers Memorial in Washington, DC.

(b134) Native Brook Trout. – The Division must receive 300 or more applications for the Native Brook Trout plate before the plate may be developed. The Division must transfer quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of Native Brook Trout plates to the North Carolina Wildlife Resources Commission to be used to fund public access to and habitat protection of brook trout waters.

(b135) NC FIRST Robotics. – The Division must receive 300 or more applications for an NC FIRST Robotics plate before the plate may be developed. The Division shall transfer quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of NC FIRST Robotics plates to NC FIRST Robotics to support its mission of inspiring youths to pursue further studies and careers in science and technology and helping students acquire the knowledge and skills needed to compete in the technologically driven global economy.

(b136) NCSC. – The Division must receive 300 or more applications for an NCSC plate before the plate may be developed. The Division shall transfer quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of NCSC plates to the Congressional Sportsmen's Foundation to support its mission of protecting and advancing the rights of hunters, recreational anglers, shooters, and trappers in North Carolina.

(b137) North Carolina Bluegrass Association. – The Division must receive 300 or more applications for the North Carolina Bluegrass Association plate before the plate may be developed. The Division shall transfer quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of North Carolina Bluegrass Association plates to the North Carolina Bluegrass Association.

(b138) North Carolina Cattlemen's Association. – The Division must receive 300 or more applications for the North Carolina Cattlemen's Association plate before the plate may be developed. The Division shall transfer quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of North Carolina Cattlemen's Association plates to the North Carolina Cattlemen's Association, Inc.

(b139) Operation Coming Home. – The Division must receive 300 or more applications for an Operation Coming Home plate before the plate may be developed. The Division shall transfer quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of Operation Coming Home plates to the Operation Coming Home Foundation, Inc., to support its mission of providing free, custom-built homes to injured combat veterans.

(b140) Order of the Long Leaf Pine. – The Division must receive 300 or more applications for the Order of the Long Leaf Pine plate before the plate may be developed. The Division shall transfer quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of Order of the Long Leaf Pine plates to the General Fund.

(b141) Pancreatic Cancer Awareness. – The Division must receive 300 or more applications for a Pancreatic Cancer Awareness plate before the plate may be developed. The Division shall transfer quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of Pancreatic Cancer Awareness plates to the Mark Daidone Cancer Research Endowment maintained by the Levine Cancer Institute at the Carolinas HealthCare System to provide funding for research in the management of the early stages of cancer.

(b142) Professional Engineer. – The Division must receive 300 or more applications for a Professional Engineer plate before the plate may be developed. The Division shall transfer quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the

sale of Professional Engineer plates to The Professional Engineers of North Carolina for educational programs.

(b143) Red Drum. – The Division must receive 300 or more applications for the Red Drum plate before the plate may be developed. The Division must transfer quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of Red Drum plates to the North Carolina Marine Fisheries Commission to be used to fund public access to and habitat protection of red drum waters.

(b144) RiverLink. – The Division must receive 300 or more applications for a "RiverLink" plate before the plate may be developed. The Division shall transfer quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of "RiverLink" plates to RiverLink, Inc., to support the economic and environmental revitalization of the French Broad River and its tributaries as a place to work, live, and play.

(b145) Turtle Rescue Team. – The Division must receive 300 or more applications for a Turtle Rescue Team plate before the plate may be developed. The Division shall transfer quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of Turtle Rescue Team plates to the North Carolina State University College of Veterinary Medicine Turtle Rescue Team to support its mission of providing medical, surgical, and husbandry services free of charge in the hope of releasing rehabilitated turtles back into the wild.

(b146) Volunteers in Law Enforcement. – The Division must receive 300 or more applications for a Volunteers in Law Enforcement plate before the plate may be developed. The Division shall transfer quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of Volunteers in Law Enforcement plates to the International Association of Chiefs of Police Incorporated to support the Volunteers in Police Service (VIPS) Program and its mission of enhancing the capacity of State and local law enforcement agencies to utilize volunteers.

(b147) YMCA. – The Division must receive 300 or more applications for a YMCA plate before the plate may be developed. The Division shall transfer quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of YMCA plates to the North Carolina State Alliance of YMCAs to support its mission of fighting childhood obesity, eliminating the achievement gap, and eradicating diabetes."

SECTION 7. G.S. 20-81.12(b4) reads as rewritten:

"(b4) Olympic Games. – The Division may not issue an Olympic Games special plate unless it receives 300 or more applications for the plate and the U.S. Olympic Committee licenses, without charge, the State to develop a plate bearing the Olympic Games symbol and name. The Division must transfer quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of Olympic Games plates to ~~the N.C. Health and Fitness Foundation, Inc.,~~North Carolina Amateur Sports, which will allocate the funds as follows:

(1) ~~Fifty percent (50%)~~Sixty-seven percent (67%) to the U.S. Olympic Committee to assist in training ~~olympic~~Olympic athletes.

(2) ~~Twenty-five percent (25%)~~Thirty-three percent (33%) to North Carolina Amateur Sports to assist with administration of the State Games of North Carolina.

~~(3) Twenty-five percent (25%) to the Governor's Council on Physical Fitness and Health to support local fitness council development throughout North Carolina.~~"

SECTION 8. G.S. 20-81.12(b38) reads as rewritten:

"(b38) Stock Car Racing Theme. – The Division may issue any plate in this series without a minimum number of applications if the person providing the State with the license to use the words, logos, trademarks, or designs associated with the plate produces the plate for the State without a minimum order quantity.

The cost of the Stock Car Racing Theme plate shall include all costs to produce blank plates for issuance by the Division. Notwithstanding G.S. 66-58(b), the Division or the Division of

Adult Correction of the Department of Public Safety may contract for the production of the blank plates in this series to be issued by the Division, provided the plates meet or exceed the State's specifications including durability and retroreflectivity, and provided the plates are manufactured using high-quality embossable aluminum. The cost of the blank plates to the State shall be substantially equivalent to the price paid to the Division of Adult Correction of the Department of Public Safety for license tags, as provided in G.S. 66-58(b)(15).

The Division shall transfer quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of Stock Car Racing Theme plates to the North Carolina Motorsports Foundation, ~~Inc.~~Inc.; except that the Division shall transfer quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of Charlotte Motor Speedway plates to Speedway Children's Charities."

SECTION 9.(a) G.S. 20-63(b1) reads as rewritten:

"(b1) The following special registration plates do not have to be a "First in Flight" plate as provided in subsection (b) of this section. The design of the plates that are not "First in Flight" plates must be developed in accordance with G.S. 20-79.4(a3). For special plates authorized in G.S. 20-79.7 on or after July 1, 2013, the Division may not issue the plate on a background under this subsection unless it receives at least 200 applications for the plate in addition to the applications required under G.S. 20-79.4 or G.S. 20-81.12. ~~approved by the Division and the State Highway Patrol for clarity and ease of identification. When the Division registers a vehicle or renews the registration of a vehicle on or after July 1, 2015, the Division must send the owner a replacement special license plate in a standardized format in accordance with subsection (b) of this section and G.S. 20-79.4(a3).~~

(1) Friends of the Great Smoky Mountains National Park.
(2) Rocky Mountain Elk Foundation.
(3) Blue Ridge Parkway Foundation.
(4) Friends of the Appalachian Trail.
(5) NC Coastal Federation.
(6) In God We Trust.
(7) Stock Car Racing Theme.
(8) Buddy Pelletier Surfing Foundation.
(9) Guilford Battleground Company.
(10) National Wild Turkey Federation.
(11) North Carolina Aquarium Society.
(12) First in Forestry.
(13) North Carolina Wildlife Habitat Foundation.
(14) NC Trout Unlimited.
(15) Ducks Unlimited.
(16) Lung Cancer Research.
(17) NC State Parks.
(18) Support Our Troops.
(19) US Equine Rescue League.
(20) Fox Hunting.
(21) Back Country Horsemen of North Carolina.
(22) Hospice Care.
(23) Home Care and Hospice.
(24) NC Tennis Foundation.
(25) AIDS Awareness.
(26) Donate Life.
(27) Farmland Preservation.
(28) Travel and Tourism.
(29) Battle of Kings Mountain.
(30) NC Civil War.
(31) North Carolina Zoological Society.

(32) United States Service Academy.
(33) Carolina Raptor Center.
(34) Carolinas Credit Union Foundation.
(35) North Carolina State Flag.
(36) NC Mining.
(37) Coastal Land Trust.
(38) ARTS NC.
(39) Choose Life.
(40) North Carolina Green Industry Council.
(41) NC Horse Council.
(42) Core Sound Waterfowl Museum and Heritage Center.
(43) Mountains-to-Sea Trail, Inc."

SECTION 9.(b) Section 1.1 of S.L. 2011-392 is repealed.

SECTION 9.(c) Section 5.1 of S.L. 2011-392 is repealed.

SECTION 9.(d) Section 12 of S.L. 2011-392 reads as rewritten:

"**SECTION 12.** ~~Section 1.1 becomes effective July 1, 2016. Section 5.1 becomes effective July 1, 2015.~~ Section 8 of this act becomes effective July 1, 2011. The remainder of this act is effective when it becomes law."

SECTION 9.(e) G.S. 20-79.4(a3) reads as rewritten:

"(a3) The Division shall develop, in consultation with the State Highway Patrol and the Division of Adult Correction, a standardized format for special license plates. The format shall allow for the name of the State and the license plate number to be reflective and to contrast with the background so it may be easily read by the human eye and by cameras installed along roadways as part of tolling and speed enforcement. A designated segment of the plate shall be set aside for unique design representing various groups and interests. Nothing in this subsection shall be construed to require the recall of existing special license plates."

SECTION 10. The Revisor of Statutes is authorized to alphabetize, number, and renumber the special registration plates listed in G.S. 20-79.4(b) to ensure that all the special registration plates are listed in alphabetical order and numbered accordingly.

SECTION 11. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 26th day of July, 2013.

Became law upon approval of the Governor at 5:08 p.m. on the 29th day of July, 2013.

Session Law 2013-377 **S.B. 626**

AN ACT TO RECODIFY AND AMEND THE EXISTING LAW ENACTED TO ASSIST OWNERS IN RECOVERING LOST PETS, RELIEVE OVERCROWDING AT ANIMAL SHELTERS, FACILITATE ADOPTIONS FROM ANIMAL SHELTERS, AND TO PROVIDE FOR IMPROVED ENFORCEMENT OF THAT LAW BY MAKING IT PART OF THE ANIMAL WELFARE ACT; AND TO ESTABLISH A CAP ON THE REIMBURSEMENT AMOUNT AVAILABLE FROM THE SPAY/NEUTER PROGRAM; AND TO PROVIDE FOR THE PROTECTION OF ANIMALS CONFINED IN MOTOR VEHICLES UNDER CIRCUMSTANCES THAT THREATEN THE ANIMALS' HEALTH.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 19A-23 is amended by redesignating subdivision (5a) as subdivision (5c) and by adding two new subdivisions to read:

"(5a) "Approved foster care provider" means an individual, nonprofit corporation, or association that cares for stray animals that has been favorably assessed by the operator of the animal shelter through the application of written standards.

(5b) "Approved rescue organization" means a nonprofit corporation or association that cares for stray animals that has been favorably assessed by the operator of the animal shelter through the application of written standards."

SECTION 2. Chapter 19A of the General Statutes is amended by adding a new section to read:

"**§ 19A-32.1. Minimum holding period for animals in animal shelters; public viewing of animals in animal shelters; disposition of animals.**

(a) Except as otherwise provided in this section, all animals received by an animal shelter or by an agent of an animal shelter shall be held for a minimum holding period of 72 hours, or for any longer minimum period established by a board of county commissioners, prior to being euthanized or otherwise disposed of.

(b) Before an animal may be euthanized or otherwise disposed of, it shall be made available for adoption under procedures that enable members of the public to inspect the animal, except in the following cases:

(1) The animal has been found by the operator of the shelter to be unadoptable due to injury or defects of health or temperament.

(2) The animal is seriously ill or injured, in which case the animal may be euthanized before the expiration of the minimum holding period if the manager of the animal shelter determines, in writing, that it is appropriate to do so. The writing shall include the reason for the determination.

(3) The animal is being held as evidence in a pending criminal case.

(c) Except as otherwise provided in this subsection, a person who comes to an animal shelter attempting to locate a lost pet is entitled to view every animal held at the shelter, subject to rules providing for such viewing during at least four hours a day, three days a week. If the shelter is housing animals that must be kept apart from the general public for health reasons, public safety concerns, or in order to preserve evidence for criminal proceedings, the shelter shall make reasonable arrangements that allow pet owners to determine whether their lost pets are among those animals.

(d) During the minimum holding period, an animal shelter may place an animal it is holding into foster care by transferring possession of the animal to an approved foster care provider, an approved rescue organization, or the person who found the animal. If an animal shelter transfers possession of an animal under this subsection, at least one photograph depicting the head and face of the animal shall be displayed at the shelter in a conspicuous location that is available to the general public during hours of operation, and that photograph shall remain posted until the animal is disposed of as provided in subsection (f) of this section.

(e) If a shelter places an animal in foster care, the shelter may, in writing, appoint the person or organization possessing the animal to be an agent of the shelter. After the expiration of the minimum holding period, the shelter may (i) direct the agent possessing the animal to return it to the shelter, (ii) allow the agent to adopt the animal consistent with the shelter's adoption policies, or (iii) extend the period of time that the agent holds the animal on behalf of the shelter. A shelter may terminate an agency created under this subsection at any time by directing the agent to deliver the animal to the shelter. The local government or organization operating the shelter, as principal in the agency relationship, shall not be liable to reimburse the agent for the costs of care of the animal and shall not be liable to the owner of the animal for harm to the animal caused by the agent, absent a written contract providing otherwise.

(f) An animal that is surrendered to an animal shelter by the animal's owner and not reclaimed by that owner during the minimum holding period may be disposed of in one of the following manners:

(1) Returned to the owner.

(2) Adopted as a pet by a new owner.

(3) Euthanized by a procedure approved by rules adopted by the Department of Agriculture and Consumer Services or, in the absence of such rules, by a

procedure approved by the American Veterinary Medical Association, the Humane Society of the United States, or the American Humane Association.

(g) An animal that is surrendered to an animal shelter by the animal's owner may be disposed of before the expiration of the minimum holding period in a manner authorized under subsection (f) of this section if the owner provides to the shelter (i) some proof of ownership of the animal and (ii) a signed written consent to the disposition of the animal before the expiration of the minimum holding period.

(h) If the owner of a dog surrenders the dog to an animal shelter, the owner shall state in writing whether the dog has bitten any individual within the 10 days preceding the date of surrender.

(i) An animal shelter shall require every person to whom an animal is released to present one of the following valid forms of government-issued photographic identification: (i) a drivers license, (ii) a special identification card issued under G.S. 20-37.7, (iii) a military identification card, or (iv) a passport. Upon presentation of the required photographic identification, the shelter shall document the name of the person, the type of photographic identification presented by the person, and the photographic identification number.

(j) Animal shelters shall maintain a record of all animals impounded at the shelter, shall retain those records for a period of at least three years from the date of impoundment, and shall make those records available for inspection during regular inspections pursuant to this Article or upon the request of a representative of the Animal Welfare Section. These records shall contain, at a minimum:

(1) The date of impoundment.

(2) The length of impoundment.

(3) The disposition of each animal, including the name and address of any person to whom the animal is released, any institution that person represents, and the identifying information required under subsection (i) of this section.

(4) Other information required by rules adopted by the Board of Agriculture."

SECTION 3. G.S. 130A-192 reads as rewritten:

"§ **130A-192. Animals not wearing required rabies vaccination tags.**

(a) The Animal Control Officer shall canvass the county to determine if there are any animals not wearing the required rabies vaccination tag. If an animal required to wear a tag is found not wearing one, the Animal Control Officer shall check to see if the owner's identification can be found on the animal. If the animal is wearing an owner identification tag with information enabling the owner of the animal to be contacted, or if the Animal Control Officer otherwise knows who the owner is, the Animal Control Officer shall notify the owner in writing to have the animal vaccinated against rabies and to produce the required rabies vaccination certificate to the Animal Control Officer within three days of the notification. If the animal is not wearing an owner identification tag and the Animal Control Officer does not otherwise know who the owner is, the Animal Control Officer may impound the animal. The duration of the impoundment of these animals shall be established by the county board of commissioners, but the duration shall not be less than 72 hours. During the impoundment period, the Animal Control Officer shall make a reasonable effort to locate the owner of the animal. If the Animal Control Officer has access at no cost or at a reasonable cost to a microchip scanning device, the Animal Control Officer ~~may~~ shall scan the animal and utilize any information that may be available through a microchip to locate the owner of the animal, if possible. If the animal is not reclaimed by its owner during the impoundment period, the animal shall be disposed of in one of the following manners: returned to the owner; adopted as a pet by a new owner; ~~sold to institutions within this State registered by the United States Department of Agriculture pursuant to the Federal Animal Welfare Act, as amended;~~ or put to death by a procedure approved by rules adopted by the Department of Agriculture and Consumer Services or, in the absence of such rules, by a procedure approved by the American Veterinary Medical Association, the Humane Society of the United States or of the American Humane Association.

(a1) Before an animal may be put to death, it shall be made available for adoption ~~under procedures that enable members of the public to inspect the animal, except in cases in which the animal is found by the operator of the shelter to be unadoptable due to injury or defects of health or temperament. An animal that is seriously ill or injured may be euthanized if the manager of the animal shelter determines, in writing, that it is appropriate to do so. Nothing in this subsection shall supercede (i) any rules adopted by the Board of Agriculture which specify the number of animals allowed for kennel space in animal shelters, or (ii) the duration of impoundment established by the county board of commissioners, or the 72-hour holding period, as provided in subsection (a) of this section.~~ as provided in G.S. 19A-32.1.

~~(a2) Except as otherwise provided in this subsection, a person who comes to an animal shelter attempting to locate a lost pet is entitled to view every animal held at the shelter, subject to rules providing for such viewing during at least four hours a day, three days a week. If the shelter is housing animals that must be kept apart from the general public for health reasons, public safety concerns, or in order to preserve evidence for criminal proceedings, the shelter shall make reasonable arrangements that allow pet owners to determine whether their lost pets are among those animals.~~

(a3) The Animal Control Officer shall maintain a record of all animals impounded under this section which shall include the date of impoundment, the length of impoundment, the method of disposal of the animal and the name of the person or institution to whom any animal has been released.

~~(b) In addition to domesticated dogs and cats not wearing the required rabies tags, the provisions of subsection (a) of this section concerning the holding of animals for at least 72 hours and the permissible means of disposition of animals after expiration of that holding period also apply to all of the following:~~

- ~~(1) Dogs and cats that are wearing rabies tags but are taken into custody for violation of statutes or ordinances not related to rabies control, such as ordinances requiring the leashing or restraining of dogs and cats.~~
- ~~(2) Dogs and cats surrendered to an animal shelter by the owners of the animals, unless an owner provides to the shelter the following:~~
  - ~~a. Some proof of ownership of the animal, and~~
  - ~~b. A signed written consent to the disposition of the animal, in a manner authorized by this section, before the expiration of the 72-hour holding period or of a longer period established by ordinance or local rule to which the shelter is subject.~~

~~(c) If an animal is not wearing tags, or other mode of identification indicating its owner, and is delivered to an animal shelter by (i) a person who has found and captured the animal, or (ii) by an approved rescue organization that received the animal from a person who found and captured the animal, then the shelter may, in writing, appoint the finder or approved rescue organization to be the agent of the shelter. For purposes of this subsection, the term "approved rescue organization" means a nonprofit corporation or association that cares for stray animals that has been favorably assessed by the operator of the animal shelter through the application of written standards.~~

- ~~(1) If the animal is a dog or cat, the finder or approved rescue organization shall hold the animal for the 72-hour holding period provided for in subsection (a) of this section or such longer holding period that may be applicable to the shelter by ordinance or local rule. If the animal is not a dog or cat, then the holding period shall be by agreement between the animal shelter and the person or organization receiving the animal.~~
- ~~(2) After the expiration of the applicable holding period, the shelter may:~~
  - ~~a. Transfer the animal by adoption to the person or organization that has held it as agent, or~~
  - ~~b. Extend the period of time the finder or rescue organization holds the animal as agent of the shelter.~~

~~(3) A shelter may terminate an agency created under this subsection at any time by directing the finder or rescue organization to deliver the animal to the shelter.~~

~~(4) The city, county, or organization operating the animal shelter, as principal in the agency relationship, shall not be liable to reimburse the agent for the costs of care of the animal and shall not be liable to the owner of the animal for harm to the animal caused by the agent, absent a written contract providing otherwise.~~

~~(d) During the 72-hour or longer holding period established under subsection (a) of this section, an animal shelter may place an animal it is holding in foster care.~~

~~(e) If an animal shelter transfers physical possession of a dog or cat under subsection (c) or (d) of this section, so that the animal is no longer on the animal shelter premises, at least one photograph which depicts the head and face of the animal shall (i) be displayed at the shelter in a conspicuous location that is available to the general public during hours of operation, and (ii) remain posted for the 72-hour or longer holding period established under subsection (a) of this section.~~"

SECTION 4. G.S. 19A-64 reads as rewritten:

"§ **19A-64. Distributions to counties and cities from Spay/Neuter Account.**

(a) Reimbursable Costs. – Counties and cities eligible for distributions from the Spay/Neuter Account may receive reimbursement for the direct costs of a spay/neuter surgical procedure for a dog or cat owned by a low-income person as defined in G.S. 19A-63(b). Reimbursable costs shall include anesthesia, medication, and veterinary services. Counties and cities shall not be reimbursed for the administrative costs of providing reduced-cost spay/neuter services or capital expenditures for facilities and equipment associated with the provision of such services. The reimbursement amount for each surgical procedure for a female dog or cat shall be no more than one hundred fifty percent (150%) of the average reimbursement allowed for surgical procedures for female dogs and cats by the Spay/Neuter Program during the prior calendar year. The reimbursement amount for each surgical procedure for a male dog or cat shall be no more than one hundred fifty percent (150%) of the average reimbursement allowed for surgical procedures for male dogs and cats by the Spay/Neuter Program during the prior calendar year.

(b) Application. – A county or city eligible for reimbursement of spaying and neutering costs from the Spay/Neuter Account shall apply to the Department of Agriculture and Consumer Services by the last day of January, April, July, and October of each year to receive a distribution from the Account for that quarter. The application shall be submitted in the form required by the Department and shall include an itemized listing of the costs for which reimbursement is sought.

(c) Distribution. – The Department shall make payments from the Spay/Neuter Account to eligible counties and cities who have made timely application for reimbursement within 30 days of the closing date for receipt of applications for that quarter. In the event that total requests for reimbursement exceed the amounts available in the Spay/Neuter Account for distribution, the monies available will be distributed as follows:

(1) Fifty percent (50%) of the monies available in the Spay/Neuter Account shall be reserved for reimbursement for eligible applicants within development tier one areas as defined in G.S. 143B-437.08. The remaining fifty percent (50%) of the funds shall be used to fund reimbursement requests from eligible applicants in development tier two and three areas as defined in G.S. 143B-437.08.

(2) Among the eligible counties and cities in development tier one areas, reimbursement shall be made to each eligible county or city ~~pursuant to rules adopted by the Department.~~in the proportion that the rate of spays and neuters per one thousand persons in that city or county compares to the total rate of spays and neuters per one thousand persons within the total tier one

area. Population data shall be obtained from the most recent decennial census.

(3) Among the eligible counties and cities in development tier two and three areas, reimbursement shall be made to each eligible county or city ~~pursuant to rules adopted by the Department.~~in the proportion that the rate of spays and neuters per one thousand persons in that city or county compares to the total rate of spays and neuters per one thousand persons within the total tier two and three area. Population data shall be obtained from the most recent decennial census.

(4) Should funds remain available from the fifty percent (50%) of the Spay/Neuter Account designated for development tier one areas after reimbursement of all claims by eligible applicants in those areas, the remaining funds shall be made available to reimburse eligible applicants in development tier two and three areas."

SECTION 5. G.S. 19A-66 reads as rewritten:

"§ **19A-66. Notification of available funding.**

Prior to January 1 of each year, the Department of Agriculture and Consumer Services shall notify counties and cities that have, prior to that notification deadline, established eligibility for distribution of funds from the Spay/Neuter Account pursuant to G.S. 19A-63, of the following:

(1) The amount of funding in the Spay/Neuter Account that the Department will have available for distribution to each county or city receiving notification to pay reimbursement requests submitted by the county or city during the calendar year following the notification deadline; and

(2) The amount of additional funding, if any, the Department estimates, but does not guarantee, may be available to pay reimbursement requests submitted by the notified county or city to the Department during the calendar year following the notification deadline.

(3) The maximum amount that may be reimbursed for each surgical procedure for a female dog or cat during the upcoming calendar year.

(4) The maximum amount that may be reimbursed for each surgical procedure for a male dog or cat during the upcoming calendar year."

SECTION 6. Article 47 of Chapter 14 of the General Statutes is amended by adding a new section to read:

"§ **14-363.3. Confinement of animals in motor vehicles.**

(a) In order to protect the health and safety of an animal, any animal control officer, animal cruelty investigator appointed under G.S. 19A-45, law enforcement officer, firefighter, or rescue squad worker, who has probable cause to believe that an animal is confined in a motor vehicle under conditions that are likely to cause suffering, injury, or death to the animal due to heat, cold, lack of adequate ventilation, or under other endangering conditions, may enter the motor vehicle by any reasonable means under the circumstances after making a reasonable effort to locate the owner or other person responsible for the animal.

(b) Nothing in this section shall be construed to apply to the transportation of horses, cattle, sheep, swine, poultry, or other livestock."

SECTION 7. Section 4 of this act becomes effective October 1, 2013. Section 5 of this act becomes effective January 1, 2014. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 22nd day of July, 2013.

Became law upon approval of the Governor at 5:09 p.m. on the 29th day of July, 2013.

Session Law 2013-378 **H.B. 399**

AN ACT TO MAKE CHANGES REQUESTED BY THE DEPARTMENT OF HEALTH AND HUMAN SERVICES TO LAWS PERTAINING TO CHILD ABUSE, NEGLECT, AND DEPENDENCY; MEDICAID; PUBLIC HEALTH; AND MENTAL HEALTH, DEVELOPMENTAL DISABILITIES, AND SUBSTANCE ABUSE SERVICES.

The General Assembly of North Carolina enacts:

PART I. CHANGES TO LAWS PERTAINING TO CHILD ABUSE, NEGLECT, AND DEPENDENCY

SECTION 1. G.S. 7B-507 reads as rewritten:

"§ **7B-507. Reasonable efforts.**

(a) An order placing or continuing the placement of a juvenile in the custody or placement responsibility of a county department of social services, whether an order for continued nonsecure custody, a dispositional order, or a review order:

(1) Shall contain a finding that the juvenile's continuation in or return to the juvenile's own home would be contrary to the juvenile's best interest;

(2) Shall contain specific findings as to whether a county department of social services has made reasonable efforts to either prevent the need for placement or eliminate the need for placement of the juvenile, unless the court has previously determined under subsection (b) of this section that such efforts are not required or shall cease;

(3) Shall contain findings as to whether a county department of social services should continue to make reasonable efforts to prevent or eliminate the need for placement of the juvenile, unless the court has previously determined or determines under subsection (b) of this section that such efforts are not required or shall cease;

(4) Shall specify that the juvenile's placement and care are the responsibility of the county department of social services and that the department is to provide or arrange for the foster care or other placement of the juvenile. After considering the department's recommendations, the court may order a specific placement the court finds to be in the juvenile's best interest; and

(5) May provide for services or other efforts aimed at returning the juvenile to a safe home or at achieving another permanent plan for the juvenile.

A finding that reasonable efforts have not been made by a county department of social services shall not preclude the entry of an order authorizing the juvenile's placement when the court finds that placement is necessary for the protection of the juvenile. Where efforts to prevent the need for the juvenile's placement were precluded by an immediate threat of harm to the juvenile, the court may find that the placement of the juvenile in the absence of such efforts was reasonable.

(b) In any order placing a juvenile in the custody or placement responsibility of a county department of social services, whether an order for continued nonsecure custody, a dispositional order, or a review order, the court may direct that reasonable efforts to eliminate the need for placement of the juvenile shall not be required or shall cease if the court makes written findings of fact that:

(1) Such efforts clearly would be futile or would be inconsistent with the juvenile's health, safety, and need for a safe, permanent home within a reasonable period of time;

(2) A court of competent jurisdiction has determined that the parent has subjected the child to aggravated circumstances as defined in G.S. 7B-101;

(3) A court of competent jurisdiction has terminated involuntarily the parental rights of the parent to another child of the parent; or

(4) A court of competent jurisdiction has determined that: the parent has committed murder or voluntary manslaughter of another child of the parent; has aided, abetted, attempted, conspired, or solicited to commit murder or voluntary manslaughter of the child or another child of the parent; ~~or~~ has committed a felony assault resulting in serious bodily injury to the child or another child of the ~~parent.~~parent; has committed sexual abuse against the child or another child of the parent; or has been required to register as a sex offender on any government-administered registry.

(c) When the court determines that reunification efforts are not required or shall cease, the court shall order a plan for permanence as soon as possible, after providing each party with a reasonable opportunity to prepare and present evidence. If the court's determination to cease reunification efforts is made in a hearing that was duly and timely noticed as a permanency planning hearing, then the court may immediately proceed to consider all of the criteria contained in G.S. 7B-907(b), make findings of fact, and set forth the best plan of care to achieve a safe, permanent home within a reasonable period of time. If the court's decision to cease reunification efforts arises in any other hearing, the court shall schedule a subsequent hearing within 30 days to address the permanent plan in accordance with G.S. 7B-907. At any hearing at which the court orders that reunification efforts shall cease, the affected parent, guardian, or custodian may give notice to preserve the right to appeal that order in accordance with G.S. 7B-1001. The party giving notice shall be permitted to make a detailed offer of proof as to any evidence that party sought to offer in opposition to cessation of reunification that the court refused to admit.

(d) In determining reasonable efforts to be made with respect to a juvenile and in making such reasonable efforts, the juvenile's health and safety shall be the paramount concern. Reasonable efforts to preserve or reunify families may be made concurrently with efforts to plan for the juvenile's adoption, to place the juvenile with a legal guardian, or to place the juvenile in another permanent arrangement."

PART II. CHANGES TO LAWS PERTAINING TO MEDICAID

SECTION 2. G.S. 108A-70.5(b)(2) reads as rewritten:

"(2) Estate. – All the real and personal property considered assets of the estate available for the discharge of debt pursuant to G.S. 28A-15-1. The Department has all rights available to estate creditors, including the right to qualify as personal representative or collector of an estate. For individuals who have received benefits under a qualified long-term care partnership policy as described in G.S. 108A-70.4, "estate" also includes any other real and personal property and other assets in which the individual had any legal title or interest at the time of death (to the extent of such interest), including assets conveyed to a survivor, heir, or assign of the deceased individual through joint tenancy, tenancy in common, survivorship, life estate, living trust, or other arrangement."

SECTION 3. G.S. 28A-14-1(b) reads as rewritten:

"(b) Prior to filing the proof of notice required by G.S. 28A-14-2, every personal representative and collector shall personally deliver or send by first class mail to the last known address a copy of the notice required by subsection (a) of this section to all persons, firms, and corporations having unsatisfied claims against the decedent who are actually known or can be reasonably ascertained by the personal representative or collector within 75 days after the granting of ~~letters.~~letters and, if at the time of the decedent's death the decedent was receiving medical assistance as defined by G.S. 108A-70.5(b)(1), to the Department of Health and Human Services, Division of Medical Assistance. Provided, however, no notice shall be required to be delivered or mailed with respect to any claim that is recognized as a valid claim by the personal representative or collector."

SECTION 4. G.S. 28A-19-6(a) reads as rewritten:

"(a) After payment of costs and expenses of administration, the claims against the estate of a decedent must be paid in the following order:

First class. Claims which by law have a specific lien on property to an amount not exceeding the value of such property.

Second class. Funeral expenses to the extent of three thousand five hundred dollars ($3,500). This limitation shall not include burial place or gravestone. The preferential limitation herein granted shall be construed to be only a limit with respect to preference of payment and shall not be construed to be a limitation on reasonable funeral expenses which may be incurred; nor shall the preferential limitation of payment in the amount of three thousand five hundred dollars ($3,500) be diminished by any Veterans Administration, social security or other federal governmental benefits awarded to the estate of the decedent or to the decedent's beneficiaries.

Third class. Costs associated with gravestones and reasonable costs for the purchase of a suitable burial place as provided in G.S. 28A-19-9 to the extent of one thousand five hundred dollars ($1,500). The preferential limitation herein granted shall be construed to be only a limit with respect to preference of payment and shall not be construed to be a limitation on reasonable gravestone or burial place expenses which may be incurred; nor shall the preferential limitation of payment in the amount of one thousand five hundred dollars ($1,500) be diminished by any Veterans Administration, social security or other federal governmental benefits awarded to the estate of the decedent or to the decedent's beneficiaries.

Fourth class. All dues, taxes, and other claims with preference under the laws of the United States.

Fifth class. All dues, taxes, and other claims with preference under the laws of the State of North Carolina and its subdivisions.

Sixth class. Judgments of any court of competent jurisdiction within the State, docketed and in force, to the extent to which they are a lien on the property of the decedent at the decedent's death. The Department of Health and Human Services is a sixth-class creditor for purposes of determining the order of claims against the estate; provided, however, that judgments in favor of other sixth-class creditors docketed and in force before the Department seeks recovery for medical assistance shall be paid prior to recovery by the Department.

Seventh class. Wages due to any employee employed by the decedent, which claim for wages shall not extend to a period of more than 12 months next preceding the death; or if such employee was employed for the year current at the decease, then from the time of such employment; for medical services within the 12 months preceding the decease; for drugs and all other medical supplies necessary for the treatment of such decedent during the last illness of such decedent, said period of last illness not to exceed 12 months.

Eighth class. A claim for equitable distribution.

Ninth class. All other claims."

SECTION 5. Article 8A of Chapter 36C of the General Statutes is amended by adding a new section to read as follows:

"**§ 36C-8-818. Notice of deceased Medicaid beneficiaries.**

If a trust was established by a person who at the time of that person's death was receiving medical assistance, as defined in G.S. 108A-70.5(b)(1), and the trust was revocable at the time of that person's death, then any trustee of that trust who knows of the medical assistance within 90 days of the person's death shall provide notice of that person's death to the Department of Health and Human Services, Division of Medical Assistance, within 90 days of the person's death. This section does not apply to trustees of preneed funeral trusts established or created pursuant to Article 13D of Chapter 90 of the General Statutes."

SECTION 6. G.S. 108C-3 reads as rewritten:

"**§ 108C-3. Medicaid and Health Choice provider screening.**

…

(c) Limited Categorical Risk Provider Types. – The following provider types are hereby designated as "limited" categorical risk:

…

(12) Physician or nonphysician practitioners (including nurse practitioners, CRNAs, physician assistants, physician extenders, occupational therapists, speech/language pathologists, chiropractors, and audiologists), optometrists, dentists and orthodontists, and medical groups or clinics.

…

(15) Hearing aid dealers.

(16) Portable X-ray suppliers.

(17) Religious nonmedical health care institutions.

(18) Registered dieticians.

(19) Clearinghouses, billing agents, and alternate payees.

(20) Local health departments.

…

(e) Moderate Categorical Risk Provider Types. – The following provider types are hereby designated as "moderate" categorical risk:

…

(3) Critical Access Behavioral Health Agencies.

~~(4) Dentists and orthodontists.~~

(5) Hospice organizations.

…

(13) Revalidating agencies providing private duty nursing, home health, personal care services or in-home care services, or home infusion.

(14) Nonemergency medical transportation.

…."

PART III. CHANGES TO LAWS PERTAINING TO PUBLIC HEALTH

SECTION 7. G.S. 130A-22(b3) reads as rewritten:

"(b3) The Secretary may impose an administrative penalty on a person who violates Article 19A or 19B of this Chapter or any rules adopted pursuant to Article 19A or 19B of this Chapter. Each day of a continuing violation is a separate violation. The penalty shall not exceed ~~one~~ five thousand dollars ~~($1,000)~~($5,000) for each day the violation continues for Article 19A of this Chapter. The penalty shall not exceed ~~seven hundred fifty~~five thousand dollars ~~($750.00)~~($5,000) for each day the violation continues for Article 19B of this Chapter. The penalty authorized by this section does not apply to a person who is not required to be certified under Article 19A or 19B."

SECTION 8. G.S. 130A-101(b) reads as rewritten:

"(b) When a birth occurs in a hospital or other medical facility, the person in charge of the facility shall obtain the personal data, prepare the certificate, secure the signatures required by the certificate and file it with the local registrar within ~~five~~10 days after the birth. The physician or other person in attendance shall provide the medical information required by the certificate."

SECTION 9. G.S. 130A-209(a) reads as rewritten:

"§ **130A-209. Incidence reporting of cancer; charge for collection if failure to report.**

(a) ~~All~~ By no later than October 1, 2014, all health care facilities and health care providers that detect, diagnose, or treat cancer or benign brain or central nervous system tumors shall submit by electronic transmission a report to the central cancer registry each diagnosis of cancer or benign brain or central nervous system tumors in any person who is screened, diagnosed, or treated by the facility or provider. The electronic transmission of these reports shall be in a format prescribed by the United States Department of Health and Human Services, Centers for Disease Control and Prevention, National Program of Cancer Registries. The reports shall be made within six months ~~of~~ after diagnosis. Diagnostic, demographic and other information as prescribed by the rules of the Commission shall be included in the report."

PART IV. CHANGES TO LAWS PERTAINING TO MENTAL HEALTH, DEVELOPMENTAL DISABILITIES, AND SUBSTANCE ABUSE SERVICES

SECTION 10. Section 3.(b) of S.L. 2012-151 reads as rewritten:

"**SECTION 3.(b)** ~~All~~ Except as provided in this subsection, all area boards shall meet the requirements of G.S. 122C-118.1, as amended by subsection (a) of this ~~section,~~section and Sections 6 and 7 of S.L. 2013-85, no later than October 1, 2013. The requirements of G.S. 122C-118.1 do not apply when both of the following criteria are met:

(1) An area authority receives approval from the Secretary to realign or merge with another area authority. In this circumstance, the new area board associated with the surviving area authority is not obligated to meet the requirements of G.S. 122C-118.1 until 30 days after the effective date of the realignment or merger, or until April 1, 2014, whichever is sooner.

(2) A different area authority involved in the same realignment or merger approved by the Secretary pursuant to subdivision (1) of this subsection (i) receives approval on or before October 1, 2013, from the Secretary to dissolve pursuant to G.S. 122C-115.3(b) and initiates plans for the dissolution or (ii) receives a directive on or before October 1, 2013, from the Secretary to dissolve pursuant to G.S. 122C-124.2."

SECTION 11. G.S. 122C-115(a), as amended by Section 4(a) of S.L. 2013-85, reads as rewritten:

"(a) A county shall provide mental health, developmental disabilities, and substance abuse services in accordance with rules, policies, and guidelines adopted pursuant to statewide restructuring of the management responsibilities for the delivery of services for individuals with mental illness, intellectual or other developmental disabilities, and substance abuse disorders under a 1915(b)/(c) Medicaid Waiver through an area authority. Beginning July 1, 2012, the catchment area of an area authority shall contain a minimum population of at least 300,000. Beginning July 1, 2013, the catchment area of an area authority shall contain a minimum population of at least 500,000. To the extent this section conflicts with ~~G.S. 153A-77(a)~~G.S. 153A-77 or G.S. 122C-115.1, the provisions of this section control."

PART V. EFFECTIVE DATE

SECTION 12. Section 10 of this act is effective when this act becomes law. Section 11 of this act becomes effective January 1, 2014. The remainder of this act becomes effective October 1, 2013.

In the General Assembly read three times and ratified this the 23rd day of July, 2013.

Became law upon approval of the Governor at 5:09 p.m. on the 29th day of July, 2013.

Session Law 2013-379 **H.B. 675**

AN ACT AMENDING LAWS PERTAINING TO THE REGULATION OF PHARMACY TECHNICIANS, PHARMACY AUDITS, AND PRESCRIPTIONS FOR SCHEDULE II SUBSTANCES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 90-85.3 is amended by adding a new subsection to read:

"(q3) "Certified pharmacy technician" means a pharmacy technician who (i) has passed a nationally recognized pharmacy technician certification board examination, or its equivalent, that has been approved by the Board and (ii) obtains and maintains certification from a nationally recognized pharmacy technician certification board that has been approved by the Board."

SECTION 2. G.S. 90-85.15A reads as rewritten:

"§ **90-85.15A. Pharmacy technicians.**

(a) ~~Registration.~~Registration, Generally. – A registration program for pharmacy technicians is established for the purposes of identifying those persons who are employed or are eligible for employment as pharmacy technicians. The Board must maintain a registry of pharmacy technicians that contains the name of each pharmacy technician, the name and location of ~~the~~ a pharmacy in which the pharmacy technician works, the pharmacist-manager who employs the pharmacy technician, and the dates of that employment.

(a1) Registration of Noncertified Pharmacy Technicians. – The Board must register a pharmacy technician who pays the fee required under ~~G.S. 90-85.24~~G.S. 90-85.24, is employed by a pharmacy holding a valid permit under this Article, and completes a required training ~~program.~~program provided by the supervising pharmacist-manager as specified in subsection (b) of this section. A pharmacy technician must register with the Board within 30 days after the date the pharmacy technician completes a training program ~~conducted~~ provided by the ~~pharmacy technician's~~ supervising pharmacist-manager. The registration must be renewed annually by paying a registration fee.

(a2) Registration of Certified Pharmacy Technicians. – The Board must register a certified pharmacy technician who pays the fee required under G.S. 90-85.24 and provides proof of current certification. The registration must be renewed annually by paying a registration fee and providing proof of current certification.

(b) Responsibilities of ~~Pharmacist-Manager.~~Pharmacist-Manager to Noncertified Pharmacy Technicians. – A pharmacist-manager may hire a person who has a high school diploma or equivalent or is currently enrolled in a program that awards a high school diploma or equivalent to work as a pharmacy technician. Pursuant to G.S. 90-85.21, a pharmacist-manager must notify the Board within ~~30~~ 21 days of the date the pharmacy technician began employment. The pharmacist-manager must provide a training program for a pharmacy technician that includes pharmacy terminology, pharmacy calculations, dispensing systems and labeling requirements, pharmacy laws and regulations, record keeping and documentation, and the proper handling and storage of medications. The requirements of a training program may differ depending upon the type of employment. The training program must be provided and completed within 180 days of the date the pharmacy technician began ~~employment unless the pharmacy technician is registered with the Board. If the pharmacy technician is registered with the Board, then the completion of the training program is optional at the discretion of the pharmacist-manager.~~employment.

(b1) Responsibilities of Pharmacist-Manager to Certified Pharmacy Technicians. – A pharmacist-manager may hire a certified pharmacy technician who has registered with the Board pursuant to subsection (a2) of this section. Pursuant to G.S. 90-85.21, a certified pharmacy technician shall notify the Board within 10 days of beginning employment as a pharmacy technician. The supervising pharmacist-manager and certified pharmacy technician shall be deemed to have satisfied the pharmacy technician training program requirements of subsection (b) of this section.

(c) Supervision. – A pharmacist may not supervise more than two pharmacy technicians unless the pharmacist-manager receives written approval from the Board. The Board may not allow a pharmacist to supervise more than two pharmacy technicians unless the additional pharmacy technicians ~~have passed a nationally recognized pharmacy technician certification board exam, or its equivalent, that has been approved by the Board.~~are certified pharmacy technicians. The Board must respond to a request from a pharmacist-manager to allow a pharmacist to supervise more than two pharmacy technicians within 60 days of the date it received the request. The Board must respond to the request in one of three ways:

(1) Approval of the request.
(2) Approval of the request as amended by the Board.
(3) Disapproval of the request. A disapproval of a request must include a reasonable explanation of why the request was not approved.

(d) Disciplinary Action. – The Board may, in accordance with Chapter 150B of the General Statutes and rules adopted by the Board, issue a letter of reprimand or suspend, restrict, revoke, or refuse to grant or renew the registration of a pharmacy technician if the pharmacy technician has done one or more of the following:

(1) Made false representations or withheld material information in connection with registering as a pharmacy technician.

(2) Been found guilty of or plead guilty or nolo contendere to a felony involving the use or distribution of drugs.

(3) Indulged in the use of drugs to an extent that it renders the pharmacy technician unfit to assist a pharmacist in preparing and dispensing prescription medications.

(4) Developed a physical or mental disability that renders the pharmacy technician unfit to assist a pharmacist in preparing and dispensing prescription medications.

(4a) Been negligent in assisting a pharmacist in preparing and dispensing prescription medications.

(5) ~~Willfully violated~~Failed to comply with the laws governing pharmacy technicians, including any provision of this ~~Article~~ Article or rules adopted by the Board governing pharmacy technicians.

(e) Exemption. – This section does not apply to pharmacy students who are enrolled in a school of pharmacy approved by the Board under G.S. 90-85.13.

(f) Rule-Making Authority. – The Board may adopt rules necessary to implement this section."

SECTION 3. G.S. 90-85.50(b) is amended by adding the following new subdivisions to read:

"(21) Not to be subject to recoupment on any portion of the reimbursement for the dispensed product of a prescription, unless otherwise provided in this subdivision.

a. Recoupment of reimbursement, or a portion of reimbursement, for the dispensed product of a prescription may be had in the following cases:

1. Fraud or other intentional and willful misrepresentation evidenced by a review of the claims data, statements, physical review, or other investigative methods.

2. Dispensing in excess of the benefit design, as established by the plan sponsor.

3. Prescriptions not filled in accordance with the prescriber's order.

4. Actual overpayment to the pharmacy.

b. Recoupment of claims in cases set out in sub-subdivision a. of this subdivision shall be based on the actual financial harm to the entity or the actual underpayment or overpayment. Calculations of overpayments shall not include dispensing fees unless one of the following conditions is present:

1. A prescription was not actually dispensed.

2. The prescriber denied authorization.

3. The prescription dispensed was a medication error by the pharmacy. For purposes of this subdivision, a medication error is a dispensing of the wrong drug or dispensing to the wrong patient or dispensing with the wrong directions.

4. The identified overpayment is based solely on an extra dispensing fee.

5. The pharmacy was noncompliant with Risk Evaluation and Mitigation Strategies (REMS) program guidelines.
6. There was insufficient documentation, including electronically stored information, as described in this subsection.
7. Fraud or other intentional and willful misrepresentation by the pharmacy.

(22) To have an audit based only on information obtained by the entity conducting the audit and not based on any audit report or other information gained from an audit conducted by a different auditing entity. This subdivision does not prohibit an auditing entity from using an earlier audit report prepared by that auditing entity for the same pharmacy. Except as required by State or federal law, an entity conducting an audit may have access to a pharmacy's previous audit report only if the previous report was prepared by that entity.

(23) If the audit is conducted by a vendor or subcontractor, that entity is required to identify the responsible party on whose behalf the audit is being conducted without having this information being requested.

(24) To use any prescription that complies with federal or State laws and regulations at the time of dispensing to validate a claim in connection with a prescription, prescription refill, or a change in a prescription."

SECTION 4. G.S. 90-85.52 reads as rewritten:

"§ **90-85.52. Pharmacy audit recoupments.**

(a) ~~Recoupments of any disputed funds shall occur only after~~ The entity conducting an audit shall not recoup any disputed funds, charges, or other penalties from a pharmacy until (i) the deadline for initiating the appeals process established pursuant to G.S. 90-85.51 has elapsed or (ii) after the final internal disposition of an audit, including the appeals process as set forth in G.S. 90-85.51, whichever is later, unless fraud or misrepresentation is reasonably suspected.

(b) Recoupment on an audit shall be refunded to the responsible party as contractually agreed upon by the parties.

(c) The entity conducting the audit may charge or assess the responsible party, directly or indirectly, based on amounts recouped if both of the following conditions are met:

(1) The responsible party and the entity conducting the audit have entered into a contract that explicitly states the percentage charge or assessment to the responsible party.

(2) A commission or other payment to an agent or employee of the entity conducting the audit is not based, directly or indirectly, on amounts recouped."

SECTION 5. G.S. 90-106(a) reads as rewritten:

"(a) Except when dispensed directly by a practitioner, other than a pharmacist, to an ultimate user, no controlled substance included in Schedule II of this Article may be dispensed without the written prescription of a practitioner. No Schedule II substance shall be dispensed pursuant to a written prescription more than six months after the date it was prescribed."

SECTION 6. This act becomes effective October 1, 2013. Sections 2 and 5 apply to acts occurring, and Sections 3 and 4 apply to audits commencing, on or after that date.

In the General Assembly read three times and ratified this the 25th day of July, 2013.

Became law upon approval of the Governor at 5:09 p.m. on the 29th day of July, 2013.

Session Law 2013-380 **H.B. 936**

AN ACT TO ESTABLISH A WILDLIFE POACHER REWARD FUND TO PAY REWARDS TO PERSONS WHO GIVE INFORMATION TO LAW ENFORCEMENT AUTHORITIES THAT RESULTS IN THE ARREST AND CONVICTION OF PERSONS WHO COMMIT SERIOUS WILDLIFE VIOLATIONS, TO AUTHORIZE THE USE OF COMPENSATION PAID TO THE WILDLIFE RESOURCES COMMISSION AS CONDITIONS OF OFFENDERS' PROBATION AS ASSETS OF THE FUND, TO AMEND THE BOATING SAFETY ACT BY INCREASING THE FINES AND OTHERWISE AMENDING THE PENALTY AND OTHER PROVISIONS OF THAT ACT, AND TO AMEND THE PENALTY PROVISIONS FOR SPECIFIC VIOLATIONS OF THE WILDLIFE LAWS.

The General Assembly of North Carolina enacts:

SECTION 1. Article 22 of Chapter 113 of the General Statutes is amended by adding a new section to read:

"**§ 113-294.1. Wildlife Poacher Reward Fund.**

(a) There is established in the Office of the State Treasurer the Wildlife Poacher Reward Fund. Monies in the Fund shall be used to pay rewards to persons who provide information to the Wildlife Resources Commission or to law enforcement authorities that results in the arrest and conviction of persons who have committed criminal offenses involving the taking, injury, removal, damage, or destruction of wildlife resources. The Wildlife Resources Commission shall adopt rules for the administration of the Fund for these purposes.

(b) The assets of the Wildlife Poacher Reward Fund shall be derived from the following:

(1) A percentage of the compensation paid annually to the Commission as special conditions of offenders' probation in criminal cases involving the taking, injury, removal, damage, or destruction of wildlife pursuant to G.S. 15A-1343(b1)(5), to be set by the Commission at not less than ten percent (10%) of those amounts paid as replacement costs and investigative costs.

(2) All amounts paid to the Commission under G.S. 15A-1343(b1)(5) as compensation for rewards paid from the Fund.

(3) The proceeds of any gifts, grants, and contributions to the State which are specifically designated for inclusion in the Fund.

(4) Any other sources specified by law."

SECTION 2. G.S. 15A-1343(b1) reads as rewritten:

"(b1) Special Conditions. – In addition to the regular conditions of probation specified in subsection (b), the court may, as a condition of probation, require that during the probation the defendant comply with one or more of the following special conditions:

…

(5) Compensate the Department of Environment and Natural Resources or the North Carolina Wildlife Resources Commission, as the case may be, for the replacement costs of any marine and estuarine resources or any wildlife resources which were taken, injured, removed, harmfully altered, damaged or destroyed as a result of a criminal offense of which the defendant was convicted. If any investigation is required by officers or agents of the Department of Environment and Natural Resources or the Wildlife Resources Commission in determining the extent of the destruction of resources involved, the court may include compensation of the agency for investigative costs as a condition of probation. The court may also include, as a condition of probation, compensation of an agency for any reward paid

for information leading to the arrest and conviction of the offender. This subdivision does not apply in any case governed by G.S. 143-215.3(a)(7).

…."

SECTION 3. G.S. 75A-3 reads as rewritten:

"§ **75A-3. Wildlife Resources Commission to administer Chapter; ~~Vessel Committee;~~Boating Safety Committee; funds for administration.**

(a) The Commission shall enforce and administer the provisions of this Chapter.

(b) The chair of the Commission shall designate from among the members of the Commission three members who shall serve as the ~~Vessel Committee~~Boating Safety Committee of the Commission, and who shall, in their activities with the Commission, place special emphasis on the administration and enforcement of this Chapter.

(c) The Boating Account is established within the Wildlife Resources Fund created under G.S. 143-250. Interest and other investment income earned by the Account accrues to the Account. All moneys collected pursuant to the numbering and titling provisions of this Chapter shall be credited to this Account. Motor fuel excise tax revenue is credited to the Account under G.S. 105-449.126. The Commission shall use revenue in the Account, subject to the Executive Budget Act and the Personnel Act, for the administration and enforcement of this Chapter; for activities relating to boating and water safety including education and waterway marking and improvement; and for boating access area acquisition, development, and maintenance. The Commission shall use at least three dollars ($3.00) of each one-year certificate of number fee and at least nine dollars ($9.00) of each three-year certificate of number fee collected under the numbering provisions of G.S. 75A-5 for boating access area acquisition, development, and maintenance."

SECTION 4. G.S. 75A-6.1(c) reads as rewritten:

"(c) Violation of ~~the navigation rules specified in subsection (a) of this section~~any rule governing navigational lighting adopted by the Commission shall constitute a Class 3 ~~misdemeanor and is punishable only by a fine not to exceed one hundred dollars ($100.00).~~misdemeanor."

SECTION 5. G.S. 75A-10 reads as rewritten:

"§ **75A-10. Operating vessel or manipulating water skis, etc., in reckless manner; operating, etc., while intoxicated, etc.; depositing or discharging litter, etc.**

(a) No person shall operate any motorboat or vessel, or manipulate any water skis, surfboard, or similar device on the waters of this State in a reckless or negligent manner so as to endanger the life, limb, or property of any person.

(b) No person shall manipulate any water skis, surfboard, nonmotorized vessel, or similar device on the waters of this State while under the influence of an impairing substance.

(b1) No person shall operate any vessel while underway on the waters of this State:

(1) While under the influence of an impairing substance, or

(2) After having consumed sufficient alcohol that the person has, at any relevant time after the boating, an alcohol concentration of 0.08 or more.

(b2) The fact that a person charged with violating this subsection is or has been legally entitled to use alcohol or a drug is not a defense to a charge under subsections (b) and (b1) of this section. The relevant definitions contained in G.S. 20-4.01 shall apply to subsections (b), (b1), and (b2) of this section.

(b3) A person who violates a provision of ~~subsection (a), (b), or (b1)~~subsection (a) or (b) of this section is guilty of a Class 2 misdemeanor.

(b4) A person who violates subsection (b1) of this section is guilty of a Class 2 misdemeanor, punishable by a fine of not less than two hundred fifty dollars ($250.00).

(c) No person shall place, throw, deposit, or discharge or cause to be placed, thrown, deposited, or discharged on the waters of this State or into the inland lake waters of this State, any litter, raw sewage, bottles, cans, papers, or other liquid or solid materials which render the waters unsightly, noxious, or otherwise unwholesome so as to be detrimental to the public health or welfare or to the enjoyment and safety of the water for recreational purposes.

(d) No person shall place, throw, deposit, or discharge or cause to be placed, thrown, deposited, or discharged on the waters of this State or into the inland lake waters of this State any medical waste as defined by G.S. 130A-290 which renders the waters unsightly, noxious, or otherwise unwholesome so as to be detrimental to the public health or welfare or to the enjoyment and safety of the water for recreational purposes.

(e) A person who willfully violates subsection (d) of this section is guilty of a Class 1 misdemeanor. A person who willfully violates subsection (d) of this section and in so doing releases medical waste that creates a substantial risk of physical injury to any person who is not a participant in the offense is guilty of a Class F felony which may include a fine not to exceed fifty thousand dollars ($50,000) per day of violation."

SECTION 6. G.S. 75A-13.1(d) reads as rewritten:

"(d) A person who violates a provision of this section is ~~guilty of a Class 3 misdemeanor and shall only be subject to a fine not to exceed twenty-five dollars ($25.00).~~responsible for an infraction as provided in G.S. 14-3.1."

SECTION 7. G.S. 75A-13.3(b1) reads as rewritten:

"(b1) A person who is the lawful owner of a personal watercraft or a person having control of a personal watercraft who knowingly allows a person under 16 years of age ~~who operates~~to operate a personal watercraft in violation of the provisions of subsection (b) of this section is ~~guilty of~~ responsible for an infraction as provided in G.S. 14-3.1."

SECTION 8. G.S. 75A-13.3(c3) reads as rewritten:

"(c3) A vessel livery shall provide the operator of a leased personal watercraft with basic safety instruction prior to allowing the operation of the leased personal watercraft. "Basic safety instruction" shall include direction on how to safely operate the personal watercraft and a review of the safety provisions of this section. A vessel livery that fails to provide basic safety instruction is ~~guilty of a Class 3 misdemeanor.~~responsible for an infraction as provided in G.S. 14-3.1."

SECTION 9. G.S. 75A-16.2 reads as rewritten:

"§ **75A-16.2. Boating safety education required.**

(a) No person shall operate a vessel with a motor of 10 horsepower or greater on the public waters of this State unless the operator has met the requirements for boating safety education.

(b) A person shall be considered in compliance with the requirements of boating safety education if the person does one of the following:

(1) Completes and passes the boating safety course instituted by the Wildlife Resources Commission under G.S. 75A-16.1 or another boating safety course that is approved by the National Association of State Boating Law Administrators (NASBLA) and accepted by the Wildlife Resources Commission;

(2) Passes a proctored equivalency examination that tests the knowledge of information included in the curriculum of an approved course;

(3) Possesses a valid or expired license to operate a vessel issued to maritime personnel by the United States Coast Guard;

(4) Possesses a State-approved nonrenewable temporary operator's certificate to operate a vessel for 90 days that was issued with the certificate of number for the vessel, if the boat was new or was sold with a transfer of ownership;

(5) Possesses a rental or lease agreement from a vessel rental or leasing business that lists the person as the authorized operator of the vessel;

(6) Properly displays Commission-issued dealer registration numbers during the demonstration of the vessel;

(7) Operates the vessel under onboard direct supervision of a person who is at least 18 years of age and who meets the requirements of this section;

(8) Demonstrates that he or she is not a resident, is temporarily using the waters of this State for a period not to exceed 90 days, and meets any applicable boating safety education requirements of the state or nation of residency;

(9) Has assumed operation of the vessel due to the illness or physical impairment of the initial operator, and is returning the vessel to shore in order to provide assistance or care for the operator;

(10) Is registered as a commercial fisherman or a person who is under the onboard direct supervision of a commercial fisherman while operating the commercial fisherman's boat; or

(11) Provides proof that he or she ~~is at least 26 years of age.~~was born before January 1, 1988.

Any person who operates a vessel with a motor of 10 horsepower or greater on the waters of this State shall, upon the request of a law enforcement officer, present to the officer a certification card or proof that the person has complied with the provisions of this section.

(c) Any person who violates a provision of this section or a rule adopted pursuant to this section is ~~guilty of~~ responsible for an infraction, as provided in ~~G.S. 14-3.1. The court shall assess court costs for each violation but shall not assess a penalty.~~G.S. 14-3.1, and shall pay a fine of fifty dollars ($50.00). A person may not be ~~convicted of~~ responsible for violating this section ~~if, when tried for the offense,~~ if the person produces in court at the adjudicatory hearing a certification card or proof that the person has completed and passed a boating safety course in compliance with subdivision (b)(1) of this section.

(d) No unit of local government shall enact any ordinance or rule relating to boating safety education, and this law preempts all existing ordinances or rules.

(e) An operator of a personal watercraft on the public waters of this State remains subject to any more specific provision of law found in G.S. 75A-13.3."

SECTION 10. G.S. 75A-18 reads as rewritten:

"§ **75A-18. Penalties.**

(a) Except as otherwise provided, a person who violates a provision of this Article ~~or who violates a rule adopted under authority of this Chapter~~ is guilty of a Class 3 misdemeanor and shall only be subject to a fine not to exceed two hundred and fifty dollars ($250.00) for each violation. This limitation shall not apply in a case where a more severe penalty is prescribed in this Chapter.

(b) through (e) Repealed by Session Laws 2006-185, s. 1.

(f) Except as otherwise provided in this Chapter, a person who violates a rule adopted by the Commission under the authority of this Chapter is responsible for an infraction as provided in G.S. 14-3.1 and shall pay a fine of fifty dollars ($50.00). A person responsible for an infraction under this Chapter shall not be assessed court costs."

SECTION 11. G.S. 113-294 reads as rewritten:

"§ **113-294. Specific violations.**

(a) Any person who unlawfully sells, possesses for sale, or buys any wildlife is guilty of a Class 2 misdemeanor, punishable by a fine of not less than two hundred fifty dollars ($250.00), unless a greater penalty is prescribed for the offense in question.

(b) Any person who unlawfully sells, possesses for sale, or buys any deer or wild turkey is guilty of a Class 2 misdemeanor, punishable by a fine of not less than ~~two hundred fifty dollars ($250.00)~~five hundred dollars ($500.00) in addition to such other punishment prescribed for the offense in question.

(c) Any person who unlawfully takes, possesses, or transports any wild turkey is guilty of a Class 2 misdemeanor, punishable by a fine of not less than two hundred fifty dollars ($250.00) in addition to such other punishment prescribed for the offense in question.

(c1) Any person who unlawfully takes, possesses, transports, sells, possesses for sale, or buys any bear or bear part is guilty of a Class 1 misdemeanor, punishable by a fine of not less than two thousand dollars ($2,000) in addition to such other punishment prescribed for the offense in question. Each of the acts specified shall constitute a separate offense.

(c2) Any person who unlawfully takes, possesses, transports, sells, possesses for sale, or buys any cougar (Felis concolor) is guilty of a Class 1 misdemeanor, unless a greater penalty is prescribed for the offense in question.

(c3) Any person who unlawfully takes, possesses, or transports any elk is guilty of a Class 1 misdemeanor, punishable by a fine of not less than two thousand five hundred dollars ($2,500) in addition to such other punishment prescribed for the offense in question.

(d) Any person who unlawfully takes, possesses, or transports any deer is guilty of a Class 3 misdemeanor, punishable by a fine of not less than ~~one hundred dollars ($100.00)~~ two hundred fifty dollars ($250.00) in addition to such other punishment prescribed for the offense in question.

(d1) Any person who unlawfully takes, possesses, or transports any deer from land that has been posted in accordance with the provisions of G.S. 14-159.7 without written permission of the landowner, lessee, or the agent of the landowner or lessee is guilty of a Class 2 misdemeanor, punishable by a fine of not less than five hundred dollars ($500.00).

(e) Any person who unlawfully takes deer between a half hour after sunset and a half hour before sunrise with the aid of an artificial light is guilty of a Class 2 misdemeanor, punishable by a fine of not less than ~~two hundred fifty dollars ($250.00)~~ five hundred dollars ($500.00) in addition to such other punishment prescribed for the offense in question.

(f) Any person who unlawfully takes, possesses, transports, sells, or buys any beaver, or violates any rule of the Wildlife Resources Commission adopted to protect beavers, is guilty of a Class 3 misdemeanor, unless a greater penalty is prescribed for the offense in question.

(g) Any person who unlawfully takes wild animals or birds from or with the use of a vessel equipped with a motor or with motor attached is guilty of a Class 2 misdemeanor, unless a greater penalty is prescribed for the offense in question.

(h) Any person who willfully makes any false or misleading statement in order to secure for himself or another any license, permit, privilege, exemption, or other benefit under this Subchapter to which he or the person in question is not entitled is guilty of a Class 1 misdemeanor.

(i) Any person who violates any provision of G.S. 113-291.6, regulating trapping, is guilty of a Class 2 misdemeanor, unless a greater penalty is prescribed for the offense in question.

(j) Any person who unlawfully sells, possesses for sale, or buys a fox, or who takes any fox by unlawful trapping or with the aid of any electronic calling device is guilty of a Class 2 misdemeanor, unless a greater penalty is prescribed for the offense in question.

(k) Repealed by Session Laws 1995, c. 209, s. 1.

(l) Any person who unlawfully takes, possesses, transports, sells or buys any bald eagle or golden eagle, alive or dead, or any part, nest or egg of a bald eagle or golden eagle is guilty of a Class 1 misdemeanor, unless a greater penalty is prescribed for the offense in question.

(m) Any person who unlawfully takes any migratory game bird with a rifle; or who unlawfully takes any migratory game bird with the aid of live decoys or any salt, grain, fruit, or other bait; or who unlawfully takes any migratory game bird during the closed season or during prohibited shooting hours; or who unlawfully exceeds the bag limits or possession limits applicable to any migratory game bird; or who violates any of the migratory game bird permit or tagging rules of the Wildlife Resources Commission is guilty of a Class 2 misdemeanor, punishable by a fine of not less than ~~one hundred dollars ($100.00)~~two hundred fifty dollars ($250.00) in addition to any other punishment prescribed for the offense in question.

(n) Any person who violates any rule of the Commission that restricts access by vehicle on game lands to a person who holds a special vehicular access identification card and permit issued by the Commission to persons who have a handicap that limits physical mobility shall be guilty of a Class 2 misdemeanor and shall be fined not less than one hundred dollars ($100.00) in addition to any other punishment prescribed for the offense.

(o) Any person who willfully transports or attempts to transport live coyotes (Cania latrans) into this State for any purpose, or who breeds coyotes for any purpose in this State, is

guilty of a Class 1 misdemeanor, and upon conviction the Wildlife Resources Commission shall suspend any controlled hunting preserve operator license issued to that person for two years.

(p) Any person who willfully imports or possesses black-tailed or mule deer (Odocoileus hemionus and all subspecies) in this State for any purpose is guilty of a Class 1 misdemeanor.

(q) Any person who violates any provision of G.S. 113-291.1A is guilty of a Class 1 misdemeanor.

(r) It is unlawful to place processed food products as bait in any area of the State where the Wildlife Resources Commission has set an open season for taking black bears. For purposes of this subsection, the term "processed food products" means any food substance or flavoring that has been modified from its raw components by the addition of ingredients or by treatment to modify its chemical composition or form or to enhance its aroma or taste. The term includes substances modified by sugar, honey, syrups, oils, salts, spices, peanut butter, grease, meat, bones, or blood, as well as extracts of such substances. The term also includes sugary products such as candies, pastries, gums, and sugar blocks, as well as extracts of such products. Nothing in this subsection prohibits the lawful disposal of solid waste or the legitimate feeding of domestic animals, livestock, or birds. The prohibition against taking bears with the use and aid of bait shall not apply to the release of dogs in the vicinity of any food source that is not a processed food product as defined herein. Violation of this subsection constitutes a ~~Class 2 misdemeanor.~~Class 2 misdemeanor, punishable by a fine of not less than two hundred fifty dollars ($250.00).

(s) Any person who violates the provisions of G.S. 113-291.12 by unlawfully removing feral swine from a trap while the swine is still alive or by transporting such swine after that removal is guilty of a ~~Class 2 misdemeanor.~~Class 2 misdemeanor, punishable by a fine of not less than two hundred fifty dollars ($250.00). The acts of removal from a trap and of transporting the swine after removal shall constitute separate offenses."

SECTION 12. Sections 2 through 11 of this act become effective December 1, 2013, and apply to offenses committed on or after that date. The remainder of this act becomes effective July 1, 2013.

In the General Assembly read three times and ratified this the 23rd day of July, 2013.

Became law upon approval of the Governor at 5:09 p.m. on the 29th day of July, 2013.

Session Law 2013-381 **H.B. 589**

AN ACT TO RESTORE CONFIDENCE IN GOVERNMENT BY ESTABLISHING THE VOTER INFORMATION VERIFICATION ACT TO PROMOTE THE ELECTORAL PROCESS THROUGH EDUCATION AND INCREASED REGISTRATION OF VOTERS AND BY REQUIRING VOTERS TO PROVIDE PHOTO IDENTIFICATION BEFORE VOTING TO PROTECT THE RIGHT OF EACH REGISTERED VOTER TO CAST A SECURE VOTE WITH REASONABLE SECURITY MEASURES THAT CONFIRM VOTER IDENTITY AS ACCURATELY AS POSSIBLE WITHOUT RESTRICTION, AND TO FURTHER REFORM THE ELECTION LAWS.

The General Assembly of North Carolina enacts:

PART 1. SHORT TITLE

SECTION 1.1. Parts 1 through 6 of this act shall be known and cited as the Voter Information Verification Act.

PART 2. PHOTO IDENTIFICATION

SECTION 2.1. Article 14A of Chapter 163 of the General Statutes is amended by adding a new section to read:

"**§ 163-166.13. Photo identification requirement for voting in person.**

(a) Every qualified voter voting in person in accordance with this Article, G.S. 163-227.2, or G.S. 163-182.1A shall present photo identification bearing any reasonable resemblance to that voter to a local election official at the voting place before voting, except as follows:

(1) For a registered voter voting curbside, that voter shall present identification under G.S. 163-166.9.

(2) For a registered voter who has a sincerely held religious objection to being photographed and has filed a declaration in accordance with G.S. 163-82.7A at least 25 days before the election in which that voter is voting in person, that voter shall not be required to provide photo identification.

(3) For a registered voter who is a victim of a natural disaster occurring within 60 days before election day that resulted in a disaster declaration by the President of the United States or the Governor of this State who declares the lack of photo identification due to the natural disaster on a form provided by the State Board, that voter shall not be required to provide photo identification in any county subject to such declaration. The form shall be available from the State Board of Elections, from each county board of elections in a county subject to the disaster declaration, and at each polling place and one-stop early voting site in that county. The voter shall submit the completed form at the time of voting.

(b) Any voter who complies with subsection (a) of this section shall be permitted to vote.

(c) Any voter who does not comply with subsection (a) of this section shall be permitted to vote a provisional official ballot which shall be counted in accordance with G.S. 163-182.1A.

(d) The local election official to whom the photo identification is presented shall determine if the photo identification bears any reasonable resemblance to the voter presenting the photo identification. If it is determined that the photo identification does not bear any reasonable resemblance to the voter, the local election official shall comply with G.S. 163-166.14.

(e) As used in this section, "photo identification" means any one of the following that contains a photograph of the registered voter. In addition, the photo identification shall have a printed expiration date and shall be unexpired, provided that any voter having attained the age of 70 years at the time of presentation at the voting place shall be permitted to present an expired form of any of the following that was unexpired on the voter's 70th birthday. Notwithstanding the previous sentence, in the case of identification under subdivisions (4) through (6) of this subsection, if it does not contain a printed expiration date, it shall be acceptable if it has a printed issuance date that is not more than eight years before it is presented for voting:

(1) A North Carolina drivers license issued under Article 2 of Chapter 20 of the General Statutes, including a learner's permit or a provisional license.

(2) A special identification card for nonoperators issued under G.S. 20-37.7.

(3) A United States passport.

(4) A United States military identification card, except there is no requirement that it have a printed expiration or issuance date.

(5) A Veterans Identification Card issued by the United States Department of Veterans Affairs for use at Veterans Administration medical facilities facilities, except there is no requirement that it have a printed expiration or issuance date.

(6) A tribal enrollment card issued by a federally recognized tribe.

(7) A tribal enrollment card issued by a tribe recognized by this State under Chapter 71A of the General Statutes, provided that card meets all of the following criteria:

a. Is issued in accordance with a process approved by the State Board of Elections that requires an application and proof of identity equivalent to the requirements for issuance of a special identification card by the Division of Motor Vehicles under G.S. 20-7 and G.S. 20-37.7.

b. Is signed by an elected official of the tribe.

(8) A drivers license or nonoperators identification card issued by another state, the District of Columbia, or a territory or commonwealth of the United States, but only if the voter's voter registration was within 90 days of the election."

SECTION 2.2. Article 14A of Chapter 163 of the General Statutes is amended by adding a new section to read:

"**§ 163-166.14. Evaluation of determination of nonreasonable resemblance of photo identification.**

(a) Any local election official that determines the photo identification presented by a voter in accordance with G.S. 163-166.13 does not bear any reasonable resemblance to that voter shall notify the judges of election of the determination.

(b) When notified under subsection (a) of this section, the judges of election present shall review the photo identification presented and the voter to determine if the photo identification bears any reasonable resemblance to that voter. The judges of election present may consider information presented by the voter in addition to the photo identification and shall construe all evidence presented in a light most favorable to the voter.

(c) A voter subject to subsections (a) and (b) of this section shall be permitted to vote unless the judges of election present unanimously agree that the photo identification presented does not bear any reasonable resemblance to that voter. The failure of the judges of election present to unanimously agree that photo identification presented by a voter does not bear any reasonable resemblance to that voter shall be dispositive of any challenges that may otherwise be made under G.S. 163-85(c)(10).

(d) A voter subject to subsections (a) and (b) of this section shall be permitted to vote a provisional ballot in accordance with G.S. 163-88.1 if the judges of election present unanimously agree that the photo identification presented does not bear any reasonable resemblance to that voter.

(e) At any time a voter presents photo identification to a local election official other than on election day, the county board of elections shall have available to the local election official judges of election for the review required under subsection (b) of this section, appointed with the same qualifications as is in Article 5 of this Chapter, except that the individuals (i) may reside anywhere in the county or (ii) be an employee of the county or the State. Neither the local election official nor the judges of election may be a county board member. The county board is not required to have the same judges of election available throughout the time period a voter may present photo identification other than on election day but shall have at least two judges, who are not of the same political party affiliation, available at all times during that period.

(f) Any local or State employee appointed to serve as a judge of election may hold that office in addition to the number permitted by G.S. 128-1.1.

(g) The county board of elections shall cause to be made a record of all voters subject to subsection (c) of this section. The record shall include all of the following:

(1) The name and address of the voter.

(2) The name of the local election official under subsection (a) of this section.

(3) The names and a record of how each judge of election voted under subsection (b) of this section.

(4) The date of the determinations under subsections (a) and (b) of this section.

(5) A brief description of the photo identification presented by the voter.

(h) For purposes of this section, the term "judges of election" shall have the following meanings:

(1) On election day, the chief judge and judges of election as appointed under Article 5 of this Chapter.

(2) Any time other than on election day, the individuals appointed under subsection (e) of this section.

(i) The State Board shall adopt rules for the administration of this section."

SECTION 2.3. Article 7A of Chapter 163 of the General Statutes is amended by adding a new section to read:

"§ **163-82.7A. Declaration of religious objection to photograph.**

(a) At the time of approval of the application to register to vote, a voter with a sincerely held religious objection to being photographed may execute a declaration before an election official to that effect to be incorporated as part of the official record of voter registration.

(b) At any time after the voter has registered to vote that the voter has determined the voter has a sincerely held religious objection to being photographed, that voter may execute a declaration before an election official to be incorporated as part of the official record of that voter's voter registration.

(c) At any time after a voter has executed a declaration before an election official under this section and that voter no longer has a sincerely held religious objection to being photographed, that voter may request the cancellation of the declaration in writing to the county board.

(d) All declarations under subsections (a) and (b) of this section shall include a statement by the voter that the voter has a sincerely held religious objection to being photographed and a requirement for the signature of the voter, which includes a notice that a false or fraudulent declaration is a Class I felony pursuant to G.S. 163-275(13).

(e) The State Board shall adopt rules to establish a standard form for the administration of this section."

SECTION 2.5. G.S. 163-166.7(a) reads as rewritten:

"(a) Checking Registration. – A person seeking to vote shall enter the voting enclosure through the appropriate entrance. A precinct official assigned to check registration shall at once ask the voter to state current name and residence address. The voter shall answer by stating current name and residence ~~address.~~ address and presenting photo identification in accordance with G.S. 163-166.13. In a primary election, that voter shall also be asked to state, and shall state, the political party with which the voter is affiliated or, if unaffiliated, the authorizing party in which the voter wishes to vote. After examination, that official shall state whether that voter is duly registered to vote in that precinct and shall direct that voter to the voting equipment or to the official assigned to distribute official ballots. If a precinct official states that the person is duly registered, the person shall sign the pollbook, other voting record, or voter authorization document in accordance with subsection (c) of this section before voting."

SECTION 2.6. G.S. 163-166.9 reads as rewritten:

"§ **163-166.9. Curbside voting.**

(a) In any election or referendum, if any qualified voter is able to travel to the voting place, but because of age or physical disability and physical barriers encountered at the voting place is unable to enter the voting enclosure to vote in person without physical assistance, that voter shall be allowed to vote either in the vehicle conveying that voter or in the immediate proximity of the voting place.

(b) Any qualified voter voting under this section shall comply with G.S. 163-166.13(a) by one of the following means:

(1) Presenting photo identification in accordance with G.S. 163-166.13.

(2) Presenting a copy of a document listed in G.S. 163-166.12(a)(2).

(c) The State Board of Elections shall ~~promulgate~~ adopt rules for the administration of this section."

SECTION 2.7. G.S. 163-227.2(b) reads as rewritten:

"(b) Not earlier than the third Thursday before an election, in which absentee ballots are authorized, in which a voter seeks to vote and not later than 1:00 P.M. on the last Saturday before that election, the voter shall appear in person only at the office of the county board of elections, except as provided in subsection (g) of this section. A county board of elections shall conduct one-stop voting on the last Saturday before the election until 1:00 P.M. and may conduct it until 5:00 P.M. on that Saturday. That voter shall enter the voting enclosure at the board office through the appropriate entrance and shall at once state his or her name and place of residence to an authorized member or employee of the ~~board.~~ board and present photo identification in accordance with G.S. 163-166.13. In a primary election, the voter shall also state the political party with which the voter affiliates and in whose primary the voter desires to vote, or if the voter is an unaffiliated voter permitted to vote in the primary of a particular party under G.S. 163-119, the voter shall state the name of the authorizing political party in whose primary he wishes to vote. The board member or employee to whom the voter gives this information shall announce the name and residence of the voter in a distinct tone of voice. After examining the registration records, an employee of the board shall state whether the person seeking to vote is duly registered. If the voter is found to be registered that voter may request that the authorized member or employee of the board furnish the voter with an application form as specified in G.S. 163-227. The voter shall complete the application in the presence of the authorized member or employee of the board, and shall deliver the application to that person."

SECTION 2.8. Article 15A of Chapter 163 of the General Statutes is amended by adding a new section to read:

"**§ 163-182.1A. Counting of provisional official ballots cast due to failure to provide photo identification when voting in person.**

(a) Unless disqualified for some other reason provided by law, the county board of elections shall find that a voter's provisional official ballot cast as a result of failing to present photo identification when voting in person in accordance with G.S. 163-166.13 is valid and direct that the provisional ballot be opened and counted in accordance with this Chapter if the voter complies with this section.

(b) A voter who casts a provisional official ballot wholly or partly as a result of failing to present photo identification when voting in person in accordance with G.S. 163-166.13 may comply with this section by appearing in person at the county board of elections and doing one of the following:

(1) Presenting photo identification as defined in G.S. 163-166.13(e) that bears any reasonable resemblance to the voter. The local election official to whom the photo identification is presented shall determine if the photo identification bears any reasonable resemblance to that voter. If not, that local election official shall comply with G.S. 163-166.14.

(2) Presenting any of the documents listed in G.S. 163-166.12(a)(2) and declaring that the voter has a sincerely held religious objection to being photographed. That voter shall also be offered an opportunity to execute a declaration under G.S. 163-82.7A for future elections.

(c) All identification under subsection (b) of this section shall be presented to the county board of elections not later than 12:00 noon the day prior to the time set for the convening of the election canvass pursuant to G.S. 163-182.5.

(d) If the county board of elections determines that a voter has also cast a provisional official ballot for a cause other than the voter's failure to provide photo identification in accordance with G.S. 163-166.13, the county board shall do all of the following:

(1) Note on the envelope containing the provisional official ballot that the voter has complied with the proof of identification requirement.

(2) Proceed to determine any other reasons for which the provisional official ballot was cast provisionally before ruling on the validity of the voter's provisional official ballot."

SECTION 2.9. G.S. 163-87 reads as rewritten:

"§ **163-87. Challenges allowed on day of primary or election.**

On the day of a primary or election, at the time a registered voter offers to vote, any other registered voter of the precinct may exercise the right of challenge, and when ~~he~~ the voter does so may enter the voting enclosure to make the challenge, but ~~he~~ the voter shall retire therefrom as soon as the challenge is heard.

On the day of a primary or election, any other registered voter of the precinct may challenge a person for one or more of the following reasons:

(1) One or more of the reasons listed in G.S. 163-85(c).

(2) That the person has already voted in that primary or election.

(3) Repealed by Session Laws 2009-541, s. 16.1(b), effective August 28, 2009.

(4) If the challenge is made with respect to voting in a partisan primary, that the person is a registered voter of another political party.

(5) Except as provided in G.S. 163-166.13(d) and G.S. 163-166.14, the voter does not present photo identification in accordance with G.S. 163-166.13.

The chief judge, judge, or assistant appointed under G.S. 163-41 or 163-42 may enter challenges under this section against voters in the precinct for which appointed regardless of the place of residence of the chief judge, judge, or assistant.

If a person is challenged under this subsection, and the challenge is sustained under G.S. 163-85(c)(3), the voter may still transfer ~~his~~ that voter's registration under G.S. 163-82.15(e) if eligible under that section, and the registration shall not be cancelled under G.S. 163-90.2(a) if the transfer is made. A person who has transferred ~~his~~ that voter's registration under G.S. 163-82.15(e) may be challenged at the precinct to which the registration is being transferred."

PART 3. IMPLEMENTATION

SECTION 3.1. G.S. 20-37.7(d) reads as rewritten:

"(d) Expiration and Fee. – A special identification card issued to a person for the first time under this section expires when a drivers license issued on the same day to that person would expire. A special identification card renewed under this section expires when a drivers license renewed by the card holder on the same day would expire.

The fee for a special identification card is the same as the fee set in G.S. 20-14 for a duplicate license. The fee does not apply to a special identification card issued to a resident of this State as follows:

(1) ~~who~~The applicant is legally ~~blind,~~blind.

(2) The applicant is at least 70 years ~~old,~~old.

(3) The applicant ~~is homeless,~~ has been issued a drivers license but the drivers license is cancelled under G.S. 20-15, in accordance with G.S. 20-9(e) and (g), as a result of a physical or mental disability or disease.

(4) The applicant is homeless. To obtain a special identification card without paying a fee, a homeless person must present a letter to the Division from the director of a facility that provides care or shelter to homeless persons verifying that the person is homeless.

(5) The applicant is registered to vote in this State and does not have photo identification acceptable under G.S. 163-166.13. To obtain a special identification card without paying a fee, a registered voter shall sign a declaration stating the registered voter is registered and does not have other photo identification acceptable under G.S. 163-166.13. The Division shall

verify that voter registration prior to issuing the special identification card. Any declaration shall prominently include the penalty under G.S. 163-275(13) for falsely making the declaration.

(6) The applicant is appearing before the Division for the purpose of registering to vote in accordance with G.S. 163-82.19 and does not have other photo identification acceptable under G.S. 163-166.13. To obtain a special identification card without paying a fee, that applicant shall sign a declaration stating that applicant is registering to vote and does not have other photo identification acceptable under G.S. 163-166.13. Any declaration shall prominently include the penalty under G.S. 163-275(13) for falsely making the declaration."

SECTION 3.2. G.S. 130A-93.1 is amended by adding a new subsection to read:

"(c) Upon verification of voter registration, the State Registrar shall not charge any fee under subsection (a) of this section to a registered voter who signs a declaration stating the registered voter is registered to vote in this State and does not have a certified copy of that registered voter's birth certificate or marriage license necessary to obtain photo identification acceptable under G.S. 163-166.13. Any declaration shall prominently include the penalty under G.S. 163-275(13) for falsely or fraudulently making the declaration."

SECTION 3.3. G.S. 161-10(a)(8) reads as rewritten:

"(8) Certified Copies of Birth and Death Certificates and Marriage Licenses. – For furnishing a certified copy of a death or birth certificate or marriage license ten dollars ($10.00). Provided however, a ~~Register of Deeds~~register of deeds, in accordance with G.S. 130A-93, may issue without charge a certified ~~Birth Certificate~~birth certificate to any person over the age of 62 years. Provided, however, upon verification of voter registration, a register of deeds, in accordance with G.S. 130A-93, shall issue without charge a certified copy of a birth certificate or a certified copy of a marriage license to any registered voter who declares the registered voter is registered to vote in this State and does not have a certified copy of that registered voter's birth certificate or marriage license necessary to obtain photo identification acceptable under G.S. 163-166.13. Any declaration shall prominently include the penalty under G.S. 163-275(13) for falsely or fraudulently making the declaration."

SECTION 3.4. G.S. 163-275(13) reads as rewritten:

"(13) For any person falsely to make or present any certificate or other paper to qualify any person fraudulently as a voter, or to attempt thereby to secure to any person the privilege of ~~voting;~~voting, including declarations made under this Chapter, G.S. 20-37.7(d)(5), 20-37.7(d)(6), 130A-93.1(c), and 161-10(a)(8);"

PART 4. ABSENTEE VOTING

SECTION 4.1. G.S. 163-229(b) reads as rewritten:

"(b) Application on Container-Return Envelope. – In time for use not later than 60 days before a statewide general election in an even-numbered year, and not later than 50 days before a statewide primary, other general election or county bond election, the county board of elections shall print a sufficient number of envelopes in which persons casting absentee ballots may transmit their marked ballots to the county board of elections. However, in the case of municipal elections, sufficient container-return envelopes shall be made available no later than 30 days before an election. Each container-return envelope shall have printed on it an application which shall be designed and prescribed by the State Board of Elections, providing for all of the following:

(1) ~~the~~The voter's certification of eligibility to vote the enclosed ballot and of having voted the enclosed ballot in accordance with this ~~Article,~~Article.

(2) ~~a~~A space for identification of the envelope with the ~~voter,~~voter and the voter's signature.

(3) ~~and a~~A space for the identification of the two persons witnessing the casting of the absentee ballot in accordance with G.S. 163-231, those persons' signatures, and those persons' addresses.

(4) A space for the name and address of any person who, as permitted under G.S. 163-226.3(a), assisted the voter if the voter is unable to complete and sign the certification and that individual's signature.

(5) A space for approval by the county board of elections.

(6) ~~The envelope shall~~A space to allow reporting of a change of name as provided by G.S. 163-82.16.

(7) A prominent display of the unlawful acts under G.S. 163-226.3 and G.S. 163-275, except if there is not room on the envelope, the State Board of Elections may provide for that disclosure to be made on a separate piece of paper to be included along with the container-return envelope.

The container-return envelope shall be printed in accordance with the instructions of the State Board of Elections."

SECTION 4.2. G.S. 163-230.1 reads as rewritten:

"§ **163-230.1. Simultaneous issuance of absentee ballots with application.**

(a) A qualified voter who ~~is eligible to vote by absentee ballot under G.S. 163-226(a)~~desires to vote by absentee ballot, or that voter's near relative or verifiable legal guardian, shall complete a request form for ~~in writing an application for absentee ballots,~~an absentee application and absentee ballots so that the county board of elections receives ~~the~~ that completed request form not later than 5:00 P.M. on the Tuesday before the election. That completed written request form shall be ~~signed by the voter, the voter's near relative, or the voter's verifiable legal guardian.~~in compliance with G.S. 163-230.2. The county board of elections shall enter in the register of absentee requests, applications, and ballots issued the information required in G.S. 163-228 as soon as each item of that information becomes available. Upon receiving the ~~application,~~completed request form, the county board of elections shall cause to be mailed to that voter ~~in~~ a single ~~package:~~package that includes all of the following:

(1) The official ballots ~~the~~ that voter is entitled to ~~vote;~~vote.

(2) A container-return envelope for the ballots, printed in accordance with ~~G.S. 163-229; and~~G.S. 163-229.

(3) Repealed by Session Laws 1999-455, s. 10.

(4) An instruction sheet.

The ballots, envelope, and instructions shall be mailed to the voter by the county board's chairman, member, officer, or employee as determined by the board and entered in the register as provided by this Article.

(a1) Absence for Sickness or Physical Disability. – Notwithstanding the provisions of subsection (a) of this section, if a voter expects to be unable to go to the voting place to vote in person on election day because of that voter's sickness or other physical disability, that voter or that voter's near relative or verifiable legal guardian may make ~~written~~ the request under subsection (a) of this section in person ~~for absentee ballots~~ to the board of elections of the county in which the voter is registered after 5:00 p.m. on the Tuesday before the election but not later than 5:00 p.m. on the day before the election. The county board of elections shall treat that completed request form in the same manner as a request under subsection (a) of this section but may personally deliver the application and ballots to the voter or that voter's near relative or verifiable legal guardian.~~enter in the register of absentee requests, applications, and ballots issued the information required in G.S. 163-228 as soon as each item of that information becomes available. The county board of elections shall personally deliver to the requester in a single package:~~

~~(1) The official ballots the voter is entitled to vote;~~

~~(2) A container-return envelope for the ballots, printed in accordance with G.S. 163-229; and~~

~~(3) An instruction sheet.~~

(a2) Delivery of Absentee Ballots and Container-Return Envelope to Applicant. – When the county board of elections receives a completed request form for applications and absentee ballots, the board shall promptly issue and transmit them to the voter in accordance with the following instructions:

(1) On the top margin of each ballot the applicant is entitled to vote, the chair, a member, officer, or employee of the board of elections shall write or type the words "Absentee Ballot No. ____" or an abbreviation approved by the State Board of Elections and insert in the blank space the number assigned the applicant's application in the register of absentee requests, applications, and ballots issued. That person shall not write, type, or print any other matter upon the ballots transmitted to the absentee voter. Alternatively, the board of elections may cause to be barcoded on the ballot the voter's application number, if that barcoding system is approved by the State Board of Elections.

(2) The chair, member, officer, or employee of the board of elections shall fold and place the ballots (identified in accordance with the preceding instruction) in a container-return envelope and write or type in the appropriate blanks thereon, in accordance with the terms of G.S. 163-229(b), the absentee voter's name, the absentee voter's application number, and the designation of the precinct in which the voter is registered. If the ballot is barcoded under this section, the envelope may be barcoded rather than having the actual number appear. The person placing the ballots in the envelopes shall leave the container-return envelope holding the ballots unsealed.

(3) The chair, member, officer, or employee of the board of elections shall then place the unsealed container-return envelope holding the ballots together with printed instructions for voting and returning the ballots, in an envelope addressed to the voter at the post office address stated in the request, seal the envelope, and mail it at the expense of the county board of elections: Provided, that in case of a request received after 5:00 p.m. on the Tuesday before the election under the provisions of subsection (a1) of this section, in lieu of transmitting the ballots to the voter in person or by mail, the chair, member, officer, or employee of the board of elections may deliver the sealed envelope containing the instruction sheet and the container-return envelope holding the ballots to a near relative or verifiable legal guardian of the voter.

The county board of elections may receive completed written ~~requests~~request forms for applications at any time prior to the election but shall not mail applications and ballots to the voter or issue applications and ballots in person earlier than 60 days prior to the statewide general election in an even-numbered year, or earlier than 50 days prior to any other election, except as provided in G.S. 163-227.2. No election official shall issue applications for absentee ballots except in compliance with this Article.

(b) The application shall be completed and signed by the voter personally, the ballots marked, the ballots sealed in the container-return envelope, and the certificate completed as provided in G.S. 163-231.

(c) At its next official meeting after return of the completed container-return envelope with the voter's ballots, the county board of elections shall determine whether the container-return envelope has been properly executed. If the board determines that the container-return envelope has been properly executed, it shall approve the application and deposit the container-return envelope with other container-return envelopes for the envelope to

be opened and the ballots counted at the same time as all other container-return envelopes and absentee ballots.

(c1) Required Meeting of County Board of Elections. – During the period commencing on the third Tuesday before an election, in which absentee ballots are authorized, the county board of elections shall hold one or more public meetings each Tuesday at 5:00 p.m. for the purpose of action on applications for absentee ballots. At these meetings, the county board of elections shall pass upon applications for absentee ballots.

If the county board of elections changes the time of holding its meetings or provides for additional meetings in accordance with the terms of this subsection, notice of the change in hour and notice of the schedule of additional meetings, if any, shall be published in a newspaper circulated in the county at least 30 days prior to the election.

At the time the county board of elections makes its decision on an application for absentee ballots, the board shall enter in the appropriate column in the register of absentee requests, applications, and ballots issued opposite the name of the applicant a notation of whether the applicant's application was "Approved" or "Disapproved".

The decision of the board on the validity of an application for absentee ballots shall be final subject only to such review as may be necessary in the event of an election contest. The county board of elections shall constitute the proper official body to pass upon the validity of all applications for absentee ballots received in the county; this function shall not be performed by the chairman or any other member of the board individually.

(d) Repealed by Session Laws 1999-455, s. 10.

(e) The State Board of Elections, by rule or by instruction to the county board of elections, shall establish procedures to provide appropriate safeguards in the implementation of this section.

(f) For the purpose of this Article, "near relative" means spouse, brother, sister, parent, grandparent, child, grandchild, mother-in-law, father-in-law, daughter-in-law, son-in-law, stepparent, or stepchild."

SECTION 4.3. G.S. 163-230.2 reads as rewritten:

"§ **163-230.2. Method of requesting absentee ballots.**

(a) Valid Types of Written Requests. – A completed written request form for an absentee ballot as required by G.S. 163-230.1 is valid only if it ~~is written entirely by the requester personally, or~~ is on a form ~~generated~~ created by the ~~county board of elections~~ State Board and signed by the ~~requester.~~ voter requesting absentee ballots or that voter's near relative or verifiable legal guardian. ~~The county board of elections shall issue a request form only to the voter seeking to vote by absentee ballot or to a person authorized by G.S. 163-230.1 to make a request for the voter. If a requester, due to disability or illiteracy, is unable to complete a written request, that requester may receive assistance in writing that request from an individual of that requester's choice.~~The State Board shall make the form available at its offices, online, and in each county board of elections office, and that form may be reproduced. A voter may make a request in person or by writing to the county board for the form to request an absentee ballot. The request form for an absentee ballot shall require at least the following information:

(1) The name and address of the residence of the voter.

(2) The name and address of the voter's near relative or verifiable legal guardian if that individual is making the request.

(3) The address of the voter to which the application and absentee ballots are to be mailed if different from the residence address of the voter.

(4) One or more of the following in the order of preference:

a. The number of the voter's North Carolina drivers license issued under Article 2 of Chapter 20 of the General Statutes, including a learner's permit or a provisional license.

b. The number of the voter's special identification card for nonoperators issued under G.S. 20-37.7.

c. The last four digits of the applicant's social security number.

(5) The voter's date of birth.

(6) The signature of the voter or of the voter's near relative or verifiable legal guardian if that individual is making the request.

(a1) A completed request form for an absentee ballot shall be deemed a request to update the official record of voter registration for that voter and shall be confirmed in writing in accordance with G.S. 163-82.14(d).

(a2) The completed request form for an absentee ballot shall be delivered to the county board of elections. If the voter does not include the information requested in subdivision (a)(4) of this section, a copy of a document listed in G.S. 163-166.12(a)(2) shall accompany the completed request form.

(a3) Upon receiving a completed request form for an absentee ballot, the county board shall confirm that voter's registration. If that voter is confirmed as a registered voter of the county, the absentee ballots and certification form shall be mailed to the voter, unless personally delivered in accordance with G.S. 163-230.1(a1). If the voter's official record of voter registration conflicts with the completed request form for an absentee ballot or cannot be confirmed, the voter shall be so notified. If the county board cannot resolve the differences, no application or absentee ballots shall be issued.

(b) Invalid Types of Written Requests. – A request is not valid if it does not comply with subsection (a) of this section. If a county board of elections receives a request for an absentee ballot that does not comply with subsection (a) of this section, the board shall not issue an application and ballot under G.S. 163-230.1.

(c) Rules by State Board. – The State Board of Elections shall adopt rules for the enforcement of this section."

SECTION 4.4. G.S. 163-231 reads as rewritten:

"§ **163-231. Voting absentee ballots and transmitting them to the county board of elections.**

(a) Procedure for Voting Absentee Ballots. – In the presence of ~~a person~~two persons who ~~is~~ are at least 18 years of age, and who ~~is~~are not disqualified by G.S. 163-226.3(a)(4) or G.S. 163-237(b1), the voter ~~shall:~~shall do all of the following:

(1) Mark the voter's ballots, or cause them to be marked by that person in the voter's presence according to the voter's ~~instruction;~~instruction.

(2) Fold each ballot separately, or cause each of them to be folded in the voter's ~~presence;~~presence.

(3) Place the folded ballots in the container-return envelope and securely seal it, or have this done in the voter's ~~presence;~~presence.

(4) Make the application printed on the container-return envelope according to the provisions of G.S. 163-229(b) and make the certificate printed on the container-return envelope according to the provisions of G.S. 163-229(b).

(5) Require those two persons in whose presence the voter marked that voter's ballots to sign the application and certificate as witnesses and to indicate those persons' addresses.

Alternatively to the prior paragraph of this subsection, any requirement for two witnesses shall be satisfied if witnessed by one notary public, who shall comply with all the other requirements of that paragraph. The notary shall affix a valid notarial seal to the envelope, and include the word "Notary Public" below his or her signature.

The ~~person~~ persons in whose presence the ballot is marked shall at all times respect the secrecy of the ballot and the privacy of the absentee voter, unless the voter requests ~~the person's~~ assistance and ~~the~~ that person is otherwise authorized by law to give assistance. ~~The person in whose presence the ballot was marked shall sign the application and certificate as a witness and shall indicate that person's address.~~ When thus executed, the sealed container-return envelope, with the ballots enclosed, shall be transmitted in accordance with the provisions of subsection (b) of this section to the county board of elections which issued the ballots.

(a1) Repealed by Session Laws 1987, c. 583, s. 1.

(b) Transmitting Executed Absentee Ballots to County Board of Elections. – The sealed container-return envelope in which executed absentee ballots have been placed shall be transmitted to the county board of elections who issued ~~them~~ those ballots as follows:

(1) All ballots issued under the provisions of ~~Articles 20~~this Article and Article 21A of this Chapter shall be transmitted by mail or by commercial courier service, at the voter's expense, or delivered in person, or by the voter's near relative or verifiable legal guardian and received by the county board not later than 5:00 p.m. on the day ~~before~~ of the statewide primary or general election or county bond election. Ballots issued under the provisions of Article 21A of this Chapter may also be electronically transmitted.

(2) If ballots are received later than ~~that hour,~~the hour stated in subdivision (1) of this subsection, ~~they~~those ballots shall not be accepted unless one of the following applies:

a.~~(i)~~ ~~federal~~ Federal law so ~~requires,~~requires.

b.~~(ii)~~ ~~if~~ The ballots issued under this Article ~~20 of this Chapter~~ are postmarked and that postmark is dated on or before ~~by~~ the day of the statewide primary or general election or county bond election and are received by the county board of elections not later than three days after the election by ~~5:00 p.m., or~~ 5:00 p.m.

c.~~(iii)~~ ~~if~~ The ballots issued under Article 21A of this Chapter are received by the county board of elections not later than the end of business on the business day before the canvass conducted by the county board of elections held pursuant to G.S. 163-182.5. ~~Ballots issued under Article 20 of this Chapter not postmarked by the day of the election shall not be accepted by the county board of elections.~~

(c) For purposes of this section, "Delivered in person" includes delivering the ballot to an election official at a one-stop voting site under G.S. 163-227.2 during any time that site is open for voting. The ballots shall be kept securely and delivered by election officials at that site to the county board of elections office for processing."

SECTION 4.5. G.S. 163-226 is amended by adding a new subsection to read:

"(d) The Term "Verifiable Legal Guardian." – An individual appointed guardian under Chapter 35A of the General Statutes. For a corporation appointed as a guardian under that Chapter, the corporation may submit a list of 10 named individuals to the State Board of Elections who may act for that corporation under this Article."

SECTION 4.6.(a) G.S. 163-226.3(a)(4) reads as rewritten:

"(a) Any person who shall, in connection with absentee voting in any election held in this State, do any of the acts or things declared in this section to be unlawful, shall be guilty of a Class I felony. It shall be unlawful:

…

(4) For any owner, manager, director, employee, or other person, other than the voter's near relative or verifiable legal guardian, to (i) make a written request pursuant to G.S. 163-230.1 or (ii) sign an application or certificate as a witness, on behalf of a registered ~~voter~~ voter, who is a patient in any hospital, clinic, nursing home or rest home in this State or for any owner, manager, director, employee, or other person other than the voter's near relative or verifiable legal guardian, to mark the voter's absentee ballot or assist such a voter in marking an absentee ballot. This subdivision does not apply to members, employees, or volunteers of the county board of elections, if those members, employees, or volunteers are working as part of a multipartisan team trained and authorized by the county board of elections to assist voters with absentee ballots. Each county board of elections shall train and authorize such teams, pursuant to procedures which shall be adopted by the State Board of Elections. If neither the voter's near relative nor a

verifiable legal guardian is available to assist the voter, and a multipartisan team is not available to assist the voter within seven calendar days of a telephonic request to the county board of elections, the voter may obtain such assistance from any person other than (i) an owner, manager, director, employee of the hospital, clinic, nursing home, or rest home in which the voter is a patient or resident; (ii) an individual who holds any elective office under the United States, this State, or any political subdivision of this State; (iii) an individual who is a candidate for nomination or election to such office; or (iv) an individual who holds any office in a State, congressional district, county, or precinct political party or organization, or who is a campaign manager or treasurer for any candidate or political party; provided that a delegate to a convention shall not be considered a party office. None of the persons listed in (i) through (iv) of this subdivision may sign the application or certificate as a witness for the patient.

…."

SECTION 4.6.(b) The State Board of Elections shall adopt rules prior to October 1, 2013, concerning the multipartisan teams authorized by G.S. 163-226.3(a)(4), as amended by subsection (a) of this section, to ensure that each county has, no later than the day absentee voting begins for each primary and election, trained teams to promptly assist patients and residents of any hospital, clinic, nursing home, or rest home in that county in casting absentee ballots as provided by law. Such rules shall be initially established as temporary rules in accordance with Chapter 150B of the General Statutes.

SECTION 4.7. G.S. 10B-30 is amended by adding a new subsection to read:

"(d) A notary may not charge any fee for witnessing and affixing a notarial seal to an absentee ballot application or certificate under G.S. 163-231."

PART 5. REGISTRATION AND EDUCATION

SECTION 5.1. G.S. 163-82.22 reads as rewritten:

"§ **163-82.22. Voter registration at ~~public libraries.~~public libraries and public agencies.**

(a) Every library covered by G.S. 153A-272 shall make available to the public the application forms described in G.S. 163-82.3, and shall keep a sufficient supply of the forms so that they are always available. Every library covered by G.S. 153A-272 shall designate at least one employee to assist voter registration applicants in completing the form during all times that the library is open.

(b) If approved by the State Board of Elections, the county board of elections, and the county board of commissioners, a county may offer voter registration in accordance with this section through the following additional public offices:

(1) Senior centers or facilities operated by the county.

(2) Parks and recreation services operated by the county."

SECTION 5.2. The State Board of Elections shall disseminate information about photo identification requirements for voting, provide information on how to obtain photo identification appropriate for voting, and assist any registered voter without photo identification appropriate for voting with obtaining such photo identification. Information may be distributed through public service announcements, print, radio, television, online, and social media. The State Board shall work with public agencies, private partners, and nonprofits to identify voters without photo identification appropriate for voting and assist those voters in securing the photo identification appropriate for voting. All outreach efforts to notify voters of the photo identification requirements shall be accessible to the elderly and persons with disabilities. The State Board of Elections shall work with county boards of elections in those counties where there is no Division of Motor Vehicles drivers license office open five days a week to (i) widely communicate information about the availability and schedules of Division of Motor Vehicles mobile units and (ii) provide volunteers to assist voters with obtaining photo identification through mobile units.

SECTION 5.3. Education and Publicity Requirements. – The public shall be educated about the photo identification to vote requirements of this act as follows:

(1) As counties use their regular processes to notify voters of assignments and reassignments to districts for election to the United States House of Representatives, State Senate, State House of Representatives, or local office, by including information about the provisions of this act.

(2) As counties send new voter registration cards to voters as a result of new registration, changes of address, or other reasons, by including information about the provisions of this act.

(3) Counties that maintain a board of elections Web site shall include information about the provisions of this act.

(4) Notices of elections published by county boards of elections under G.S. 163-22(8) for the 2014 primary and 2014 general election shall include a brief statement that photo identification will be required to vote in person beginning in 2016.

(5) The State Board of Elections shall include on its Web site information about the provisions of this act.

(6) Counties shall post at the polls and at early voting sites beginning with the 2014 primary elections information about the provisions of this act.

(7) The State Board of Elections shall distribute information about the photo identification requirements to groups and organizations serving persons with disabilities or the elderly.

(8) The State Board of Elections, the Division of Motor Vehicles, and county boards of elections in counties where there is no Division of Motor Vehicles drivers license office open five days a week shall include information about mobile unit schedules on existing Web sites, shall distribute information about these schedules to registered voters identified without photo identification, and shall publicize information about the mobile unit schedules through other available means.

(9) The State Board of Elections and county boards of elections shall direct volunteers to assist registered voters in counties where there is no Division of Motor Vehicles drivers license office open five days a week.

SECTION 5.4. The State Board of Elections shall include in all forms prepared by the Board a prominent statement that submitting fraudulently or falsely completed declarations is a Class I felony under Chapter 163 of the General Statutes.

SECTION 5.5. By April 1, 2014, the State Board of Elections shall review and make recommendations to the Joint Legislative Elections Oversight Committee on the steps recommended by the Board to implement the use of electronic and digital information in all polling places statewide. The review shall address all of the following:

(1) Obtaining digital photographs of registered voters and verifying identity of those voters.

(2) Maintaining information stored electronically in a secure fashion.

(3) Utilizing electronically stored information, including digital photographs and electronic signatures, to create electronic pollbooks.

(4) Using electronic pollbooks to assist in identifying individuals attempting to vote more than once in an election.

(5) A proposed plan for a pilot project to implement electronic pollbooks, including the taking of digital photographs at the polling place to supplement the electronic pollbooks.

(6) Any other related matter identified by the State Board impacting the use of digital and electronic information in the voting place.

PART 6. EFFECTIVE DATE

SECTION 6.2. Parts 1 through 6 of this act become effective as follows:

(1) Parts 1 and 6 of this act are effective when this act becomes law.

(2) Part 2 of this act becomes effective January 1, 2016, and applies to primaries and elections conducted on or after that date.

(3) Part 3 of this act becomes effective January 1, 2014.

(4) Part 4 of this act becomes effective January 1, 2014, and applies to primaries and elections held on or after that date, except that Section 4.6(b) is effective when it becomes law.

(5) Part 5 of this act becomes effective October 1, 2013.

(6) At any primary and election between May 1, 2014, and January 1, 2016, any registered voter may present that voter's photo identification to the elections officials at the voting place but may not be required to do so. At each primary and election between May 1, 2014, and January 1, 2016, each voter presenting in person shall be notified that photo identification will be needed to vote beginning in 2016 and be asked if that voter has one of the forms of photo identification appropriate for voting. If that voter indicates he or she does not have one or more of the types of photo identification appropriate for voting, that voter shall be asked to sign an acknowledgment of the photo identification requirement and be given a list of types of photo identification appropriate for voting and information on how to obtain those types of photo identification. The list of names of those voters who signed an acknowledgment is a public record.

PART 7. STUDY FILLING OF VACANCIES IN THE GENERAL ASSEMBLY

SECTION 7.1 The Joint Legislative Elections Oversight Committee shall study the method of filling vacancies in the General Assembly, and recommend to the General Assembly any legislation it deems advisable. It may make an interim report prior to the date that the General Assembly reconvenes the 2013 Regular Session in 2014, and shall make a final report before the convening of the 2015 Regular Session of the General Assembly.

PART 8. FILLING OF VACANCIES IN THE UNITED STATES SENATE

SECTION 8.1. G.S. 163-12 reads as rewritten:

"§ **163-12. Filling vacancy in United States Senate.**

Whenever there shall be a vacancy in the office of United States Senator from this State, whether caused by death, resignation, or otherwise than by expiration of term, the Governor shall appoint to fill the vacancy until an election shall be held to fill the office. If the Senator was elected as the nominee of a political party, the person appointed by the Governor shall be a person affiliated with that same political party. The Governor shall issue ~~his~~ a writ for the election of a Senator to be held at the time of the first election for members of the General Assembly that is held more than 60 days after the vacancy occurs. The person elected shall hold the office for the remainder of the unexpired term. The election shall take effect from the date of the canvassing of the returns."

PART 9. FILLING OF VACANCIES IN UNITED STATES HOUSE OF REPRESENTATIVES

SECTION 9.1. The Joint Legislative Elections Oversight Committee shall study the method of filling vacancies in the United States House of Representatives by special election, and recommend to the General Assembly any legislation it deems advisable. It may make an interim report prior to the date that the General Assembly reconvenes the 2013 Regular Session in 2014, and shall make a final report before the convening of the 2015 Regular Session of the General Assembly.

PART 10. SPECIAL ELECTION DATES

SECTION 10.1. G.S. 163-287 reads as rewritten:

"§ **163-287. Special elections; procedure for calling.**

(a) Any ~~municipality~~ county, municipality, or any special district shall have authority to call special elections as permitted by law. Prior to calling a special election, the ~~city council or the~~ governing body of the county, municipality, or special district shall adopt a resolution specifying the details of the election, and forthwith deliver the resolution to the ~~appropriate~~local board of elections. The resolution shall call on the local board of elections to conduct the election described in the resolution and shall state the date on which the special election is to be conducted. The special election may be held only at the same time as any other State, county or municipal ~~primary, election or special election or referendum, but may not otherwise be held within the period of time beginning 30 days before and ending 30 days after the date of any other primary, election, special election or referendum held for that city or special district.~~general election or at the same time as the primary election in any even-numbered year.

(b) Legal notice of the special election shall be published no less than 45 days prior to the special election. The local board of elections shall be responsible for publishing the legal notice. The notice shall state the date and time of the special election, the issue to be submitted to the voters, and the precincts in which the election will be held. This ~~paragraph~~ subsection shall not apply to bond elections.

(c) The last sentence of subsection (a) of this section shall not apply to any special election related to the public health or safety, including a vacancy in the office of sheriff or a bond referendum for financing of health and sanitation systems, if the governing body adopts a resolution stating the need for the special election at a time different from any other State, county, or municipal general election or the primary in any even-numbered year.

(d) The last sentence of subsection (a) of this section shall not apply to municipal incorporation or recall elections pursuant to local act of the General Assembly.

(e) The last sentence of subsection (a) of this section shall not apply to municipal elections to fill vacancies in office pursuant to local act of the General Assembly where more than six months remain in the term of office, and if less than six months remain in the office, the governing board may fill the vacancy for the remainder of the unexpired term notwithstanding any provision of a local act of the General Assembly.

(f) This section shall not impact the authority of the courts or the State Board to order a new election at a time set by the courts or State Board under this Chapter."

SECTION 10.2. Article 1 of Chapter 163 of the General Statutes is amended by adding a new section to read:

"§ **163-3. Special elections.**

Special elections shall be called as permitted by law and conducted in accordance with G.S. 163-287."

SECTION 10.3. G.S. 18B-601(f) reads as rewritten:

"(f) Election Date. – The board of elections shall conduct and set the date for the alcoholic beverage ~~election, which may not be sooner than 60 days nor later than 120 days from the date the request was received from the governing body or the petition was verified by the board.~~election in accordance with G.S. 163-287. ~~No alcoholic beverage election may be held on the Tuesday next after the first Monday in November of an even-numbered year.~~"

SECTION 10.4. G.S. 63-80(c) reads as rewritten:

"(c) Following the joint public hearing but prior to the adoption by a unit of local government of any resolution creating a special airport district, the governing body of such unit may submit the question of the unit's participation in a special airport district to the qualified voters of such unit. The form of the question as stated on the ballot shall be in substantially the following words:

"Shall the governing body of _____ approve _____'s participation in the proposed _____ special airport district?

[ ] YES [ ] NO"

If a majority of the qualified voters of the unit who vote thereon approve such participation, the governing body of such unit may adopt a resolution creating the particular special airport district. The election shall be conducted in accordance with G.S. 163-287 and the results thereof certified, declared and published in the same manner as bond elections within the unit."

SECTION 10.5. G.S. 63-87 reads as rewritten:

"§ **63-87. Bond elections.**

Elections for the purpose of authorizing the levy of taxes for the issuance of bonds shall be called by the district board and shall be conducted in accordance with G.S. 163-287 and the results canvassed by the boards of elections having jurisdiction within the participating units. Such results shall be certified to the district board and such board shall certify and declare the result of the election and publish a statement of the result once as provided in the Local Government Bond Act."

SECTION 10.6. G.S. 69-25.1 reads as rewritten:

"§ **69-25.1. Election to be held upon petition of voters.**

Upon the petition of thirty-five percent (35%) of the resident freeholders living in an area lying outside the corporate limits of any city or town, which area is described in the petition and designated as "_____ Fire District," the board of county
(Here insert name)
commissioners of the county shall call ~~an~~ a special election in said district for the purpose of submitting to the qualified voters therein the question of levying and collecting a special tax on all taxable property in said district, of not exceeding fifteen cents (15¢) on the one hundred dollars ($100.00) valuation of property, for the purpose of providing fire protection in said district. The county tax office shall be responsible for checking the freeholder status of those individuals signing the petition and confirming the location of the property owned by those individuals. Unless specifically excluded by other law, the provisions of Chapter 163 of the General Statutes concerning petitions for referenda and special elections shall apply. If the voters reject the special tax under the first paragraph of this section, then no new election may be held under the first paragraph of this section within two years on the question of levying and collecting a special tax under the first paragraph of this section in that district, or in any proposed district which includes a majority of the land within the district in which the tax was rejected.

Upon the petition of thirty-five percent (35%) of the resident freeholders living in an area which has previously been established as a fire protection district and in which there has been authorized by a vote of the people a special tax not exceeding ten cents (10¢) on the one hundred dollars ($100.00) valuation of property within the area, the board of county commissioners shall call ~~an~~ a special election in said area for the purpose of submitting to the qualified voters therein the question of increasing the allowable special tax for fire protection within said district from ten cents (10¢) on the one hundred dollars ($100.00) valuation to fifteen cents (15¢) on the one hundred dollars ($100.00) valuation on all taxable property within such district. ~~Elections~~ Special elections on the question of increasing the allowable tax rate for fire protection shall not be held within the same district at intervals less than two years."

SECTION 10.7. G.S. 69-25.2 reads as rewritten:

"§ **69-25.2. Duties of county board of commissioners regarding conduct of elections; cost of holding.**

The board of county commissioners, after consulting with the county board of elections, shall set a date for the special election in accordance with G.S. 163-287 by resolution adopted. The county board of elections shall hold and conduct the election in the district. The county board of elections shall advertise and conduct said election, in accordance with the provisions of this Article and with the procedures prescribed in Chapter 163 governing the conduct of

special and general elections. ~~No new registration of voters shall be required, but the deadline by which unregistered voters must register shall be contained in the legal advertisement to be published by the county board of elections.~~ The cost of holding the election to establish a district shall be paid by the county, provided that if the district is established, then the county shall be reimbursed the cost of the election from the taxes levied within the district, but the cost of an election to increase the allowable tax under G.S. 69-25.1 or to abolish a fire district under G.S. 69-25.10 shall be paid from the funds of the district."

SECTION 10.8. G.S. 105-465 reads as rewritten:

"§ **105-465. County election as to adoption of local sales and use tax.**

The board of elections of any county, upon the written request of the board of county commissioners, or upon receipt of a petition signed by qualified voters of the county equal in number to at least fifteen percent (15%) of the total number of votes cast in the county, at the last preceding election for the office of Governor, shall call a special election for the purpose of submitting to the voters of the county the question of whether a one percent (1%) sales and use tax will be levied.

The special election shall be held under the same rules applicable to the election of members of the General Assembly. ~~No new registration of voters shall be required. All qualified voters in the county who are properly registered not later than 21 days (excluding Saturdays and Sundays) prior to the election shall be entitled to vote at the election. The county board of elections shall give at least 20 days' public notice prior to the closing of the registration books for the special election.~~

The county board of elections shall prepare ballots for the special election. The question presented on the ballot shall be "FOR one percent (1%) local sales and use tax on items subject to State sales and use tax at the general State rate and on food" or "AGAINST one percent (1%) local sales and use tax on items subject to State sales and use tax at the general State rate and on food".

The county board of elections shall fix the date of the special ~~election,~~ election on a date permitted by G.S. 163-287, except that the special election shall not be held ~~on the date or within 60 days of any biennial election for county officers, nor~~ within one year from the date of the last preceding special election under this section."

SECTION 10.9. G.S. 105-473(a) reads as rewritten:

"(a) The board of elections of any county, upon the written request of the board of county commissioners thereof, or upon receipt of a petition signed by qualified voters of the county equal in number to at least fifteen percent (15%) of the total number of votes cast in the county at the last preceding election for the office of Governor, shall call a special election for the purpose of submitting to the voters of the county the question of whether the levy of a one percent (1%) sales and use tax theretofore levied should be repealed.

The special election shall be held under the same rules and regulations applicable to the election of members of the General Assembly. ~~No new registration of voters shall be required. All qualified voters in the county who are properly registered not later than 21 days (excluding Saturdays and Sundays) prior to the election shall be entitled to vote at said election. The county board of elections shall give at least 20 days' public notice prior to the closing of the registration books for the special election.~~

The county board of elections shall prepare ballots for the special election which shall contain the words "FOR repeal of the one percent (1%) local sales and use tax levy," and the words "AGAINST repeal of the one percent (1%) local sales and use tax levy," with appropriate squares so that each voter may designate his vote by his cross (X) mark.

The county board of elections shall fix the date of the special ~~election;~~ election on a date permitted by G.S. 163-287; provided, however, that the special election shall not be held ~~on the day of any biennial election for county officers, nor within 60 days thereof, nor~~ within one year from the date of the last preceding special election held under this section."

SECTION 10.10. G.S. 105-507.1(a) reads as rewritten:

"(a) Resolution. – The board of commissioners of a county may direct the county board of elections to conduct an advisory referendum within the county on the question of whether a local sales and use tax at the rate of one-half percent (1/2%) may be levied in accordance with this Part. The election shall be held ~~on a date jointly agreed upon by the boards and shall be held~~ in accordance with the procedures of G.S. 163-287. The board of commissioners shall hold a public hearing on the question at least 30 days before the date the election is to be held."

SECTION 10.11. G.S. 105-509(b) reads as rewritten:

"(b) Resolution. – The board of trustees of the regional public transportation authority may, if all of the conditions listed in this subsection have been met, direct the respective county board or boards of elections to conduct an advisory referendum within the special district on the question of whether a local sales and use tax at the rate of one-half percent (1/2%) may be levied within the district in accordance with this Part. The tax may not be levied without voter approval. The election shall be held on a date jointly agreed upon by the authority, the county board or boards of commissioners, and the county board or boards of elections and shall be held on a date permitted by and in accordance with the procedures of G.S. 163-287. ~~An election to authorize the levy of a tax under this Part may be held only on one of the following dates: (i) Tuesday after the first Monday of November in the even-numbered year, the date of the general election under G.S. 163-1, (ii) the date of the primary election in the even-numbered year under G.S. 163-1(b), (iii) Tuesday after the first Monday in November of the odd-numbered year, or (iv) a date in September or October of the odd-numbered year as listed in G.S. 163-279(a)(2), (3), or (4) but only if at least one municipality in the county is holding a primary or election on that date.~~The conditions are as follows:

(1) The board of trustees has obtained approval to conduct a referendum by a vote of the following:
   a. A majority vote of each of the county boards of commissioners within the special district, if it is a multicounty special district.
   b. A majority of the county board of commissioners within the special district, if it is a single-county special district.
(2) A public hearing is held on the question by the board or boards of commissioners at least 30 days before the date the election is to be held."

SECTION 10.12. G.S. 105-510(b) reads as rewritten:

"(b) Resolution. – The board of trustees of the regional transportation authority may, if all of the conditions listed in this subsection have been met, direct the respective county board or boards of elections to conduct an advisory referendum within the special district on the question of whether a local sales and use tax at the rate of one-half percent (1/2%) may be levied within the district in accordance with this Part. The tax may not be levied without voter approval. The election shall be held on a date jointly agreed upon by the authority, the county board or boards of commissioners, and the county board or boards of elections and shall be held on a date permitted by and in accordance with the procedures of G.S. 163-287. ~~An election to authorize the levy of a tax under this Part may be held only on one of the following dates: (i) Tuesday after the first Monday of November in the even-numbered year, the date of the general election under G.S. 163-1, (ii) the date of the primary election in the even-numbered year under G.S. 163-1(b), (iii) Tuesday after the first Monday in November of the odd-numbered year, or (iv) a date in September or October of the odd-numbered year as listed in G.S. 163-279(a)(2), (3), or (4) but only if at least one municipality in the county is holding a primary or election on that date.~~ The conditions are as follows:

(1) The board of trustees has obtained approval to conduct a referendum by a vote of the following:
   a. A majority vote of both of the county boards of commissioners within the special district, if it is a multicounty special district.
   b. A majority of the county board of commissioners within the special district, if it is a single-county special district.

(2) A public hearing is held on the question by the board or boards of commissioners at least 30 days before the date the election is to be held."

SECTION 10.13. G.S. 105-511.2(a) reads as rewritten:

"(a) Resolution. – The board of commissioners of a county may direct the county board of elections to conduct an advisory referendum within the county on the question of whether a local sales and use tax at the rate of one-quarter percent (1/4%) may be levied in accordance with this Part. The election shall be held on a date jointly agreed upon by the boards and shall be held on a date permitted by and in accordance with the procedures of G.S. 163-287. ~~An election to authorize the levy of a tax under this Part may be held only on one of the following dates: (i) Tuesday after the first Monday of November in the even-numbered year, the date of the general election under G.S. 163-1, (ii) the date of the primary election in the even-numbered year under G.S. 163-1(b), (iii) Tuesday after the first Monday in November of the odd-numbered year, or (iv) a date in September or October of the odd-numbered year as listed in G.S. 163-279(a)(2), (3), or (4) but only if at least one municipality in the county is holding a primary or election on that date.~~ The board of commissioners shall hold a public hearing on the question at least 30 days before the date the election is to be held."

SECTION 10.14. G.S. 105-537(b) reads as rewritten:

"(b) Vote. – The board of county commissioners may direct the county board of elections to conduct an advisory referendum on the question of whether to levy a local sales and use tax in the county as provided in this Article. The election shall be held ~~on a date jointly agreed upon by the board of county commissioners and the board of elections and shall be held~~ in accordance with the procedures of G.S. 163-287."

SECTION 10.15. G.S. 106-343 reads as rewritten:

"§ **106-343. Appropriations by counties; elections.**

The several boards of county commissioners in the State are hereby expressly authorized and empowered to make such appropriations from the general funds of their county as will enable them to cooperate effectively with the state Department of Agriculture and Consumer Services and Federal Department of Agriculture in the eradication of tuberculosis in their respective counties: Provided, that if in 10 days after said appropriation is voted, one fifth of the qualified voters of the county petition the board of commissioners to submit the question of tuberculosis eradication or no tuberculosis eradication to the voters of the county, said commissioners shall submit such questions to said voters. Said election shall be held and conducted under ~~the rules and regulations provided for holding stock-law elections in G.S. 68-16, 68-20 and 68-21.~~G.S. 163-287. If at any such election a majority of the votes cast shall be in favor of said tuberculosis eradication, the said board shall record the result of the election upon its minutes, and cooperative tuberculosis eradication shall be taken up with the state Department of Agriculture and Consumer Services and Federal Department of Agriculture. If, however, a majority of the votes cast shall be adverse, then said board shall make no appropriation."

SECTION 10.16. G.S. 115C-501(h) reads as rewritten:

"(h) To Annex or Consolidate Areas or Districts from Contiguous Counties and to Provide a Supplemental School Tax in Such Annexed Areas or Consolidated Districts. – An election may be called in any districts or other school areas, from contiguous counties, as to whether the districts in one county shall be enlarged by annexing or consolidating therewith any adjoining districts, or other school area or areas from an adjoining county, and if a special or supplemental school tax is levied and collected in the districts of the county to which the territory is to be annexed or consolidated, whether upon such annexation or consolidation there shall be levied and collected in the territory to be annexed or consolidated the same special or supplemental tax for schools as is levied and collected in the districts in the other county. If such election carries, the said special or supplemental tax shall be collected pursuant to G.S. 115C-511 and remitted to the local school administrative unit on whose behalf such special and supplemental tax is already ~~levied: Provided, that notwithstanding the provisions of G.S. 115C-508, if the notice of election clearly so states, and the election shall be held prior to~~

~~August 1, the annexation or consolidation shall be effective and the tax so authorized shall be levied and collected beginning with the fiscal year commencing July 1 next preceding such elections.~~levied."

SECTION 10.17. G.S. 115C-501 is amended by adding a new subsection to read:

"(j) All elections called under this section shall be conducted in accordance with G.S. 163-287."

SECTION 10.18. G.S. 115D-33(d) reads as rewritten:

"(d) All elections shall be held in the same manner as elections held under Article 4, Chapter 159, of the General Statutes, the Local Government Bond Act, and ~~may be held at any time fixed by the tax-levying authority of the administrative area or proposed administrative area of the institution for which such election is to be held.~~shall be held on a date permitted by G.S. 163-287."

SECTION 10.19. G.S. 115D-35(a) reads as rewritten:

"(a) Formal requests for elections on the question of authority to appropriate nontax revenues or levy special taxes, or both, and to issue bonds, when such elections are to be held for the purpose of establishing an institution, shall be originated and submitted only in the following manner:

(1) Proposed multiple-county administrative areas: Formal requests for elections may be submitted jointly by all county boards of education in the proposed administrative area, or by petition of fifteen percent (15%) of the number of qualified voters of the proposed area who voted in the last preceding election for Governor, to the boards of commissioners of all counties in the proposed area, who ~~may~~ shall fix the time for such election by joint resolution on a date permitted by G.S. 163-287, which shall be entered in the minutes of each board.

(2) Proposed single-county administrative area: Formal requests shall be submitted by the board of education of any public school administrative unit within the county of the proposed administrative area or by petition of fifteen percent (15%) of the number of qualified voters of the county who voted in the last preceding election for Governor, to the board of commissioners of the county of the proposed administrative area, who ~~may~~ shall fix the time for such election by resolution on a date permitted by G.S. 163-287, which shall be entered in the minutes of the board."

SECTION 10.20. G.S. 130A-69 reads as rewritten:

"(a) If after a sanitary district has been created or the provisions of this Part have been made applicable to a sanitary district, a petition signed by not less than fifteen percent (15%) of the resident freeholders within any territory contiguous to and adjoining the sanitary district may be presented to the sanitary district board requesting annexation of territory described in the petition. The sanitary district board shall send a copy of the petition to the board of commissioners of the county or counties in which the district is located and to the Department. The sanitary district board shall request that the Department hold a joint public hearing with the sanitary district board on the question of annexation. The Secretary and the chairperson of the sanitary district board shall name a time and place for the public hearing. The chairperson of the sanitary district board shall publish a notice of public hearing once in a newspaper or newspapers published or circulating in the sanitary district and the territory proposed to be annexed. The notice shall be published not less than 15 days prior to the hearing. If after the hearing, the Commission approves the annexation of the territory described in the petition, the Department shall advise the board or boards of commissioners of the approval. The board or boards of commissioners shall order and provide for the holding of a special election in accordance with G.S. 163-287 upon the question of annexation within the territory proposed to be annexed.

(b) If at or prior to the public hearing, a petition is filed with the sanitary district board signed by not less than fifteen percent (15%) of the freeholders residing in the sanitary district

requesting an election be held on the annexation question, the sanitary district board shall send a copy of the petition to the board or boards of commissioners who shall order and provide for the submission of the question to the voters within the sanitary district. This election may be held on the same day as the election in the territory proposed to be annexed, and both elections and registrations may be held pursuant to a single notice. A majority of the votes cast is necessary for a territory to be annexed to a sanitary district.

(c) The election shall be held by the county board or boards of elections ~~as soon as possible~~in accordance with G.S. 163-287 after the board or boards of commissioners orders the election. The cost of the election shall be paid by the sanitary district. Registration in the area proposed for annexation shall be under the same procedure as G.S. 163-288.2.

…."

SECTION 10.21. G.S. 139-39 reads as rewritten:

"§ **139-39. Alternative method of financing watershed improvement programs by special county tax.**

The board of county commissioners in any county is authorized to call a special election to determine whether it be the will of the qualified voters of the county that they levy and cause to be collected annually, at the same time and in the same manner as the general county taxes are levied and collected, a special tax at a rate not to exceed twenty-five cents (25¢) on each one hundred dollars ($100.00) valuation of property in said county, to be known as a "Watershed Improvement Tax," the funds therefrom, if the levy be authorized by the voters of said county, to be used for the prevention of flood water and sediment damages, and for furthering the conservation, utilization and disposal of water and the development of water resources. Any special election shall be conducted in accordance with G.S. 163-287."

SECTION 10.22. G.S. 147-69.6(f) reads as rewritten:

"(f) The Board of Commissioners of Swain County may direct the Swain County Board of Elections to conduct an advisory referendum on the question of whether any portion of the principal of the Fund should be disbursed to and expended by the county for a particular purpose. The election shall be held ~~on a date jointly agreed upon by the two boards, which may be the same day as any other referendum or election in the county, but may not otherwise be during the period beginning 30 days before and ending 30 days after the day of any other referendum or election to be conducted by the board of elections and already validly called or scheduled by law. The election shall be held~~ in accordance with the procedures of G.S. 163-287. The question to be presented on the ballot shall disclose the specific purpose proposed for expenditure of the principal investment of the Trust Fund and the amount proposed for expenditure."

SECTION 10.23. G.S. 153A-60 reads as rewritten:

"§ **153A-60. Initiation of alterations by resolution.**

The board of commissioners shall initiate any alteration in the structure of the board by adopting a resolution. The resolution shall:

(1) Briefly but completely describe the proposed alterations;

(2) Prescribe the manner of transition from the existing structure to the altered structure;

(3) Define the electoral districts, if any, and apportion the members among the districts;

(4) Call a special referendum on the question of adoption of the alterations. The referendum shall be held and conducted by the county board of elections. The referendum may be held only on a date permitted by G.S. 163-287. ~~at the same time as any other state, county or municipal primary, election, special election or referendum, or on any date set by the board of county commissioners, provided, that such referendum shall not be held within the period of time beginning 60 days before and ending 60 days after any other primary, election, special election or referendum held in the county.~~

Upon its adoption, the resolution shall be published in full."

SECTION 10.24. G.S. 153A-405(a) reads as rewritten:

"(a) If authorized to do so by the concurrent resolutions that established it, a commission may call a referendum on its proposed plan of governmental consolidation. If authorized or directed in the concurrent resolutions, the ballot question may include the assumption of debt secured by a pledge of faith and credit language and may also include the assumption of the right to issue authorized but unissued faith and credit debt language as provided in subsection (b) of this section. The referendum ~~may be held on the same day as any other referendum or election in the county or counties involved, but may not otherwise be held during the period beginning 30 days before and ending 30 days after the day of any other referendum or election to be conducted by the board or boards of elections conducting the referendum and already validly called or scheduled by law.~~shall be held in accordance with G.S. 163-287."

SECTION 10.25. G.S. 158-16 reads as rewritten:

"§ **158-16. Board of commissioners may call tax election; rate and purposes of tax.**

The board of county commissioners in any county is authorized and empowered to call a special election to determine whether it be the will of the qualified voters of said county that they levy and cause to be collected annually, at the same time and in the same manner as the general county taxes are levied and collected, a special tax at a rate not to exceed five cents (5¢) on each one hundred dollars ($100.00) valuation of property in said county, to be known as an "industrial development tax," the funds therefrom, if the levy be authorized by the voters of said county, to be used for the purpose of attracting new and diversified industries to said county, and for the encouragement of new business and industrial ventures by local as well as foreign capital, and for the purpose of aiding and encouraging the location of manufacturing enterprises, making industrial surveys and locating industrial plants in said county, and for the purpose of encouraging agricultural development in said county. Any special election shall be conducted in accordance with G.S. 163-287."

SECTION 10.26. G.S. 159-61(b) reads as rewritten:

"(b) The date of a bond referendum shall be fixed by the governing board, but shall not be more than one year after adoption of the bond ~~order.~~ order, only on a date permitted by G.S. 163-287. ~~The governing board may call a special referendum for the purpose of voting on a bond issue on any day, including the day of any regular or special election held for another purpose (unless the law under which the bond referendum or other election is held specifically prohibits submission of other questions at the same time). A special bond referendum may not be held within 30 days before or 10 days after a statewide primary, election, or referendum, or within 30 days before or 10 days after any other primary, election, or referendum to be held in the same unit holding the bond referendum and already validly called or scheduled by law at the time the bond referendum is called.~~ The clerk shall mail or deliver a certified copy of the resolution calling a special bond referendum to the board of elections that is to conduct it within three days after the resolution is adopted, but failure to observe this requirement shall not in any manner affect the validity of the referendum or bonds issued pursuant thereto. Bond referenda shall be conducted by the board of elections conducting regular elections of the county, city, or special district. ~~In fixing the date of a bond referendum, the governing board shall consult the board of elections in order that the referendum shall not unduly interfere with other elections already scheduled or in process.~~ Several bond orders or other matters may be voted upon at the same referendum."

SECTION 10.27. G.S. 160A-103 reads as rewritten:

"§ **160A-103. Referendum on charter amendments by ordinance.**

An ordinance adopted under G.S. 160A-102 that is not made effective upon approval by a vote of the people shall be subject to a referendum petition. Upon receipt of a referendum petition bearing the signatures and residence addresses of a number of qualified voters of the city equal to at least 10 percent of the whole number of voters who are registered to vote in city elections according to the most recent figures certified by the State Board of Elections or 5,000, whichever is less, the council shall submit an ordinance adopted under G.S. 160A-102 to a vote of the people. The date of the special election shall be fixed ~~at~~ on a date permitted by

G.S. 163-287. ~~not more than 120 nor fewer than 60 days after receipt of the petition.~~ A referendum petition shall be addressed to the council and shall identify the ordinance to be submitted to a vote. A referendum petition must be filed with the city clerk not later than 30 days after publication of the notice of adoption of the ordinance."

SECTION 10.28. G.S. 160A-104 reads as rewritten:

"§ **160A-104. Initiative petitions for charter amendments.**

The people may initiate a referendum on proposed charter amendments. An initiative petition shall bear the signatures and resident addresses of a number of qualified voters of the city equal to at least ten percent (10%) of the whole number of voters who are registered to vote in city elections according to the most recent figures certified by the State Board of Elections or 5,000, whichever is less. The petition shall set forth the proposed amendments by describing them briefly but completely and with reference to the pertinent provisions of G.S. 160A-101, but it need not contain the precise text of the charter amendments necessary to implement the proposed changes. The petition may not propose changes in the alternative, or more than one integrated set of charter amendments. Upon receipt of a valid initiative petition, the council shall call a special election on the question of adopting the charter amendments proposed therein, and shall give public notice thereof in accordance with G.S. 163-287. The date of the special election shall be fixed ~~at~~ on a date permitted by G.S. 163-287. ~~not more than 120 nor fewer than 60 days after receipt of the petition.~~ If a majority of the votes cast in the special election shall be in favor of the proposed changes, the council shall adopt an ordinance amending the charter to put them into effect. Such an ordinance shall not be subject to a referendum petition. No initiative petition may be filed (i) between the time the council initiates proceedings under G.S. 160A-102 by publishing a notice of hearing on proposed charter amendments and the time proceeding under that section have been carried to a conclusion either through adoption or rejection of a proposed ordinance or lapse of time, nor (ii) within one year and six months following the effective date of an ordinance amending the city charter pursuant to this Article, nor (iii) within one year and six months following the date of any election on charter amendments that were defeated by the voters.

The restrictions imposed by this section on filing initiative petitions shall apply only to petitions concerning the same subject matter. For example, pendency of council action on amendments concerning the method of electing the council shall not preclude an initiative petition on adoption of the council-manager form of government.

Nothing in this section shall be construed to prohibit the submission of more than one proposition for charter amendments on the same ballot so long as no proposition offers a different plan under the same option as another proposition on the same ballot."

SECTION 10.29. G.S. 160A-583 reads as rewritten:

"§ **160A-583. Funds.**

The establishment and operation of a transportation authority as herein authorized are governmental functions and constitute a public purpose, and the municipality is hereby authorized to appropriate funds to support the establishment and operation of the transit authority. The municipality may also dedicate, sell, convey, donate or lease any of its interest in any property to the authority. Further, the authority is hereby authorized to establish such license and regulatory fees and charges as it may deem appropriate, subject to the approval of the governing body of the municipality. If the governing body finds that the funds otherwise available are insufficient, it may call a special election without a petition and submit to the qualified voters of the municipality the question of whether or not a special tax shall be levied and/or bonds issued, specifying the maximum amount thereof, for the purpose of acquiring lands, buildings, equipment and facilities and for the operations of the transit authority. Any special election shall be conducted in accordance with G.S. 163-287."

SECTION 10.30. G.S. 162A-68(d) reads as rewritten:

"(d) If, at or prior to such public hearing, there shall be filed with the district board a petition, signed by not less than ten per centum (10%) of the qualified voters residing in the district, requesting an election to be held therein on the question of including the political

subdivision or unincorporated area, the district board shall certify a copy of such petition to the board or boards of commissioners, and the board or boards of commissioners shall request the county board or boards of elections to submit such question to the qualified voters within the district in accordance with G.S. 163-287 and the other applicable provisions of Chapter 163 of the General Statutes; provided, that the election shall not be held unless the Environmental Management Commission has adopted a resolution approving the inclusion of the political subdivision or unincorporated area in the district.

Notice of such election, which shall contain a statement of the boundaries of the territory proposed to be included in the district and the boundaries of the district after inclusion, shall be given by publication once a week for three successive weeks in a newspaper or newspapers having general circulation within the district, the first publication to be at least 30 days prior to the election."

SECTION 10.31. G.S. 162A-77.1 reads as rewritten:

"§ **162A-77.1. Special election upon the question of the merger of metropolitan sewerage districts into cities or towns.**

Any district lying entirely within the corporate limits of a city or town may be merged into such city or town in accordance with the provisions of this section.

The governing body of a city or town, with the approval of the district board, shall call and conduct a special election within such city or town on the question of the merger of the district into the city or town. A vote in favor of such merger shall constitute a vote for such city or town to assume the obligations of the district. Such special election may be called and conducted by the governing body of a city or town upon its own motion after passage of a resolution of the district board requesting or approving the special election. Any special election shall be conducted in accordance with G.S. 163-287.

A new registration of voters shall not be required for the special election. The special election shall be conducted in accordance with the provisions of law applicable to regular elections in the city or town.

If a majority of the votes are in favor of the merger, then:

(1) All property, real and personal and mixed, including accounts receivable, belonging to such district shall vest in, belong to, and be the property of, such city or town. All district boards are hereby authorized to take such actions and to execute such documents as will carry into effect the provisions and the intent of this section.

(2) All judgments, liens, rights of liens, and causes of action of any nature in favor of such district shall vest in and remain and inure to the benefit of such city or town.

(3) All taxes, assessments, sewer charges, and any other debts, charges or fees, owing to such district shall be owed to and collected by such city or town.

(4) All actions, suits and proceedings pending against, or having been instituted by, such district shall not be abated by this section or by the merger herein provided for, but all such actions, suits, and proceedings shall be continued and completed in the same manner as if merger had not occurred, and such city or town shall be a party to all such actions, suits, and proceedings in the place and stead of the district and shall pay or cause to be paid any judgments rendered against the district in any such actions, suits, or proceedings. No new process need be served in any such action, suit, or proceeding.

(5) All obligations of the district, including outstanding indebtedness, shall be assumed by such city or town, and all such obligations and outstanding indebtedness shall constitute obligations and indebtedness of such city or town, and the full faith and credit of such city or town shall be deemed to be pledged for the punctual payment of the principal of and the interest on any general obligation bonds or bond anticipation notes of such district, and all

the taxable property within such city or town, as well as that formerly located within the district, shall be and remain subject to taxation for such payment.

(6) All ordinances, rules, regulations, and policies of such district shall continue in full force and effect until repealed or amended by the governing body of such city or town.

(7) Such district shall be abolished, and shall no longer be constituted a public body or a body politic and corporate, except for the purposes of carrying into effect the provisions and the intent of this section.

If a majority of the votes are against the merger, then such merger shall not be effective unless approved by a majority of the qualified voters who vote thereon in a subsequent special election conducted under authority of this section.

Any action or proceeding in any court to set aside a special election held under authority of this section or the result thereof, or to obtain any other relief upon the ground that such election or any proceeding or action taken with respect to the holding of such election is invalid, must be commenced within 30 days after the day of such special election. After the expiration of such period of limitation, no right of action or defense founded upon the invalidity of the election or the result thereof shall be asserted, nor shall the validity of the election or of the result thereof be open to question in any court upon any ground whatever, except in an action or proceeding commenced within such period."

SECTION 10.32. This Part becomes effective January 1, 2014, and applies to special elections held on or after that date.

PART 11. POLL OBSERVERS

SECTION 11.1. G.S. 163-45 reads as rewritten:

"§ **163-45. Observers; appointment.**

(a) The chair of each political party in the county shall have the right to designate two observers to attend each voting place at each primary and election and such observers may, at the option of the designating party chair, be relieved during the day of the primary or election after serving no less than four hours and provided the list required by this section to be filed by each chair contains the names of all persons authorized to represent such chair's political party. The chair of each political party in the county shall have the right to designate 10 additional at-large observers who are residents of that county who may attend any voting place in that county. The list submitted by the chair of the political party may be amended between the one-stop period under G.S. 163-227.2 and general election day to substitute one or all at-large observers for election day. Not more than two observers from the same political party shall be permitted in the voting enclosure at any ~~time.~~ time, except that in addition one of the at-large observers from each party may also be in the voting enclosure. This right shall not extend to the chair of a political party during a primary unless that party is participating in the primary. In any election in which an unaffiliated candidate is named on the ballot, the candidate or the candidate's campaign manager shall have the right to appoint two observers for each voting place consistent with the provisions specified herein. Persons appointed as observers must be registered voters of the county for which appointed and must have good moral character. No person who is a candidate on the ballot in a primary or election may serve as an observer or runner in that primary or election. Observers shall take no oath of office.

(b) Individuals authorized to appoint observers must submit in writing to the chief judge of each precinct a signed list of the observers appointed for that ~~precinct.~~ precinct, except that the list of at-large observers authorized in subsection (a) of this section shall be submitted to the county director of elections. Individuals authorized to appoint observers must, prior to 10:00 A.M. on the fifth day prior to any primary or general election, submit in writing to the chair of the county board of elections two signed copies of a list of observers appointed by them, designating the precinct or at-large status for which each observer is appointed. Before the opening of the voting place on the day of a primary or general election, the chair shall deliver

one copy of the list to the chief judge for each affected ~~precinct.~~ precinct, except that the list of at-large observers shall be provided by the county director of elections to the chief judge. The chair shall retain the other copy. The chair, or the chief judge and judges for each affected precinct, may for good cause reject any appointee and require that another be appointed. The names of any persons appointed in place of those persons rejected shall be furnished in writing to the chief judge of each affected precinct no later than the time for opening the voting place on the day of any primary or general election, either by the chair of the county board of elections or the person making the substitute appointment.

If party chairs appoint observers at one-stop sites under G.S. 163-227.2, those party chairs shall provide a list of the observers appointed before 10:00 A.M. on the fifth day before the observer is to observe. At-large observers may serve at any one-stop site.

(c) An observer shall do no electioneering at the voting place, and shall in no manner impede the voting process or interfere or communicate with or observe any voter in casting a ballot, but, subject to these restrictions, the chief judge and judges of elections shall permit the observer to make such observation and take such notes as the observer may desire.

(d) Whether or not the observer attends to the polls for the requisite time provided by this section, each observer shall be entitled to obtain at times specified by the State Board of Elections, but not less than three times during election day with the spacing not less than one hour apart, a list of the persons who have voted in the precinct so far in that election day. Counties that use an "authorization to vote document" instead of poll books may comply with the requirement in the previous sentence by permitting each observer to inspect election records so that the observer may create a list of persons who have voted in the precinct so far that election day; each observer shall be entitled to make the inspection at times specified by the State Board of Elections, but not less than three times during election day with the spacing not less than one hour apart.

Instead of having an observer receive the voting list, the county party chair may send a runner to do so, even if an observer has not been appointed for that precinct. The runner may be the precinct party chair or any person named by the county party chair. Each county party chair using runners in an election shall provide to the county board of elections before 10:00 A.M. on the fifth day before election day a list of the runners to be used. That party chair must notify the chair of the county board of elections or the board chair's designee of the names of all runners to be used in each precinct before the runner goes to the precinct. The runner may receive a voter list from the precinct on the same schedule as an observer. Whether obtained by observer or runner, each party is entitled to only one voter list at each of the scheduled times. No runner may enter the voting enclosure except when necessary to announce that runner's presence and to receive the list. The runner must leave immediately after being provided with the list."

SECTION 11.2. The Joint Legislative Elections Oversight Committee shall study a bill of rights for election observers to guarantee their right to help assist proper voting while ensuring proper protection for voters and recommend to the General Assembly any legislation it deems advisable. It may make an interim report prior to the date that the General Assembly reconvenes the 2013 Regular Session in 2014 and shall make a final report before the convening of the 2015 Regular Session of the General Assembly.

PART 12. ELIMINATION OF PREREGISTRATION

SECTION 12.1.(a) G.S. 163-82.1(d) is repealed.

SECTION 12.1.(b) G.S. 163-82.3(a)(5) is repealed.

SECTION 12.1.(c) G.S. 163-82.4(d) reads as rewritten:

"(d) Citizenship and Age Questions. – Voter registration application forms shall include all of the following:

(1) The following question and statement:

a. "Are you a citizen of the United States of America?" and boxes for the applicant to check to indicate whether the applicant is or is not a citizen of the United States.

b. "If you checked 'no' in response to this question, do not submit this form."

(2) The following ~~questions~~ question and statement:

a. "Will you be 18 years of age on or before election day?" and boxes for the applicant to check to indicate whether the applicant will be 18 years of age or older on election day.

~~b. "Are you at least 16 years of age and understand that you must be 18 years of age on or before election day to vote?" and boxes for the applicant to check to indicate whether the applicant is at least 16 years of age and understands that the applicant must be at least 18 years of age or older by election day to vote.~~

c. "If you checked 'no' in response to ~~both of these questions,~~ this question, do not submit this form."

SECTION 12.1.(d) G.S. 163-82.23 reads as rewritten:

"§ **163-82.23. Voter registration at public high schools.**

Every public high school shall make available to its students and others who are eligible to register ~~and preregister~~ to vote the application forms described in G.S. 163-82.3, and shall keep a sufficient supply of the forms so that they are always available. A local board of education may, but is not required to, designate high school employees to assist in completing the forms. Only employees who volunteer for this duty may be designated by boards of education."

SECTION 12.1.(e) G.S. 163-82.19(a) reads as rewritten:

"(a) Voter Registration at Drivers License Offices. – The Division of Motor Vehicles shall, pursuant to the rules adopted by the State Board of Elections, modify its forms so that any eligible person who applies for original issuance, renewal or correction of a drivers license, or special identification card issued under G.S. 20-37.7 may, on a part of the form, complete an application to register to vote, or to update the voter's registration if the voter has changed his or her address or moved from one precinct to another or from one county to ~~another, or to preregister to vote.~~ another. The person taking the application shall ask if the applicant is a citizen of the United States. If the applicant states that the applicant is not a citizen of the United States, or declines to answer the question, the person taking the application shall inform the applicant that it is a felony for a person who is not a citizen of the United States to apply to register to vote. Any person who willfully and knowingly and with fraudulent intent gives false information on the application is guilty of a Class I felony. The application shall state in clear language the penalty for violation of this section. The necessary forms shall be prescribed by the State Board of Elections. The form must ask for the previous voter registration address of the voter, if any. If a previous address is listed, and it is not in the county of residence of the applicant, the appropriate county board of elections shall treat the application as an authorization to cancel the previous registration and also process it as such under the procedures of G.S. 163-82.9. If a previous address is listed and that address is in the county where the voter applies to register, the application shall be processed as if it had been submitted under G.S. 163-82.9.

Registration shall become effective as provided in G.S. 163-82.7. Applications to register to vote accepted at a drivers license office under this section until the deadline established in G.S. 163-82.6(c)(2) shall be treated as timely made for an election, and no person who completes an application at that drivers license office shall be denied the vote in that election for failure to apply earlier than that deadline.

All applications shall be forwarded by the Department of Transportation to the appropriate board of elections not later than five business days after the date of acceptance, according to rules which shall be promulgated by the State Board of Elections. Those rules shall provide for a paperless, instant, electronic transfer of applications to the appropriate board of elections. ~~Applications for preregistration to vote shall be forwarded to the State Board of Elections.~~"

SECTION 12.1.(f) G.S. 163-82.20 reads as rewritten:

"§ **163-82.20. Voter registration at other public agencies.**

(a) Voter Registration Agencies. – Every office in this State which accepts:

(1) Applications for a program of public assistance under Article 2 of Chapter 108A of the General Statutes or under Article 13 of Chapter 130A of the General Statutes;

(2) Applications for State-funded State or local government programs primarily engaged in providing services to persons with disabilities, with such office designated by the State Board of Elections; or

(3) Claims for benefits under Chapter 96 of the General Statutes, the Employment Security Law, is designated as a voter registration agency for purposes of this section.

(b) Duties of Voter Registration Agencies. – A voter registration agency described in subsection (a) of this section shall, unless the applicant declines, in writing, to register ~~or preregister~~ to vote:

(1) Distribute with each application for service or assistance, and with each recertification, renewal, or change of address relating to such service or assistance:

a. The voter registration application form described in G.S. 163-82.3(a) or (b); or

b. The voter registration agency's own form, if it is substantially equivalent to the form described in G.S. 163-82.3(a) or (b) and has been approved by the State Board of Elections, provided that the agency's own form may be a detachable part of the agency's paper application or may be a paperless computer process, as long as the applicant is required to sign an attestation as part of the application to ~~register or preregister.~~register.

(2) Provide a form that contains the elements required by section 7(a)(6)(B) of the National Voter Registration Act; and

(3) Provide to each applicant who does not decline to register ~~or preregister~~ to vote the same degree of assistance with regard to the completion of the registration application as is provided by the office with regard to the completion of its own forms.

(c) Provided that voter registration agencies designated under subdivision (a)(3) of this section shall only be required to provide the services set out in this subsection to applicants for new claims, reopened claims, and changes of address under Chapter 96 of the General Statutes, the Employment Security Law.

(d) Home Registration for Disabled. – If a voter registration agency provides services to a person with disability at the person's home, the voter registration agency shall provide the services described in subsection (b) of this section at the person's home.

(e) Prohibitions. – Any person providing any service under subsection (b) of this section shall not:

(1) Seek to influence an applicant's political preference or party registration, except that this shall not be construed to prevent the notice provided by G.S. 163-82.4(c) to be given if the applicant refuses to declare his party affiliation;

(2) Display any such political preference or party allegiance;

(3) Make any statement to an applicant or take any action the purpose or effect of which is to discourage the applicant from registering ~~or preregistering~~ to vote; or

(4) Make any statement to an applicant or take any action the purpose or effect of which is to lead the applicant to believe that a decision to register ~~or preregister~~ or not to register ~~or preregister~~ has any bearing on the availability of services or benefits.

(f) Confidentiality of Declination to Register. – No information relating to a declination to register ~~or preregister~~ to vote in connection with an application made at a voter registration agency may be used for any purpose other than voter registration.

(g) Transmittal From Agency to Board of Elections. – Any voter registration ~~or preregistration~~ application completed at a voter registration agency shall be accepted by that agency in lieu of the applicant's mailing the application. Any such application so received shall be transmitted to the appropriate board of elections not later than five business days after acceptance, according to rules which shall be promulgated by the State Board of Elections.

(h) Twenty-Five-Day Deadline for an Election. – Applications to register accepted by a voter registration agency shall entitle a registrant to vote in any primary, general, or special election unless the registrant shall have made application later than the twenty-fifth calendar day immediately preceding such primary, general, or special election, provided that nothing shall prohibit voter registration agencies from continuing to accept applications during that period.

(i) Ineligible Applications Prohibited. – No person shall make application to register ~~or preregister~~ to vote under this section if that person is ineligible on account of age, citizenship, lack of residence for the period of time provided by law, or because of conviction of a felony."

SECTION 12.1.(g) G.S. 115C-81(g1)(1) reads as rewritten:

"(1) The State Board of Education shall modify the high school social studies curriculum to include instruction in civic and citizenship education. The State Board of Education is strongly encouraged to include, at a minimum, the following components in the high school civic and citizenship education curriculum:

a. That students write to a local, State, or federal elected official about an issue that is important to them;

b. Instruction on the importance of voting and otherwise participating in the democratic process, including instruction on voter ~~registration and preregistration;~~registration;

c. Information about current events and governmental structure; and

d. Information about the democratic process and how laws are made."

SECTION 12.1.(h) G.S. 115C-47(59) reads as rewritten:

"(59) To Encourage Student Voter ~~Registration and Preregistration.~~ Registration. – Local boards of education are encouraged to adopt policies to promote student voter ~~registration and preregistration.~~ registration. These policies may include collaboration with county boards of elections to conduct voter registration and preregistration in high schools. Completion and submission of voter registration ~~or preregistration~~ forms shall not be a course requirement or graded assignment for students."

SECTION 12.1.(i) The Department of Public Instruction is encouraged to improve outreach to high school students on registering to vote when they are eligible, including the curriculum element on instruction in voter registration already provided by G.S. 115C-47(59) and voter registration in public high schools as already allowed by G.S. 163-82.23.

SECTION 12.1.(j) This section becomes effective September 1, 2013. All voter preregistrations completed and received by the State Board prior to that date shall be processed and those voters registered, as appropriate.

PART 13. "WET INK" ON VOTER REGISTRATION FORMS

SECTION 13.1. G.S. 163-82.6(b) reads as rewritten:

"(b) Signature. – The form shall be valid only if signed by the applicant. An electronically captured signature, including signatures on applications generated by computer programs of third-party groups, shall not be valid on a voter registration form, except as provided in Article 21A of this Chapter. ~~An~~ Notwithstanding the provisions of this subsection, an electronically captured image of the signature of a voter on an electronic voter registration

form offered by a State agency shall be considered a valid signature for all purposes for which a signature on a paper voter registration form is used."

PART 14. COMPENSATION FOR VOTER REGISTRATION LIMITED

SECTION 14.1. G.S. 163-274(a) is amended by adding a new subdivision to read:

"(14) For any person to be compensated based on the number of forms submitted for assisting persons in registering to vote."

PART 16. ELIMINATE SAME-DAY VOTER REGISTRATION

SECTION 16.1. The subsections of G.S. 163-82.6A, other than subsection (e), are repealed.

SECTION 16.1A. The catch line of G.S. 163-82.6A reads as rewritten:

"§ **163-82.6A. ~~In-person registration and voting~~ Address and name changes at one-stop sites.**"

SECTION 16.2. G.S. 163-59 reads as rewritten:

"§ **163-59. Right to participate or vote in party primary.**

No person shall be entitled to vote or otherwise participate in the primary election of any political party unless that person complies with all of the following:

(1) Is a registered voter.

(2) Has declared and has had recorded on the registration book or record the fact that the voter affiliates with the political party in whose primary the voter proposes to vote or participate.

(3) Is in good faith a member of that party.

Notwithstanding the previous paragraph, any unaffiliated voter who is authorized under G.S. 163-119 may also vote in the primary if the voter is otherwise eligible to vote in that primary except for subdivisions (2) and (3) of the previous paragraph.

Any person who will become qualified by age to register and vote in the general election for which the primary is held, even though not so qualified by the date of the primary, shall be entitled to register for the primary and general election prior to the primary and then to vote in the primary after being registered. Such person may register not earlier than 60 days nor later than the last day for making application to register under G.S. 163-82.6(c) prior to the primary. In addition, persons who will become qualified by age to register and vote in the general election for which the primary is held, who do not register during the special period may register to vote after such period as if they were qualified on the basis of age, but until they are qualified by age to vote, they may vote only in primary elections. ~~Such a person also may register and vote in the primary and general election pursuant to G.S. 163-82.6A(f).~~"

SECTION 16.3. G.S. 163-82.6(c) reads as rewritten:

"(c) Registration Deadlines for a Primary or Election. – In order to be valid for a primary or election, ~~except as provided in G.S. 163-82.6A,~~ the form:

(1) If submitted by mail, must be postmarked at least 25 days before the primary or election, except that any mailed application on which the postmark is missing or unclear is validly submitted if received in the mail not later than 20 days before the primary or election,

(2) If submitted in person, by facsimile transmission, or by transmission of a scanned document, must be received by the county board of elections by a time established by that board, but no earlier than 5:00 P.M., on the twenty-fifth day before the primary or election,

(3) If submitted through a delegatee who violates the duty set forth in subsection (a) of this section, must be signed by the applicant and given to the delegatee not later than 25 days before the primary or election, except as provided in subsection (d) of this section."

SECTION 16.4. G.S. 163-166.12(b2) reads as rewritten:

"(b2) Voting When Identification Numbers Do Not Match. – Regardless of whether an individual has registered by mail or by another method, if the individual has provided with the registration form a drivers license number or last four digits of a Social Security number but the computer validation of the number as required by G.S. 163-82.12 did not result in a match, and the number has not been otherwise validated by the board of elections, in the first election in which the individual votes that individual shall submit with the ballot the form of identification described in subsection (a) or subsection (b) of this section, depending upon whether the ballot is voted in person or absentee. If that identification is provided and the board of elections does not determine that the individual is otherwise ineligible to vote a ballot, the failure of identification numbers to match shall not prevent that individual from registering to vote and having that individual's vote counted. ~~If the individual registers and votes under G.S. 163-82.6A, the identification documents required in that section, rather than those described in subsection (a) or (b) of this section, apply.~~"

SECTION 16.5. G.S. 163-227.2(a) reads as rewritten:

"(a) Any voter eligible to vote by absentee ballot under G.S. 163-226 may request an application for absentee ballots, complete the application, and vote under the provisions of this ~~section and of G.S. 163-82.6A, as applicable.~~section."

SECTION 16.6. G.S. 163-283 reads as rewritten:

"§ **163-283. Right to participate or vote in party primary.**

No person shall be entitled to vote or otherwise participate in the primary election of any political party unless that person complies with all of the following:

(1) Is a registered voter.

(2) Has declared and has had recorded on the registration book or record the fact that the voter affiliates with the political party in whose primary the voter proposes to vote or participate.

(3) Is in good faith a member of that party.

Notwithstanding the previous paragraph, any unaffiliated voter who is authorized under G.S. 163-119 may also vote in the primary if the voter is otherwise eligible to vote in that primary except for subdivisions (2) and (3) of the previous paragraph.

Any person who will become qualified by age to register and vote in the general election for which the primary is held, even though not so qualified by the date of the primary election, shall be entitled to register while the registration books are open during the regular registration period prior to the primary and then to vote in the primary after being registered, provided however, under full-time and permanent registration, such an individual may register not earlier than 60 days nor later than the last day for making application to register under G.S. 163-82.6(c) prior to the primary. In addition, persons who will become qualified by age to register and vote in the general election for which the primary is held, who do not register during the special period may register to vote after such period as if they were qualified on the basis of age, but until they are qualified by age to vote, they may vote only in primary elections. ~~Such a person also may register and vote in the primary and general election pursuant to G.S. 163-82.6A(f).~~"

SECTION 16.7. G.S. 163-283.1 reads as rewritten:

"§ **163-283.1. Voting in nonpartisan primary.**

Any person who will become qualified by age to register and vote in the general election for which a nonpartisan primary is held, even though not so qualified by the date of the primary, shall be entitled to register for the primary and general election prior to the primary and then to vote in the primary after being registered. Such a person may register not earlier than 60 days nor later than the last day for making application to register under G.S. 163-82.6(c) prior to the primary. ~~Such a person also may register and vote in the primary and general election pursuant to G.S. 163-82.6A(f).~~"

SECTION 16.8. G.S. 163-330 reads as rewritten:

"§ **163-330. Voting in primary.**

Any person who will become qualified by age to register and vote in the general election for which the primary is held, even though not so qualified by the date of the primary, shall be entitled to register for the primary and general election prior to the primary and then to vote in the primary after being registered. Such person may register not earlier than 60 days nor later than the last day for making application to register under G.S. 163-82.6(c) prior to the primary. ~~Such a person also may register and vote in the primary and general election pursuant to G.S. 163-82.6A(f).~~"

PART 17. ENHANCE DELIVERY OF MILITARY AND OVERSEAS ABSENTEE BALLOTS FOR PRESIDENTIAL ELECTIONS WHEN PRESIDENTIAL NOMINATING CONVENTIONS CONCLUDE AFTER LABOR DAY

SECTION 17.(a) G.S. 163-227.3 reads as rewritten:

"§ **163-227.3. Date by which absentee ballots must be available for voting.**

(a) A board of elections shall provide absentee ballots of the kinds needed 60 days prior to the statewide general election in even-numbered years and 50 days prior to the date on which any other election shall be conducted, unless 45 days is authorized by the State Board of Elections under G.S. 163-22(k) or there shall exist an appeal before the State Board or the courts not concluded, in which case the board shall provide the ballots as quickly as possible upon the conclusion of such an appeal. Provided, in a presidential election year, the board of elections shall provide general election ballots no later than three days after nomination of the presidential and vice presidential candidates if that nomination occurs later than 63 days prior to the statewide general election and makes compliance with the 60-day deadline impossible. However, in the case of municipal elections, absentee ballots shall be made available no later than 30 days before an election. In every instance the board of elections shall exert every effort to provide absentee ballots, of the kinds needed by the date on which absentee voting is authorized to commence.

(b) Second Primary. – The board of elections shall provide absentee ballots, of the kinds needed, as quickly as possible after the ballot information for a second primary has been determined."

SECTION 17.(b) G.S. 163-258.9(a) reads as rewritten:

"(a) Not later than 60 days before the statewide general election in even-numbered years and not later than 50 days before any other election, the county board of elections shall transmit a ballot and balloting materials to all covered voters who by that date submit a valid military-overseas ballot application, except for a second primary. Provided, in a presidential election year, the board of elections shall provide general election ballots no later than three days after nomination of the presidential and vice presidential candidates if that nomination occurs later than 63 days prior to the statewide general election and makes compliance with the 60-day deadline impossible. However, in the case of municipal elections, absentee ballots shall be made available no later than 30 days before an election. For a second primary which includes a candidate for federal office, the county board of elections shall transmit a ballot and balloting material to all covered voters who by that date submit a valid military-overseas ballot application no later than 45 days before the second primary. For a second primary which does not include a candidate for federal office, the transmission of the ballot and ballot materials shall be as soon as practicable and shall be transmitted electronically no later than three business days and by mail no later than 15 days from the date the appropriate board of elections orders that the second primary be held pursuant to G.S. 163-111. If additional offices are added to the ballot to fill a vacancy occurring after the deadline provided by this subsection, those ballots shall be transmitted as soon as practicable."

PART 18. LIST MAINTENANCE/INTERSTATE AGREEMENTS TO IMPROVE VOTER ROLLS

SECTION 18.1. G.S. 163-82.14(a) reads as rewritten:

"(a) Uniform Program. – The State Board of Elections shall adopt a uniform program that makes a ~~reasonable effort:~~diligent effort not less than twice each year:

(1) To remove the names of ineligible voters from the official lists of eligible voters, and

(2) To update the addresses and other necessary data of persons who remain on the official lists of eligible voters.

That program shall be nondiscriminatory and shall comply with the provisions of the Voting Rights Act of 1965, as amended, and with the provisions of the National Voter Registration Act. The State Board of Elections, in addition to the methods set forth in this section, may use other methods toward the ends set forth in subdivisions (1) and (2) of this subsection, including address-updating services provided by the Postal ~~Service.~~Service, and entering into data sharing agreements with other states to cross-check information on voter registration and voting records. Any data sharing agreement shall require the other state or states to comply with G.S. 163-82.10 and G.S. 163-82.10B. Each county board of elections shall conduct systematic efforts to remove names from its list of registered voters in accordance with this section and with the program adopted by the State Board. The county boards of elections shall complete their list maintenance mailing program by April 15 of every odd-numbered year, unless the State Board of Elections approves a different date for the county."

SECTION 18.2. The State Board of Elections shall actively seek ways to share and cross-check information on voting records and voter registration with other states to improve the accuracy of voter registration lists, using resources such as the Electronic Registration Information Center and by entering into interstate compacts for this purpose.

SECTION 18.3. This Part is effective when it becomes law.

PART 19. NO MANDATED VOTER REGISTRATION DRIVE

SECTION 19.1. G.S. 163-82.25 is repealed.

PART 20. VOTER RECORDS ACCESS CLARIFICATION AND CHALLENGES

SECTION 20.1. G.S. 163-84 reads as rewritten:

"§ **163-84. Time for challenge other than on day of primary or election.**

The registration records of each county shall be open to inspection by any registered voter of the ~~county,~~ State, including any chief judge or judge of elections, during the normal business hours of the county board of elections on the days when the board's office is open. At those times the right of any person to register, remain registered, or vote shall be subject to objection and challenge."

SECTION 20.2. G.S. 163-87 reads as rewritten:

"§ **163-87. Challenges allowed on day of primary or election.**

On the day of a primary or election, at the time a registered voter offers to vote, any other registered voter of the ~~precinct~~ county may exercise the right of challenge, and when he does so may enter the voting enclosure to make the challenge, but he shall retire therefrom as soon as the challenge is heard.

On the day of a primary or election, any other registered voter of the ~~precinct~~ county may challenge a person for one or more of the following reasons:

(1) One or more of the reasons listed in G.S. 163-85(c).

(2) That the person has already voted in that primary or election.

(3) Repealed by Session Laws 2009-541, s. 16.1(b), effective August 28, 2009.

(4) If the challenge is made with respect to voting in a partisan primary, that the person is a registered voter of another political party.

The chief judge, judge, or assistant appointed under G.S. 163-41 or 163-42 may enter challenges under this section against voters in the precinct for which appointed regardless of the place of residence of the chief judge, judge, or assistant.

If a person is challenged under this subsection, and the challenge is sustained under G.S. 163-85(c)(3), the voter may still transfer his registration under G.S. 163-82.15(e) if

eligible under that section, and the registration shall not be cancelled under G.S. 163-90.2(a) if the transfer is made. A person who has transferred his registration under G.S. 163-82.15(e) may be challenged at the precinct to which the registration is being transferred."

PART 21. CANDIDATE WITHDRAWAL

SECTION 21.1. G.S. 163-106(e) reads as rewritten:

"(e) Withdrawal of Notice of Candidacy. – Any person who has filed notice of candidacy for an office shall have the right to withdraw it at any time prior to the close of business on the third business day prior to the date on which the right to file for that office expires under the terms of subsection (c) of this section. If a candidate does not withdraw before the ~~filing~~ deadline, except as provided in G.S. 163-112, his name shall be printed on the primary ballot, any votes for him shall be counted, and he shall not be refunded his filing fee."

SECTION 21.2. G.S. 163-294.2(d) reads as rewritten:

"(d) Any person may withdraw his notice of candidacy at any time prior to the close of business on the third business day prior to the filing deadline prescribed in subsection (c), and shall be entitled to a refund of his filing fee if he does so."

SECTION 21.3. G.S. 163-323(c) reads as rewritten:

"(c) Withdrawal of Notice of Candidacy. – Any person who has filed a notice of candidacy for an office shall have the right to withdraw it at any time prior to the close of business on the third business day prior to the date on which the right to file for that office expires under the terms of subsection (b) of this section."

PART 22. PETITIONS IN LIEU

SECTION 22.1. G.S. 163-107.1 reads as rewritten:

"§ **163-107.1. Petition in lieu of payment of filing fee.**

(a) Any qualified voter who seeks nomination in the party primary of the political party with which he affiliates may, in lieu of payment of any filing fee required for the office he seeks, file a written petition requesting him to be a candidate for a specified office with the appropriate board of elections, State, county or municipal.

(b) If the candidate is seeking the office of United States Senator, Governor, Lieutenant Governor, or any State executive officer, the petition must be signed by 10,000 registered voters who are members of the political party in whose primary the candidate desires to run, except that in the case of a political party as defined by G.S. 163-96(a)(2) which will be making nominations by primary election, the petition must be signed by ~~ten percent (10%)~~ five percent (5%) of the registered voters of the State who are affiliated with the same political party in whose primary the candidate desires to run, or in the alternative, the petition shall be signed by no less than ~~10,000~~ 8,000 registered voters regardless of the voter's political party affiliation, whichever requirement is greater. The petition must be filed with the State Board of Elections not later than 12:00 noon on Monday preceding the filing deadline before the primary in which he seeks to run. The names on the petition shall be verified by the board of elections of the county where the signer is registered, and the petition must be presented to the county board of elections at least 15 days before the petition is due to be filed with the State Board of Elections. When a proper petition has been filed, the candidate's name shall be printed on the primary ballot.

(c) County, Municipal and District Primaries. – If the candidate is seeking one of the offices set forth in G.S. 163-106(c) but which is not listed in subsection (b) of this section, or a municipal or any other office requiring a partisan primary which is not set forth in G.S. 163-106(c) or (d), he shall file a written petition with the appropriate board of elections no later than 12:00 noon on Monday preceding the filing deadline before the primary. The petition shall be signed by ~~ten percent (10%)~~ five percent (5%) of the registered voters of the election area in which the office will be voted for, who are affiliated with the same political party in whose primary the candidate desires to run, or in the alternative, the petition shall be signed by no less than 200 registered voters regardless of said voter's political party affiliation, whichever

requirement is greater. The board of elections shall verify the names on the petition, and if the petition is found to be sufficient, the candidate's name shall be printed on the appropriate primary ballot. Petitions for candidates for member of the U.S. House of Representatives, District Attorney, and members of the State House of Representatives from multi-county districts or members of the State Senate from multi-county districts must be presented to the county board of elections for verification at least 15 days before the petition is due to be filed with the State Board of Elections, and such petition must be filed with the State Board of Elections no later than 12:00 noon on Monday preceding the filing deadline. The State Board of Elections may adopt rules to implement this section and to provide standard petition forms.

(d) Nonpartisan Primaries and Elections. – Any qualified voter who seeks to be a candidate in any nonpartisan primary or election may, in lieu of payment of the filing fee required, file a written petition signed by ~~ten percent (10%)~~ five percent (5%) of the registered voters in the election area in which the office will be voted for with the appropriate board of elections. Any qualified voter may sign the petition. The petition shall state the candidate's name, address and the office which he is seeking. The petition must be filed with the appropriate board of elections no later than 60 days prior to the filing deadline for the primary or election, and if found to be sufficient, the candidate's name shall be printed on the ballot."

SECTION 22.2. G.S. 163-325(b) reads as rewritten:

"(b) Requirements of Petition; Deadline for Filing. – If the candidate is seeking the office of justice of the Supreme Court, judge of the Court of Appeals, or superior or district court judge, that individual shall file a written petition with the State Board of Elections no later than 12:00 noon on Monday preceding the filing deadline before the primary. If the office is justice of the Supreme Court or judge of the Court of Appeals, the petition shall be signed by ~~10,000~~ 8,000 registered voters in the State. If the office is superior court or district court judge, the petition shall be signed by ~~ten percent (10%)~~ five percent (5%) of the registered voters of the election area in which the office will be voted for. The board of elections shall verify the names on the petition, and if the petition and notice of candidacy are found to be sufficient, the candidate's name shall be printed on the appropriate ballot. Petitions must be presented to the county board of elections for verification at least 15 days before the petition is due to be filed with the State Board of Elections. The State Board of Elections may adopt rules to implement this section and to provide standard petition forms."

PART 23. TIMELY WITHDRAWAL OF PARTY NOMINEE

SECTION 23.1. G.S. 163-113 reads as rewritten:

"§ **163-113. Nominee's right to withdraw as candidate.**

A person who has been declared the nominee of a political party for a specified office under the provisions of G.S. 163-182.15 or G.S. 163-110, shall not be permitted to resign as a candidate unless, ~~at least 30 days before the general election,~~ prior to the first day on which military and overseas absentee ballots are transmitted to voters under Article 21A of this Chapter, ~~he~~ that person submits to the board of elections which certified ~~his~~ the nomination a written request that ~~he~~ person be permitted to withdraw."

PART 24. BETTER MANAGE PRECINCT SIZES

SECTION 24.1. The Joint Legislative Elections Oversight Committee shall study optimal numbers of voters in election precincts so as to reduce overcrowding and long lines and recommend to the General Assembly any legislation it deems advisable. The study shall also examine the size of the polling place itself, its accessibility, and parking availability. It may make an interim report prior to the date that the General Assembly reconvenes the 2013 Regular Session in 2014, and shall make a final report before the convening of the 2015 Regular Session of the General Assembly.

PART 25. EARLY VOTING SITES WITHIN A COUNTY

SECTION 25.1. G.S. 163-227.2(b) and (g) read as rewritten:

"§ **163-227.2. Alternate procedures for requesting application for absentee ballot; "one-stop" voting procedure in board office.**

…

(b) Not earlier than the ~~third~~ second Thursday before an election, in which absentee ballots are authorized, in which a voter seeks to vote and not later than 1:00 P.M. on the last Saturday before that election, the voter shall appear in person only at the office of the county board of elections, provided in subsection (g) of this section. A county board of elections shall conduct one-stop voting on the last Saturday before the election until 1:00 P.M. ~~1:00 P.M. and may conduct it until 5:00 P.M. on that Saturday.~~ That voter shall enter the voting enclosure at the board office through the appropriate entrance and shall at once state his or her name and place of residence to an authorized member or employee of the board. In a primary election, the voter shall also state the political party with which the voter affiliates and in whose primary the voter desires to vote, or if the voter is an unaffiliated voter permitted to vote in the primary of a particular party under G.S. 163-119, the voter shall state the name of the authorizing political party in whose primary he wishes to vote. The board member or employee to whom the voter gives this information shall announce the name and residence of the voter in a distinct tone of voice. After examining the registration records, an employee of the board shall state whether the person seeking to vote is duly registered. If the voter is found to be registered that voter may request that the authorized member or employee of the board furnish the voter with an application form as specified in G.S. 163-227. The voter shall complete the application in the presence of the authorized member or employee of the board, and shall deliver the application to that person.

…

(g) Notwithstanding any other provision of this section, a county board of elections by unanimous vote of all its members may provide for one or more sites in that county for absentee ballots to be applied for and cast under this section. Every individual staffing any of those sites shall be a member or full-time employee of the county board of elections or an employee of the county board of elections whom the board has given training equivalent to that given a full-time employee. Those sites must be approved by the State Board of Elections as part of a Plan for Implementation approved by both the county board of elections and by the State Board of Elections which shall also provide adequate security of the ballots and provisions to avoid allowing persons to vote who have already voted. The Plan for Implementation shall include a provision for the presence of political party observers at each one-stop site equivalent to the provisions in G.S. 163-45 for party observers at voting places on election day. A county board of elections may propose in its Plan not to offer one-stop voting at the county board of elections office; the State Board may approve that proposal in a Plan only if the Plan includes at least one site reasonably proximate to the county board of elections office and the State Board finds that the sites in the Plan as a whole provide adequate coverage of the county's electorate. If a county board of elections has considered a proposed Plan or Plans for Implementation and has been unable to reach unanimity in favor of a Plan, a member or members of that county board of elections may petition the State Board of Elections to adopt a plan for it. If petitioned, the State Board may also receive and consider alternative petitions from another member or members of that county board. The State Board of Elections may adopt a Plan for that county. The State Board, in that plan, shall take into consideration factors including geographic, demographic, and partisan interests of that county. Any plan adopted by either the county board of elections or the State Board of Elections under this subsection shall provide for the same days of operation and same number of hours of operation on each day for all sites in that county for that election. The requirement of the previous sentence does not apply to the county board of elections office itself nor, if one-stop voting is not conducted at the county board of elections office, to the reasonably proximate alternate site approved under this subsection."

SECTION 25.2. G.S. 163-227.2 is amended by adding a new subsection to read:

"(g2) Notwithstanding the requirements of subsection (g) and (g1) of this section, for any county board of elections that provided for one or more sites as provided in subsection (g) of this section during the 2010 or 2012 general election, that county shall provide, at a minimum, the following:

"(1) The county board of elections shall calculate the cumulative total number of scheduled voting hours at all sites during the 2012 primary and general elections, respectively, that the county provided for absentee ballots to be applied for and voted under this section. For elections which include a presidential candidate on the ballot, the county shall ensure that at least the same number of hours offered in 2012 is offered for absentee ballots to be applied for and voted under this section through a combination of hours and numbers of one-stop sites during the primary or general election, correspondingly.

(2) The county board of elections shall calculate the cumulative total number of scheduled voting hours at all sites during the 2010 primary and general elections, respectively, that the county provided for absentee ballots to be applied for and voted under this section. For elections which do not include a presidential candidate on the ballot, the county shall ensure that at least the same number of hours offered in 2010 is offered for absentee ballots to be applied for and voted under this section through a combination of hours and numbers of one-stop sites during the primary or general election, correspondingly.

The State Board of Elections, to ensure compliance with this subsection, may approve a one-stop site in a building that the county board of elections is not entitled under G.S. 163-129 to demand and use as an election-day voting place, but may deny approval if a member of that board presents evidence that other equally suitable sites were available and the use of the sites chosen would unfairly advantage or disadvantage geographic, demographic, or partisan interests of that county."

SECTION 25.3. G.S. 163-227.2 is amended by adding a new subsection to read:

"(g3) A county board of elections by unanimous vote of the board, with all members present and voting, may submit a request to the State Board to reduce the number of hours established in subsection (g2) of this section for a primary or a general election. The reduction shall take effect for that primary or general election only if approved by unanimous vote of the State Board with all members present and voting."

PART 26. STANDARDIZE SATELLITE POLLING PLACE APPROVAL

SECTION 26.1.(a) G.S. 163-130 reads as rewritten:

"§ **163-130. Satellite voting places.**

A county board of elections by unanimous vote may, upon approval of a request submitted in writing to the State Board of Elections, establish a plan whereby elderly or disabled voters in a precinct may vote at designated sites within the precinct other than the regular voting place for that precinct. Any approval under this section is only effective for one year and shall be annually reviewed for extension. The State Board of Elections shall approve a county board's proposed plan if:

(1) All the satellite voting places to be used are listed in the county's written request;

(2) The plan will in the State Board's judgment overcome a barrier to voting by the elderly or disabled;

(3) Adequate security against fraud is provided for; and

(4) The plan does not unfairly favor or disfavor voters with regard to race or party affiliation."

SECTION 26.1.(b). This section becomes effective January 1, 2014. All plans approved under G.S. 163-130 prior to that date shall be reviewed and adopted in accordance with G.S. 163-130, as amended by this section.

PART 27. DELETE REFERENCE TO PRECINCT BOUNDARIES AFTER THE 2000 CENSUS

SECTION 27.1. G.S. 163-132.1 is repealed.

PART 28. REDUCE NEED FOR SECOND PRIMARY

SECTION 28.1. The Joint Legislative Elections Oversight Committee shall study the second primary and recommend to the General Assembly any legislation it deems advisable. The study may include the following:

(1) Whether to go to a plurality method of determining the result of the primary.
(2) Whether to reduce the current forty percent (40%) threshold.
(3) Whether to keep the forty percent (40%) threshold but also allow a smaller percentage if the margin between first and second place finisher is substantial.
(4) Whether to have a different system for different offices such as United States Senator, Governor, and Lieutenant Governor and other offices.

It may make an interim report prior to the date that the General Assembly reconvenes the 2013 Regular Session in 2014, and shall make a final report before the convening of the 2015 Regular Session of the General Assembly.

PART 29. CLARIFY STATE BOARD DUTY ON CHARACTERISTICS OF BALLOT

SECTION 29.1. G.S. 163-165.4 reads as rewritten:

"§ **163-165.4. Standards for official ballots.**

The State Board of Elections shall ~~seek to~~ ensure that official ballots throughout the State have all the following characteristics:

(1) Are readily understandable by voters.
(2) Present all candidates and questions in a fair and nondiscriminatory manner.
(3) Allow every voter to cast a vote in every ballot item without difficulty.
(4) Facilitate an accurate vote count.
(5) Are uniform in content and format, subject to varied presentations required or made desirable by different voting systems."

PART 30. SIMPLIFY BALLOT RECORDS

SECTION 30.1. G.S. 163-165(1) reads as rewritten:

"(1) "Ballot" means an instrument on which a voter indicates a choice so that it may be recorded as a vote for or against a certain candidate or referendum proposal. The term "ballot" may include a paper ballot to be counted by hand, a paper ballot to be counted on an electronic scanner, ~~the face of a lever voting machine, the image on a direct record electronic unit, or a~~or a paper ballot used on any other voting system."

SECTION 30.2. G.S. 163-165 is amended by adding a new subdivision to read:

"(5a) "Paper ballot" means an individual paper document that bears marks made by the voter by hand or through electronic means."

SECTION 30.3. G.S. 163-165.7(a) and (d) read as rewritten:

"§ **163-165.7. Voting systems: powers and duties of State Board of Elections.**

(a) Only voting systems that have been certified by the State Board of Elections in accordance with the procedures and subject to the standards set forth in this section and that have not been subsequently decertified shall be permitted for use in elections in this State. Those certified voting systems shall be valid in any election held in the State or in any county, municipality, or other electoral district in the State. Subject to all other applicable rules adopted

by the State Board of Elections and, with respect to federal elections, subject to all applicable federal regulations governing voting systems, paper ballots marked by the voter and counted by hand shall be deemed a certified voting system. The State Board of Elections shall certify optical scan voting systems, optical scan with ballot markers voting systems, and direct record electronic voting systems if any of those systems meet all applicable requirements of federal and State law. The State Board may certify additional voting systems only if they meet the requirements of the request for proposal process set forth in this section and only if they generate ~~either~~ a paper ballot ~~or a paper record by which voters may verify their votes before casting them and~~ which provides a backup means of counting the vote that the voter casts. Those voting systems may include optical scan and direct record electronic (DRE) voting ~~systems.~~systems that produce a paper ballot. In consultation with the Office of Information Technology Services, the State Board shall develop the requests for proposal subject to the provisions of this Chapter and other applicable State laws. Among other requirements, the request for proposal shall require at least all of the following elements:

(1) That the vendor post a bond or letter of credit to cover damages resulting from defects in the voting system. Damages shall include, among other items, any costs of conducting a new election attributable to those defects.

(2) That the voting system comply with all federal requirements for voting systems.

(3) That the voting system must have the capacity to include in voting tabulation district returns the votes cast by voters outside of the voter's voting tabulation district as required by G.S. 163-132.5G.

(4) With respect to electronic voting systems, that the voting system generate a paper ~~record~~ ballot of each individual vote cast, which paper ~~record~~ ballot shall be maintained in a secure fashion and shall serve as a backup record for purposes of any hand-to-eye count, hand-to-eye recount, or other audit. Electronic systems that employ optical scan technology to count paper ballots shall be deemed to satisfy this requirement.

(5) With respect to DRE voting systems, that the paper ~~record~~ ballot generated by the system be viewable by the voter before the vote is cast electronically, and that the system permit the voter to correct any discrepancy between the electronic vote and the paper ~~record~~ ballot before the vote is cast.

…

(d) Subject to the provisions of this Chapter, the State Board of Elections shall prescribe rules for the adoption, handling, operation, and honest use of certified voting systems, including all of the following:

(1) Procedures for county boards of elections to utilize when recommending the purchase of a certified voting system for use in that county.

(2) Form of official ballot labels to be used on voting systems.

(3) Operation and manner of voting on voting systems.

(4) Instruction of precinct officials in the use of voting systems.

(5) Instruction of voters in the use of voting systems.

(6) Assistance to voters using voting systems.

(7) Duties of custodians of voting systems.

(8) Examination and testing of voting systems in a public forum in the county before and after use in an election.

(9) Notwithstanding G.S. 132-1.2, procedures for the review and examination of any information placed in escrow by a vendor pursuant to G.S. 163-165.9A by only the following persons:

a. State Board of Elections.

b. Office of Information Technology Services.

c. The State chairs of each political party recognized under G.S. 163-96.

d. The purchasing county.

Each person listed in sub-subdivisions a. through d. of this subdivision may designate up to three persons as that person's agents to review and examine the information. No person shall designate under this subdivision a business competitor of the vendor whose proprietary information is being reviewed and examined. For purposes of this review and examination, any designees under this subdivision and the State party chairs shall be treated as public officials under G.S. 132-2.

(10) With respect to electronic voting systems, procedures to maintain the integrity of both the electronic vote count and the paper ~~record.~~ballot. Those procedures shall at a minimum include procedures to protect against the alteration of the paper ~~record~~ ballot after a machine vote has been recorded and procedures to prevent removal by the voter from the voting enclosure of any ~~paper record or copy of an~~ individually voted paper ballot or of any other device or item whose removal from the voting enclosure could permit compromise of the integrity of either the machine count or the paper ~~record.~~ballot.

…."

SECTION 30.4. G.S. 163-166.7(c) reads as rewritten:

"(c) The State Board of Elections shall promulgate rules for the process of voting. Those rules shall emphasize the appearance as well as the reality of dignity, good order, impartiality, and the convenience and privacy of the voter. Those rules, at a minimum, shall include procedures to ensure that all the following occur:

(1) The voting system remains secure throughout the period voting is being conducted.

(2) Only properly voted official ballots ~~or paper records of individual voted ballots~~ are introduced into the voting system.

(3) Except as provided by G.S. 163-166.9, no official ballots leave the voting enclosure during the time voting is being conducted there. The rules shall also provide that during that time no one shall remove from the voting enclosure any paper record or copy of an individually voted ballot or of any other device or item whose removal from the voting enclosure could permit compromise of the integrity of either the machine count or the paper record.

(4) All improperly voted official ballots ~~or paper records of individual voted ballots~~ are returned to the precinct officials and marked as spoiled.

(5) Voters leave the voting place promptly after voting.

(6) Voters not clearly eligible to vote in the precinct but who seek to vote there are given proper assistance in voting a provisional official ballot or guidance to another voting place where they are eligible to vote.

(7) Information gleaned through the voting process that would be helpful to the accurate maintenance of the voter registration records is recorded and delivered to the county board of elections.

(8) The registration records are kept secure. The State Board of Elections shall permit the use of electronic registration records in the voting place in lieu of or in addition to a paper pollbook or other registration record.

(9) Party observers are given access as provided by G.S. 163-45 to current information about which voters have voted.

(10) The voter, before voting, shall sign that voter's name on the pollbook, other voting record, or voter authorization document. If the voter is unable to sign, a precinct official shall enter the person's name on the same document before the voter votes."

SECTION 30.5. G.S. 163-182.1(b)(1) reads as rewritten:

"(1) Provide for a sample hand-to-eye count of the paper ballots ~~or paper records~~ of a statewide ballot item in every county. The presidential ballot item shall be the subject of the sampling in a presidential election. If there is no statewide ballot item, the State Board shall provide a process for selecting district or local ballot items to adequately sample the electorate. The State Board shall approve in an open meeting the procedure for randomly selecting the sample precincts for each election. The random selection of precincts for any county shall be done publicly after the initial count of election returns for that county is publicly released or 24 hours after the polls close on election day, whichever is earlier. The sample chosen by the State Board shall be of one or more full precincts, full counts of mailed absentee ballots, full counts of one or more one-stop early voting sites, or a combination. The size of the sample of each category shall be chosen to produce a statistically significant result and shall be chosen after consultation with a statistician. The actual units shall be chosen at random. In the event of a material discrepancy between the electronic or mechanical count and a hand-to-eye count, the hand-to-eye count shall control, except where paper ballots ~~or records~~ have been lost or destroyed or where there is another reasonable basis to conclude that the hand-to-eye count is not the true count. If the discrepancy between the hand-to-eye count and the mechanical or electronic count is significant, a complete hand-to-eye count shall be conducted."

SECTION 30.6. G.S. 163-182.2(b)(1a) reads as rewritten:

"(1a) For optical scan and direct record electronic voting systems, and for any other voting systems in which ballots are counted other than on paper by hand and eye, those rules shall provide for a sample hand-to-eye count of the paper ballots ~~or paper records~~ of a sampling of a statewide ballot item in every county. The presidential ballot item shall be the subject of the sampling in a presidential election. If there is no statewide ballot item, the State Board shall provide a process for selecting district or local ballot items to adequately sample the electorate. The State Board shall approve in an open meeting the procedure for randomly selecting the sample precincts for each election. The random selection of precincts for any county shall be done publicly after the initial count of election returns for that county is publicly released or 24 hours after the polls close on election day, whichever is earlier. The sample chosen by the State Board shall be of one or more full precincts, full counts of mailed absentee ballots, and full counts of one or more one-stop early voting sites. The size of the sample of each category shall be chosen to produce a statistically significant result and shall be chosen after consultation with a statistician. The actual units shall be chosen at random. In the event of a material discrepancy between the electronic or mechanical count and a hand-to-eye count, the hand-to-eye count shall control, except where paper ballots ~~or records~~ have been lost or destroyed or where there is another reasonable basis to conclude that the hand-to-eye count is not the true count. If the discrepancy between the hand-to-eye count and the mechanical or electronic count is significant, a complete hand-to-eye count shall be conducted. The sample count need not be done on election night."

SECTION 30.7. G.S. 163-227.2(e1) reads as rewritten:

"(e1) If a county uses a voting system with retrievable ballots, that county's board of elections may by resolution elect to conduct one-stop absentee voting according to the provisions of this subsection. In a county in which the board has opted to do so, a one-stop voter shall cast the ballot and then shall deposit the ballot in the ballot box or voting system in

the same manner as if such box or system was in use in a precinct on election day. At the end of each business day, or at any time when there will be no employee or officer of the board of elections on the premises, the ballot box or system shall be secured in accordance with a plan approved by the State Board of Elections, which shall include that no additional ballots have been placed in the box or system. Any county board desiring to conduct one-stop voting according to this subsection shall submit a plan for doing so to the State Board of Elections. The State Board shall adopt standards for conducting one-stop voting under this subsection and shall approve any county plan that adheres to its standards. The county board shall adhere to its State Board-approved plan. The plan shall provide that each one-stop ballot shall have a ballot number on it in accordance with G.S. 163-230.1(a2), or shall have an equivalent identifier to allow for retrievability. ~~The standards shall address retrievability in one-stop voting on direct record electronic equipment where no paper ballot is used.~~"

SECTION 30.8. Any direct record electronic (DRE) voting systems currently certified by the State Board of Elections which do not use paper ballots shall be decertified and shall not be used in any election held on or after January 1, 2018. Decertification of a DRE voting system that does not use paper ballots may not be appealed to the Superior Court of Wake County pursuant to G.S. 163-165.7(b).

SECTION 30.9. This Part becomes effective January 1, 2018.

PART 31. ORDER OF PARTIES ON THE BALLOT

SECTION 31.1. G.S. 163-165.6(d) reads as rewritten:

"(d) Order of Party Candidates on General Election Official Ballot. – Candidates in any ballot item on a general election official ballot shall appear in the following order:

(1) Nominees of political parties that reflect at least five percent (5%) of statewide voter registration, according to the most recent statistical report published by the State Board of Elections, in alphabetical order by party beginning with the party whose nominee for Governor received the most votes in the most recent gubernatorial election, and in alphabetical order within the party.

(2) Nominees of other political parties, in alphabetical order by party and in alphabetical order within the party.

(3) Unaffiliated candidates, in alphabetical order."

PART 32. VOTE THE PERSON NOT THE PARTY

SECTION 32.1. G.S. 163-165.6(e) reads as rewritten:

"(e) No Straight-Party Voting. – Each official ballot shall not contain any place that allows a voter with one mark to vote for the candidates of a party for more than one office. ~~be arranged so that the voter may cast one vote for a party's nominees for all offices except President and Vice President. A vote for President and Vice President shall be cast separately from a straight-party vote. The official ballot shall be prepared so that a voter may cast a straight-party vote, but then make an exception to that straight-party vote by voting for a candidate not nominated by that party or by voting for fewer than all the candidates nominated by that party. Instructions for general election ballots shall clearly advise voters of the rules in this subsection and of the statutes providing for the counting of ballots.~~"

SECTION 32.2. G.S. 163-182.1(a)(7) is repealed.

PART 33. REGULATE EXTENSION OF CLOSE OF POLLS

SECTION 33.1. G.S. 163-166.01 reads as rewritten**:**

"§ **163-166.01. Hours for voting.**

In every election, the voting place shall be open at 6:30 A.M. and shall be closed at 7:30 P.M. ~~In extraordinary circumstances, the county board of elections may direct that the polls remain open until 8:30 P.M.~~ If the polls are delayed in opening for more than 15 minutes, or are interrupted for more than 15 minutes after opening, the State Board of Elections may extend the

closing time by an equal number of minutes. As authorized by law, the State Board of Elections shall be available either in person or by teleconference on the day of election to approve any such extension. If any voter is in line to vote at the time the polls are closed, that voter shall be permitted to vote. No voter shall be permitted to vote who arrives at the voting place after the closing of the polls.

Any voter who votes after the statutory poll closing time of 7:30 P.M. by virtue of a federal or State court order or any other lawful order, including an order of a county board of elections, shall be allowed to vote, under the provisions of that order, only by using a provisional official ballot. Any special provisional official ballots cast under this section shall be separated, counted, and held apart from other provisional ballots cast by other voters not under the effect of the order extending the closing time of the voting place. If the court order has not been reversed or stayed by the time of the county canvass, the total for that category of provisional ballots shall be added to the official canvass."

PART 34. ASSISTANCE TO VOTER

SECTION 34.1. The Joint Legislative Elections Oversight Committee shall study ways to improve protections for persons requiring assistance in voting places and recommend to the General Assembly any legislation it deems advisable. It may make an interim report prior to the date that the General Assembly reconvenes the 2013 Regular Session in 2014 and shall make a final report before the convening of the 2015 Regular Session of the General Assembly.

PART 35. DATE OF PRESIDENTIAL PRIMARY

SECTION 35.1. G.S. 163-213.2 reads as rewritten:

"§ **163-213.2. Primary to be held; date; qualifications and registration of voters.**

On the Tuesday after the first Monday in May, 1992, and every four years thereafter, the voters of this State shall be given an opportunity to express their preference for the person to be the presidential candidate of their political ~~party.~~party, except that if South Carolina holds its presidential primary before the 15th day of March, the North Carolina presidential preference primary shall be held on the Tuesday after the first South Carolina presidential preference primary of that year.

Any person otherwise qualified who will become qualified by age to vote in the general election held in the same year of the presidential preference primary shall be entitled to register and vote in the presidential preference primary. Such persons may register not earlier than 60 days nor later than the last day for making application to register under G.S. 163-82.6 prior to the said primary. In addition, persons who will become qualified by age to register and vote in the general election for which the primary is held, who do not register during the special period may register to vote after such period as if they were qualified on the basis of age, but until they are qualified by age to vote, they may vote only in primary elections."

SECTION 35.2. G.S. 163-213.4 reads as rewritten:

"§ **163-213.4. Nomination by State Board of Elections.**

~~By the first Tuesday in February of the year preceding~~ No later than 90 days preceding the North Carolina presidential preference primary, the chair of each political party shall submit to the State Board of Elections a list of its presidential candidates to be placed on the presidential preference primary ballot. The list must be comprised of candidates whose candidacy is generally advocated and recognized in the news media throughout the United States or in North Carolina, unless any such candidate executes and files with the chair of the political party an affidavit stating without qualification that the candidate is not and does not intend to become a candidate for nomination in the North Carolina Presidential Preference Primary Election. The State Board of Elections shall prepare and publish a list of the names of the presidential candidates submitted. The State Board of Elections shall convene in Raleigh on the first Tuesday in March preceding the presidential preference primary election. At the meeting required by this section, the State Board of Elections shall nominate as presidential primary candidates all candidates affiliated with a political party, recognized pursuant to the provisions

of Article 9 of Chapter 163 of the General Statutes, who have been submitted to the State Board of Elections. Immediately upon completion of these requirements, the Board shall release to the news media all such nominees selected. Provided, however, nothing shall prohibit the partial selection of nominees prior to the meeting required by this section, if all provisions herein have been complied with."

PART 36. ADDITIONAL CANDIDATES ON PRESIDENTIAL PRIMARY BALLOT

SECTION 36.1. G.S. 163-213.4 reads as rewritten:

"§ **163-213.4. Nomination by State Board of Elections.**

By the first Tuesday in February of the year preceding the North Carolina presidential preference primary, the chair of each political party shall submit to the State Board of Elections a list of its presidential candidates to be placed on the presidential preference primary ballot. The list must be comprised of candidates whose candidacy is generally advocated and recognized in the news media throughout the United States or in North Carolina, unless any such candidate executes and files with the chair of the political party an affidavit stating without qualification that the candidate is not and does not intend to become a candidate for nomination in the North Carolina Presidential Preference Primary Election. The State Board of Elections shall prepare and publish a list of the names of the presidential candidates submitted. The State Board of Elections shall convene in Raleigh on the first Tuesday in March preceding the presidential preference primary election. At the meeting required by this section, the State Board of Elections shall nominate as presidential primary candidates all candidates affiliated with a political party, recognized pursuant to the provisions of Article 9 of Chapter 163 of the General Statutes, who have been submitted to the State Board of Elections. Additionally, the State Board of Elections, by vote of at least three of its members in the affirmative, may nominate as a presidential primary candidate any other person affiliated with a political party that it finds is generally advocated and recognized in the news media throughout the United States or in North Carolina as candidates for the nomination by that party. Immediately upon completion of these requirements, the Board shall release to the news media all such nominees selected. Provided, however, nothing shall prohibit the partial selection of nominees prior to the meeting required by this section, if all provisions herein have been complied with."

PART 38. REPEAL POLITICAL PARTIES FINANCING FUND, JUDICIAL ELECTIONS FUND, AND VOTER-OWNED ELECTIONS FUND

SECTION 38.1.(a) Article 22D of Chapter 163 of the General Statutes is repealed, except that G.S. 163-278.69 is repealed effective upon exhaustion of the funds for publication of the Judicial Voter Guide.

SECTION 38.1.(b) Article 22J of Chapter 163 of the General Statutes is repealed.

SECTION 38.1.(c) Article 22B of Chapter 163 of the General Statutes is repealed.

SECTION 38.1.(d) G.S. 84-34 reads as rewritten:

"§ **84-34. Membership fees and list of members.**

Every active member of the North Carolina State Bar shall, prior to the first day of July of each year, pay to the secretary-treasurer an annual membership fee in an amount determined by the Council but not to exceed three hundred dollars ($300.00), ~~plus a surcharge of fifty dollars ($50.00) for the implementation of Article 22D of Chapter 163 of the General Statutes,~~ and every member shall notify the secretary-treasurer of the member's correct mailing address. Any member who fails to pay the required dues by the last day of June of each year shall be subject to a late fee in an amount determined by the Council but not to exceed thirty dollars ($30.00). All dues for prior years shall be as were set forth in the General Statutes then in effect. The membership fee shall be regarded as a service charge for the maintenance of the several services authorized by this Article, and shall be in addition to all fees required in connection with admissions to practice, and in addition to all license taxes required by law. The fee shall not be prorated: Provided, that no fee shall be required of an attorney licensed after this Article shall have gone into effect until the first day of January of the calendar year following that in

which the attorney was licensed; but this proviso shall not apply to attorneys from other states admitted on certificate. The fees shall be disbursed by the secretary-treasurer on the order of the Council. ~~The fifty-dollar ($50.00) surcharge shall be sent on a monthly schedule to the State Board of Elections.~~ The secretary-treasurer shall annually, at a time and in a law magazine or daily newspaper to be prescribed by the Council, publish an account of the financial transactions of the Council in a form to be prescribed by it. The secretary-treasurer shall compile and keep currently correct from the names and mailing addresses forwarded to the secretary-treasurer and from any other available sources of information a list of members of the North Carolina State Bar and furnish to the clerk of the superior court in each county, not later than the first day of October in each year, a list showing the name and address of each attorney for that county who has not complied with the provisions of this Article. The name of each of the active members who are in arrears in the payment of membership fees shall be furnished to the presiding judge at the next term of the superior court after the first day of October of each year, by the clerk of the superior court of each county wherein the member or members reside, and the court shall thereupon take action that is necessary and proper. The names and addresses of attorneys so certified shall be kept available to the public. The Secretary of Revenue is hereby directed to supply the secretary-treasurer, from records of license tax payments, with any information for which the secretary-treasurer may call in order to enable the secretary-treasurer to comply with this requirement.

The list submitted to several clerks of the superior court shall also be submitted to the Council at its October meeting of each year and it shall take the action thereon that is necessary and proper."

SECTION 38.1.(e) G.S. 105-159.1 is repealed.

SECTION 38.1.(f) G.S. 105-159.2 is repealed.

SECTION 38.1.(g) G.S. 163-278.5 reads as rewritten:

"§ **163-278.5. Scope of Article; severability.**

The provisions of this Article apply to primaries and elections for North Carolina offices and to North Carolina referenda and do not apply to primaries and elections for federal offices or offices in other States or to non-North Carolina referenda. Any provision in this Article that regulates a non-North Carolina entity does so only to the extent that the entity's actions affect elections for North Carolina offices or North Carolina referenda.

The provisions of this Article are severable. If any provision is held invalid by a court of competent jurisdiction, the invalidity does not affect other provisions of the Article that can be given effect without the invalid provision.

This section applies to Articles ~~22B, 22D, 22E, 22F,~~ 22G, 22H, ~~22J,~~ and 22M of the General Statutes to the same extent that it applies to this Article."

SECTION 38.1.(h) G.S. 163-278.13(e) reads as rewritten:

"§ **163-278.13. Limitation on contributions.**

…

(e) ~~Except as provided in subsections (e2), (e3), and (e4) of this section, this~~ This section shall not apply to any national, State, district or county executive committee of any political party. For the purposes of this section only, the term "political party" means only those political parties officially recognized under G.S. 163-96."

SECTION 38.1.(i) G.S. 163-278.13(e2) is repealed.

SECTION 38.1.(j) G.S. 163-278.13(e4) is repealed.

SECTION 38.1.(k) G.S. 163-278.23 reads as rewritten:

"§ **163-278.23. Duties of Executive Director of Board.**

…

This section applies to Articles ~~22B, 22D, 22E, 22F,~~ 22G, 22H, and 22M of the General Statutes to the same extent that it applies to this Article."

SECTION 38.1.(l) G.S. 163-278.99E(d) is repealed effective upon exhaustion of the funds for publication of the Judicial Voter Guide in G.S. 163-278.69.

SECTION 38.1.(m) The State Board of Elections shall use the money in the North Carolina Public Campaign Fund to only publish Judicial Voter Guides as described in G.S. 163-278.69 until the funds have been exhausted.

SECTION 38.1.(n) The secretary-treasurer of the North Carolina State Bar shall remit any payments of the fifty-dollar ($50.00) surcharge payable for the taxable year January 1, 2013, to the State Board of Elections, and the State Board of Elections must credit the funds received to the North Carolina Public Campaign Fund.

SECTION 38.1.(o) The State Board of Elections shall notify the Revisor of Statutes when the funds have been exhausted for publication of the Judicial Voter Guide.

SECTION 38.1.(p) Subsection (d) of this section is effective for taxable years beginning on or after January 1, 2013. The fifty percent (50%) of the funds directed to be paid in 2013 under G.S. 163-278.41(c) in 2013 shall be disbursed as provided by law. Unexpended funds shall remain in the reserve until December 31, 2013, at which time those funds shall revert to the General Fund. The remainder of this section becomes effective July 1, 2013.

PART 39. EXPEDITE VOTER LIST MAINTENANCE

SECTION 39.1.(a) G.S. 163-33 reads as rewritten:

"§ **163-33. Powers and duties of county boards of elections.**

The county boards of elections within their respective jurisdictions shall exercise all powers granted to such boards in this Chapter, and they shall perform all the duties imposed upon them by law, which shall include the following:

…

(14) To make forms available for near relatives or personal representatives of a deceased voter's estate to provide signed statements of the status of a deceased voter to return to the board of elections of the county in which the deceased voter was registered. Forms may be provided, upon request, to any of the following: near relatives, personal representatives of a deceased voter's estate, funeral directors, or funeral service licensees."

SECTION 39.1.(b) G.S. 163-82.14(b) reads as rewritten:

"(b) Death. – The Department of Health and Human Services shall furnish free of charge to the State Board of Elections every month, in a format prescribed by the State Board of Elections, the names of deceased persons who were residents of the State. The State Board of Elections shall distribute every month to each county board of elections the names on that list of deceased persons who were residents of that county. The Department of Health and Human Services shall base each list upon information supplied by death certifications it received during the preceding month. Upon the receipt of those names, each county board of elections shall remove from its voter registration records any person the list shows to be dead. Each county board of elections shall also remove from its voter registration records a person identified as deceased by a signed statement of a near relative or personal representative of the estate of the deceased voter. The county board need not send any notice to the address of the person so removed."

SECTION 39.2. Article 13A of Chapter 90 of the General Statutes is amended by adding a new section to read:

"**§ 90-210.25C. Notification forms for deceased voters.**

(a) At the time funeral arrangements are made, a funeral director or funeral service licensee is encouraged to make available to near relatives of the deceased a form upon which the near relative may report the status of the deceased voter to the board of elections of the county in which the deceased was a registered voter.

(b) A funeral director or funeral service licensee may obtain forms for reporting the status of deceased voters from the county board of elections."

SECTION 39.3. This Part becomes effective October 1, 2013.

PART 41. CAMPAIGN FINANCE ELECTRONIC REPORTING

SECTION 41.1. The Joint Legislative Elections Oversight Committee shall study requiring campaign finance reports to be filed electronically and any issues with implementation of such a requirement, and recommend to the General Assembly any legislation it deems advisable. It may make an interim report prior to the date that the General Assembly reconvenes the 2013 Regular Session in 2014, and shall make a final report before the convening of the 2015 Regular Session of the General Assembly.

PART 42. CAMPAIGN CONTRIBUTIONS

SECTION 42.1. Effective for contributions made on or after January 1, 2014, G.S. 163-278.13(a), (b), and (c) read as rewritten:

"§ **163-278.13. Limitation on contributions.**

(a) No individual, political committee, or other entity shall contribute to any candidate or other political committee any money or make any other contribution in any election in excess of ~~four thousand dollars ($4,000)~~ five thousand dollars ($5,000) for that election.

(b) No candidate or political committee shall accept or solicit any contribution from any individual, other political committee, or other entity of any money or any other contribution in any election in excess of ~~four thousand dollars ($4,000)~~ five thousand dollars ($5,000) for that election.

(c) Notwithstanding the provisions of subsections (a) and (b) of this section, it shall be lawful for a candidate or a candidate's ~~spouse, parents, brothers and sisters~~spouse to make a contribution to the candidate or to the candidate's treasurer of any amount of money or to make any other contribution in any election in excess of ~~four thousand dollars ($4,000)~~ five thousand dollars ($5,000) for that election."

SECTION 42.2. G.S. 163-278.13 is amended by adding a new subsection to read:

"(a1) Effective for each odd-numbered calendar year beginning in 2015, the dollar amount of the contribution limitation established by subsections (a), (b), and (c) of this subsection shall be increased as provided in this subsection. On July 1 of each even-numbered year, the State Board of Elections shall calculate from data from the Bureau of Labor Statistics of the United States Department of Labor Register the percent difference between the price index for the July 1 of the previous even-numbered year. That percentage increase shall be multiplied by the previous dollar amount contribution limit, that number added to the previous dollar amount contribution limit, and the total shall become effective with respect to contributions made or accepted on or after January 1 of the next odd-numbered year. If the amount after adjustment is not a multiple of one hundred dollars ($100.00), the total shall be rounded to the nearest multiple of one hundred dollars ($100.00). As used in this subsection the term "price index" means the average over a calendar year of the Consumer Price Index (all items – United States city average) published monthly by the Bureau of Labor Statistics. The revised amount of the dollar limit of contributions shall remain in effect for two calendar years until the next adjustment is made. The State Board of Elections shall publish the revised amount in the North Carolina Register and shall notify the Reviser of Statutes who shall adjust the dollar amounts in subsections (a), (b), and (c) of this section."

SECTION 42.3. G.S. 163-278.13(e3) is repealed.

PART 43 USE OF BUILDING FUNDS

SECTION 43.1. G.S. 163-278.19B(4) reads as rewritten:

"(4) The donations deposited in the separate segregated bank account for the political party headquarters building fund will be spent only to purchase a principal headquarters building, to construct a principal headquarters building, to renovate a principal headquarters building, to pay a mortgage on a principal headquarters building, ~~or~~ to repay donors if a principal headquarters building is not purchased, constructed, or ~~renovated.~~ renovated, or to pay building rent or monthly or bimonthly utility expenses incurred to

operate the principal headquarters building. Donations deposited into that account shall be used solely for the purposes set forth in the preceding sentence, and specifically shall not be used for headquarters ~~rent, utilities, or~~ equipment other than ~~fixtures.~~fixtures, personnel compensation, or travel or fundraising expenses or requirements of any kind. Notwithstanding the above, personnel compensation and in-kind benefits may be paid to no more than three personnel whose functions are primarily administrative in nature, such as providing accounting, payroll, or campaign finance reporting services, for the party and whose job functions require no more than ten percent (10%) of work time to be spent on political advocacy each calendar year."

PART 44. STAND BY YOUR AD

SECTION 44.1. G.S. 163-278.39A is repealed.

SECTION 44.2. G.S. 163-278.39(b) reads as rewritten:

"(b) Size Requirements. – In a print media advertisement covered by subsection (a) of this section, the height of all disclosure statements required by that subsection shall constitute at least five percent (5%) of the height of the printed space of the advertisement, provided that the type shall in no event be less than 12 points in size. In an advertisement in a newspaper or a newspaper insert, the total height of the disclosure statement need not constitute five percent of the printed space of the advertisement if the type of the disclosure statement is at least 28 points in size. If a single advertisement consists of multiple pages, folds, or faces, the disclosure requirement of this section applies only to one page, fold, or face. In a television advertisement covered by subsection (a) of this section, the visual disclosure legend shall constitute four percent (4%) of vertical picture height in ~~size.~~ size, and where the television advertisement that appears is paid for by a candidate or candidate campaign committee, the visual disclosure legend shall appear simultaneously with an easily identifiable photograph of the candidate for at least two seconds. In a radio advertisement covered by subsection (a) of this section, the disclosure statement shall last at least two seconds, provided the statement is spoken so that its contents may be easily understood."

PART 45. STATE BOARD OF ELECTIONS

SECTION 45.1.(a) G.S. 163-19(a) reads as rewritten:

"(a) The State Board of Elections shall consist of five registered voters whose terms of office shall begin on May 1, 1969, and shall continue for four years, and until their successors are appointed and qualified. The Governor shall appoint the members of this Board and likewise shall appoint their successors every four years at the expiration of each four-year term. No person may serve more than two consecutive four-year terms."

SECTION 45.1.(b) This section is effective when it becomes law and applies to members appointed on or after that date.

PART 47. TIGHTENING OF LOBBYING BUNDLING

SECTION 47.1.(a) G.S. 163-278.13C reads as rewritten:

"§ **163-278.13C. Campaign contributions prohibition.**

(a) No lobbyist may make a contribution as defined in G.S. 163-278.6 to a candidate or candidate campaign committee as defined in G.S. 163-278.38Z when that candidate meets any of the following criteria:

(1) Is a legislator as defined in G.S. 120C-100.

(2) Is a public servant as defined in G.S. 138A-3(30)a. and G.S. 120C-104.

(b) No lobbyist may do any of the following with respect to a candidate or candidate campaign committee described in subdivisions (a)(1) and (a)(2) of this section:

(1) ~~collect~~Collect a contribution or multiple contributions from one or ~~multiple~~ more ~~contributors,~~contributors intended for that candidate or candidate campaign committee.

(2) ~~take~~Take possession of ~~such~~ a contribution or multiple ~~contributions,~~ contributions intended for that candidate or candidate campaign committee.

(3) ~~or transfer~~ Transfer or ~~deliver~~deliver ~~the~~ a collected contribution or multiple contributions to the intended ~~recipient.~~candidate or candidate campaign committee. ~~This section shall apply only to contributions to a candidate or candidate campaign committee as defined in G.S. 163-278.38Z when that candidate is a legislator as defined in G.S. 120C-100 or a public servant as defined in G.S. 138A-3(30)a.~~

(c) This section shall not apply to a lobbyist, who has filed a notice of candidacy for office under G.S. 163-106 or Article 11 of Chapter 163 of the General Statutes or has been nominated under G.S. 163-114 or G.S. 163-98, making a contribution to that lobbyist's candidate campaign committee.

(d) For purposes of this section, the term "lobbyist" shall mean an individual registered as a lobbyist under Chapter 120C of the General Statutes."

SECTION 47.1.(b) This section becomes effective October 1, 2013, and applies to contributions made on or after that date.

PART 48. CANDIDATE SPECIFIC COMMUNICATIONS

SECTION 48.1. Article 22G of Chapter 163 of the General Statutes is repealed.

SECTION 48.2. G.S. 163-278.5 reads as rewritten:

"§ **163-278.5. Scope of Article; severability.**

The provisions of this Article apply to primaries and elections for North Carolina offices and to North Carolina referenda and do not apply to primaries and elections for federal offices or offices in other States or to non-North Carolina referenda. Any provision in this Article that regulates a non-North Carolina entity does so only to the extent that the entity's actions affect elections for North Carolina offices or North Carolina referenda.

The provisions of this Article are severable. If any provision is held invalid by a court of competent jurisdiction, the invalidity does not affect other provisions of the Article that can be given effect without the invalid provision.

This section applies to Articles 22B, 22D, 22E, 22F, ~~22G, 22H,~~ 22J, and 22M of the General Statutes to the same extent that it applies to this Article."

SECTION 48.3. G.S. 163-278.23 reads as rewritten:

"§ **163-278.23. Duties of Executive Director of Board.**

…

This section applies to Articles 22B, 22D, 22E, 22F, ~~22G, 22H,~~ and 22M of the General Statutes to the same extent that it applies to this Article."

SECTION 48.4. Article 22H of Chapter 163 of the General Statutes is repealed.

PART 49. VOTING IN INCORRECT PRECINCT

SECTION 49.1. G.S. 163-55 reads as rewritten:

"§ **163-55. Qualifications to vote; exclusion from electoral franchise.**

(a) Residence Period for State Elections. – Every person born in the United States, and every person who has been naturalized, and who shall have resided in the State of North Carolina and in the ~~precinct, ward, or other election district~~ precinct in which the person offers to vote for 30 days next preceding an election, shall, if otherwise qualified as prescribed in this Chapter, be qualified to vote in ~~any election held in this State.~~ the precinct in which the person resides. Removal from one ~~precinct, ward, or other election district~~ precinct to another in this State shall not operate to deprive any person of the right to vote in the ~~precinct, ward, or other election district~~ precinct from which ~~he~~ the person has removed until 30 days after the person's removal.

Except as provided in this Chapter, the following classes of persons shall not be allowed to vote in this State:

(1) Persons under 18 years of age.

(2) Any person adjudged guilty of a felony against this State or the United States, or adjudged guilty of a felony in another state that also would be a felony if it had been committed in this State, unless that person shall be first restored to the rights of citizenship in the manner prescribed by law.

(b) ~~Precincts and Election Districts.~~Precincts. – For purposes of qualification to vote in an election, a person's residence in a ~~precinct, ward, or election district~~precinct shall be determined in accordance with G.S. 163-57. ~~When an election district encompasses more than one precinct, then for purposes of those offices to be elected from that election district a person shall also be deemed to be resident in the election district which includes the precinct in which that person resides. An election district may include a portion of a county, an entire county, a portion of the State, or the entire State. When a precinct has been divided among two or more election districts for purposes of elections to certain offices, then with respect to elections to those offices a person shall be deemed to be resident in only that election district which includes the area of the precinct in which that person resides.~~ Qualification to vote in referenda shall be treated the same as qualification for elections to fill offices.

(c) Elections. – For purposes of the 30-day residence requirement to vote in an election in subsection (a) of this section, the term "election" means the day of the primary, second primary, general election, special election, or referendum."

SECTION 49.3. G.S. 163-166.11(5) reads as rewritten:

"(5) The county board of elections shall count the individual's provisional official ballot for all ballot items on which it determines that the individual was eligible under State or federal law to ~~vote.~~vote, except that the ballot shall not be counted if the voter did not vote in the proper precinct under G.S. 163-55, including a central location as provided by that section."

SECTION 49.4 G.S. 163-182.2(a)(4) reads as rewritten:

"(4) Provisional official ballots shall be counted by the county board of elections before the canvass. If the county board finds that an individual voting a provisional official ballot is not eligible to vote in one or more ballot items on the official ballot, the board shall not count the official ballot in those ballot items, but shall count the official ballot in any ballot items for which the individual is eligible to vote. Eligibility shall be determined by whether the voter is registered in the county as provided in G.S. 163-82.1 and whether the voter is qualified by residency to vote in the ~~election district~~ precinct as provided in G.S. 163-55 and G.S. 163-57. If a voter was properly registered to vote in the election by the county board, no mistake of an election official in giving the voter a ballot or in failing to comply with G.S. 163-82.15 or G.S. 163-166.11 shall serve to prevent the counting of the vote on any ballot item the voter was eligible by registration and qualified by residency to vote."

PART 50. ELECTIONEERING COMMUNICATION

SECTION 50.1. G.S. 163-278.6(8j) reads as rewritten:

"(8j) The term "electioneering communication" means any broadcast, cable, or satellite communication, or mass mailing, or telephone bank that has all the following characteristics:

a. Refers to a clearly identified candidate for elected office.

b. ~~Is~~ In the case of the general election in November of the even-numbered year is aired or transmitted after September 7 of that year, and in the case of any other election is aired or transmitted

within 60 days of the time set for absentee voting to begin pursuant to G.S. 163-227.2 in an election for that office.

c. May be received by either:

1. 50,000 or more individuals in the State in an election for statewide office or 7,500 or more individuals in any other election if in the form of broadcast, cable, or satellite communication.
2. 20,000 or more households, cumulative per election, in a statewide election or 2,500 households, cumulative per election, in any other election if in the form of mass mailing or telephone bank."

PART 51. ELIMINATE INSTANT-RUNOFF FOR LATE JUDICIAL VACANCIES

SECTION 51.1. G.S. 163-329(b1) reads as rewritten:

"(b1) Method for Vacancy Election. – If a vacancy for the office of justice of the Supreme Court, judge of the Court of Appeals, or judge of the superior court occurs more than 60 days before the general election and after the opening of the filing period for the primary, then the State Board of Elections shall designate a special filing period of one week for candidates for the office. If more than two candidates file and qualify for the office in accordance with G.S. 163-323, then the Board shall conduct the election for the office as follows:

(1) When the vacancy described in this section occurs more than 63 days before the date of the second primary for members of the General Assembly, a special primary shall be held on the same day as the second primary. The two candidates with the most votes in the special primary shall have their names placed on the ballot for the general election held on the same day as the general election for members of the General Assembly.

(2) When the vacancy described in this section occurs less than 64 days before the date of the second primary, a general election for all the candidates shall be held on the same day as the general election for members of the General Assembly and the results shall be determined on a plurality basis as provided by G.S. 163-292.~~the "instant runoff voting" method shall be used to determine the winner. Under "instant runoff voting," voters rank up to three of the candidates by order of preference, first, second, or third. If the candidate with the greatest number of first-choice votes receives more than fifty percent (50%) of the first-choice votes, that candidate wins. If no candidate receives that minimum number, the two candidates with the greatest number of first-choice votes advance to a second round of counting. In this round, each ballot counts as a vote for whichever of the two final candidates is ranked highest by the voter. The candidate with the most votes in the second round wins the election. If more than one seat is to be filled in the same race, the voter votes the same way as if one seat were to be filled. The counting is the same as when one seat is to be filled, with one or two rounds as needed, except that counting is done separately for each seat to be filled. The first count results in the first winner. Then the second count proceeds without the name of the first winner. This process results in the second winner. For each additional seat to be filled, an additional count is done without the names of the candidates who have already won. In multi-seat contests, the State Board of Elections may give the voter more than three choices.~~

~~(3) If two or more candidates receiving the highest number of votes each receive the same number of votes, the board of elections shall resolve the tie in accordance with G.S. 163-182.8.~~"

PART 52. IDENTIFYING PROVISIONAL BALLOTS AS SUCH

SECTION 52.1. Article 14A of Chapter 163 of the General Statutes is amended by adding a new section to read:

"**§ 163-166.11A. Notation on provisional ballot.**

Whenever a voter is permitted to vote a provisional ballot, the election official issuing the ballot shall annotate in writing or other means on the ballot that it is a provisional ballot."

PART 53. ELECTION CYCLE AND REPORTING CHANGES

SECTION 53.1.(a) G.S. 163-278.13(d) reads as rewritten:

"(d) For the purposes of this section, the term "an election" means the period of time from January 1 of an odd-numbered year through ~~any~~the day of the primary, the day after the primary through the day of the second primary, or the day after the primary through December 31 of the next even-numbered year,~~general election in which the candidate or political committee may be involved,~~ without regard to whether the candidate is opposed or unopposed in the election, except that where a candidate is not on the ballot in a second primary, that second primary is not "an election" with respect to that candidate."

SECTION 53.1.(c) This section becomes effective January 1, 2014.

PART 54. DEFINITION OF POLITICAL COMMITTEE IN CAMPAIGN FINANCE ACT

SECTION 54.1. The Joint Legislative Elections Oversight Committee shall study establishing a threshold for the creation of a political committee and recommend to the General Assembly any legislation it deems advisable. It may make an interim report prior to the date that the General Assembly reconvenes the 2013 Regular Session in 2014, and shall make a final report before the convening of the 2015 Regular Session of the General Assembly.

PART 55. ALTER CAMPAIGN FINANCE REPORTING SCHEDULE

SECTION 55.1. The Joint Legislative Elections Oversight Committee shall study conforming political committees, electioneering communications, and independent expenditures reporting schedules to similar dates and information, and recommend to the General Assembly any legislation it deems advisable. It may make an interim report prior to the date that the General Assembly reconvenes the 2013 Regular Session in 2014, and shall make a final report before the convening of the 2015 Regular Session of the General Assembly.

PART 56. DISCLOSURE REQUIREMENTS FOR MEDIA ADVERTISEMENTS

SECTION 56.1. G.S. 163-278.39(a) reads as rewritten:

"(a) Basic Requirements. – It shall be unlawful for any sponsor to sponsor an advertisement in the print media or on radio or television that constitutes an expenditure, independent expenditure, electioneering communication, or contribution required to be disclosed under this Article unless all the following conditions are met:

(1) It bears the legend or includes the statement: "Paid for by _____ [Name of candidate, candidate campaign committee, political party organization, political action committee, referendum committee, individual, or other sponsor]." In television advertisements, this disclosure shall be made by visual legend.

(2) The name used in the labeling required in subdivision (1) of this subsection is the name that appears on the statement of organization as required in G.S. 163-278.7(b)(1) or G.S. 163-278.12C(a).

(3) Repealed by Session Laws 2001-353, s. 5, effective August 10, 2001.

~~(4) The sponsor states in the advertisement its position for or against a ballot measure, provided that this subdivision applies only if the advertisement is made for or against a ballot measure.~~

(5) In a print media advertisement supporting or opposing the nomination or election of one or more clearly identified candidates, the sponsor states whether it is authorized by a candidate. The visual legend in the advertisement shall state either "Authorized by [name of candidate], candidate for [name of office]" or "Not authorized by a candidate." This subdivision does not apply if the sponsor of the advertisement is the candidate the advertisement supports or that candidate's campaign committee.

(6) In a print media advertisement that identifies a candidate the sponsor is opposing, the sponsor discloses in the advertisement the name of the candidate who is intended to benefit from the advertisement. This subdivision applies only when the sponsor coordinates or consults about the advertisement or the expenditure for it with the candidate who is intended to benefit.

~~(7) In a print media advertisement supporting or opposing the nomination or election of one or more clearly identified candidates that is an independent expenditure, the sponsor discloses the names of the individuals or persons making the five largest donations to the sponsor within the six-month period prior to the purchase of the advertisement if those donations are required to be reported under G.S. 163-278.12.~~

~~(8) In a print media advertisement that is an electioneering communication, the sponsor discloses the names of the individuals or person making the five largest donations to the sponsor within the six-month period prior to the purchase of the advertisement if those donations are required to be reported under G.S. 163-278.12C.~~

If an advertisement described in this section is jointly sponsored, the disclosure statement shall name all the sponsors."

PART 57. STUDY ELIMINATION OF 48-HOUR REPORT

SECTION 57.1. The Joint Legislative Elections Oversight Committee shall study the elimination of the 48-hour campaign finance report provided by G.S. 163-278.9(4a), and recommend to the General Assembly any legislation it deems advisable. It may make an interim report prior to the date that the General Assembly reconvenes the 2013 Regular Session in 2014, and shall make a final report before the convening of the 2015 Regular Session of the General Assembly.

PART 59. RAFFLES BY CANDIDATES OR POLITICAL COMMITTEES

SECTION 59.1. G.S. 14-309.15(a) reads as rewritten:

"(a) It is lawful for any nonprofit organization or association, recognized by the Department of Revenue as tax-exempt pursuant to G.S. 105-130.11(a), or for any bona fide branch, chapter, or affiliate of such organization, candidate, political committee, and for any government entity within the State, to conduct raffles in accordance with this section. Any person who conducts a raffle in violation of any provision of this section shall be guilty of a Class 2 misdemeanor. Upon conviction that person shall not conduct a raffle for a period of one year. It is lawful to participate in a raffle conducted pursuant to this section. It shall not constitute a violation of State law to advertise a raffle conducted in accordance with this section. A raffle conducted pursuant to this section is not "gambling". For the purpose of this section, "candidate" and "political committee" have the meaning provided by Article 22A of Chapter 163A of the General Statutes, who have filed organization reports under that Article, and who are in good standing with the appropriate board of elections. Receipts and expenditures of a raffle by a candidate or political committee shall be reported in accordance with Article 22A of Chapter 163A of the General Statutes, and ticket purchases are contributions within the meaning of that Article."

PART 60. SEVERABILITY AND EFFECTIVE DATE

SECTION 60.1. If any provision of this act or its application is held invalid, the invalidity does not affect other provisions or applications of this act that can be given effect without the invalid provisions or application, and to this end the provisions of this act are severable.

SECTION 60.2. This Part is effective when it becomes law. Except as provided herein, the remainder of this act becomes effective January 1, 2014.

In the General Assembly read three times and ratified this the 26th day of July, 2013.

Became law upon approval of the Governor at 2:14 p.m. on the 12th day of August, 2013.

Session Law 2013-382 **H.B. 834**

AN ACT ENHANCING THE EFFECTIVENESS AND EFFICIENCY OF STATE GOVERNMENT BY MODERNIZING THE STATE'S SYSTEM OF HUMAN RESOURCES MANAGEMENT AND BY PROVIDING FLEXIBILITY FOR EXECUTIVE BRANCH REORGANIZATION AND RESTRUCTURING AND TO IMPROVE TRANSPARENCY IN THE COST OF HEALTH CARE PROVIDED BY HOSPITALS AND AMBULATORY SURGICAL FACILITIES; TO TERMINATE SET-OFF DEBT COLLECTION BY CERTAIN STATE AGENCIES PROVIDING HEALTH CARE TO THE PUBLIC; TO MAKE IT UNLAWFUL FOR HEALTH CARE PROVIDERS TO CHARGE FOR PROCEDURES OR COMPONENTS OF PROCEDURES THAT WERE NOT PROVIDED OR SUPPLIED; TO PROVIDE FOR FAIR HEALTH CARE FACILITY BILLING AND COLLECTIONS PRACTICES; AND TO PROVIDE THAT HOSPITALS RECEIVING MEDICAID REIMBURSEMENTS PARTICIPATE IN THE NORTH CAROLINA HEALTH INFORMATION EXCHANGE NETWORK.

The General Assembly of North Carolina enacts:

PART I. ORGANIZATIONAL AND ADMINISTRATIVE CHANGES

SECTION 1.1. G.S. 126-3(a) reads as rewritten:

"(a) There is hereby established the Office of State Personnel (hereinafter referred to as 'the Office') which shall be placed for organizational purposes within the ~~Department of Administration.~~ Office of the Governor. Notwithstanding the provisions of North Carolina State government reorganization as of January 1, 1975, and specifically notwithstanding the provisions of Chapter 864 of the 1971 North Carolina Session Laws, Chapter 143A of the General Statutes, the Office of State Personnel shall exercise all of its statutory powers in this ~~Chapter independent of control by the Secretary of Administration and~~ Chapter, which shall be under the administration and supervision of a State Personnel Director (hereinafter referred to as 'the Director') appointed by the Governor and subject to the supervision of the Commission for purposes of this Chapter. The salary of the Director shall be fixed by the Governor. The Director shall serve at the pleasure of the Governor."

SECTION 1.2. G.S. 126-3(b)(8) reads as rewritten:

"(8) Developing criteria and standards to measure the level of compliance or noncompliance with established Commission policies, rules, procedures, criteria, and standards in agencies, departments, and institutions to which authority has been delegated for classification, salary ~~administration~~administration, performance management, development, evaluation, and other decentralized programs, and determining through routine monitoring and periodic review process, that agencies, departments, and institutions are in compliance or noncompliance with established Commission policies, rules, procedures, criteria, and standards."

SECTION 1.3. G.S. 126-4(5) reads as rewritten:

"§ **126-4. Powers and duties of State Personnel Commission.**

Subject to the approval of the Governor, the State Personnel Commission shall establish policies and rules governing each of the following:

…

(5) Hours and days of work, holidays, vacation, sick leave, and other matters pertaining to the conditions of employment. The legal public holidays established by the Commission as paid holidays for State employees shall include Martin Luther King, Jr.'s Birthday and Veterans Day. The Commission shall not provide for more than ~~11~~12 paid holidays per ~~year except that in those years in which Christmas Day falls on a Tuesday, Wednesday, or Thursday, the Commission shall not provide for more than 12 paid holidays.~~year, with three paid holidays being given for Christmas."

SECTION 1.4. G.S. 126-95 is amended by adding a new subsection to read:

"(c) As used in this section, the term "eligible officers and employees" means any officer or employee authorized to participate in the Teachers' and State Employees' Retirement System and the State Health Plan."

SECTION 1.5. This Part is effective when it becomes law.

PART II. STATE PERSONNEL COMMISSION CHANGES

SECTION 2.1. G.S. 126-2 reads as rewritten:

"§ **126-2. State Personnel Commission.**

(a) There is hereby established the State Personnel Commission (hereinafter referred to as "the Commission").

~~(b) The Commission shall consist of nine members, appointed as follows:~~

~~(1) Two members shall be attorneys licensed to practice law in North Carolina appointed by the General Assembly, one of whom shall be appointed upon the recommendation of the Speaker of the House of Representatives, and one of whom shall be appointed upon the recommendation of the President Pro Tempore of the Senate.~~

~~The initial two attorney members appointed under this subdivision shall serve terms expiring June 30, 2004; the terms of subsequent appointees shall be six years.~~

~~(2) Two persons from private business or industry appointed by the Governor, both of whom shall have a working knowledge of, or practical experience in, human resources management. The initial members appointed under this subdivision shall serve terms expiring June 30, 2003; the terms of subsequent appointees shall be six years.~~

~~(3) Two State employees subject to the State Personnel Act serving in nonexempt positions, appointed by the Governor, including one of whom is a veteran of the Armed Forces of the United States appointed upon the nomination of the Veterans' Affairs Commission. One employee shall serve in a State government position having supervisory duties, and one employee shall serve in a nonsupervisory position. Neither employee may be a human resources professional. The Governor shall consider nominations submitted by the State Employees Association of North Carolina. The initial members appointed under this subdivision shall serve terms expiring June 30, 2001; the terms of subsequent appointees shall be six years.~~

~~(4) Two local government employees subject to the State Personnel Act appointed by the Governor upon recommendation of the North Carolina Association of County Commissioners, one a nonsupervisory local employee and one a supervisory local employee. Neither local government employee may be a human resources professional. The initial members appointed~~

~~under this subdivision shall serve terms expiring June 30, 2003; the terms of subsequent appointees shall be for six years.~~

~~(5) One member of the public at large appointed by the Governor. The initial member appointed under this subdivision shall serve for a term expiring June 30, 2001; the terms of subsequent appointees shall be for six years.~~

(b1) The Commission shall consist of nine members, appointed as follows:

(1) One member appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives who shall be an attorney licensed to practice law in North Carolina.

(2) One member appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate who shall be an attorney licensed to practice law in North Carolina.

(3) One member appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives who shall be from private business or industry and who shall have a working knowledge of, or practical experience in, human resources management.

(4) One member appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate who shall be from private business or industry and who shall have a working knowledge of, or practical experience in, human resources management.

(5) One member who is a veteran of the Armed Forces of the United States appointed by the Governor upon the nomination of the Veterans Affairs Commission and who is a State employee subject to this Chapter serving in a nonexempt supervisory position. The member may not be a human resources professional.

(6) One member appointed by the Governor who is a State employee subject to this Chapter serving in a nonexempt nonsupervisory position. The member may not be a human resources professional. The Governor shall consider nominations submitted by the State Employees Association of North Carolina.

(7) One member appointed by the Governor upon the recommendation of the North Carolina Association of County Commissioners who is a local government employee subject to this Chapter serving in a supervisory position. The member may not be a human resources professional.

(8) One member appointed by the Governor upon the recommendation of the North Carolina Association of County Commissioners who is a local government employee subject to this Chapter serving in a nonsupervisory position. The member may not be a human resources professional.

(9) One member of the public at large appointed by the Governor.

(c) Each member of the Commission shall be appointed for a term of four years. Members of the Commission may serve no more than two consecutive terms. Appointments by the General Assembly shall be made in accordance with G.S. 120-121, and vacancies in those appointments shall be filled in accordance with G.S. 120-122. Vacancies in appointments made by the Governor occurring prior to the expiration of a term shall be filled by appointment for the unexpired term.

(d) No member of the Commission may serve on a case where there would be a conflict of interest. The appointing authority may at any time remove any Commission member for cause.

(e) Members of the Commission who are State or local government employees subject to ~~the State Personnel Act~~this Chapter shall be entitled to administrative leave without loss of pay for all periods of time required to conduct the business of the Commission.

(f) ~~Six~~ Five members of the Commission shall constitute a quorum.

(g) The Governor shall designate one member of the Commission as chair.

(h) The Commission shall meet quarterly, and at other times at the call of the chair."

SECTION 2.2. The terms of the two attorney members appointed under G.S. 126-2(b)(1), serving on the Commission on January 1, 2013, shall expire on June 30, 2013. The terms of the persons from private business or industry appointed under G.S. 126-2(b)(2), serving on the Commission on January 1, 2013, shall expire on June 30, 2014. The terms of the two State employees appointed under G.S. 126-2(b)(3), serving on the Commission on January 1, 2013, shall expire on June 30, 2013. The terms of the two local government employees appointed under G.S. 126-2(b)(4), serving on the Commission on January 1, 2013, shall expire on June 30, 2014. The term of the public at-large member appointed under G.S. 126-2(b)(5), serving on the Commission on January 1, 2013, shall expire June 30, 2013. If the terms of office eliminated in this act have not been set out, then the appointing authorities shall determine by July 1, 2013, which terms to eliminate to achieve the membership totals pursuant to this act. After determining which terms to eliminate, the appointing authority shall notify in writing all the persons and entities required to receive notification pursuant to G.S. 143-47.7.

SECTION 2.3. This Part is effective when it becomes law.

PART III. PROBATIONARY AND CAREER STATE EMPLOYEES

SECTION 3.1. G.S. 126-1.1 reads as rewritten:

"§ **126-1.1. Career State employee defined.**

(a) For the purposes of this Chapter, unless the context clearly indicates otherwise, "career State employee" means a State employee or an employee of a local entity who is covered by this Chapter pursuant to G.S. 126-5(a)(2) who:

(1) Is in a permanent ~~position appointment;~~position, and

(2) Has been continuously employed by the State of North Carolina or a local entity as provided in G.S. 126-5(a)(2) in a position subject to the State Personnel Act for the immediate 24 preceding months.

(b) As used in this Chapter, "probationary State employee" means a State employee who is in a probationary appointment and is exempt from the provisions of the State Personnel Act only because the employee has not been continuously employed by the State for the time period required by subsection (a) of this section."

SECTION 3.2. G.S. 126-15.1 is repealed.

SECTION 3.3. This Part is effective when it becomes law.

PART IV. EXEMPT POSITION MODIFICATIONS

SECTION 4.1. G.S. 126-5(d)(1) reads as rewritten:

"(d) (1) Exempt Positions in Cabinet Department. – Subject to the provisions of this Chapter, which is known as the State Personnel Act, the Governor may designate a total of ~~1,000~~1,500 exempt positions throughout the following ~~departments:~~departments and offices:

a. Department of Administration.
b. Department of Commerce.
c. Repealed by Session Laws 2012-83, s. 7, effective June 26, 2012, and by Session Laws 2012-142, s. 25.2E(a), effective January 1, 2013.
d. Department of Public Safety.
e. Department of Cultural Resources.
f. Department of Health and Human Services.
g. Department of Environment and Natural Resources.
h. Department of Revenue.
i. Department of Transportation.

j. Repealed by Session Laws 2012-83, s. 7, effective June 26, 2012, and by Session Laws 2012-142, s. 25.2E(a), effective January 1, 2013.
k. Office of Information Technology Services.
l. Office of State Budget and Management.
m. Office of State Personnel.

~~Notwithstanding the provisions of this subdivision or the other requirements of this subsection, the Governor may at any time designate up to one percent (1%) of the total number of full-time positions in the Department of Public Safety, not to exceed 100 positions, as exempt managerial positions. Notwithstanding the provisions of this subdivision, or the other requirements of this subsection, the Governor may at any time increase by five the number of exempt policy-making positions at the Department of Public Safety, but at no time shall the total number of exempt policy-making positions exceed 105.~~"

SECTION 4.2. G.S. 147-33.77(a) reads as rewritten:

"(a) The State Chief Information Officer may appoint a Chief Deputy Information Officer. The salary of the Chief Deputy Information Officer shall be set by the State Chief Information Officer. The State Chief Information Officer may appoint all employees, including legal counsel, necessary to carry out the powers and duties of the office. These employees shall be subject to the State Personnel ~~Act.~~Act, except that employees in positions designated as exempt under G.S. 126-5(d)(1) are not subject to the Act, in accordance with the provisions of that section."

SECTION 4.3. G.S. 126-5(e) is repealed.

SECTION 4.4. G.S. 126-5(f) is repealed.

SECTION 4.5. G.S. 126-5(d)(5) reads as rewritten:

"(d) …

(5) Creation, Transfer, or Reorganization. – The Governor, elected department head, or State Board of Education may designate as exempt a position that is created or transferred to a different department, or is located in a department in which reorganization has occurred, after ~~July 1~~ October 1 of the year in which the oath of office is administered to the Governor. The designation must be made in a letter to the State Personnel Director, the Speaker of the North Carolina House of Representatives, and the President of the North Carolina Senate within 180 days after such position is created, transferred, or in which reorganization has occurred."

SECTION 4.6. This Part becomes effective June 30, 2013, with the repeal of the provisions in G.S. 126-5(e) and G.S. 126-5(f) applying as to State employees hired on or after that date.

PART V. REDUCTIONS IN FORCE

SECTION 5.1. G.S. 126-7.1 reads as rewritten:

"§ **126-7.1. Posting requirement; State employees receive priority consideration; reduction-in-force; Work First hiring.**

…

(e) If a State employee subject to this section:

(1) Applies for another position of State employment that would constitute a promotion; and

(2) Has substantially equal qualifications as an applicant who is not a State ~~employee.~~employee;

then the State employee shall receive priority consideration over the applicant who is not a State employee. This priority consideration shall not apply when the only applicants considered for the vacancy are current State employees.

(f) If a State employee who has been separated due to reduction in force or who has been given notice of imminent separation due to reduction in force:

(1) Applies for another position of State employment equal to or lower in salary grade than the position held by the employee at the time of notification or separation; and

(2) Has substantially equal qualifications as any other applicant;

then within all State agencies, the State employee who has been notified of or separated due to a reduction in force shall receive priority consideration over all other applicants. This priority shall remain in effect for a period of 12 months from the date the employee receives notification of separation by reduction in force. State employees separated due to reduction in force shall receive higher priority than other applicants with employment or reemployment priorities, except that the reemployment priority created by G.S. 126-5(e)(1) shall be considered as equal.

(f1) If a State employee who has been separated due to reduction in force or who has been given notice of imminent separation due to reduction in force accepts or rejects an offer for a position of State employment that is equal to or higher than the position held or equal to or higher than the salary earned by the employee at the time of separation or notification, then the employee's acceptance or rejection of that offer shall satisfy and terminate the one-time, 12-month priority granted by subsection (f) of this section.

…."

SECTION 5.2. This Part is effective when it becomes law and applies to reductions in force implemented on or after that date.

PART VI. EMPLOYEE GRIEVANCES

SECTION 6.1. Article 8 of Chapter 126 of the General Statutes reads as rewritten:

"Article 8.

"Employee Appeals of Grievances and Disciplinary Action.

"**§ 126-34.01. Grievance; resolution.**

Any State employee having a grievance arising out of or due to the employee's employment shall first discuss the problem or grievance with the employee's supervisor, unless the problem or grievance is with the supervisor. Then the employee shall follow the grievance procedure approved by the State Personnel Commission. The proposed agency final decision shall not be issued nor become final until reviewed and approved by the Office of State Personnel. The agency grievance procedure and Office of State Personnel review shall be completed within 90 days from the date the grievance is filed.

"**§ 126-34.02. Grievance appeal process; grounds.**

(a) Once a final agency decision has been issued in accordance with G.S. 126-34.01, an applicant for State employment, a State employee, or former State employee may file a contested case in the Office of Administrative Hearings under Article 3 of Chapter 150B of the General Statutes. The contested case must be filed within 30 days of receipt of the final agency decision. Except for cases of extraordinary cause shown, the Office of Administrative Hearings shall hear and issue a final decision in accordance with G.S. 150B-34 within 180 days from the commencement of the case. In deciding cases under this section, the Office of Administrative Hearings may grant the following relief:

(1) Reinstate any employee to the position from which the employee has been removed.

(2) Order the employment, promotion, transfer, or salary adjustment of any individual to whom it has been wrongfully denied.

(3) Direct other suitable action to correct the abuse which may include the requirement of payment for any loss of salary which has resulted from the improper action of the appointing authority.

An aggrieved party in a contested case under this section shall be entitled to judicial review of a final decision by appeal to the Court of Appeals as provided in G.S. 7A-29(a). The procedure for the appeal shall be as provided by the rules of appellate procedure. The appeal shall be taken within 30 days of receipt of the written notice of final decision. A notice of

appeal shall be filed with the Office of Administrative Hearings and served on all parties to the contested case hearing.

(b) The following issues may be heard as contested cases after completion of the agency grievance procedure and the Office of State Personnel review:

(1) Discrimination or harassment. – An applicant for State employment, a State employee, or former State employee may allege discrimination or harassment based on race, religion, color, national origin, sex, age, disability, genetic information, or political affiliation if the employee believes that he or she has been discriminated against in his or her application for employment or in the terms and conditions of the employee's employment, or in the termination of his or her employment.

(2) Retaliation. – An applicant for State employment, a State employee, or former State employee may allege retaliation for protesting discrimination based on race, religion, color, national origin, sex, age, disability, political affiliation, or genetic information if the employee believes that he or she has been retaliated against in his or her application for employment or in the terms and conditions of the employee's employment, or in the termination of the employee's employment.

(3) Just cause for dismissal, demotion, or suspension. – A career State employee may allege that he or she was dismissed, demoted, or suspended for disciplinary reasons without just cause. A dismissal, demotion, or suspension which is not imposed for disciplinary reasons shall not be considered a disciplinary action within the meaning of this section. However, in contested cases conducted pursuant to this section, an employee may appeal an involuntary nondisciplinary separation due to an employee's unavailability in the same fashion as if it were a disciplinary action, but the agency shall only have the burden to prove that the employee was unavailable. In cases of such disciplinary action the employee shall, before the action is taken, be furnished with a statement in writing setting forth the specific acts or omissions that are the reasons for the disciplinary action and the employee's appeal rights. The employee shall be permitted 15 days from the date the statement is delivered to appeal under the agency grievance procedure. However, an employee may be suspended without warning pending the giving of written reasons in order to avoid undue disruption of work, to protect the safety of persons or property, or for other serious reasons.

(4) Veteran's preference. – An applicant for State employment or a State employee may allege that he or she was denied veteran's preference in violation of the law.

(5) Failure to post or give priority consideration. – An applicant for State employment or a State employee may allege that he or she was denied hiring or promotion because a position was not posted in accordance with this Chapter or because he or she was denied hiring or promotion as a result of a failure to give priority consideration for promotion or reemployment as required by G.S. 126-7.1.

(6) Whistleblower. – A whistleblower grievance as provided for in this Chapter.

(c) Any issue for which an appeal to the Office of Administrative Hearings has not been specifically authorized by this section shall not be grounds for a contested case hearing.

(d) In contested cases conducted pursuant to this section, the burden of showing that a career State employee was discharged, demoted, or suspended for just cause rests with the employer. In all other contested cases, the burden of proof rests on the employee.

(e) The Office of Administrative Hearings may award attorneys' fees to an employee where reinstatement or back pay is ordered or where an employee prevails in a whistleblower

grievance. The remedies provided in this subsection in a whistleblower appeal shall be the same as those provided in G.S. 126-87.

(f) The Office of Administrative Hearings shall report to the Office of State Personnel and the Joint Legislative Administrative Procedure Oversight Committee on the number of cases filed under this section and on the number of days between filing and closing of each case. The report shall be filed on a semiannual basis.

"§ ~~**126-34. Grievance appeal for career State employees.**~~

~~Unless otherwise provided in this Chapter, any career State employee having a grievance arising out of or due to the employee's employment and who does not allege unlawful harassment or discrimination because of the employee's age, sex, race, color, national origin, religion, creed, handicapping condition as defined by G.S. 168A-3, or political affiliation shall first discuss the problem or grievance with the employee's supervisor and follow the grievance procedure established by the employee's department or agency. Any State employee having a grievance arising out of or due to the employee's employment who alleges unlawful harassment because of the employee's age, sex, race, color, national origin, religion, creed, or handicapping condition as defined by G.S. 168A-3 shall submit a written complaint to the employee's department or agency. The department or agency shall have 60 days within which to take appropriate remedial action. If the employee is not satisfied with the department or agency's response to the complaint, the employee shall have the right to appeal directly to the Office of Administrative Hearings.~~

"§ ~~**126-34.1. Grounds for contested case under the State Personnel Act defined.**~~

~~(a) A State employee or former State employee may file in the Office of Administrative Hearings a contested case under Article 3 of Chapter 150B of the General Statutes only as to the following personnel actions or issues:~~

- ~~(1) Dismissal, demotion, or suspension without pay based upon an alleged violation of G.S. 126-35, if the employee is a career State employee.~~
- ~~(2) An alleged unlawful State employment practice constituting discrimination, as proscribed by G.S. 126-36, including:~~
  - ~~a. Denial of promotion, transfer, or training, on account of the employee's age, sex, race, color, national origin, religion, creed, political affiliation, or handicapping condition as defined by Chapter 168A of the General Statutes.~~
  - ~~b. Demotion, reduction in force, or termination of an employee in retaliation for the employee's opposition to alleged discrimination on account of the employee's age, sex, race, color, national origin, religion, creed, political affiliation, or handicapping condition as defined by Chapter 168A of the General Statutes.~~
- ~~(3) Retaliation against an employee, as proscribed by G.S 126-17, for protesting an alleged violation of G.S. 126-16.~~
- ~~(4) Denial of the veteran's preference granted in accordance with Article 13 of this Chapter in initial State employment or in connection with a reduction in force, for an eligible veteran as defined by G.S. 126-81.~~
- ~~(5) Denial of promotion for failure to post or failure to give priority consideration for promotion or reemployment, to a career State employee as required by G.S. 126-7.1 and G.S. 126-36.2.~~
- ~~(6) Denial of an employee's request for removal of allegedly inaccurate or misleading information from the employee's personnel file as provided by G.S. 126-25.~~
- ~~(7) Any retaliatory personnel action that violates G.S. 126-85.~~
- ~~(8) Denial of promotion in violation of G.S. 126-14.2, where an initial determination found probable cause to believe there has been a violation of G.S. 126-14.2.~~

~~(9) Denial of employment in violation of G.S. 126-14.2, where an initial determination found probable cause to believe that there has been a violation of G.S. 126-14.2.~~

~~(10) Harassment in the workplace based upon age, sex, race, color, national origin, religion, creed, or handicapping condition, whether the harassment is based upon the creation of a hostile work environment or upon a quid pro quo.~~

~~(11) Violation of any of the following federal statutes as applied to the employee:~~

~~a. The Fair Labor Standards Act, 29 U.S.C. § 201, et seq.~~

~~b. The Age Discrimination in Employment Act, 29 U.S.C. § 621, et seq.~~

~~c. The Family Medical Leave Act, 29 U.S.C. § 2601, et seq.~~

~~d. The Americans with Disabilities Act, 42 U.S.C. § 12101, et seq.~~

~~(b) An applicant for initial State employment may file in the Office of Administrative Hearings a contested case under Article 3 of Chapter 150B of the General Statutes based upon:~~

~~(1) Alleged denial of employment in violation of G.S. 126-16.~~

~~(2) Denial of the applicant's request for removal of allegedly inaccurate or misleading information from the personnel file as provided by G.S. 126-25.~~

~~(3) Denial of equal opportunity for employment and compensation on account of the employee's age, sex, race, color, national origin, religion, creed, political affiliation, or handicapping condition as defined by Chapter 168A of the General Statutes. This subsection with respect to equal opportunity as to age shall be limited to persons who are at least 40 years of age. An applicant may not, however, file a contested case where political affiliation was the reason for the person's nonselection for (i) an exempt policymaking position as defined in G.S. 126-5(b)(3), (ii) a chief deputy or chief administrative assistant position under G.S. 126-5(c)(4), or (iii) a confidential assistant or confidential secretary position under G.S. 126-5(c)(2).~~

~~(4) Denial of the veteran's preference in initial State employment provided by Article 13 of this Chapter, for an eligible veteran as defined by G.S. 126-81.~~

~~(5) Denial of employment in violation of G.S. 126-14.2, where an initial determination found probable cause to believe that there has been a violation of G.S. 126-14.2.~~

~~(c) In the case of a dispute as to whether a State employee's position is properly exempted from the State Personnel Act under G.S. 126-5, the employee may file in the Office of Administrative Hearings a contested case under Article 3 of Chapter 150B of the General Statutes.~~

~~(d) A State employee or applicant for State employment may file in the Office of Administrative Hearings a contested case under Article 3 of Chapter 150B of the General Statutes based upon a false accusation regarding, or disciplinary action relating to, the employee's alleged violation of G.S. 126-14 or G.S. 126-14.1.~~

~~(e) Any issue for which appeal to the Office of Administrative Hearings through the filing of a contested case under Article 3 of Chapter 150B of the General Statutes has not been specifically authorized by this section shall not be grounds for a contested case under Chapter 126.~~

"§ **126-34.2. Alternative dispute resolution.**

In its discretion, the Commission may adopt alternative dispute resolution procedures for the resolution of matters constituting and not constituting grounds for a grievance under this Article. Any matters not constituting grounds for an appeal under G.S. 126-34.02 shall not be heard by the Office of Administrative Hearings as a contested case.

~~(a) Notwithstanding the provisions of Articles 6 and 7 of this Chapter, or the other provisions of this Article, with the consent of the parties, a matter for which a State employee, a former State employee, or an applicant for State employment has filed a contested case under~~

~~Article 3 of Chapter 150B of the General Statutes may be handled in accordance with alternative dispute resolution procedures adopted by the State Personnel Commission.~~

~~(b) In its discretion, the State Personnel Commission may adopt alternative dispute resolution procedures for the resolution of matters not constituting grounds for a contested case under G.S. 126-34.1.~~

~~(c) Nothing in this section shall be construed to limit the right of any person to file in the Office of Administrative Hearings a contested case under Article 3 of Chapter 150B of the General Statutes.~~

"§ **126-34.3. Judicial review of fee awards.**

With respect to a decision of the Office of Administrative Hearings assessing or refusing to assess reasonable witness fees or a reasonable attorneys' fee, the decision shall be subject to judicial review in accordance with G.S. 126-34.02(a). The reviewing court may reverse or modify the decision of the Office of Administrative Hearings if the decision is unreasonable or the award is inadequate. An employee who obtains a reversal or modification of the Office of Administrative Hearings' decision in an appeal under this section shall be entitled to recover court costs and a reasonable attorneys' fee for representation in connection with the appeal.

"§ **126-35. Just cause; disciplinary actions for State employees.**

(a) No career State employee subject to the State Personnel Act shall be discharged, suspended, or demoted for disciplinary reasons, except for just cause. In cases of such disciplinary action, the employee shall, before the action is taken, be furnished with a statement in writing setting forth ~~in numerical order~~ the specific acts or omissions that are the reasons for the disciplinary action and the employee's appeal rights. The employee shall be permitted 15 days from the date the statement is delivered to appeal to the head of the ~~department.~~agency through the agency grievance procedure for a final agency decision. However, an employee may be suspended without warning for causes relating to personal conduct detrimental to State service, pending the giving of written reasons, in order to avoid undue disruption of work or to protect the safety of persons or property or for other serious reasons. ~~The employee, if he is not satisfied with the final decision of the head of the department, or if he is unable, within a reasonable period of time, to obtain a final decision by the head of the department,~~If the employee is not satisfied with the final agency decision or is unable, within a reasonable period of time, to obtain a final agency decision, the employee may appeal to the Office of Administrative Hearings. Such appeal shall be filed not later than 30 days after receipt of notice of the ~~department head's~~final agency decision. The State Personnel Commission may adopt, subject to the approval of the Governor, rules that define just cause.

~~(b) Notwithstanding any other provision of this Chapter, a reduction in pay or position which is not imposed for disciplinary reasons shall not be considered a disciplinary action within the meaning of this Article. Disciplinary actions, for the purpose of this Article, are those actions taken in accordance with the disciplinary procedures adopted by the State Personnel Commission and specifically based on unsatisfactory job performance, unacceptable personal conduct or a combination of the two.~~

~~(c) For the purposes of contested case hearings under Chapter 150B, an involuntary separation (such as a separation due to a reduction in force) shall be treated in the same fashion as if it were a disciplinary action.~~

~~(d) In contested cases conducted pursuant to Chapter 150B of the General Statutes, the burden of showing that a career State employee subject to the State Personnel Act was discharged, suspended, or demoted for just cause rests with the department or agency employer.~~

"§ ~~126-36. Appeal of unlawful State employment practice.~~

~~(a) Any State employee or former State employee who has reason to believe that employment, promotion, training, or transfer was denied the employee or that demotion, layoff, transfer, or termination of employment was forced upon the employee in retaliation for opposition to alleged discrimination or because of the employee's age, sex, race, color, national origin, religion, creed, political affiliation, or handicapping condition as defined by G.S. 168A-3 except where specific age, sex or physical requirements constitute a bona fide~~

~~occupational qualification necessary to proper and efficient administration, shall have the right to appeal directly to the Office of Administrative Hearings.~~

~~(b) Subject to the requirements of G.S. 126-34, any State employee or former State employee who has reason to believe that the employee has been subjected to any of the following shall have the right to appeal directly to the Office of Administrative Hearings:~~

~~(1) Harassment in the workplace based upon age, sex, race, color, national origin, religion, creed, or handicapping condition, whether the harassment is based upon the creation of a hostile work environment or upon a quid pro quo.~~

~~(2) Retaliation for opposition to harassment in the workplace based upon age, sex, race, color, national origin, religion, creed, or handicapping condition, whether the harassment is based upon the creation of a hostile work environment or upon a quid pro quo.~~

"~~§ 126-36.1. Appeal to Office of Administrative Hearings by applicant for employment.~~

~~Any applicant for State employment who has reason to believe that employment was denied in violation of G.S. 126-16 shall have the right to appeal directly to the Office of Administrative Hearings.~~

"~~§ 126-36.2. Appeal to Office of Administrative Hearings by career State employee denied notice of vacancy or priority consideration.~~

~~Any career State employee who has reason to believe that he was denied promotion due to the failure of the agency, department, or institution that had a job vacancy to:~~

~~(1) Post notice of the job vacancy pursuant to G.S. 126-7.1(a) or;~~

~~(2) Give him priority consideration pursuant to G.S. 126-7.1(c) may appeal directly to the Office of Administrative Hearings.~~

"~~§ 126-37. Administrative Law Judge's final decision.~~

~~(a) Appeals involving a disciplinary action, alleged discrimination or harassment, and any other contested case arising under this Chapter shall be conducted in the Office of Administrative Hearings as provided in Article 3 of Chapter 150B; provided that no grievance may be appealed unless the employee has complied with G.S. 126-34. The administrative law judge is hereby authorized to reinstate any employee to the position from which the employee has been removed, to order the employment, promotion, transfer, or salary adjustment of any individual to whom it has been wrongfully denied or to direct other suitable action to correct the abuse which may include the requirement of payment for any loss of salary which has resulted from the improperly discriminatory action of the appointing authority.~~

~~(b) Repealed by 1993 (Reg. Sess., 1994), c. 572, s. 1.~~

~~(b1) Repealed by Session Laws 2011-398, s. 44, effective January 1, 2012, and applicable to contested cases commenced on or after that date.~~

~~(b2) The final decision is subject to judicial review pursuant to Article 4 of Chapter 150B of the General Statutes. Appeals in which it is found that discrimination prohibited by Article 6 of this Chapter has occurred or in any case where a binding decision is required by applicable federal standards shall be heard as all other appeals.~~

~~(c) If the local appointing authority is other than a board of county commissioners, the local appointing authority must give the county notice of the appeal taken pursuant to subsection (a) of this section. Notice must be given to the county manager or the chairman of the board of county commissioners by certified mail within 15 days of the receipt of the notice of appeal. The county may intervene in the appeal within 30 days of receipt of the notice. If the action is appealed to superior court the county may intervene in the superior court proceeding even if it has not intervened in the administrative proceeding. The decision of the superior court shall be binding on the county even if the county does not intervene.~~

"~~§ 126-38. Time limit for appeals.~~

~~Any employee appealing any decision or action shall file a petition for a contested case with the Office of Administrative Hearings as provided in G.S. 150B-23(a) no later than 30 days after receipt of notice of the decision or action which triggers the right of appeal.~~

"~~§ **126-39. Scope of this Article.**~~

~~Except for positions subject to competitive service and except for appeals brought under G.S. 126-16, 126-25, and 126-36, this Article applies to all State employees who are career State employees at the time of the act, grievance, or employment practice complained of.~~

"~~§ **126-40: Repealed by Session Laws 1985, c. 746, s. 16.**~~

"~~§ **126-41. Attorney and witness fees.**~~

~~The decision of the Commission assessing or refusing to assess reasonable witness fees or a reasonable attorney's fee as provided in G.S. 126-4(11) is a final agency decision appealable under Article 4 of Chapter 150B of the General Statutes. The reviewing court may reverse or modify the decision of the Commission if the decision is unreasonable or the award is inadequate. The reviewing court shall award court costs and a reasonable attorney's fee for representation in connection with the appeal to an employee who obtains a reversal or modification of the Commission's decision in an appeal under this section.~~

"~~§ **126-42. Reserved for future codification purposes.**~~"

SECTION 6.2. G.S. 126-7.2 is repealed.

SECTION 6.3. G.S. 126-14.1(c) reads as rewritten:

"(c) A State employee subject to the Personnel Act, probationary State employee, or temporary State employee, who without probable cause falsely accuses a person of violating this section shall be subject to discipline or change in employment status in accordance with the provisions of ~~G.S. 126-35, 126-37, and 126-38~~G.S. 126-34.02 and may, as otherwise provided by law, be subject to criminal penalties for perjury or civil liability for libel, slander, or malicious prosecution."

SECTION 6.4. G.S. 7A-29(a) reads as rewritten:

"(a) From any final order or decision of the North Carolina Utilities Commission not governed by subsection (b) of this section, the Department of Health and Human Services under G.S. 131E-188(b), the North Carolina Industrial Commission, the North Carolina State Bar under G.S. 84-28, the Property Tax Commission under G.S. 105-290 and G.S. 105-342, the Commissioner of Insurance under G.S. 58-2-80, the State Board of Elections under G.S. 163-127.6, the Office of Administrative Hearings under G.S. 126-34.02, or the Secretary of Environment and Natural Resources under G.S. 104E-6.2 or G.S. 130A-293, appeal as of right lies directly to the Court of Appeals."

SECTION 6.5. This Part is effective when it becomes law and applies to grievances filed on or after that date.

PART VII. OTHER MODERNIZING AND CONFORMING CHANGES

SECTION 7.1. G.S. 126-16 reads as rewritten:

"§ **126-16. Equal opportunity for employment and compensation by State departments and agencies and local political subdivisions.**

All State ~~departments and agencies~~ agencies, departments, and institutions and all local political subdivisions of North Carolina shall give equal opportunity for employment and compensation, without regard to race, religion, color, ~~creed,~~ national origin, sex, age, disability, or genetic information to all persons otherwise qualified.~~or handicapping condition as defined in G.S. 168A-3 to all persons otherwise qualified, except where specific age, sex or physical requirements constitute bona fide occupational qualifications necessary to proper and efficient administration. This section with respect to equal opportunity as to age shall be limited to individuals who are at least 40 years of age.~~"

SECTION 7.2. G.S. 126-16.1 reads as rewritten:

"§ **126-16.1. Equal employment opportunity training.**

Each State agency, department, and institution and The University of North Carolina shall enroll each newly appointed supervisor or manager within one year of appointment in the Equal Employment Opportunity training offered or approved by the Office of State Personnel.

~~Each State agency, each State department, and The University of North Carolina shall:~~

~~(1) Enroll each newly appointed supervisor or manager within one year of appointment in the Equal Employment Opportunity Institute operated by the Division of Equal Opportunity Services of the Office of State Personnel. Current managers and supervisors are encouraged to enroll/participate in the Institute.~~

~~(2) Be responsible for providing supplies and resource materials for managers and supervisors who are enrolled from that department, agency or university.~~"

SECTION 7.3. G.S. 126-19 reads as rewritten:

"§ **126-19. Equal employment opportunity plans; reports; maintenance of services by State Personnel Director.**

(a) Each member of the Council of State under G.S. 143A-11, each of the principal departments enumerated in G.S. 143B-6, The University of North Carolina, the judicial branch, and the legislative branch, shall develop and submit on an annual basis an Equal Employment Opportunity plan which shall include goals and programs that provide positive measures to assure equitable and fair representation of North Carolina's citizens. The plans developed by the judicial branch and by the Legislative Services Office on behalf of the legislative branch shall be submitted to the General Assembly on or before June 1 of each year. All other such plans shall be submitted to the State Personnel Director for review and approval on or before March 1, of each year.

~~(b) The State Personnel Commission shall submit a report to the General Assembly concerning the status of Equal Employment Opportunity plans and programs for all State departments, agencies, universities, which are required by this Chapter to report to the State Personnel Director, on or before June 1 of each year. If any plan has been disapproved, the report shall contain reasons for disapproval. The status report submitted to the General Assembly by the State Personnel Director and the plans submitted to the General Assembly by the judicial branch and the Legislative Services Office on behalf of the legislative branch shall contain the total number of persons employed in each job category, the race, sex, salary, and other demographics relative to persons hired and promoted during the reporting period, analysis of the data, and an indication as to which goals were achieved.~~

(c) The State Personnel Director ~~shall at least maintain current~~ will provide services of Equal Employment Opportunity technical assistance, training, oversight, monitoring, evaluation, support programs, and reporting to assure that State government's work force is diverse at all occupational levels. These services shall be provided by qualified personnel.~~at all occupational levels reflect North Carolina's population. To the extent reasonably possible, these services shall be provided by qualified personnel who have continuous experience in the field of Equal Employment Opportunity and affirmative action and who are sensitive to circumstances and experiences of individuals from diverse backgrounds and cultures, and recognize that efficient and effective government requires the talents, skills, and abilities of all available human resources.~~"

SECTION 7.4. G.S. 126-25 reads as rewritten:

"§ **126-25. Remedies of employee objecting to material in file.**

(a) An employee, former ~~employee~~ employee, or applicant for employment who objects to material in ~~his~~ the employee's file may place in his or her file a written statement relating to the material ~~he~~ the employee considers to be inaccurate or misleading.

(b) An employee, former ~~employee~~ employee, or applicant for employment who objects to material in ~~his~~ the employee's file because he or she considers it inaccurate or misleading may seek the removal of such material from ~~his~~ the file in accordance with a grievance procedure established by that department. If the agency determines that material in the employee's file is inaccurate or misleading, the agency shall remove or amend the inaccurate material to ensure that the file is accurate. Nothing in this subsection shall be construed to permit an employee to appeal the contents of a performance appraisal or written disciplinary action.~~the grievance procedure of that department, including appeal to the State Personnel

~~Commission. When a department, division, bureau, commission, or other agency agrees or is ordered by the State Personnel Commission or by the General Court of Justice of this State to remove inaccurate or misleading material from an employee's file, which information was placed in the file by the supervisor or other agent of management, it shall destroy the original and all copies of the material removed and may not retain any inaccurate or misleading information derived from the material removed.~~"

SECTION 7.5. G.S. 126-6.2 reads as rewritten:

"§ **126-6.2. Reports.**

(a) Beginning January 1, 1998, and quarterly thereafter, the head of each State agency, department, or institution employing State employees subject to the State Personnel Act shall report to the Office of State Personnel on the following:

(1) The costs associated with the defense or settlement of administrative grievances and lawsuits filed by current or former State employees and applicants for State employment, including the costs of settlements, attorneys' fees, litigation expenses, damages, or awards incurred by the respective State agencies, departments, and institutions. The report shall include an explanation of the fiscal impact of these costs upon the operations of the State agency, department, or institution.

(2) Any other human resources functions or actions as may be requested by the Director of the Office of State Personnel in order for the Office to evaluate the efficiency, productivity, and compliance of a State agency, department, or institution with policies, including, but not limited to, the compensation of State employees, voluntary shared-leave programs, equal employment opportunity plans and programs, and work options programs.~~The modification of position descriptions resulting in changes in position qualifications to allow the use of educational, experience, or other equivalencies in the hiring or promotion of State employees where such equivalencies were not previously used in the position descriptions. The report shall include an explanation of the reasons for the changes in the position descriptions and the bases for the use of the equivalencies.~~

(b) Beginning May 1, 1998, and annually thereafter, the State Personnel Commission shall report to the Joint Legislative Commission on Governmental Operations on the costs associated with the defense or settlement of ~~lawsuits and on the use of position qualification equivalencies, as compiled in accordance with~~ lawsuits, and upon request, on the results of any other reports regarding human resources action or functions pursuant to subsection (a) of this section.

~~(c) Beginning May 1, 1998, and then annually thereafter, the State Personnel Commission, through the Office of State Personnel, shall report to the Joint Legislative Commission on Governmental Operations on outcomes with respect to State employee hirings, promotions, disciplinary actions, and compensation, based upon demographics.~~"

SECTION 7.6. G.S. 126-14.4 is repealed.

SECTION 7.7. G.S. 126-79 is repealed.

SECTION 7.8. G.S. 126-8.3(c) reads as rewritten:

"(c) The State Personnel Commission, the State Board of Education, and the State Board of Community ~~Colleges~~ Colleges and all State agencies, departments, and institutions shall annually report to the Office of State Personnel on the voluntary shared leave program. For the prior fiscal year, the report shall include the total number of days or hours of vacation leave and sick leave donated and used by voluntary shared leave recipients and the total cost of the vacation leave and sick leave donated and used. ~~The State Personnel Commission, the State Board of Education, and the State Board of Community Colleges shall provide a report for each fiscal year as required by this section to the Joint Legislative Commission on Governmental Operations and to the Fiscal Research Division on or before October 15 each year.~~"

SECTION 7.9.(a) G.S. 126-7(b) is repealed.

SECTION 7.9.(b) Article 2 of Chapter 126 of the General Statutes is amended by adding a new section to read:

"**§ 126-7.3. Annual compensation surveys.**

To guide the Governor and the General Assembly in making decisions regarding the compensation of State employees, the Office of State Personnel shall conduct annual compensation surveys. The Commission shall present the results of the compensation survey to the Appropriations Committees of the House of Representatives and the Senate no later than two weeks after the convening of the legislature in odd-numbered years and May 1st of even-numbered years."

SECTION 7.10. G.S. 126-86 reads as rewritten:

"§ **126-86. Civil actions for injunctive relief or other remedies.**

Any State employee injured by a violation of G.S. 126-85 who is not subject to Article 8 of this Chapter may maintain an action in superior court for damages, an injunction, or other remedies provided in this Article against the person or agency who committed the violation within one year after the occurrence of the alleged violation of this Article; provided, however, any claim arising under Article 21 of Chapter 95 of the General Statutes may be maintained pursuant to the provisions of that Article only and may be redressed only by the remedies and relief available under that Article."

SECTION 7.11. This Part is effective when it becomes law.

PART VIII. REORGANIZATION THROUGH REDUCTION PROGRAM

SECTION 8.1. The Office of State Personnel, in conjunction with the Office of State Budget and Management (OSBM), may develop the Reorganization Through Reduction Program (RTR). The RTR shall be one option available for reorganization and restructuring of the departments and offices listed in G.S. 126-5(d)(1), as amended by Section 4.1 of this act. The RTR is authorized to serve as an employee volunteer separation program to accomplish reorganization and restructuring needs in the specified departments and offices through policies approved by the State Personnel Commission (SPC). The SPC policy shall detail the following:

(1) The approach to be used in identifying the organizational units.
(2) The process for identifying employees who may volunteer.
(3) The availability of severance and other related assistance.

SECTION 8.2. Severance and any other payments made pursuant to the implementation of the RTR program will not exceed funds appropriated for that purpose.

SECTION 8.3. This Part is effective when it becomes law and expires June 30, 2014. The Office of State Personnel and the Office of State Budget and Management shall report to the Joint Legislative Commission on Governmental Operations on January 31, 2014, April 30, 2014, and September 1, 2014.

PART IX. RENAMING/STATE HUMAN RESOURCES COMMISSION AND OFFICE OF STATE HUMAN RESOURCES

SECTION 9.1.(a) Chapter 126 of the General Statutes, the State Personnel Act, is hereby renamed and may be cited as the "North Carolina Human Resources Act."

SECTION 9.1.(b) The following entities and positions created by Chapter 126 of the General Statutes are hereby renamed by this act:

(1) The State Personnel Commission is renamed the "North Carolina Human Resources Commission."
(2) The Office of State Personnel is renamed the "North Carolina Office of State Human Resources."
(3) The State Personnel Director is renamed the "Director of the North Carolina Office of State Human Resources."

SECTION 9.1.(c) Modification of References. – The Revisor of Statutes shall delete any references in the General Statutes to the State Personnel Act, State Personnel Commission, the State Personnel Director, and the Office of State Personnel (or any derivatives

thereof) and substitute references to the North Carolina Human Resources Act, the State Human Resources Commission, the Director of the Office of State Human Resources, and the Office of Human Resources (or the appropriate derivative thereof) to effectuate the renaming set forth in this section wherever conforming changes are necessary. The affected statutes may include, but are not limited to, the statutes tabulated below:

– Referring to the State Personnel Act:

1.	G.S. 7A-171	Duty hours, salary, and travel expenses within county.
2.	G.S. 7A-751	Agency head; powers and duties; salaries of Chief Administrative Law Judge and other administrative law judges.
3.	G.S. 7A-760	Number and status of employees; staff assignments; role of State Personnel Commission.
4.	G.S. 18C-120	Selection of the Director; powers and duties.
5.	G.S. 18C-173	Limits on compensation increases.
6.	G.S. 58-2-10	Salary of Commissioner.
7.	G.S. 58-71-5	Commissioner of Insurance to administer Article; rules and regulations; employees; evidence of Commissioner's actions.
8.	G.S. 58-86-15	Director.
9.	G.S. 62-12	Organization of Commission; adoption of rules and regulations therefor.
10.	G.S. 88B-6	Board office, employees, funds, budget requirements.
11.	G.S. 90-270.4	Exemptions to this Article.
12.	G.S. 95-2	Election of Commissioner; term; salary; vacancy.
13.	G.S. 97-78	Salaries and expenses; administrator, executive secretary, deputy commissioners, and other staff assistance; annual report.
14.	G.S. 106-11	Salary of Commissioner of Agriculture.
15.	G.S. 113A-258	Clean Water Management Trust Fund: Executive Director and staff.
16.	G.S. 114-7	Salary of the Attorney General.
17.	G.S. 115C-20	Office and salary.
18.	G.S. 115D-5	Administration of institutions by State Board of Community Colleges; personnel exempt from State Personnel Act; extension courses; tuition waiver; in-plant training; contracting, etc., for establishment and operation of extension units of the community college system; use of existing public school facilities.
19.	G.S. 116-11	Powers and duties generally.
20.	G.S. 116-30.4	Position management.
21.	G.S. 120-36.1	Fiscal Research Division of Legislative Services Commission established.
22.	G.S. 120-79	Commission staffing.
23.	G.S. 122A-4	North Carolina Housing Finance Agency.
24.	G.S. 122D-5	Officers and employees; administration of Chapter.
25.	G.S. 122E-4	North Carolina Housing Partnership created; compensation; organization.
26.	G.S. 126-1.1	Career State employee defined.
27.	G.S. 126-2	State Personnel Commission.
28.	G.S. 126-5	Employees subject to Chapter; exemptions.
29.	G.S. 126-6.2	Reports.
30.	G.S. 126-30	Fraudulent disclosure and willful nondisclosure on application for State employment; penalties.

31. G.S. 126-34.1 Grounds for contested case under the State Personnel Act defined.
32. G.S. 126-35 Just cause; disciplinary actions for State employees.
33. G.S. 126-56 Status of employees of other governments.
34. G.S. 126-75 Work options for State employees.
35. G.S. 135-5.1 Optional retirement program for The University of North Carolina.
36. G.S. 135-48.23 Executive Administrator.
37. G.S. 136-4 Chief Engineer.
38. G.S. 138-4 Governor to set salaries of administrative officers; exceptions; longevity pay.
39. G.S. 138A-3 Definitions.
40. G.S. 140-5.15 Director of Museum of Art; appointment; dismissal; powers and duties; staff.
41. G.S. 143-166.41 Special separation allowance.
42. G.S. 143-641 Powers and duties of the Commission.
43. G.S. 143A-9 Appointment of officers and employees; salaries of department heads.
44. G.S. 143A-10 Governor; continuation of powers and duties; staff.
45. G.S. 143B-5 Governor; continuation of powers and duties.
46. G.S. 143B-9 Appointment of officers and employees.
47. G.S. 143B-10 Powers and duties of heads of principal departments.
48. G.S. 143B-74.2 U.S.S. North Carolina Battleship Commission – employees.
49. G.S. 143B-131.9 Roanoke Island Commission staff.
50. G.S. 143B-146.7 Consequences for personnel at low-performing schools.
51. G.S. 143B-426.11 Powers of Agency.
52. G.S. 143B-426.38 Organization and operation of office.
53. G.S. 147-33 Compensation and expenses of Lieutenant Governor.
54. G.S. 147-33.76 Qualification, appointment, and duties of the State Chief Information Officer.
55. G.S. 147-33.77 Office of Information Technology Services; organization and operation.
56. G.S. 147-35 Salary of Secretary of State.
57. G.S. 147-64.1 Salary of State Auditor.
58. G.S. 147-64.10 Powers of appointment.
59. G.S. 147-65 Salary of State Treasurer.
60. G.S. 153A-77 Authority of boards of commissioners in certain counties over commissions, boards, agencies, etc.
61. G.S. 153A-92 Compensation.

– Referring to the State Personnel Commission:

1. G.S. 7A-343.1 Distribution of copies of the appellate division reports.
2. G.S. 7A-760 Number and status of employees; staff assignments; role of State Personnel Commission.
3. G.S. 20-187.3 Quotas prohibited.
4. G.S. 53C-2-3 The Office of the Commissioner of Banks.
5. G.S. 58-32-10 Powers and duties of Commission.
6. G.S. 90B-10 Exemption from certain requirements.
7. G.S. 96-29 Openings listed by State agencies.
8. G.S. 97-77 North Carolina Industrial Commission created; members appointed by Governor; terms of office; chairman.
9. G.S. 108A-9 Duties and responsibilities.
10. G.S. 108A-12 Appointment.

11.	G.S. 108A-13	Salary.
12.	G.S. 108A-14	Duties and responsibilities.
13.	G.S. 115C-12	Powers and duties of the Board generally.
14.	G.S. 115C-12.2	Voluntary shared leave.
15.	G.S. 115C-84.2	School calendar.
16.	G.S. 115C-272	Residence, oath of office, and salary of superintendent.
17.	G.S. 115C-285	Salary.
18.	G.S. 115C-316	Salary and vacation.
19.	G.S. 115D-25.3	Voluntary shared leave.
20.	G.S. 120-123	Service by members of the General Assembly on certain boards and commissions.
21.	G.S. 122C-121	Area director.
22.	G.S. 122C-154	Personnel.
23.	G.S. 126-1	Purpose of Chapter; application to local employees.
24.	G.S. 126-2	State Personnel Commission.
25.	G.S. 126-4	Powers and duties of State Personnel Commission.
26.	G.S. 126-5	Employees subject to Chapter; exemptions.
27.	G.S. 126-6.2	Reports.
28.	G.S. 126-7	Annual Compensation Survey.
29.	G.S. 126-7.1	Posting requirement; State employees receive priority consideration; reduction-in-force; Work First hiring.
30.	G.S. 126-8	Minimum leave granted State employees.
31.	G.S. 126-8.3	Voluntary shared leave.
32.	G.S. 126-8.5	Discontinued service retirement allowance and severance wages for certain State employees.
33.	G.S. 126-9	County or municipal employees may be made subject to rules adopted by local governing body.
34.	G.S. 126-10	Personnel services to local governmental units.
35.	G.S. 126-11	Local personnel system may be established; approval and monitoring; rules and regulations.
36.	G.S. 126-14.2	Political hirings limited.
37.	G.S. 126-14.3	Open and fair competition.
38.	G.S. 126-14.4	Remedies.
39.	G.S. 126-19	Equal employment opportunity plans; reports; maintenance of services by State Personnel Director.
40.	G.S. 126-23	Certain records to be kept by State agencies open to inspection.
41.	G.S. 126-25	Remedies of employee objecting to material in file.
42.	G.S. 126-26	Rules and regulations.
43.	G.S. 126-30	Fraudulent disclosure and willful nondisclosure on application for State employment; penalties.
44.	G.S. 126-34.2	Alternative dispute resolution.
45.	G.S. 126-35	Just cause; disciplinary actions for State employees.
46.	G.S. 126-58	Administration.
47.	G.S. 126-74	Work Options Program established.
48.	G.S. 126-75	Work options for State employees.
49.	G.S. 126-76	Promoting Work Options Program.
50.	G.S. 126-77	Authority of agencies to participate.
51.	G.S. 126-78	Administration.
52.	G.S. 126-79	Report required.
53.	G.S. 126-82	State Personnel Commission to provide for preference.
54.	G.S. 138A-24	Contents of statement.

55. G.S. 143-27.2 Discontinued service retirement allowance and severance wages for certain State employees.
56. G.S. 143-554 Right of employee appeal.
57. G.S. 143-583 Model program; technical assistance; reports.
58. G.S. 143-584 State agency safety and health committees.
59. G.S. 143B-10 Powers and duties of heads of principal departments.
60. G.S. 148-118.8 Appointment, salary, and authority of Executive Director and inmate grievance examiners.
61. G.S. 150B-2 Definitions.

– Referring to the State Personnel Director:

1. G.S. 20-79.5 Special registration plates for elected and appointed State government officials.
2. G.S. 95-127 Definitions.
3. G.S. 126-3 Office of State Personnel established and responsibilities outlined; administration and supervision; appointment, compensation and tenure of Director.
4. G.S. 126-4 Powers and duties of State Personnel Commission.
5. G.S. 126-5 Employees subject to Chapter; exemptions.
6. G.S. 126-8.5 Discontinued service retirement allowance and severance wages for certain State employees.
7. G.S. 126-9 County or municipal employees may be made subject to rules adopted by local governing body.
8. G.S. 126-19 Equal employment opportunity plans; reports; maintenance of services by State Personnel Director.
9. G.S. 126-74 Work Options Program established.
10. G.S. 143-27.2 Discontinued service retirement allowance and severance wages for certain State employees.
11. G.S. 143-345.23 Suggestion and review process; role of agency coordinator and agency evaluator.

– Referring to the Office of State Personnel:

1. G.S. 7A-102 Assistant and deputy clerks; appointment; number; salaries; duties.
2. G.S. 7A-343.1 Distribution of copies of the appellate division reports.
3. G.S. 15-203 Duties of the Secretary of Public Safety; appointment of probation officers; reports; requests for extradition.
4. G.S. 88B-6 Board office, employees, funds, budget requirements.
5. G.S. 90B-10 Exemption from certain requirements.
6. G.S. 116-14 President and staff.
7. G.S. 116-30.1 Special responsibility constituent institutions.
8. G.S. 116-30.4 Position management.
9. G.S. 116-37 University of North Carolina Health Care System.
10. G.S. 116-40.6 East Carolina University Medical Faculty Practice Plan.
11. G.S. 122C-120.1 Job classifications; director and finance officer.
12. G.S. 122C-121 Area director.
13. G.S. 122C-154 Personnel.
14. G.S. 126-1 Purpose of Chapter; application to local employees.
15. G.S. 126-3 Office of State Personnel established and responsibilities outlined; administration and supervision; appointment, compensation and tenure of Director.
16. G.S. 126-6.2 Reports.
17. G.S. 126-7.1 Posting requirement; State employees receive priority consideration; reduction-in-force; Work First hiring.

18.	G.S. 126-10	Personnel services to local governmental units.
19.	G.S. 126-11	Local personnel system may be established; approval and monitoring; rules and regulations.
20.	G.S. 126-16.1	Equal employment opportunity training.
21.	G.S. 126-22	Personnel files not subject to inspection under § 132-6.
22.	G.S. 126-74	Work Options Program established.
23.	G.S. 128-15.3	Discrimination against handicapped prohibited in hiring; recruitment, etc., of handicapped persons.
24.	G.S. 135-4	Creditable service.
25.	G.S. 138A-3	Definitions.
26.	G.S. 143-49	Powers and duties of Secretary.
27.	G.S. 143-64.70	Personal service contracts – reporting requirements.
28.	G.S. 143-215.107C	State agency goals, plans, duties, and reports.
29.	G.S. 143-345.21	State employee suggestion program.
30.	G.S. 143-345.22	Allocation of suggestion program funds; nonmonetary recognition.
31.	G.S. 143-345.23	Suggestion and review process; role of agency coordinator and agency evaluator.
32.	G.S. 143-345.24	State Suggestion Review Committee.
33.	G.S. 143-345.25	Innovations deemed property of the State; effect of decisions regarding bonuses.
34.	G.S. 143-583	Model program; technical assistance; reports.
35.	G.S. 143B-10	Powers and duties of heads of principal departments.
36.	G.S. 143B-53.2	Salaries, promotions, and leave of employees of the North Carolina Department of Cultural Resources.
37.	G.S. 143B-146.21	Policies, reports, and other miscellaneous provisions.
38.	G.S. 143B-394.15	Commission established; purpose; membership; transaction of business.
39.	G.S. 143B-417	North Carolina Internship Council creation; powers and duties.
40.	G.S. 143B-806	Duties and powers of the Division of Juvenile Justice of the Department of Public Safety.
41.	G.S. 147-54.3	Land records management program.
42.	G.S. 148-22.1	Educational facilities and programs for selected inmates.

SECTION 9.2. No action or proceeding pending on the effective date of this section, brought by or against the State Personnel Commission, the Director of the Office of State Personnel, or the Office of State Personnel, shall be affected by any provision of this section, but the same may be prosecuted or defended in the new name of the Commission, Director, and Office. In these actions and proceedings, the renamed Commission, Director, or Office shall be substituted as a party upon proper application to the courts or other public bodies.

SECTION 9.3. Any business or other matter undertaken or commanded by the former State Personnel Commission, State Personnel Director, or Office of State Personnel regarding any State program, office, or contract or pertaining to or connected with their respective functions, powers, obligations, and duties that are pending on the date this act becomes effective may be conducted and completed by the Commission, Director, or Office in the same manner and under the same terms and conditions and with the same effect as if conducted and completed by the formerly named commission, director, or office.

SECTION 9.4. This Part is effective when it becomes law.

PART X. TRANSPARENCY IN HEALTH CARE COSTS

SECTION 10.1. Chapter 131E of the General Statutes is amended by adding a new Article to read:

"Article 1B.
"Transparency in Health Care Costs.

"**§ 131E-214.5. Title.**

This article shall be known as the Health Care Cost Reduction and Transparency Act of 2013.

"**§ 131E-214.6. Purpose; Department to publish price information.**

(a) It is the intent of this Article to improve transparency in health care costs by providing information to the public on the costs of the most frequently reported diagnostic related groups (DRGs) for hospital inpatient care and the most common surgical procedures and imaging procedures provided in hospital outpatient settings and ambulatory surgical facilities.

(b) The Department of Health and Human Services shall make available to the public on its internet Web site the most current price information it receives from hospitals and ambulatory surgical facilities pursuant to G.S. 131E-214.7. The Department shall provide this information in a manner that is easily understood by the public and meets the following minimum requirements:

(1) Information for each hospital shall be listed separately and hospitals shall be listed in groups by category as determined by the North Carolina Medical Care Commission in rules adopted pursuant to G.S. 131E-214.7.

(2) Information for each hospital outpatient department and each ambulatory surgical facility shall be listed separately.

(c) Any data disclosed to the Department by a hospital or ambulatory surgical facility pursuant to the Health Care Cost Reduction and Transparency Act of 2013 shall be and will remain the sole property of the facility that submitted the data. Any data or product derived from the data disclosed pursuant to this act, including a consolidation or analysis of the data, shall be and will remain the sole property of the State. The Department shall not allow proprietary information it receives pursuant to this act to be used by any person or entity for commercial purposes.

"**§ 131E-214.7. Disclosure of prices for most frequently reported DRGs, CPTs, and HCPCSs.**

(a) The following definitions apply in this Article:

(1) Ambulatory surgical facility. – A facility licensed under Part 4 of Article 6 of this Chapter.

(2) Commission. – The North Carolina Medical Care Commission.

(3) Hospital. – A medical care facility licensed under Article 5 of this Chapter or under Article 2 of Chapter 122C of the General Statutes.

(4) Health insurer. – As defined in G.S. 108A-55.4, provided that "health insurer" shall not include self-insured plans and group health plans as defined in section 607(1) of the Employee Retirement Income Security Act of 1974.

(5) Public or private third party. – Includes the State, the federal government, employers, health insurers, third-party administrators, and managed care organizations.

(b) Beginning with the quarter ending June 30, 2014, and quarterly thereafter, each hospital shall provide to the Department of Health and Human Services, utilizing electronic health records software, the following information about the 100 most frequently reported admissions by DRG for inpatients as established by the Commission:

(1) The amount that will be charged to a patient for each DRG if all charges are paid in full without a public or private third party paying for any portion of the charges.

(2) The average negotiated settlement on the amount that will be charged to a patient required to be provided in subdivision (1) of this subsection.

(3) The amount of Medicaid reimbursement for each DRG, including claims and pro rata supplemental payments.

(4) The amount of Medicare reimbursement for each DRG.

(5) For the five largest health insurers providing payment to the hospital on behalf of insureds and teachers and State employees, the range and the average of the amount of payment made for each DRG. Prior to providing this information to the Department, each hospital shall redact the names of the health insurers and any other information that would otherwise identify the health insurers.

A hospital shall not be required to report the information required by this subsection for any of the 100 most frequently reported admissions where the reporting of that information reasonably could lead to the identification of the person or persons admitted to the hospital in violation of the federal Health Insurance Portability and Accountability Act of 1996 (HIPAA) or other federal law.

(c) The Commission shall adopt rules on or before March 1, 2014, to ensure that subsection (b) of this section is properly implemented and that hospitals report this information to the Department in a uniform manner. The rules shall include all of the following:

(1) The 100 most frequently reported DRGs for inpatients for which hospitals must provide the data set out in subsection (b) of this section.

(2) Specific categories by which hospitals shall be grouped for the purpose of disclosing this information to the public on the Department's Internet Web site.

(d) Beginning with the quarter ending September 30, 2014, and quarterly thereafter, each hospital and ambulatory surgical facility shall provide to the Department, utilizing electronic health records software, information on the total costs for the 20 most common surgical procedures and the 20 most common imaging procedures, by volume, performed in hospital outpatient settings or in ambulatory surgical facilities, along with the related CPT and HCPCS codes. Hospitals and ambulatory surgical facilities shall report this information in the same manner as required by subdivisions (b)(1) through (5) of this section, provided that hospitals and ambulatory surgical facilities shall not be required to report the information required by this subsection where the reporting of that information reasonably could lead to the identification of the person or persons admitted to the hospital in violation of the federal Health Insurance Portability and Accountability Act of 1996 (HIPAA) or other federal law.

(e) The Commission shall adopt rules on or before June 1, 2014, to ensure that subsection (d) of this section is properly implemented and that hospitals and ambulatory surgical facilities report this information to the Department in a uniform manner. The rules shall include the list of the 20 most common surgical procedures and the 20 most common imaging procedures, by volume, performed in a hospital outpatient setting and those performed in an ambulatory surgical facility, along with the related CPT and HCPCS codes.

(f) Upon request of a patient for a particular DRG, imaging procedure, or surgery procedure reported in this section, a hospital or ambulatory surgical facility shall provide the information required by subsection (b) or subsection (d) of this section to the patient in writing, either electronically or by mail, within three business days after receiving the request.

"**§ 131E-214.8. Disclosure of charity care policy and costs.**

(a) Requirements. – A hospital or ambulatory surgical facility required to file Schedule H, federal form 990, under the Code must provide the public access to its financial assistance policy and its annual financial assistance costs reported on its Schedule H, federal form 990. The information must be submitted annually to the Department in the time, manner, and format required by the Department. The Department must post the information on its internet Web site. The information must also be displayed in a conspicuous place in the organization's place of business.

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

(1) Code. – Defined in G.S. 105-228.90.

(2) Financial assistance costs. – The information reported on Schedule H, federal form 990, related to the organization's financial assistance at cost and the amounts reported on that schedule related to the organization's bad debt expense and the estimated amount of the organization's bad debt expense attributable to patients eligible under the organization's financial assistance policy.

(3) Financial assistance policy. – A policy that meets the requirements of section 501(r) of the Code."

SECTION 10.2. The State Health Plan for Teachers and State Employees shall establish a workgroup to examine the best way to provide teachers and State employees greater transparency in the costs of health services provided under the State Health Plan. The State Health Plan for Teachers and State Employees shall report the findings and recommendations of the workgroup to the Joint Legislative Oversight Committee on Health and Human Services and the Joint Committee on Governmental Operations on or before December 31, 2013, and annually thereafter through December 31, 2016.

SECTION 10.3. Not later than September 1, 2013, the Department of Health and Human Services shall communicate the requirements of Section 2 of this act to all hospitals licensed pursuant to Article 5 of Chapter 131E of the General Statutes, Article 2 of Chapter 122C of the General Statutes, and to all ambulatory surgical facilities licensed pursuant to Part 4 of Article 6 of Chapter 131E of the General Statutes.

SECTION 10.4. G.S. 131E-97.3(a) reads as rewritten:

"§ **131E-97.3. Confidentiality of competitive health care information.**

(a) For the purposes of this section, competitive health care information means information relating to competitive health care activities by or on behalf of hospitals and public hospital authorities. Competitive health care information does not include any of the information hospitals and ambulatory surgical facilities are required to report under G.S. 131E-214.6. Competitive health care information shall be confidential and not a public record under Chapter 132 of the General Statutes; provided that any contract entered into by or on behalf of a public hospital or public hospital authority, as defined in G.S. 159-39, shall be a public record unless otherwise exempted by law, or the contract contains competitive health care information, the determination of which shall be as provided in subsection (b) of this section."

SECTION 10.5. G.S. 131E-99 reads as rewritten:

"§ **131E-99. Confidentiality of health care contracts.**

~~The~~ Except for the information a hospital or an ambulatory surgical facility is required to report under G.S. 131E-214.6, the financial terms and other competitive health care information directly related to the financial terms in a health care services contract between a hospital or a medical school and a managed care organization, insurance company, employer, or other payer is confidential and not a public record under Chapter 132 of the General Statutes. Nothing in this section shall prevent an elected public body which has responsibility for the hospital or medical school from having access to this confidential information in a closed session. The disclosure to a public body does not affect the confidentiality of the information. Members of the public body shall have a duty not to further disclose the confidential information."

SECTION 10.6. Section 10.4 and Section 10.5 of this Part become effective January 1, 2014. The remainder of this Part is effective when it becomes law.

PART XI. CERTAIN CHARGES/PAYMENTS PROHIBITED

SECTION 11.1. Article 16 of Chapter 131E of the General Statutes is amended by adding a new section to read:

"**§ 131E-273. Certain charges/payments prohibited.**

It shall be unlawful for any provider of health care services to charge or accept payment for any health care procedure or component of any health care procedure that was not performed or supplied."

SECTION 11.2. This Part becomes effective December 1, 2013, and applies to health care procedures and services rendered on or after that date. This Part shall not apply to administrative actions or litigation filed before the effective date of this Part.

PART XII. HOSPITAL DEBT COLLECTION

SECTION 12.1. G.S. 105A-2(9) reads as rewritten:

"(9) State agency. – Any of the following:

a. A unit of the executive, legislative, or judicial branch of State ~~government.~~government, except for the following:

1. Any school of medicine, clinical program, facility, or practice affiliated with one of the constituent institutions of The University of North Carolina that provides medical care to the general public.

2. The University of North Carolina Health Care System and other persons or entities affiliated with or under the control of The University of North Carolina Health Care System.

b. A local agency, to the extent it administers a program supervised by the Department of Health and Human Services or it operates a Child Support Enforcement Program, enabled by Chapter 110, Article 9, and Title IV, Part D of the Social Security Act.

c. A community college."

SECTION 12.2. This Part becomes effective January 1, 2014, and applies to tax refunds determined by the Department of Revenue on or after that date.

PART XIII. FAIR HEALTH CARE FACILITY BILLING AND COLLECTIONS PRACTICES

SECTION 13.1. G.S. 131E-91 reads as rewritten:

"§ **131E-91. ~~Itemized charges on discharged patient's bill~~Fair billing and collections practices for hospitals and ambulatory surgical facilities.**

(a) All hospitals and ambulatory surgical facilities licensed pursuant to this Chapter shall, upon request of the ~~patient~~patient, ~~within 30 days of discharge,~~present an itemized list of charges to all discharged ~~patients.~~patients detailing in language comprehensible to an ordinary layperson the specific nature of the charges or expenses incurred by the patient. Patient bills that are not itemized shall include notification to the patient of the right to request, free of charge, an itemized bill. A patient may request an itemized list of charges at any time within three years after the date of discharge or so long as the hospital or ambulatory surgical facility, a collections agency, or another assignee of the hospital or ambulatory surgical facility asserts the patient has an obligation to pay the bill. Each hospital and ambulatory surgical facility shall establish a method for patients to inquire about or dispute a bill.

(b) If a patient has overpaid the amount due to the hospital or ambulatory surgical facility, whether as the result of insurance coverage, patient error, health care facility billing error, or other cause, and the overpayment is not in dispute or on appeal, the hospital or ambulatory surgical facility shall provide the patient with a refund within 45 days of receiving notice of the overpayment.

(c) A hospital or ambulatory surgical facility shall not bill insured patients for charges that would have been covered by their insurance had the hospital or ambulatory surgical facility submitted the claim or other information required to process the claim within the allotted time requirements of the insurer.

(d) Hospitals and ambulatory surgical facilities shall abide by the following reasonable collections practices:

(1) A hospital or ambulatory surgical facility shall not refer a patient's unpaid bill to a collections agency, entity, or other assignee during the pendency of a patient's application for charity care or financial assistance under the

hospital's or ambulatory surgical facility's charity care or financial assistance policies.

(2) A hospital or ambulatory surgical facility shall provide a patient with a written notice that the patient's bill will be subject to collections activity at least 30 days prior to the referral being made.

(3) A hospital or ambulatory surgical facility that contracts with a collections agency, entity, or other assignee shall require the collections agency, entity, or other assignee to inform the patient of the hospital's or ambulatory surgical facility's charity care and financial assistance policies when engaging in collections activity.

(4) A hospital or ambulatory surgical facility shall require a collections agency, entity, or other assignee to obtain the written consent of the hospital or ambulatory surgical facility prior to the collections agency, entity, or other assignee filing a lawsuit to collect the debt.

(5) For debts arising from the provision of care by a hospital or ambulatory surgical center, the doctrine of necessaries as it existed at common law shall apply equally to both spouses, except where they are permanently living separate and apart, but shall in no event create any liability between the spouses as to each other. No lien arising out of a judgment for a debt owed a hospital or ambulatory surgical facility under this section shall attach to the judgment debtors' principal residence held by them as tenants by the entireties or that was held by them as tenants by the entireties prior to the death of either spouse where the tenancy terminated as a result of the death of either spouse.

(6) For debts arising from the provision of care by a hospital or ambulatory surgical center to a minor, there shall be no execution on or otherwise forced sale of the principal residence of the custodial parent or parents for a judgment obtained for the outstanding debt until such time as the minor is either no longer residing with the custodial parent or parents or until the minor reaches the age of majority, whichever occurs first.

(e) The Commission shall adopt rules to ensure that this section is properly ~~implemented~~ implemented. ~~and that patient bills which are not itemized include notification to the patient of his right to request an itemized bill.~~The Department shall not issue ~~nor~~ or renew a license under this~~Chapter~~ Article unless the applicant has demonstrated that the requirements of this ~~section~~ subsection are being met.

SECTION 13.2. Article 2A of Chapter 131E of the General Statutes is repealed.

SECTION 13.3. Part 4 of Article 6 of Chapter 131E of the General Statutes is amended by adding a new section to read:

"**§ 131E-147.1. Fair billing and collections practices for ambulatory surgical facilities.**

All ambulatory surgical facilities licensed under this Part shall be subject to the fair billing and collections practices set out in G.S. 131E-91."

SECTION 13.4. G.S. 58-3-245 reads as rewritten:

"§ **58-3-245. Provider ~~directories.~~directories; cost tools for insured.**

(a) Every health benefit plan utilizing a provider network shall maintain a provider directory that includes a listing of network providers available to insureds and shall update the listing no less frequently than once a year. In addition, every health benefit plan shall maintain a telephone system and may maintain an electronic or on-line system through which insureds can access up-to-date network information. The health benefit plan shall ensure that a patient is provided accurate and current information on each provider's network status through the telephone system and any electronic or online system. If the health benefit plan produces printed directories, the directories shall contain language disclosing the date of publication, frequency of updates, that the directory listing may not contain the latest network information, and contact information for accessing up-to-date network information.

(b) Each directory listing shall include the following network information:

(1) The provider's name, address, telephone number, and, if applicable, area of specialty.

(2) Whether the provider may be selected as a primary care provider.

(3) To the extent known to the health benefit plan, an indication of whether the provider:

a. Is or is not currently accepting new patients.

b. Has any other restrictions that would limit an insured's access to that provider.

(c) The directory listing shall include all of the types of participating providers. Upon a participating provider's written request, the insurer shall also list in the directory, as part of the participating provider's listing, the names of any allied health professionals who provide primary care services under the supervision of the participating provider and whose services are covered by virtue of the insurer's contract with the supervising participating provider and whose credentials have been verified by the supervising participating provider. These allied health professionals shall be listed as a part of the directory listing for the participating provider upon receipt of a certification by the supervising participating provider that the credentials of the allied health professional have been verified consistent with the requirements for the type of information required to be verified under G.S. 58-3-230.

(d) A health care provider shall provide to a patient or prospective patient, upon request, information on that provider's network status with a particular health benefit plan."

SECTION 13.5. This Part becomes effective October 1, 2013, and applies to hospital and ambulatory surgical facility billings and collections practices occurring on or after that date.

PART XIV. PARTICIPATION IN NORTH CAROLINA HEALTH INFORMATION EXCHANGE

SECTION 14.1. Article 29A of Chapter 90 of the General Statutes is amended by adding a new section to read:

"**§ 90-413.3A. Required participation in NC HIE for some providers.**

(a) The General Assembly makes the following findings:

(1) That controlling escalating health care costs of the Medicaid program is of significant importance to the State, its taxpayers, and its Medicaid recipients.

(2) That the State needs timely access to claims and clinical information in order to assess performance, pinpoint medical expense trends, identify beneficiary health risks, and evaluate how the State is spending Medicaid dollars.

(3) That making this clinical information available through the North Carolina Health Information Exchange will improve care coordination within and across health systems, increase care quality, enable more effective population health management, reduce duplication of medical services, augment syndromic surveillance, allow more accurate measurement of care services and outcomes, increase strategic knowledge about the health of the population, and facilitate health cost-containment.

(b) Notwithstanding any other provision of law, based upon the findings set forth in subsection (a) of this section, any hospital, as defined in G.S. 131E-76(c), that has an electronic health record system shall connect to the NC HIE and submit individual patient demographic and clinical data on services paid for with Medicaid funds."

SECTION 14.2. This Part becomes effective January 1, 2014.

PART XV. EFFECTIVE DATE

SECTION 15. Unless otherwise provided, this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 25th day of July, 2013.

Became law upon approval of the Governor at 11:05 a.m. on the 21st day of August, 2013.

Session Law 2013-383 **S.B. 71**

AN ACT AMENDING THE LAWS REGULATING IRRIGATION CONTRACTORS TO PROVIDE SUBSTANTIVE REQUIREMENTS FOR LICENSING CORPORATIONS, TO PROVIDE FOR THE ISSUANCE OF LICENSES TO NONRESIDENTS, TO CLARIFY THE FEE STRUCTURE, AND TO MAKE OTHER CONFORMING CHANGES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 89G-1 reads as rewritten:

"§ **89G-1. Definitions.**

The following definitions apply in this Chapter:

(1) Board. – The North Carolina Irrigation Contractors' Licensing Board.

(1a) Business entity. – A corporation, association, partnership, limited liability company, limited liability partnership, or other legal entity that is not an individual or a foreign entity.

(1b) Foreign corporation. – Defined in G.S. 55-1-40.

(1c) Foreign entity. – A foreign corporation, a foreign limited liability company, or a foreign partnership.

(1d) Foreign limited liability company. – Defined in G.S. 57C-1-03.

(1e) Foreign partnership. – One of the following that does not have a permanent place of business in this State:

a. A foreign limited partnership as defined in G.S. 59-102.

b. A general partnership formed under the laws of a jurisdiction other than this State.

(2) Irrigation construction or irrigation contracting. – The act of providing services as an irrigation contractor for compensation or other consideration.

(3) Irrigation contractor. – Any person who, for compensation or other consideration, constructs, installs, expands, services, or repairs irrigation systems.

(4) Irrigation system. – All piping, fittings, sprinklers, drip tubing, valves, control wiring of 30 volts or less, and associated components installed for the delivery and application of water for the purpose of irrigation that are downstream of a well, pond or other surface water, potable water or groundwater source, or grey water source and downstream of a backflow prevention assembly. Surface water, potable water or groundwater sources, water taps, utility piping, water service lines, water meters, backflow prevention assemblies, stormwater systems that service only the interior of a structure, and sanitary drainage systems are not part of an irrigation system.

(4a) Nonresident individual. – An individual who is not a resident of this State.

(5) Person. – An individual, firm, partnership, association, corporation, or other legal entity."

SECTION 2. G.S. 89G-3 reads as rewritten:

"§ **89G-3. Exemptions.**

The provisions ~~in~~ of this Chapter shall not apply to:

(1) Any federal or State agency or any political subdivision performing irrigation construction or irrigation contracting work on public ~~property.~~property and using its own employees.

(2) Any property owner who performs irrigation construction ~~or contracting~~work on his or her own property.

(3) A landscape architect registered under Chapter 89A of the General Statutes.
(4) A professional engineer licensed under Chapter 89C of the General Statutes.
(5) Any irrigation construction or irrigation contracting work where the price of all contracts for labor, material, and other items for a given jobsite is less than two thousand five hundred dollars ($2,500).
(6) Any person performing irrigation construction or irrigation contracting work for temporary irrigation to establish vegetative cover for erosion control.
(7) Any person performing irrigation construction or irrigation contracting work to control dust on commercial construction sites or mining operations.
(8) Any person performing irrigation construction or irrigation contracting work for use in agricultural production, farming, or ranching, including land application of animal wastewater.
(9) Any person performing irrigation construction or irrigation contracting work for use in commercial sod production.
(10) Any person performing irrigation construction or irrigation contracting work for use in the commercial production of horticultural crops, including nursery and greenhouse operators.
(11) A general contractor licensed under Article 1 of Chapter 87 of the General ~~Statutes.~~Statutes who possesses a classification under G.S. 87-10(b) as a building contractor, a residential contractor, or a public utilities contractor.
(12) A wastewater contractor certified under Article 5 of Chapter 90A of the General Statutes who performs only the construction of or repair to a wastewater dispersal system.
~~(13) A public utility contractor licensed under Article 1 of Chapter 87 of the General Statutes.~~
(14) A plumbing contractor licensed under Article 2 of Chapter 87 of the General Statutes who performs only the following work: installation, repairs, or maintenance of water mains, water taps, service lines, water meters, or backflow prevention assemblies supplying water for irrigation systems; or repairs to an irrigation system.
(15) Any person performing irrigation construction or irrigation contracting work for a golf course.
(16) Any ~~person~~full-time employee of a homeowners association maintaining or repairing an irrigation system owned by the homeowners association of a planned community and located within the planned community's common elements as defined in G.S. 47F-1-103.
(17) Any person who can document 10 years in business as an irrigation contractor as of January 1, 2009, can document competency in the practice of irrigation construction or irrigation contracting, as determined by the North Carolina Irrigation Contractors' Licensing Board, and meets all other requirements and qualifications for licensure may be issued an irrigation contractor's license under Chapter 89G of the General Statutes, without the requirement of examination, provided that the person submits an application for licensure to the Board prior to October 1, 2012.
(18) Any unlicensed person or entity who enters into a subcontract with a North Carolina licensed irrigation contractor, where the irrigation work is performed entirely by the North Carolina licensed irrigation contractor in accordance with this Chapter."

SECTION 3. G.S. 89G-5(11) reads as rewritten:

"§ **89G-5. Powers and duties.**

The Board shall have the following powers and duties:

…

(11) To require licensees to file and maintain an adequate surety ~~bond.~~bond or letter of credit.

…."

SECTION 4. Chapter 89G of the General Statutes is amended by adding a new section to read:

"**§ 89G-6.1. Licensing of business entities, nonresident individuals, and foreign entities.**

(a) The Board may issue a license in the name of a business entity if the business entity pays the license fee required by G.S. 89G-10 and one of the following applies:

(1) For a corporation, one or more officers or full-time employees empowered to act for the corporation are individuals licensed under this Chapter, and only the individuals licensed under this Chapter execute contracts for irrigation construction and irrigation contracting.

(2) For a limited liability company, one or more managers or executives as defined in G.S. 57C-1-03 or full-time employees empowered to act for the company are individuals licensed under this Chapter, and only the individuals licensed under this Chapter execute contracts for irrigation construction and irrigation contracting.

(3) For a partnership, one or more general partners or full-time employees empowered to act for the partnership are individuals licensed under this Chapter, and only the individuals licensed under this Chapter execute contracts for irrigation construction and irrigation contracting.

(4) For a business entity using an assumed name or designated trade name, the owner or one or more full-time employees empowered to act for the owner are individuals licensed under this Chapter, and only the individuals licensed under this Chapter execute contracts for irrigation construction and irrigation contracting.

(b) The Board may issue a license to a nonresident individual who meets the requirements for licensure under this Chapter. A nonresident individual licensed under this Chapter may qualify as the licensed individual under subdivisions (1), (2), and (3) of subsection (a) of this section.

(c) The Board may issue a license in the name of a foreign entity if the following apply:

(1) For a foreign corporation, the corporation has obtained a certificate of authority from the Secretary of State pursuant to Article 15 of Chapter 55 of the General Statutes and complies with the requirements of subdivision (1) of subsection (a) of this section.

(2) For a foreign limited liability company, the company has obtained a certificate of authority from the Secretary of State pursuant to Article 7 of Chapter 57C of the General Statutes and complies with the requirements of subdivision (2) of subsection (a) of this section.

(3) For a foreign partnership, the partnership complies with the requirements of subdivision (3) of subsection (a) of this section.

(d) When the Board issues a license to a business entity or a foreign entity under this section, the Board shall indicate on the license the name and license number of the individual licensee required under subsection (a) of this section. The individual licensee required under subsection (a) of this section shall exercise direct supervision over a contract by a business entity or a foreign entity for irrigation construction or irrigation contracting until the contract is completed.

(e) A business entity or foreign entity licensed under this section shall provide written notice to the Board if the individual licensee required under subsection (a) of this section ceases to be an officer, full-time employee, manager, executive, general partner, or owner of the business entity or foreign entity. The business entity or foreign entity must satisfy the requirements of subsection (a) of this section within 90 days of the effective date of the notice required under this subsection. The Board shall suspend the license of a business entity or

foreign entity licensed under this section that fails after 90 days to satisfy the requirements of subsection (a) of this section."

SECTION 5. G.S. 89G-9 reads as rewritten:

"§ **89G-9. License renewal and continuing education.**

(a) Every license issued under this Chapter shall be renewed on or before December 31 of each year. Any person who desires to continue to practice irrigation contracting or irrigation construction shall apply for license renewal and shall submit the required fees. Licenses that are not renewed shall be automatically revoked. A license may be renewed at any time within one year after its expiration, if: (i) the applicant pays the required renewal fee and late renewal fee; (ii) the Board finds that the applicant has not used the license in a manner inconsistent with the provisions of this Chapter or engaged in the practice of irrigation construction or contracting after notice of revocation; and (iii) the applicant is otherwise eligible for licensure under the provisions of this Chapter. When necessary, the Board may require a licensee to demonstrate continued competence as a condition of license renewal.

(b) As a condition of license renewal, ~~a~~ an individual licensee shall meet continuing education requirements set by the Board. Each individual licensee shall complete 10 continuing education units per year. ~~Failure to obtain continuing education units shall result in the forfeiture of a license.~~

(c) The Board shall suspend an individual licensee's license for 60 days for failure to obtain continuing education units required by subsection (b) of this section. The Board shall suspend a business entity's or a foreign entity's license for 60 days for failure by the individual licensee required under G.S. 89G-6.1(a) to obtain continuing education units required by subsection (b) of this section. Upon completion of the required continuing education and payment of the reinstatement fee, the Board shall reinstate the license. Failure by an individual licensee to meet the education requirements, to request a reinstatement of the license, or to pay the reinstatement fee within the time provided shall result in the revocation of the license. Upon ~~forfeiture, a person~~revocation, an individual shall be required to submit a new application and retake the examination as provided in this Chapter."

SECTION 6. G.S. 89G-10(a) reads as rewritten:

"(a) The Board may impose the following fees not to exceed the amounts listed below:

(1)	Application fee	$100.00
(2)	Examination fee	200.00
(3)	~~License~~ Individual license fee and individual license renewal fee	100.00
(3a)	Business entity or foreign entity license fee and business entity or foreign entity license renewal fee	100.00
(4)	Late renewal fee	50.00
(5)	License by reciprocity	250.00
(6)	~~Corporate license~~Reinstatement fee	~~100.00~~250.00
(7)	Duplicate license	25.00."

SECTION 7. G.S. 89G-11 reads as rewritten:

"§ **89G-11. Disciplinary action.**

(a) The Board may deny, restrict, suspend, or revoke a license or refuse to issue or renew a license if a licensee or applicant:

(1) Employs the use of fraud, deceit, or misrepresentation in obtaining or attempting to obtain a license or the renewal of a license.

(2) Practices or attempts to practice irrigation construction or contracting by fraudulent misrepresentation.

(3) Commits an act of gross malpractice or incompetence as determined by the Board.

(4) Has been convicted of or pled guilty or no contest to a crime that indicates that the person is unfit or incompetent to practice as an irrigation contractor or that indicates that the person has deceived or defrauded the public.
(5) Has been declared incompetent by a court of competent jurisdiction.
(6) Has willfully violated any provision in this Chapter or any rules adopted by the Board.
(7) Uses or attempts to use the seal in a fraudulent or unauthorized manner.
(8) Fails to file the required surety bond or letter of credit or to keep the bond or letter of credit in force.

(b) The Board may assess costs, including reasonable attorneys' fees and investigatory costs, in a proceeding under this section against an applicant or licensee found to be in violation of this Chapter."

SECTION 8. The Revisor of Statutes shall change the phrase "irrigation construction or contracting" to "irrigation construction or irrigation contracting" wherever it appears in Chapter 89G of the General Statutes.

SECTION 9. This act becomes effective October 1, 2013.

In the General Assembly read three times and ratified this the 26th day of July, 2013.

Became law upon approval of the Governor at 10:45 a.m. on the 23rd day of August, 2013.

Session Law 2013-384 **S.B. 151**

AN ACT TO AMEND MARINE FISHERIES LAWS; AMEND THE LAWS GOVERNING THE CONSTRUCTION OF TERMINAL GROINS; AND CLARIFY THAT CITIES MAY ENFORCE ORDINANCES WITHIN THE STATE'S PUBLIC TRUST AREAS.

The General Assembly of North Carolina enacts:

PART I. AMEND MARINE FISHERIES LAW

SECTION 1. G.S. 113-172 reads as rewritten:

"§ **113-172. License agents.**

(a) The Secretary shall designate license agents for the Department. ~~At least one license agent shall be designated for each county that contains or borders on coastal fishing waters. The Secretary may designate additional license agents in any county if the Secretary determines that additional agents are needed to provide efficient service to the public.~~ The Division and license agents designated by the Secretary under this section shall issue licenses authorized under this Article in accordance with this Article and the rules of the Commission. The Secretary may require license agents to enter into a contract that provides for their duties and compensation, post a bond, and submit to reasonable inspections and audits. If a license agent violates any provision of this Article, the rules of the Commission, or the terms of the contract, the Secretary may initiate proceedings for the forfeiture of the license agent's bond and may summarily suspend, revoke, or refuse to renew a designation as a license agent and may impound or require the return of all licenses, moneys, record books, reports, license forms and other documents, ledgers, and materials pertinent or apparently pertinent to the license agency. The Secretary shall report evidence or misuse of State property, including license fees, by a license agent to the State Bureau of Investigation as provided by G.S. 114-15.1.

(b) License agents shall be compensated by adding a surcharge of one dollar ($1.00) to each license sold and retaining the surcharge. If more than one license is listed on a consolidated license form, the license agent shall be compensated as if a single license were sold. It is unlawful for a license agent to add more than the surcharge authorized by this section to the fee for each license sold."

SECTION 2.(a) G.S. 113-168.5 reads as rewritten:

"§ **113-168.5. License endorsements for Standard Commercial Fishing License.**

(a), (b) Repealed by Session Laws 1998-225, s. 4.14.

~~(c) Menhaden Endorsements. – Except as provided in G.S. 113-169, it is unlawful to use a vessel to take menhaden by purse seine in coastal fishing waters, to land menhaden taken by purse seine, or to sell menhaden taken by purse seine without obtaining a menhaden endorsement of a SCFL. The fee for a menhaden endorsement shall be two dollars ($2.00) per ton, based on gross tonnage as determined by the custom house measurement for the mother ship. The menhaden endorsement shall be required for the mother ship but no separate endorsement shall be required for a purse boat carrying a purse seine. The application for a menhaden endorsement must state the name of the person in command of the vessel. Upon a change in command of a menhaden vessel, the owner must notify the Division in writing within 30 days.~~

(d) Shellfish Endorsement for North Carolina Residents. – The Division shall issue a shellfish endorsement of a SCFL to a North Carolina resident at no charge. The holder of a SCFL with a shellfish endorsement is authorized to take and sell shellfish."

SECTION 2.(b) G.S. 113-169 is repealed.

SECTION 2.(c) G.S. 113-168.2(a1) reads as rewritten:

"(a1) Use of Vessels. – The holder of a SCFL is authorized to use only one vessel in a commercial fishing operation at any given time. The Commission may adopt a rule to exempt from this requirement a person in command of a vessel that is auxiliary to a vessel engaged in a pound net operation, long-haul operation, or beach seine ~~operation, or menhaden~~ operation."

PART II. AMEND TERMINAL GROIN CONSTRUCTION LAW

SECTION 3.(a) G.S. 113A-115.1 reads as rewritten:

"§ **113A-115.1. Limitations on erosion control structures.**

(a) As used in this section:

(1) "Erosion control structure" means a breakwater, bulkhead, groin, jetty, revetment, seawall, or any similar structure.

(1a) "Estuarine shoreline" means all shorelines that are not ocean shorelines that border estuarine waters as defined in G.S. 113A-113(b)(2).

(2) "Ocean shoreline" means the Atlantic Ocean, the oceanfront beaches, and frontal dunes. The term "ocean shoreline" includes an ocean inlet and lands adjacent to an ocean inlet but does not include that portion of any inlet and lands adjacent to the inlet that exhibits characteristics of estuarine shorelines.

~~(3) "Terminal groin" means a structure that is constructed on the side of an inlet at the terminus of an island generally perpendicular to the shoreline to limit or control sediment passage into the inlet channel.~~

(3) "Terminal groin" means one or more structures constructed at the terminus of an island or on the side of an inlet, with a main stem generally perpendicular to the beach shoreline, that is primarily intended to protect the terminus of the island from shoreline erosion and inlet migration. A "terminal groin" shall be pre-filled with beach quality sand and allow sand moving in the littoral zone to flow past the structure. A "terminal groin" may include other design features, such as a number of smaller supporting structures, that are consistent with sound engineering practices and as recommended by a professional engineer licensed to practice pursuant to Chapter 89C of the General Statutes. A "terminal groin" is not a jetty.

(b) No person shall construct a permanent erosion control structure in an ocean shoreline. The Commission shall not permit the construction of a temporary erosion control structure that consists of anything other than sandbags in an ocean shoreline. This ~~section~~ subsection shall not apply to any of the following:

(1) Any permanent erosion control structure that is approved pursuant to an exception set out in a rule adopted by the Commission prior to July 1, 2003.

(2) Any permanent erosion control structure that was originally constructed prior to July 1, 1974, and that has since been in continuous use to protect an inlet that is maintained for navigation.

(3) Any terminal groin permitted pursuant to this section.

(b1) This section shall not be construed to limit the authority of the Commission to adopt rules to designate or protect areas of environmental concern, to govern the use of sandbags, or to govern the use of erosion control structures in estuarine shorelines.

(c) The Commission may renew a permit for an erosion control structure issued pursuant to a variance granted by the Commission prior to July 1, 1995. The Commission may authorize the replacement of a permanent erosion control structure that was permitted by the Commission pursuant to a variance granted by the Commission prior to July 1, 1995, if the Commission finds that: (i) the structure will not be enlarged beyond the dimensions set out in the original permit; (ii) there is no practical alternative to replacing the structure that will provide the same or similar benefits; and (iii) the replacement structure will comply with all applicable laws and with all rules, other than the rule or rules with respect to which the Commission granted the variance, that are in effect at the time the structure is replaced.

(d) Any rule that prohibits permanent erosion control structures shall not apply to terminal groins permitted pursuant to this section.

(e) In addition to the requirements of Part 4 of Article 7 of Chapter 113A of the General Statutes, an applicant for a permit for the construction of a terminal groin shall submit all of the following to the Commission:

(1) Information to demonstrate that structures or infrastructure are ~~imminently threatened by erosion, and nonstructural approaches to erosion control, including relocation of threatened structures, are impractical.~~threatened by erosion.

(2) An environmental impact statement that satisfies the requirements of G.S. 113A-4. An environmental impact statement prepared pursuant to the National Environmental Policy Act (NEPA), 42 U.S.C. § 4321, et seq., for the construction of the terminal groin shall satisfy the requirements of this subdivision.

(3) A list of property owners and local governments that may be affected by the construction of the proposed terminal groin and its accompanying beach fill project and proof that the property owners and local governments have been notified of the application for construction of the terminal groin and its accompanying beach fill project.

(4) A plan for the construction and maintenance of the terminal groin and its accompanying beach fill project prepared by a professional engineer licensed to practice pursuant to Chapter 89C of the General Statutes.

(5) A plan for the management of the inlet and the estuarine and ocean shorelines immediately adjacent to and under the influence of the inlet. The inlet management plan monitoring and mitigation requirements must be reasonable and not impose requirements whose costs outweigh the benefits. The inlet management plan is not required to address sea level rise. The inlet management plan shall do all of the following relative to the terminal groin and its accompanying beach fill project:

a. Describe the post-construction activities that the applicant will undertake to monitor the impacts on coastal resources.

b. Define the baseline for assessing any adverse impacts and the thresholds for when the adverse impacts must be mitigated.

c. Provide for mitigation measures to be implemented if adverse impacts reach the thresholds defined in the plan.

d. Provide for modification or removal of the terminal groin if the adverse impacts cannot be mitigated.

(6) Proof of financial assurance verified by the Commission or the Secretary of Environment and Natural Resources in the form of a bond, insurance policy, escrow account, guaranty, local government taxing or assessment authority, a property owner association's approved assessment, or other financial instrument or combination of financial instruments that is adequate to cover the cost ~~of:~~of implementing all of the following components of the inlet management plan:

a. Long-term maintenance and monitoring of the terminal groin.

b. Implementation of mitigation ~~measures as provided in the inlet management plan.~~measures.

c. Modification or removal of the terminal ~~groin as provided in the inlet management plan.~~groin.

~~d. Restoration of public, private, or public trust property if the groin has an adverse impact on the environment or property.~~

(f) The Commission shall issue a permit for the construction of a terminal groin if the Commission finds no grounds for denying the permit under G.S. 113A-120 and the Commission finds all of the following:

(1) The applicant has complied with all of the requirements of subsection (e) of this section.

~~(2) The applicant has demonstrated that structures or infrastructure are imminently threatened by erosion and that nonstructural approaches to erosion control, including relocation of threatened structures, are impractical.~~

(3) The terminal groin will be accompanied by a concurrent beach fill project to prefill the groin.

(4) Construction and maintenance of the terminal groin will not result in significant adverse impacts to private property or to the public recreational beach. In making this finding, the Commission shall take into account the potential benefits of the project, including protection of the terminus of the island from shoreline erosion and inlet migration, beaches, protective dunes, wildlife habitats, roads, homes, and infrastructure, and mitigation measures, including the accompanying beach fill project, that will be incorporated into the project design and construction and the inlet management plan.

(5) The inlet management plan is adequate for purposes of monitoring the impacts of the proposed terminal groin and mitigating any adverse impacts identified as a result of the monitoring.

(6) Except to the extent expressly modified by this section, the project complies with State guidelines for coastal development adopted by the Commission pursuant to G.S. 113A-107.

(g) The Commission may issue no more than four permits for the construction of a terminal groin pursuant to this section.

(h) ~~No permit may be issued where funds are~~A local government may not use funds generated from any of the following financing mechanisms ~~and would be used~~ for any activity related to the terminal groin or its accompanying beach fill project:

(1) Special obligation bonds issued pursuant to Chapter 159I of the General Statutes.

(2) Nonvoted general obligation bonds issued pursuant to G.S. 159-48(b)(4).

(3) Financing contracts entered into under G.S. 160A-20 or G.S. 159-148.

(i) No later than September 1 of each year, the Coastal Resources Commission shall report to the Environmental Review Commission on the implementation of this section. The report shall provide a detailed description of each proposed and permitted terminal groin and its accompanying beach fill project, including the information required to be submitted pursuant to

subsection (e) of this section. For each permitted terminal groin and its accompanying beach fill project, the report shall also provide all of the following:

(1) The findings of the Commission required pursuant to subsection (f) of this section.

(2) The status of construction and maintenance of the terminal groin and its accompanying beach fill project, including the status of the implementation of the plan for construction and maintenance and the inlet management plan.

(3) A description and assessment of the benefits of the terminal groin and its accompanying beach fill project, if any.

(4) A description and assessment of the adverse impacts of the terminal groin and its accompanying beach fill project, if any, including a description and assessment of any mitigation measures implemented to address adverse impacts."

SECTION 3.(b) Section 3 of S.L. 2011-387 is repealed.

PART III. CITIES ENFORCE ORDINANCES WITHIN PUBLIC TRUST AREAS

SECTION 4.(a) Article 8 of Chapter 160A of the General Statutes is amended by adding a new section to read as follows:

"§ **160A-203. Cities enforce ordinances within public trust areas.**

(a) Notwithstanding the provisions of G.S. 113-131 or any other provision of law, a city may, by ordinance, define, prohibit, regulate, or abate acts, omissions, or conditions upon the State's ocean beaches and prevent or abate any unreasonable restriction of the public's rights to use the State's ocean beaches. In addition, a city may, in the interest of promoting the health, safety, and welfare of the public, regulate, restrict, or prohibit the placement, maintenance, location, or use of equipment, personal property, or debris upon the State's ocean beaches. A city may enforce any ordinance adopted pursuant to this section or any other provision of law upon the State's ocean beaches located within or adjacent to the city's jurisdictional boundaries to the same extent that a city may enforce ordinances within the city's jurisdictional boundaries. A city may enforce an ordinance adopted pursuant to this section by any remedy provided for in G.S. 160A-175. For purposes of this section, the term "ocean beaches" has the same meaning as in G.S. 77-20(e).

(b) Nothing in this section shall be construed to (i) limit the authority of the State or any State agency to regulate the State's ocean beaches as authorized by G.S. 113-131, or common law as interpreted and applied by the courts of this State; (ii) limit any other authority granted to cities by the State to regulate the State's ocean beaches; (iii) deny the existence of the authority recognized in this section prior to the date this section becomes effective; (iv) impair the right of the people of this State to the customary free use and enjoyment of the State's ocean beaches, which rights remain reserved to the people of this State as provided in G.S. 77-20(d); (v) change or modify the riparian, littoral, or other ownership rights of owners of property bounded by the Atlantic Ocean; or (vi) apply to the removal of permanent residential or commercial structures and appurtenances thereto from the State's ocean beaches."

SECTION 4.(b) G.S. 113-131 reads as rewritten:

"§ **113-131. Resources belong to public; stewardship of conservation agencies; grant and delegation of powers; injunctive relief.**

(a) The marine and estuarine and wildlife resources of the State belong to the people of the State as a whole. The Department and the Wildlife Resources Commission are charged with stewardship of these resources.

(b) The following powers are hereby granted to the Department and the Wildlife Resources Commission and may be delegated to the Fisheries Director and the Executive Director:

(1) Comment on and object to permit applications submitted to State agencies which may affect the public trust resources in the land and water areas

subject to their respective management duties so as to conserve and protect the public trust rights in such land and water areas;

(2) Investigate alleged encroachments upon, usurpations of, or other actions in violation of the public trust rights of the people of the State; and

(3) Initiate contested case proceedings under Chapter 150B for review of permit decisions by State agencies which will adversely affect the public trust rights of the people of the State or initiate civil actions to remove or restrain any unlawful or unauthorized encroachment upon, usurpation of, or any other violation of the public trust rights of the people of the State or legal rights of access to such public trust areas.

(c) Whenever there exists reasonable cause to believe that any person or other legal entity has unlawfully encroached upon, usurped, or otherwise violated the public trust rights of the people of the State or legal rights of access to such public trust areas, a civil action may be instituted by the responsible agency for injunctive relief to restrain the violation and for a mandatory preliminary injunction to restore the resources to an undisturbed condition. The action shall be brought in the superior court of the county in which the violation occurred. The institution of an action for injunctive relief under this section shall not relieve any party to such proceeding from any civil or criminal penalty otherwise prescribed for the violation.

(d) The Attorney General shall act as the attorney for the agencies and shall initiate actions in the name of and at the request of the Department or the Wildlife Resources Commission.

(e) In this section, the term "public trust resources" means land and water areas, both public and private, subject to public trust rights as that term is defined in G.S. 1-45.1.

(f) Notwithstanding the provisions of this section, a city may adopt and enforce ordinances as provided in G.S. 160A-203."

PART IV. EFFECTIVE DATE

SECTION 5. Section 3 of this act is effective when the act becomes law and applies to permit applications submitted on or after that date. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 22nd day of July, 2013.

Became law upon approval of the Governor at 10:45 a.m. on the 23rd day of August, 2013.

Session Law 2013-385 **S.B. 182**

AN ACT TO ELIMINATE APPEALS FOR INFRACTIONS, TO MODIFY APPEALS TO THE SUPERIOR COURT IN PROBATION REVOCATIONS IN WHICH THE DEFENDANT HAS WAIVED A HEARING, TO AMEND THE LAW PERTAINING TO RESENTENCING UPON THE REVERSAL OF A SENTENCE ON APPELLATE REVIEW, TO MAKE CHANGES REGARDING THE PROCEDURES FOR A MOTION FOR APPROPRIATE RELIEF, AND TO RECLASSIFY CERTAIN MISDEMEANORS AS INFRACTIONS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 15A-1115 reads as rewritten:

"§ **15A-1115. ~~Review of disposition by superior court.~~Review of infractions originally disposed of in superior court.**

~~(a) Appeal of District Court Decision. – A person who denies responsibility and is found responsible for an infraction in the district court, within 10 days of the hearing, may appeal the decision to the criminal division of the superior court for a hearing de novo. Upon appeal, the defendant is entitled to a jury trial unless he consents to have the hearing conducted~~

~~by the judge. The State must prove beyond a reasonable doubt that the person charged is responsible for the infraction unless the person admits responsibility. Unless otherwise provided by law, the procedures applicable to misdemeanors disposed of in the superior court apply to those infraction hearings. In the superior court, a prosecutor must represent the State. Appeal from the judgment in the superior court is as provided for other criminal actions in superior court, and the Attorney General must represent the State in an appeal of such actions.~~

(b) Review of Infractions Originally Disposed of in Superior Court. – If the superior court disposes of an infraction pursuant to its jurisdiction in G.S. 7A-271(d), appeal from that judgment is as provided for criminal actions in the superior court."

SECTION 2. G.S. 15A-1347 reads as rewritten:

"§ **15A-1347. Appeal from revocation of probation or imposition of special probation upon ~~violation.~~violation; consequences of waiver of hearing.**

(a) ~~When~~ Except as provided in subsection (b) of this section, when a district court judge, as a result of a finding of a violation of probation, activates a sentence or imposes special probation, the defendant may appeal to the superior court for a de novo revocation hearing. At the hearing the probationer has all rights and the court has all authority they have in a revocation hearing held before the superior court in the first instance. Appeals from lower courts to the superior courts from judgments revoking probation may be heard in term or out of term, in the county or out of the county by the resident superior court judge of the district or the superior court judge assigned to hold the courts of the district, or a judge of the superior court commissioned to hold court in the district, or a special superior court judge residing in the district. When the defendant appeals to the superior court because a district court has found he violated probation and has activated his sentence or imposed special probation, and the superior court, after a de novo revocation hearing, orders that the defendant continue on probation under the same or modified conditions, the superior court is considered the court that originally imposed probation with regard to future revocation proceedings and other purposes of this Article. When a superior court judge, as a result of a finding of a violation of probation, activates a sentence or imposes special probation, either in the first instance or upon a de novo hearing after appeal from a district court, the defendant may appeal under G.S. 7A-27.

(b) If a defendant waives a revocation hearing, the finding of a violation of probation, activation of sentence, or imposition of special probation may not be appealed to the superior court."

SECTION 3. G.S. 15A-1335 reads as rewritten:

"§ **15A-1335. Resentencing after appellate review.**

When a conviction or sentence imposed in superior court has been set aside on direct review or collateral attack, the court may not impose a new sentence for the same offense, or for a different offense based on the same conduct, which is more severe than the prior sentence less the portion of the prior sentence previously served. This section shall not apply when a defendant, on direct review or collateral attack, succeeds in having a plea of guilty vacated."

SECTION 3.1. G.S. 15A-1420 reads as rewritten:

"§ **15A-1420. Motion for appropriate relief; procedure.**

…

~~(b2) Noncapital Cases. – Assignment of Motion for Review; Initial Review of Motion; Time Frame for Hearings and Ruling on Motion. –~~

~~(1) In noncapital cases, the senior resident superior court judge or chief district court judge, as appropriate, shall, within 30 days of the filing of the motion, assign the motion for initial review to the appropriate judge as provided in G.S. 15A-1413.~~

~~(2) The assigned judge, no later than 30 working days after the assignment, shall review the motion and issue a written initial review order that concludes the initial review of the motion in one of the following manners: (i) by dismissing the motion for lack of merit on its face, (ii) by directing the State, if necessary, to file an answer within 30 days from the date on which the~~

~~initial review order was issued, or (iii) by dispensing with the requirement that the State file an answer and instead order a hearing. Unless the motion is dismissed, the initial review order shall also indicate whether the defendant shall be allowed to proceed without the payment of costs; indicate whether counsel shall be appointed; and calendar a hearing on the motion within the appropriate time period as set out in subdivisions (3) and (4) of this subsection.~~

~~(3) Unless provided otherwise by this subsection, if the court determines that an evidentiary hearing is required, then the hearing must be held within 90 days from the date on which the initial review order was issued; if no evidentiary hearing is required, then the hearing must be held within 60 days from the date on which the initial review order was issued. If, in the initial review order, the court orders the State to file an answer and the court determines that an evidentiary hearing is required, then the evidentiary hearing must be held within 150 days from the date on which the initial review order was issued; if the court determines that the hearing is not an evidentiary hearing, then the hearing must be held within 120 days from the date on which the initial review order was issued.~~

~~(4) If the court determines pursuant to subdivision (2) of this subsection that counsel shall be appointed, the time periods provided in subdivision (3) of this subsection shall be calculated from the date of the appointment of counsel rather than the date of the initial review order and shall be extended for an additional 60 days.~~

~~(5) The court shall provide notice of the date of the hearing to both the State and the defendant, or the defendant's counsel if defendant is represented by counsel, no less than five working days prior to the date of any hearing. The court, except for good cause shown as provided in subdivision (6) of this subsection, must rule on a motion within 60 days from the date that the hearing concludes.~~

~~(6) Notwithstanding any other provision of this subsection, the court may, upon request of a party to the motion, grant an extension of time to comply with any deadline under this subsection, not to exceed 30 days. No subsequent request by the party to extend this deadline shall be granted unless the court enters a written order containing detailed findings of fact of extraordinary circumstances. Notwithstanding any other provision of this subsection, the senior resident superior court judge or chief district court judge, as appropriate, may, upon request of a judge assigned to review a motion for appropriate relief, grant to the assigned judge an extension of time to comply with any deadline under this subsection, not to exceed 30 days. No subsequent request by the assigned judge to extend this deadline shall be granted unless the senior resident superior court judge or the chief district court judge, as appropriate, enters a written order containing detailed findings of fact of extraordinary circumstances. The failure of the court to comply with the deadlines under this subsection is grounds for any party to petition the senior resident superior court judge or the chief district court judge, as appropriate, to reassign the motion of appropriate relief to a different judge empowered to act upon a motion for appropriate relief. The failure of the court to comply with the deadlines under this subsection also entitles any party to the motion for appropriate relief to seek a writ of mandamus to obtain compliance with the deadline.~~

~~(7) Notwithstanding any other provision of this subsection, failure to meet a deadline under this subsection is not a ground for the summary granting of a~~

~~motion for appropriate relief or other summary relief, including without limitation, ordering the release of the prisoner.~~

~~(b3) Capital Cases. – Review and Calendaring of Motion. – In capital cases, the judge shall review the motion and enter an order directing the State to file its answer within 60 days of the date of the order. If a hearing is necessary, the judge shall calendar the case for hearing without unnecessary delay.~~

…."

SECTION 4. If Senate Bill 402, 2013 Regular Session, becomes law, then G.S. 20-35, as amended by Section 18B.14(g) of that bill, reads as rewritten:

"§ **20-35. Penalties for violating Article; defense to driving without a license.**

(a) Penalty. – Except as otherwise provided in subsection (a1) or (a2) of this section, a violation of this Article is a Class 2 misdemeanor unless a statute in the Article sets a different punishment for the violation. If a statute in this Article sets a different punishment for a violation of the Article, the different punishment applies.

(a1) The following offenses are Class 3 misdemeanors:

(1) Failure to obtain a license before driving a motor vehicle, in violation of G.S. 20-7(a).

~~(2) Failure to carry a valid license while driving a motor vehicle, in violation of G.S. 20-7(a).~~

~~(3)~~(2) Failure to comply with license restrictions, in violation of G.S. 20-7(e).

~~(4) Operation of a motor vehicle with an expired license, in violation of G.S. 20-7(f).~~

~~(5) Failure to notify the Division of Motor Vehicles of an address change for a drivers license within 60 days after the change occurs, in violation of G.S. 20-7.1.~~

~~(6)~~(3) Permitting a motor vehicle owned by the person to be operated by an unlicensed person, in violation of G.S. 20-34.

(a2) A person who does any of the following is responsible for an infraction:

(1) Fails to carry a valid license while driving a motor vehicle, in violation of G.S. 20-7(a).

(2) Operates a motor vehicle with an expired license, in violation of G.S. 20-7(f).

(3) Fails to notify the Division of an address change for a drivers license within 60 days after the change occurs, in violation of G.S. 20-7.1.

(b) Repealed by Session Laws 1993 (Reg. Sess., 1994), c. 761, s. 4.

(c) Defenses. – A person may not be ~~convicted of~~ found responsible for failing to carry a regular drivers license if, when tried for that offense, the person produces in court a regular drivers license issued to the person that was valid when the person was charged with the offense. A person may not be ~~convicted of~~ found responsible for driving a motor vehicle ~~without a regular~~ with an expired drivers license if, when tried for that offense, the person shows all the following:

(1) That, at the time of the offense, the person had an expired license.

(2) The person renewed the expired license within 30 days after it expired and now has a drivers license.

(3) The person could not have been charged with driving without a license if the person had the renewed license when charged with the offense."

SECTION 5. If Senate Bill 402, 2013 Regular Session, becomes law, then G.S. 20-176, as amended by Section 18B-14(h) of that bill, reads as rewritten:

"§ **20-176. Penalty for misdemeanor or infraction.**

(a) Violation of a provision of Part 9, 10, 10A, or 11 of this Article is an infraction unless the violation is specifically declared by law to be a misdemeanor or felony. ~~Violation~~ Except as otherwise provided in subsection (a1) of this section, violation of the remaining Parts

of this Article is a misdemeanor unless the violation is specifically declared by law to be an infraction or a felony.

(a1) A person who does any of the following is responsible for an infraction:

(1) Fails to carry the registration card in the vehicle, in violation of G.S. 20-57(c).

(2) Fails to sign the vehicle registration card, in violation of G.S. 20-57(c).

(3) Fails to notify the Division of an address change for a vehicle registration card within 60 days after the change occurs, in violation of G.S. 20-67.

(b) Unless a specific penalty is otherwise provided by law, a person found responsible for an infraction contained in this Article may be ordered to pay a penalty of not more than one hundred dollars ($100.00).

(c) ~~Except as otherwise provided in subsection (c2) of this section, and unless~~ Unless a specific penalty is otherwise provided by law, a person convicted of a misdemeanor contained in this Article is guilty of a Class 2 misdemeanor. A punishment is specific for purposes of this subsection if it contains a quantitative limit on the term of imprisonment or the amount of fine a judge can impose.

(c1) Notwithstanding any other provision of law, no person convicted of a misdemeanor for the violation of any provision of this Chapter except G.S. 20-28(a) and (b), G.S. 20-141(j), G.S. 20-141.3(b) and (c), G.S. 20-141.4, or a second or subsequent conviction of G.S. 20-138.1 shall be imprisoned in the State prison system unless the person previously has been imprisoned in a local confinement facility, as defined by G.S. 153A-217(5), for a violation of this Chapter.

~~(c2) A person who does any of the following is guilty of a Class 3 misdemeanor:~~

~~(1) Fails to carry the registration card in the vehicle, in violation of G.S. 20-57(c).~~

~~(2) Fails to sign the vehicle registration card, in violation of G.S. 20-57(c).~~

~~(3) Fails to notify the Division of Motor Vehicles of an address change for a vehicle registration card within 60 days after the change occurs, in violation of G.S. 20-67.~~

(d) For purposes of determining whether a violation of an offense contained in this Chapter constitutes negligence per se, crimes and infractions shall be treated identically."

SECTION 6. If Senate Bill 402, 2013 Regular Session, becomes law, then G.S. 113-135(a), as amended by Section 18B-14(m) of that bill, reads as rewritten:

"(a) Any person who violates any provision of this Subchapter or any rule adopted by the Marine Fisheries Commission or the Wildlife Resources Commission, as appropriate, pursuant to the authority of this Subchapter, is guilty of a misdemeanor except that punishment for violation of the rules of the Wildlife Resources Commission is limited as set forth in G.S. 113-135.1. Fishing without a license in violation of G.S. 113-174.1(a) or G.S. 113-270.1B(a) is punishable as ~~a Class 3 misdemeanor.~~ an infraction. Otherwise, unless a different level of punishment is elsewhere set out, anyone convicted of a misdemeanor under this section is punishable as follows:

(1) For a first conviction, as a Class 3 misdemeanor.

(2) For a second or subsequent conviction within three years, as a Class 2 misdemeanor."

SECTION 7. This act becomes effective December 1, 2013, and applies to offenses committed on or after that date, probation violations occurring on or after that date, motions filed on or after that date, and resentencing hearings held on or after that date. Prosecutions for offenses committed before the effective date of this section are not abated or affected by this section, and the statutes that would be applicable but for this section remain applicable to those prosecutions.

In the General Assembly read three times and ratified this the 26th day of July, 2013.

Became law upon approval of the Governor at 10:45 a.m. on the 23rd day of August, 2013.

Session Law 2013-386 **S.B. 315**

AN ACT TO PROVIDE THAT WHEN A PROPERLY SUBMITTED VOLUNTARY ANNEXATION PETITION IS DEFEATED BY VOTE OF THE MUNICIPAL GOVERNING BODY THE MUNICIPALITY MUST PROVIDE SOME MUNICIPAL SERVICES UPON PAYMENT OF DEFINED COSTS, TO LEGISLATIVELY ANNEX CERTAIN PROPERTY TO THE CORPORATE LIMITS OF THE CITY OF DURHAM THAT WAS PETITIONED FOR ANNEXATION, AMENDING THE CHARTER OF THE CITY OF DURHAM TO ALLOW THE CITY TO DELAY THE EFFECTIVE DATE OF VOLUNTARY ANNEXATIONS, AND TO AUTHORIZE THE CITY OF DURHAM TO USE DESIGN-BUILD DELIVERY METHODS FOR THE DESIGN AND CONSTRUCTION OF A POLICE HEADQUARTERS AND ANNEX FACILITY, TWO POLICE SERVICE CENTERS, AND A 911 FACILITY, AND AUTHORIZING THE COUNTY OF DURHAM TO CONSTRUCT WATER TREATMENT PLANT AND WASTEWATER TREATMENT PLANT PROJECTS WITHOUT COMPLYING WITH SPECIFIED PROVISIONS OF ARTICLE 8 OF CHAPTER 143 OF THE GENERAL STATUTES, AND CONCERNING NOTES OR DEEDS OF TRUST TO RESERVE WASTEWATER TREATMENT CAPACITY.

The General Assembly of North Carolina enacts:

SECTION 1. Effective June 1, 2013, Part 1 of Article 16 of Chapter 160A of the General Statutes is amended by adding a new section to read:

"**§ 160A-328. Provision of municipal services to certain properties.**

(a) A municipality shall provide municipal services as defined under subsection (b) of this section to any property if that property owner submitted a petition for voluntary annexation under Article 4A of this Chapter, and the municipal governing board voted on an annexation ordinance for that property but the annexation ordinance failed of adoption. This section applies if the property owner (i) submits to the governing board a notice exercising the provisions of this section within 60 days of this section becoming law and (ii) agrees in writing to all the requirements contained in any utility extension agreement that was presented to the governing board at the same meeting as the annexation that failed of adoption. The municipal governing board may not impose more burdensome requirements or commitments on the property owner that are inconsistent with the requirements and commitments that are contained in the utility extension agreement.

(b) For purposes of this section, prior to the effective date of the annexation of the property, the term "municipal services" only means water or sewer services, but only if the municipality has water or sewer capacity. For purposes of this section, prior to the effective date of annexation, the term "municipal services" specifically does not include any of the following services of the municipality: police protection, fire protection, solid waste services, or street maintenance services.

(c) Requirements and commitments contained in the utility extension agreement that was presented to the governing board at the same meeting as the annexation ordinance that failed of adoption shall continue as obligations of the agreement unless the city council relieves the property owner of the requirement or commitment. Those requirements and commitments include, but are not limited to, the committed elements of a development plan in a zoning map case approved by the county where the property is located."

SECTION 2. Effective June 3, 2023, the corporate limits of the City of Durham are extended by adding the following described property:

COLVARD FARMS TRACT

Beginning at an iron pin at the northeastern corner of the United States of America situated on the western right-of-way of N.C. Highway 751, said point being located N 34 deg.19'27" W, 1034.39 ft. from North Carolina Geodic Survey monument "Lucas" having NAD 1983

coordinates of North 771,088.0540, and East 2,016,390.0780; thence from the point of Beginning leaving the western right-of-way of N.C. Highway 751 along the northern line of United States of America, S 38 deg.41'06"W, 378.28 ft. to an iron pin; thence S 09 deg.12'15"W, 261.17 ft. to an iron pin; thence S 09 deg.12'15"W, 316.59 ft. to an iron pin; thence S 45d eg.38'27"W, 341.73 ft. to a point in the centerline of a stream; thence S 07 deg.47'55"W, 517.91 ft. to an iron pin in a Duke Energy Company easement; thence S 70 deg. 27'24"W, 211.58 ft. to an iron pin at the northeastern corner of Jeffrey W. Massey; thence along the northern line of Jeffrey W. Massey and Lloyd Allen Massey, N 88 deg.45'27"W, 1133.83 ft. to 5/8" diameter iron pipe; thence S 16 deg.24'44"W, 156.24 ft. to a point in the northern line of Cleo Cole, et al; thence S 86 deg.55'26"W, 403.22 ft. to an iron pin; thence leaving the northern line of Cleo Cole, et al, along the eastern line of Colvard Farms Homeowners Association, N 01 deg.49'11"E, 214.46 ft. to an iron pin; thence N 00 deg. 30'28"W, 214.46 ft. to an iron pin; thence N 02 deg.41'48"W, 106.32 ft. to a 3/4" diameter iron pipe at the southeastern corner of L&K Properties of NC, LLC; thence along the eastern line of L&K Properties, LLC and Walter J. Kozak, N 04 deg.59'54"W, 421.90 ft. to a 3/4" diameter pipe on the southern line of Millennium Commercial Properties, LLC; thence along the southern line of Millennium Commercial Properties, LLC, N 87 deg.53'31"E, 480.87 ft. to a point; thence N 01 deg. 40'48"E, 97.74 ft. to an iron pin; thence N 88 deg.18'25"E, 4.94 ft. to a point; thence N 00 deg.23'08"E, 22.43 ft. to an iron pin; thence S 87 deg.52'37"W, 257.24 ft. to a 5/8" diameter iron pipe; thence N 17 deg.49'10"W, 650.46 ft. to a 3/4" diameter iron pipe on the southern line of United States of America; thence N 67 deg.58'57"E, 130.79 ft. to a 5/8" diameter pipe; thence N 54 deg.56'04"W, 389.78 ft. to a 5/8" diameter iron pipe; thence N 75 deg.06'12"W, 185.89 ft. to a 3/4" diameter iron pipe on the southern line of Southern Durham Development, LLC; thence along the southern line of Southern Durham Development, LLC, S 89 deg.29'57"E, 839.78 ft. to a 3/4" diameter iron pipe; thence S 89 deg.56'10"E, 670.70 ft. to an iron pin; thence S 89 deg.09'36"E, 909.21 ft. to a 1" diameter iron pipe; thence S 89 deg.07'00"E, 269.18 ft. to a 3/4" diameter iron pipe on the western right-of-way of N.C. Highway 751; thence along the western right-of-way of N.C. Highway 751, S 35 deg.33'20" E, 200.13 ft. to an iron pin; said point being the point and place of Beginning; containing 87.125 acres and being a parcel situated near the southwestern corner of N.C. Highway 751 and the Chatham County line.

751 SOUTH ANNEXATION AREA TRACTS/PARCELS

A certain tract or parcel of land lying and being in the county of Durham, Triangle Township, North Carolina, being more fully described as follows:

Commencing at NC Grid Monument "Martine" having NAD 83 North Carolina State Plane values of y = 236649.284m and x = 613545.162m; thence from said monument S 30°57'01"e, for a distance of 768.77' to an existing iron pipe having North Carolina State Plane values of y = 236448.339m and x = 613665.665m and being the true point of beginning; thence in a northeasterly direction, N 57°07'16"e, for a distance of 34.66' to a point; thence with the line of the center line of NC Highway 751, S 32°52'44"e, for a distance of 1,551.59' to a point; thence in a generally northeasterly direction, N 57°07'16"e, for a distance of 32.72' to an existing iron pipe; thence in a southeasterly direction, S 86°16'29"e, for a distance of 10.45' to an existing iron pipe; thence with the line of now or formerly Chancellors Ridge HOA, S 86°24'07"e, for a distance of 216.17' to an existing iron pipe; thence with the line of now or formerly Mary C. Turner, S 00°26'30"w, for a distance of 335.16' to an existing iron pipe; thence in a southwesterly direction, S 57°18'26"w, for a distance of 30.52'; thence with the center line of NC Highway 751, S 32°41'34"e, for a distance of 118.62' to a point; thence continuing with said line, S 33°02'59"e, for a distance of 731.00' to a point; thence continuing with said line, S 32°57'53"e, for a distance of 415.55' to a point; thence continuing with said line, S 32°56'08"e, for a distance of 1,126.65' to a point; thence in a northwesterly direction, N 89°14'00"w, for a distance of 36.68' to an existing iron pipe; thence with the line of now or formerly Seven Five One Investments, LLC, N 89°14'00"w, for a distance of 268.97' to an existing iron pipe; thence

with the line of now or formerly Seven Five One Investments, LLC, N 89°29'56"w, for a distance of 1,579.97' to an existing iron pipe; thence with the line of now or formerly Seven Five One Investments, LLC, n89°30'43"w, for a distance of 839.77' to an existing iron pipe; thence with the line of now or formerly United States of America, N 75°00'42"w, for a distance of 519.06' to an existing concrete monument; thence continuing with said line, N 30°11'02"e, for a distance of 1,029.17' to an existing concrete monument; thence continuing with said line, N 38°16'43"w, for a distance of 784.32' to an existing iron pipe; thence continuing with said line, S 86°37'55"e, for a distance of 642.69' to an existing iron pipe; thence continuing with said line, N 16°46'38"w, for a distance of 176.43' to an existing iron pipe; thence with the line of now or formerly United States of America, N 16°47'45"w, for a distance of 433.28' to an existing iron pipe; thence continuing with said line, N 89°31'40"w, for a distance of 871.70' to an existing iron pipe; thence continuing with said line, N 38°08'32"e, for a distance of 416.49' to an existing iron pipe; thence continuing with said line, N 78°44'36"w, for a distance of 514.35' to an existing iron pipe; thence continuing with said line, N 16°19'20"e, for a distance of 927.30' to an existing iron pipe; thence continuing with said line, N 44°29'56"e, for a distance of 498.53' to an existing concrete monument; thence continuing with said line, S 73°14'47"e, for a distance of 857.25' to an existing iron pipe; thence continuing with said line, S 86°33'52"e, for a distance of 24.92' to the point and place of beginning, containing 7,426,585 square feet or 170.491 acres, more or less according to survey entitled "Land Title Survey Prepared for Southern Durham Development, Inc." dated December 2007 prepared by Jonathan F. Murphy Pls l-4382, with Murphy Geomatics located at 6308 J. Richard Drive, Raleigh, N.C. 27617, to which reference is made for a more perfect and complete description.

Also, a certain tract or parcel of land lying and being in the county of Durham, Triangle Township, North Carolina, being more fully described as follows:

Commencing at NC Grid Monument "Martine" having NAD 83 North Carolina State Plane values of y = 236649.284m and x = 613545.162m; thence from said monument S 30°57'01"e, for a distance of 768.77' to an existing iron pipe having North Carolina State Plane values of y = 236448.339m and x = 613665.665m and being the true point of beginning; thence with the line of the southwesterly right-of-way of NC Highway 751, S 32°52'44"e, for a distance of 1,507.27' to an existing iron pipe; thence continuing with said line, S 32°33'08"w, for a distance of 210.87' to an existing iron pipe; thence continuing with said line, S 32°41'34"e, for a distance of 366.69' to an existing iron pipe in the westerly right-of-way of NC Highway 751; thence in a generally northwesterly direction, N 05°27'49"w, for a distance of 133.40' to an existing iron pipe in the easterly right-of-way of NC Highway 751 and said iron pipe being the point of beginning; thence with the line of the right-of-way of NC Highway 751, N 32°37'02"w, for a distance of 414.82' to an existing iron pipe; thence continuing with said line, S 86°16'29"e, for a distance of 10.45' to an existing iron pipe; thence with the line of now or formerly Chancellors Ridge HOA, S 86°24'07"e, for a distance of 216.17' to an existing iron pipe; thence with the line of now or formerly Mary C. Turner, S 00°26'30"w, for a distance of 335.16' to the point and place of beginning, containing 37,918 square feet or 0.870 acres, more or less according to survey entitled "Rezoning Plat Prepared for Seven Five One Investments, LLC. of Colvard Farms Property" dated December 2007 prepared by Jonathan F. Murphy Pls l-4382, with Murphy Geomatics located at 6308 J. Richard Drive, Raleigh, N.C.27617, to which reference is made for a more perfect and complete description.

SECTION 3. Section 2.3(a) of the Charter of the City of Durham, being Chapter 671, Session Laws of 1975, as added by Chapter 342 of the 1993 Session Laws, reads as rewritten:

"(a) The provisions of G.S. 160A-31(d), 160A-58.2, and 160A-58.7 notwithstanding, the city council may make annexation ordinances adopted pursuant to Parts 1 or 4 of Article 4A of Chapter 160A of the General Statutes effective on any specified date within ~~three~~ 10 years from the date of passage of the annexation ordinance."

SECTION 4. Article 8 of Chapter VI of the Charter of the City of Durham, being Chapter 671 of the 1975 Session Laws, as amended, is amended by adding a new section to read as follows:

"Sec. 85.1. Utilization of design-build delivery methods. – (a) The City may award contracts for the design and construction of a police headquarters and annex facility, two police service centers, and a 911 facility without being subject to the requirements of G.S. 133-1, 133-2, or 133-3, the provisions of Article 3D of Chapter 143 of the General Statutes, and Article 8 of Chapter 143 of the General Statutes. The authorization granted in this section includes the use of the following methods: design-build; design-build-operate; design-build-operate-maintain; or any combination of design-build, operate, or maintain.

(b) The City shall obtain proposals from at least three design-build teams for the projects authorized under subsection (a) of this section. If three proposals are not received and the project has been publicly advertised for a minimum of 30 days, the City may proceed with the proposals received. In evaluating the proposals received, the City may pay the same fixed stipend to short-listed design-build teams for preparation of additional technical proposals if necessary to advance the contract award process. The evaluation of design-build teams and the proposals shall not be exempt from the requirements of the City's Equal Business Opportunity Program Ordinance, created pursuant to the authority granted in Section 84.1 of this Charter, to establish minority and women business participation goals.

(c) The City Council shall award the contract to the best qualified design-build team, taking into account the time of completion of the project, the capital and operation and maintenance cost of the project, the technical merits of the proposal, and any other factors and information set forth in the request for proposal that the City determines to have a material bearing on the ability to evaluate any proposal."

SECTION 5.(a) The County of Durham may contract for the design and construction or design, construction, and operation of water treatment and wastewater treatment plant projects for the purpose of providing services throughout Durham County without being subject to the requirements of G.S. 143-128, 143-129, 143-131, 143-132, 143-64.31, and 143-64.32. The authorization includes, if deemed appropriate by the Durham County Board of Commissioners, the use of the single-prime contractor method of design and construction, the design-build or design-build-operate method of construction, or a request for proposals and negotiation as an alternative design and construction method.

SECTION 5.(b) The County of Durham shall obtain proposals from and interview at least three design-build teams, or design-build-operate teams, as appropriate, that have submitted proposals for a water treatment plant or wastewater treatment project. If three proposals are not received and the project has been publicly advertised for a minimum of 30 days, the County may proceed with the proposals received. The Board of Commissioners shall award the contract to the best qualified contractor, taking into account the time of completion of the project, the capital and operation and maintenance cost of the project, the technical merits of the proposal, including, but not limited to, reliability and protection of the environment, and any other factors and information set forth in the request for proposals that the County determines to have a material bearing on the ability to evaluate any proposal.

SECTION 6. No note or deed of trust granted to a county for the purpose of securing or reserving wastewater treatment capacity is valid or enforceable if that capacity is not utilized by the maker or grantor.

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

In the General Assembly read three times and ratified this the 26th day of July, 2013.

Became law upon approval of the Governor at 10:45 a.m. on the 23rd day of August, 2013.

Session Law 2013-387 **S.B. 321**

AN ACT TO CAP REIMBURSEMENT BY COUNTIES, TO MAKE ADDITIONAL PROVISIONS RELATING TO PAYMENT FOR MEDICAL SERVICES PROVIDED TO INMATES IN COUNTY JAILS, TO ALLOW COUNTIES TO UTILIZE MEDICAID FOR ELIGIBLE PRISONERS, TO PROVIDE THAT VACANCIES IN THE OFFICE OF DISTRICT COURT JUDGE SHALL BE FILLED BY APPOINTMENT OF THE GOVERNOR, AND TO CREATE A PRIVATE RIGHT OF ACTION AGAINST NOTARIES WHO VIOLATE THE NOTARY PUBLIC ACT.

The General Assembly of North Carolina enacts:

SECTION 1. Article 10 of Chapter 153A of the General Statutes is amended by adding a new section to read:

"**§ 153A-225.2. Payment of medical care of prisoners.**

(a) Counties shall reimburse those providers and facilities providing requested or emergency medical care outside of the local confinement facility the lesser amount of either a rate of seventy percent (70%) of the provider's then-current prevailing charge or two times the then-current Medicaid rate for any given service. Each county shall have the right to audit any provider from whom the county has received a bill for services under this section but only to the extent necessary to determine the actual prevailing charge to ensure compliance with this section.

(b) Nothing in this section shall preclude a county from contracting with a provider for services at rates that provide greater documentable cost avoidance for the county than do the rates contained in subsection (a) of this subsection or at rates that are less favorable to the county but that will ensure the continued access to care.

(c) The county shall make reasonable efforts to equitably distribute prisoners among all hospitals or other appropriate health care facilities located within the same county and shall do so based upon the licensed acute care bed capacity at each of the hospitals located within the same county. Counties with more than one hospital or other appropriate health care facility shall provide semiannual reports conspicuously posted on the county's Web site that detail compliance with this section, including information on the distribution of prisoner health care services among different hospitals and health care facilities.

(d) For the purposes of this section, "requested or emergency medical care" shall include all medically necessary and appropriate care provided to an individual from the time that individual presents to the provider or facility in the custody of county law enforcement officers until the time that the individual is safely transferred back to the care of county law enforcement officers or medically discharged to another community setting, as appropriate."

SECTION 2. G.S. 153A-225(a) reads as rewritten:

"(a) Each unit that operates a local confinement facility shall develop a plan for providing medical care for prisoners in the facility. The ~~plan~~plan:

(1) Shall be designed to protect the health and welfare of the prisoners and to avoid the spread of contagious disease;

(2) Shall provide for medical supervision of prisoners and emergency medical care for prisoners to the extent necessary for their health and welfare;

(3) Shall provide for the detection, examination and treatment of prisoners who are infected with tuberculosis or venereal ~~diseases.~~diseases; and

(4) May utilize Medicaid coverage for inpatient hospitalization or for any other Medicaid services allowable for eligible prisoners, provided that the plan includes a reimbursement process which pays to the State the State portion of the costs, including the costs of the services provided and any administrative costs directly related to the services to be reimbursed, to the State's Medicaid program.

The unit shall develop the plan in consultation with appropriate local officials and organizations, including the sheriff, the county physician, the local or district health director, and the local medical society. The plan must be approved by the local or district health director after consultation with the area mental health, developmental disabilities, and substance abuse authority, if it is adequate to protect the health and welfare of the prisoners. Upon a determination that the plan is adequate to protect the health and welfare of the prisoners, the plan must be adopted by the governing body.

As a part of its plan, each unit may establish fees of not more than twenty dollars ($20.00) per incident for the provision of nonemergency medical care to prisoners. In establishing fees pursuant to this section, each unit shall establish a procedure for waiving fees for indigent prisoners."

SECTION 3. In preparation for the effective date of Section 2 of this act, the Department of Health and Human Services, Division of Medical Assistance, shall work with the North Carolina Association of County Commissioners to prepare for G.S. 153A-225(a)(4), as enacted by Section 2 of this act. The Department of Health and Human Services, Division of Medical Assistance, shall use a uniform method, developed by the North Carolina Association of County Commissioners, which will allow all counties to interface with the Division of Medical Assistance to implement this act. The Department of Public Safety shall provide technical assistance as needed.

SECTION 4. G.S. 7A-142 reads as rewritten:

"§ **7A-142. Vacancies in office.**

A vacancy in the office of district judge shall be filled for the unexpired term by appointment of the ~~Governor~~ Governor. The bar of the judicial district, as defined in G.S. 84-19, shall nominate five persons who are residents of the judicial district who are duly authorized to practice law in the district for consideration by the Governor. The nominees shall be selected by vote of only those bar members who reside in the district. In the event fewer than five persons are nominated, upon providing the nominations to the Governor, the bar shall certify that there were insufficient nominations in the district to comply with this section. Prior to filling the vacancy, the Governor shall give due consideration to the nominations provided by the bar of the judicial district.~~from nominations submitted by the bar of the judicial district as defined in G.S. 84-19, except that in judicial District 9, when vacancies occur in District Court District 9 or 9B, only those members who reside in the district court district shall participate in the selection of the nominees. When vacancies occur in District Court District 18, all members who reside in the district court district shall participate in the selection of the nominees. If the district court district is comprised of counties in more than one judicial district, the nominees shall be submitted jointly by the bars of those judicial districts, but only those members who reside in the district court district shall participate in the selection of the nominees. If the district court judge was elected as the nominee of a political party, then the district bar shall submit to the Governor the names of three persons who are residents of the district court district who are duly authorized to practice law in the district and who are members of the same political party as the vacating judge; provided that if there are not three persons who are available, the bar shall submit the names of two persons who meet the qualifications of this sentence. If the district court judge was not elected as the nominee of a political party, then the district bar shall submit to the Governor the names of three persons who are residents of the district court district and who are duly authorized to practice law in the district; provided that if there are not three persons who are available, the bar shall submit the names of two persons who meet the qualifications of this sentence. Within 60 days after the district bar submits nominations for a vacancy, the Governor shall appoint to fill the vacancy. If the Governor fails to appoint a district bar nominee within 60 days, then the district bar nominee who received the highest number of votes from the district bar shall fill the vacancy. If the district bar fails to submit nominations within 30 days from the date the vacancy occurs, the Governor may appoint to fill the vacancy without waiting for nominations.~~"

SECTION 5. G.S. 10B-60(g) reads as rewritten:

"(g) For purposes of enforcing this Chapter and Article 34 of Chapter 66 of the General Statutes, the following provisions are applicable:

(1) ~~the law~~ Law enforcement agents of the Department of the Secretary of State have statewide jurisdiction and have all of the powers and authority of law enforcement officers. The agents have the authority to assist local law enforcement agencies in their investigations and to initiate and carry out, on their own or in coordination with local law enforcement agencies, investigations of violations.

(2) Any party to a transaction requiring a notarial certificate for verification and any attorney licensed in this State who is involved in such a transaction in any capacity, whether or not the attorney is representing one of the parties to the transaction, may execute an affidavit and file it with the Secretary of State, setting forth the actions which the affiant alleges constitute violations. Upon receipt of the affidavit, law enforcement agents of the Department shall initiate and carry out, on their own or in coordination with local law enforcement agencies, investigations of violations."

SECTION 6. Sections 1 and 3 of this act become effective September 1, 2013. Section 2 of this act becomes effective July 1, 2014. Section 5 of this act is effective when it becomes law and applies to notarial acts and omissions occurring on or after that date. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 26th day of July, 2013.

Became law upon approval of the Governor at 10:46 a.m. on the 23rd day of August, 2013.

Session Law 2013-388 **S.B. 341**

AN ACT TO ESTABLISH AN EXPEDITED PROCESS FOR THE MODIFICATION OF INTERBASIN TRANSFER CERTIFICATES AND FOR THE ISSUANCE OF INTERBASIN TRANSFER CERTIFICATES IN THE CENTRAL COASTAL PLAIN CAPACITY USE AREA AND THE COASTAL AREA COUNTIES AND TO AMEND S.L. 2013-50, AN ACT TO PROMOTE THE PROVISION OF REGIONAL WATER AND SEWER SERVICES BY TRANSFERRING OWNERSHIP AND OPERATION OF CERTAIN PUBLIC WATER AND SEWER SYSTEMS TO A METROPOLITAN WATER AND SEWERAGE DISTRICT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143-215.22G reads as rewritten:

"§ **143-215.22G. Definitions.**

In addition to the definitions set forth in G.S. 143-212 and G.S. 143-213, the following definitions apply to this Part.

(1) "River basin" means any of the following river basins designated on the map entitled "Major River Basins and Sub-basins in North Carolina" and filed in the Office of the Secretary of State on 16 April 1991. The term "river basin" includes any portion of the river basin that extends into another state. Any area outside North Carolina that is not included in one of the river basins listed in this subdivision comprises a separate river basin.

a.	1-1	Broad River.
b.	2-1	Haw River.
c.	2-2	Deep River.
d.	2-3	Cape Fear River.
e.	2-4	South River.
f.	2-5	Northeast Cape Fear River.

g.	2-6	New River.
h.	3-1	Catawba River.
i.	3-2	South Fork Catawba River.
j.	4-1	Chowan River.
k.	4-2	Meherrin River.
l.	5-1	Nolichucky River.
m.	5-2	French Broad River.
n.	5-3	Pigeon River.
o.	6-1	Hiwassee River.
p.	7-1	Little Tennessee River.
q.	7-2	Tuskasegee (Tuckasegee) River.
r.	8-1	Savannah River.
s.	9-1	Lumber River.
t.	9-2	Big Shoe Heel Creek.
u.	9-3	Waccamaw River.
v.	9-4	Shallotte River.
w.	10-1	Neuse River.
x.	10-2	Contentnea Creek.
y.	10-3	Trent River.
z.	11-1	New River.
aa.	12-1	Albemarle Sound.
bb.	13-1	Ocoee River.
cc.	14-1	Roanoke River.
dd.	15-1	Tar River.
ee.	15-2	Fishing Creek.
ff.	15-3	Pamlico River and Sound.
gg.	16-1	Watauga River.
hh.	17-1	White Oak River.
ii.	18-1	Yadkin (Yadkin-Pee Dee) River.
jj.	18-2	South Yadkin River.
kk.	18-3	Uwharrie River.
ll.	18-4	Rocky River.

(2) "Surface water" means any of the waters of the State located on the land surface that are not derived by pumping from groundwater.

(3) "Transfer" means the withdrawal, diversion, or pumping of surface water from one river basin and discharge of all or any part of the water in a river basin different from the origin. However, notwithstanding the basin definitions in G.S. 143-215.22G(1), the following are not transfers under this Part:

a. The discharge of water upstream from the point where it is withdrawn.

b. The discharge of water downstream from the point where it is withdrawn.

(4) "Public water system" means any unit of local government or large community water system subject to the requirements of G.S. 143-355(l).

(5) "Mainstem" means that portion of a river having the same name as a river basin defined in subdivision (1) of this section. "Mainstem" does not include named or unnamed tributaries."

SECTION 2. G.S. 143-215.22L reads as rewritten:

"§ **143-215.22L. Regulation of surface water transfers.**

(a) Certificate Required. – No person, without first obtaining a certificate from the Commission, may:

(1) Initiate a transfer of 2,000,000 gallons of water or more per ~~day~~ day, calculated as a daily average of a calendar month and not to exceed 3,000,000 gallons per day in any one day, from one river basin to another.

(2) Increase the amount of an existing transfer of water from one river basin to another by twenty-five percent (25%) or more above the average daily amount transferred during the year ending 1 July 1993 if the total transfer including the increase is 2,000,000 gallons or more per day.

(3) Increase an existing transfer of water from one river basin to another above the amount approved by the Commission in a certificate issued under G.S. 162A-7 prior to 1 July 1993.

(b) Exception. – Notwithstanding the provisions of subsection (a) of this section, a certificate shall not be required to transfer water from one river basin to another up to the full capacity of a facility to transfer water from one basin to another if the facility was in existence or under construction on 1 July 1993.

(c) Notice of Intent to File a Petition. – An applicant shall prepare a notice of intent to file a petition that includes a nontechnical description of the applicant's request and an identification of the proposed water source. Within 90 days after the applicant files a notice of intent to file a petition, the applicant shall hold at least one public meeting in the source river basin upstream from the proposed point of withdrawal, at least one public meeting in the source river basin downstream from the proposed point of withdrawal, and at least one public meeting in the receiving river basin to provide information to interested parties and the public regarding the nature and extent of the proposed transfer and to receive comment on the scope of the environmental documents. Written notice of the public meetings shall be provided at least 30 days before the public meetings. At the time the applicant gives notice of the public meetings, the applicant shall request comment on the alternatives and issues that should be addressed in the environmental documents required by this section. The applicant shall accept written comment on the scope of the environmental documents for a minimum of 30 days following the last public meeting. Notice of the public meetings and opportunity to comment on the scope of the environmental documents shall be provided as follows:

(1) By publishing notice in the North Carolina Register.

(2) By publishing notice in a newspaper of general circulation in:

a. Each county in this State located in whole or in part of the area of the source river basin upstream from the proposed point of withdrawal.

b. Each city or county located in a state located in whole or in part of the surface drainage basin area of the source river basin that also falls within, in whole or in part, the area denoted by one of the following eight-digit cataloging units as organized by the United States Geological Survey:

03050105 (Broad River: NC and SC);
03050106 (Broad River: SC);
03050107 (Broad River: SC);
03050108 (Broad River: SC);
05050001 (New River: NC and VA);
05050002 (New River: VA and WV);
03050101 (Catawba River: NC and SC);
03050103 (Catawba River: NC and SC);
03050104 (Catawba River: SC);
03010203 (Chowan River: NC and VA);
03010204 (Chowan River: NC and VA);
06010105 (French Broad River: NC and TN);
06010106 (French Broad River: NC and TN);
06010107 (French Broad River: TN);
06010108 (French Broad River: NC and TN);

06020001 (Hiwassee River: AL, GA, TN);
06020002 (Hiwassee River: GA, NC, TN);
06010201 (Little Tennessee River: TN);
06010202 (Little Tennessee River: TN, GA, and NC);
06010204 (Little Tennessee River: NC and TN);
03060101 (Savannah River: NC and SC);
03060102 (Savannah River: GA, NC, and SC);
03060103 (Savannah River: GA and SC);
03060104 (Savannah River: GA);
03060105 (Savannah River: GA);
03040203 (Lumber River: NC and SC);
03040204 (Lumber River: NC and SC);
03040206 (Lumber River: NC and SC);
03040207 (Lumber River: NC and SC);
03010205 (Albemarle Sound: NC and VA);
06020003 (Ocoee River: GA, NC, and TN);
03010101 (Roanoke River: VA);
03010102 (Roanoke River: NC and VA);
03010103 (Roanoke River: NC and VA);
03010104 (Roanoke River: NC and VA);
03010105 (Roanoke River: VA);
03010106 (Roanoke River: NC and VA);
06010102 (Watauga River: TN and VA);
06010103 (Watauga River: NC and TN);
03040101 (Yadkin River: VA and NC);
03040104 (Yadkin River: NC and SC);
03040105 (Yadkin River: NC and SC);
03040201 (Yadkin River: NC and SC);
03040202 (Yadkin River: NC and SC).

c. Each county in this State located in whole or in part of the area of the source river basin downstream from the proposed point of withdrawal.

d. Any area in the State in a river basin for which the source river basin has been identified as a future source of water in a local water supply plan prepared pursuant to G.S. 143-355(l).

e. Each county in the State located in whole or in part of the receiving river basin.

(3) By giving notice by first-class mail or electronic mail to each of the following:

a. The board of commissioners of each county in this State or the governing body of any county or city that is politically independent of a county in any state that is located entirely or partially within the source river basin of the proposed transfer and that also falls within, in whole or in part, the area denoted by one of the eight-digit cataloging units listed in sub-subdivision b. of subdivision (2) of this subsection.

b. The board of commissioners of each county in this State or the governing body of any county or city that is politically independent of a county in any state that is located entirely or partially within the receiving river basin of the proposed transfer and that also falls within, in whole or in part, the area denoted by one of the eight-digit cataloging units listed in sub-subdivision b. of subdivision (2) of this subsection.

c. The governing body of any public water ~~supply~~ system that withdraws water upstream or downstream from the withdrawal point of the proposed transfer.

d. If any portion of the source or receiving river basins is located in another state, all state water management or use agencies, environmental protection agencies, and the office of the governor in that state upstream or downstream from the withdrawal point of the proposed transfer.

e. All persons who have registered a water withdrawal or transfer from the proposed source river basin under this Part or under similar law in an another state.

f. All persons who hold a certificate for a transfer of water from the proposed source river basin under this Part or under similar law in an another state.

g. All persons who hold a National Pollutant Discharge Elimination System (NPDES) wastewater discharge permit for a discharge of 100,000 gallons per day or more upstream or downstream from the proposed point of withdrawal.

h. To any other person who submits to the applicant a written request to receive all notices relating to the petition.

(d) Environmental Documents. – The definitions set out in G.S. 113A-9 apply to this section. The Department shall conduct a study of the environmental impacts of any proposed transfer of water for which a certificate is required under this section. The study shall meet all of the requirements set forth in G.S. 113A-4 and rules adopted pursuant to G.S. 113A-4. An environmental assessment shall be prepared for any petition for a certificate under this section. The determination of whether an environmental impact statement shall also be required shall be made in accordance with the provisions of Article 1 of Chapter 113A of the General Statutes; except that an environmental impact statement shall be prepared for every proposed transfer of water from one major river basin to another for which a certificate is required under this section. The applicant who petitions the Commission for a certificate under this section shall pay the cost of special studies necessary to comply with Article 1 of Chapter 113A of the General Statutes. An environmental impact statement prepared pursuant to this subsection shall include all of the following:

(1) A comprehensive analysis of the impacts that would occur in the source river basin and the receiving river basin if the petition for a certificate is granted.

(2) An evaluation of alternatives to the proposed interbasin transfer, including water supply sources that do not require an interbasin transfer and use of water conservation measures.

(3) A description of measures to mitigate any adverse impacts that may arise from the proposed interbasin transfer.

(e) Public Hearing on the Draft Environmental Document. – The Commission shall hold a public hearing on the draft environmental document for a proposed interbasin transfer after giving at least 30 days' written notice of the hearing in the Environmental Bulletin and as provided in subdivisions (2) and (3) of subsection (c) of this section. The notice shall indicate where a copy of the environmental document can be reviewed and the procedure to be followed by anyone wishing to submit written comments and questions on the environmental document. The Commission shall prepare a record of all comments and written responses to questions posed in writing. The record shall include complete copies of scientific or technical comments related to the potential impact of the interbasin transfer. The Commission shall accept written comment on the draft environmental document for a minimum of 30 days following the last public hearing. The applicant who petitions the Commission for a certificate under this section shall pay the costs associated with the notice and public hearing on the draft environmental document.

(f) Determination of Adequacy of Environmental Document. – The Commission shall not act on any petition for an interbasin transfer until the Commission has determined that the environmental document is complete and adequate. A decision on the adequacy of the environmental document is subject to review in a contested case on the decision of the Commission to issue or deny a certificate under this section.

(g) Petition. – An applicant for a certificate shall petition the Commission for the certificate. The petition shall be in writing and shall include all of the following:

(1) A general description of the facilities to be used to transfer the water, ~~including the location and capacity of water intakes, pumps, pipelines, and other facilities.~~including current and projected areas to be served by the transfer, current and projected capacities of intakes, and other relevant facilities.

(2) A description of all the proposed consumptive and nonconsumptive uses of the water to be transferred.

(3) A description of the water quality of the source river and receiving river, including information on aquatic habitat for rare, threatened, and endangered species; in-stream flow data for segments of the source and receiving rivers that may be affected by the transfer; and any waters that are impaired pursuant to section 303(d) of the federal Clean Water Act (33 U.S.C. § 1313(d)).

(4) A description of the water conservation measures used by the applicant at the time of the petition and any additional water conservation measures that the applicant will implement if the certificate is granted.

(5) A description of all sources of water within the receiving river basin, including surface water impoundments, groundwater wells, reinjection storage, and purchase of water from another source within the river basin, that is a practicable alternative to the proposed transfer that would meet the applicant's water supply needs. The description of water sources shall include sources available at the time of the petition for a certificate and any planned or potential water sources.

(6) A description of water transfers and withdrawals registered under G.S. 143-215.22H or included in a local water supply plan prepared pursuant to G.S. 143-355(l) from the source river basin, including transfers and withdrawals at the time of the petition for a certificate and any planned or reasonably foreseeable transfers or withdrawals by a public water system with service area located within the source river basin.

(7) A demonstration that the proposed transfer, if added to all other transfers and withdrawals required to be registered under G.S. 143-215.22H or included in any local water supply plan prepared by a public water system with service area located within the source basin pursuant to G.S. 143-355(l) from the source river basin at the time of the petition for a certificate, would not reduce the amount of water available for use in the source river basin to a degree that would impair existing uses, pursuant to the antidegradation policy set out in 40 Code of Federal Regulation § 131.12 (Antidegradation Policy) (1 July 2006 Edition) and the statewide antidegradation policy adopted pursuant thereto, or existing and planned consumptive and nonconsumptive uses of the water in the source river basin. If the proposed transfer would impact a reservoir within the source river basin, the demonstration must include a finding that the transfer would not result in a water level in the reservoir that is inadequate to support existing uses of the reservoir, including recreational uses.

(8) The applicant's future water supply needs and the present and reasonably foreseeable future water supply needs for public water systems with service

area located within the source river basin. The analysis of future water supply needs shall include agricultural, recreational, and industrial uses, and electric power generation. Local water supply plans prepared pursuant to G.S. 143-355(l) for water systems with service area located within the source river basin shall be used to evaluate the projected future water needs in the source river basin that will be met by public water systems.

(9) The applicant's water supply plan prepared pursuant to G.S. 143-355(l). If the applicant's water supply plan is more than two years old at the time of the petition, then the applicant shall include with the petition an updated water supply plan.

(10) Any other information deemed necessary by the Commission for review of the proposed water transfer.

(h) Settlement Discussions. – Upon the request of the applicant, any interested party, or the Department, or upon its own motion, the Commission may appoint a mediation officer. The mediation officer may be a member of the Commission, an employee of the Department, or a neutral third party but shall not be a hearing officer under subsections (e) or (j) of this section. The mediation officer shall make a reasonable effort to initiate settlement discussions between the applicant and all other interested parties. Evidence of statements made and conduct that occurs in a settlement discussion conducted under this subsection, whether attributable to a party, a mediation officer, or other person shall not be subject to discovery and shall be inadmissible in any subsequent proceeding on the petition for a certificate. The Commission may adopt rules to govern the conduct of the mediation process.

(i) Draft Determination. – Within 90 days after the Commission determines that the environmental document prepared in accordance with subsection (d) of this section is adequate or the applicant submits its petition for a certificate, whichever occurs later, the Commission shall issue a draft determination on whether to grant the certificate. The draft determination shall be based on the criteria set out in this section and shall include the conditions and limitations, findings of fact, and conclusions of law that would be required in a final determination. Notice of the draft determination shall be given as provided in subsection (c) of this section.

(j) Public Hearing on the Draft Determination. – Within 60 days of the issuance of the draft determination as provided in subsection (i) of this section, the Commission shall hold public hearings on the draft determination. At least one hearing shall be held in the affected area of the source river basin, and at least one hearing shall be held in the affected area of the receiving river basin. In determining whether more than one public hearing should be held within either the source or receiving river basins, the Commission shall consider the differing or conflicting interests that may exist within the river basins, including the interests of both upstream and downstream parties potentially affected by the proposed transfer. The public hearings shall be conducted by one or more hearing officers appointed by the Chair of the Commission. The hearing officers may be members of the Commission or employees of the Department. The Commission shall give at least 30 days' written notice of the public hearing as provided in subsection (c) of this section. The Commission shall accept written comment on the draft determination for a minimum of 30 days following the last public hearing. The Commission shall prepare a record of all comments and written responses to questions posed in writing. The record shall include complete copies of scientific or technical comments related to the potential impact of the interbasin transfer. The applicant who petitions the Commission for a certificate under this section shall pay the costs associated with the notice and public hearing on the draft determination.

(k) Final Determination: Factors to be Considered. – In determining whether a certificate may be issued for the transfer, the Commission shall specifically consider each of the following items and state in writing its findings of fact and conclusions of law with regard to each item:

(1) The necessity and reasonableness of the amount of surface water proposed to be transferred and its proposed uses.

(2) The present and reasonably foreseeable future detrimental effects on the source river basin, including present and future effects on public, industrial, economic, recreational, and agricultural water supply needs, wastewater assimilation, water quality, fish and wildlife habitat, electric power generation, navigation, and recreation. Local water supply plans for public water systems with service area located within the source river basin prepared pursuant to G.S. 143-355(l) shall be used to evaluate the projected future water needs in the source river basin that will be met by public water systems. Information on projected future water needs for public water systems with service area located within the source river basin that is more recent than the local water supply plans may be used if the Commission finds the information to be reliable. The determination shall include a specific finding as to measures that are necessary or advisable to mitigate or avoid detrimental impacts on the source river basin.

(3) The cumulative effect on the source major river basin of any water transfer or consumptive water use that, at the time the Commission considers the petition for a certificate is occurring, is authorized under this section, or is projected in any local water supply plan for public water systems with service area located within the source river basin that has been submitted to the Department in accordance with G.S. 143-355(l).

(4) The present and reasonably foreseeable future beneficial and detrimental effects on the receiving river basin, including present and future effects on public, industrial, economic, recreational, and agricultural water supply needs, wastewater assimilation, water quality, fish and wildlife habitat, electric power generation, navigation, and recreation. Local water supply plans prepared pursuant to G.S. 143-355(l) that affect the receiving river basin shall be used to evaluate the projected future water needs in the receiving river basin that will be met by public water systems. Information on projected future water needs that is more recent than the local water supply plans may be used if the Commission finds the information to be reliable. The determination shall include a specific finding as to measures that are necessary or advisable to mitigate or avoid detrimental impacts on the receiving river basin.

(5) The availability of reasonable alternatives to the proposed transfer, including the potential capacity of alternative sources of water, the potential of each alternative to reduce the amount of or avoid the proposed transfer, probable costs, and environmental impacts. In considering alternatives, the Commission is not limited to consideration of alternatives that have been proposed, studied, or considered by the applicant. The determination shall include a specific finding as to why the applicant's need for water cannot be satisfied by alternatives within the receiving basin, including unused capacity under a transfer for which a certificate is in effect or that is otherwise authorized by law at the time the applicant submits the petition. The determination shall consider the extent to which access to potential sources of surface water or groundwater within the receiving river basin is no longer available due to depletion, contamination, or the declaration of a capacity use area under Part 2 of Article 21 of Chapter 143 of the General Statutes. The determination shall consider the feasibility of the applicant's purchase of water from other water suppliers within the receiving basin and of the transfer of water from another sub-basin within the receiving major river basin. Except in circumstances of technical or economic infeasibility or

adverse environmental impact, the Commission's determination as to reasonable alternatives shall give preference to alternatives that would involve a transfer from one sub-basin to another within the major receiving river basin over alternatives that would involve a transfer from one major river basin to another major river basin.

(6) If applicable to the proposed project, the applicant's present and proposed use of impoundment storage capacity to store water during high-flow periods for use during low-flow periods and the applicant's right of withdrawal under G.S. 143-215.44 through G.S. 143-215.50.

(7) If the water to be withdrawn or transferred is stored in a multipurpose reservoir constructed by the United States Army Corps of Engineers, the purposes and water storage allocations established for the reservoir at the time the reservoir was authorized by the Congress of the United States.

(8) Whether the service area of the applicant is located in both the source river basin and the receiving river basin.

(9) Any other facts and circumstances that are reasonably necessary to carry out the purposes of this Part.

(l) Final Determination: Information to be Considered. – In determining whether a certificate may be issued for the transfer, the Commission shall consider all of the following sources of information:

(1) The petition.

(2) The environmental document prepared pursuant to subsection (d) of this section.

(3) All oral and written comment and all accompanying materials or evidence submitted pursuant to subsections (e) and (j) of this section.

(4) Information developed by or available to the Department on the water quality of the source river basin and the receiving river basin, including waters that are identified as impaired pursuant to section 303(d) of the federal Clean Water Act (33 U.S.C. § 1313(d)), that are subject to a total maximum daily load (TMDL) limit under subsections (d) and (e) of section 303 of the federal Clean Water Act, or that would have their assimilative capacity impaired if the certificate is issued.

(5) Any other information that the Commission determines to be relevant and useful.

(m) Final Determination: Burden and Standard of Proof; Specific Findings. – The Commission shall grant a certificate for a water transfer if the Commission finds that the applicant has established by a preponderance of the evidence all of the following:

(1) The benefits of the proposed transfer outweigh the detriments of the proposed transfer. In making this determination, the Commission shall be guided by the approved environmental document and the policy set out in subsection (t) of this section.

(2) The detriments have been or will be mitigated to the maximum degree practicable.

(3) The amount of the transfer does not exceed the amount of the projected shortfall under the applicant's water supply plan after first taking into account all other sources of water that are available to the applicant.

(4) There are no reasonable alternatives to the proposed transfer.

(n) Final Determination: Certificate Conditions and Limitations. – The Commission may grant the certificate in whole or in part, or deny the certificate. The Commission may impose any conditions or limitations on a certificate that the Commission finds necessary to achieve the purposes of this Part including a limit on the period for which the certificate is valid. The conditions and limitations shall include any mitigation measures proposed by the

applicant to minimize any detrimental effects within the source and receiving river basins. In addition, the certificate shall require all of the following conditions and limitations:

(1) A water conservation plan that specifies the water conservation measures that will be implemented by the applicant in the receiving river basin to ensure the efficient use of the transferred water. Except in circumstances of technical or economic infeasibility or adverse environmental impact, the water conservation plan shall provide for the mandatory implementation of water conservation measures by the applicant that equal or exceed the most stringent water conservation plan implemented by a ~~community water system, as defined in G.S. 143-355(l),~~ public water system that withdraws water from the source river basin.

(2) A drought management plan that specifies how the transfer shall be managed to protect the source river basin during drought conditions or other emergencies that occur within the source river basin. Except in circumstances of technical or economic infeasibility or adverse environmental impact, this drought management plan shall include mandatory reductions in the permitted amount of the transfer based on the severity and duration of a drought occurring within the source river basin and shall provide for the mandatory implementation of a drought management plan by the applicant that equals or exceeds the most stringent water conservation plan implemented by a ~~community water system, as defined in G.S. 143-355(l),~~public water system that withdraws water from the source river basin.

(3) The maximum amount of water that may be ~~transferred on a daily basis,~~transferred, calculated as a daily average of a calendar month, and methods or devices required to be installed and operated that measure the amount of water that is transferred.

(4) A provision that the Commission may amend a certificate to reduce the maximum amount of water authorized to be transferred whenever it appears that an alternative source of water is available to the certificate holder from within the receiving river basin, including, but not limited to, the purchase of water from another water supplier within the receiving basin or to the transfer of water from another sub-basin within the receiving major river basin.

(5) A provision that the Commission shall amend the certificate to reduce the maximum amount of water authorized to be transferred if the Commission finds that the applicant's current projected water needs are significantly less than the applicant's projected water needs at the time the certificate was granted.

(6) A requirement that the certificate holder report the quantity of water transferred during each calendar quarter. The report required by this subdivision shall be submitted to the Commission no later than 30 days after the end of the quarter.

(7) Except as provided in this subdivision, a provision that the applicant will not resell the water that would be transferred pursuant to the certificate to another public water ~~supply~~ system. This limitation shall not apply in the case of a proposed resale or transfer among public water ~~supply~~ systems within the receiving river basin as part of an interlocal agreement or other regional water supply arrangement, provided that each participant in the interlocal agreement or regional water supply arrangement is a co-applicant for the certificate and will be subject to all the terms, conditions, and limitations made applicable to any lead or primary applicant.

(o) Administrative and Judicial Review. – Administrative and judicial review of a final decision on a petition for a certificate under this section shall be governed by Chapter 150B of the General Statutes.

(p) Certain Preexisting Transfers. – In cases where an applicant requests approval to increase a transfer that existed on 1 July 1993, the Commission may approve or disapprove only the amount of the increase. If the Commission approves the increase, the certificate shall be issued for the amount of the preexisting transfer plus any increase approved by the Commission. A certificate for a transfer approved by the Commission under G.S. 162A-7 shall remain in effect as approved by the Commission and shall have the same effect as a certificate issued under this Part. A certificate for the increase of a preexisting transfer shall contain all of the conditions and limitations required by subsection (m) of this section.

(q) Emergency Transfers. – In the case of water supply problems caused by drought, a pollution incident, temporary failure of a water plant, or any other temporary condition in which the public health, safety, or welfare requires a transfer of water, the Secretary of Environment and Natural Resources may grant approval for a temporary transfer. Prior to approving a temporary transfer, the Secretary shall consult with those parties listed in subdivision (3) of subsection (c) of this section that are likely to be affected by the proposed transfer. However, the Secretary shall not be required to satisfy the public notice requirements of this section or make written findings of fact and conclusions of law in approving a temporary transfer under this subsection. If the Secretary approves a temporary transfer under this subsection, the Secretary shall specify conditions to protect other water users. A temporary transfer shall not exceed six months in duration, but the approval may be renewed for a period of six months by the Secretary based on demonstrated need as set forth in this subsection.

(r) Relationship to Federal Law. – The substantive restrictions, conditions, and limitations upon surface water transfers authorized in this section may be imposed pursuant to any federal law that permits the State to certify, restrict, or condition any new or continuing transfers or related activities licensed, relicensed, or otherwise authorized by the federal government. This section shall govern the transfer of water from one river basin to another unless preempted by federal law.

(s) Planning Requirements. – When any transfer for which a certificate was issued under this section equals or exceeds eighty percent (80%) of the maximum amount authorized in the certificate, the applicant shall submit to the Department a detailed plan that specifies how the applicant intends to address future foreseeable water needs. If the applicant is required to have a local water supply plan, then this plan shall be an amendment to the local water supply plan required by G.S.143-355(l). When the transfer equals or exceeds ninety percent (90%) of the maximum amount authorized in the certificate, the applicant shall begin implementation of the plan submitted to the Department.

(t) Statement of Policy. – It is the public policy of the State to maintain, protect, and enhance water quality within North Carolina. It is the public policy of this State that the reasonably foreseeable future water needs of a public water system with its service area located primarily in the receiving river basin are subordinate to the reasonably foreseeable future water needs of a public water system with its service area located primarily in the source river basin. Further, it is the public policy of the State that the cumulative impact of transfers from a source river basin shall not result in a violation of the antidegradation policy set out in 40 Code of Federal Regulations § 131.12 (1 July 2006 Edition) and the statewide antidegradation policy adopted pursuant thereto.

~~(u) Renewal of Certificate. – A petition to extend or renew a certificate shall be treated as a new petition.~~

(v) Modification of Certificate. – A certificate may be modified as provided in this subsection.

(1) The Commission or the Department may make any of the following modifications to a certificate after providing electronic notice to persons who have identified themselves in writing as interested parties:

a. Correction of typographical errors.
b. Clarification of existing conditions or language.
c. Updates, requested by the certificate holder, to a conservation plan, drought management plan, or compliance and monitoring plan.
d. Modifications requested by the certificate holder to reflect altered requirements due to the amendment of this section.

(2) A person who holds a certificate for an interbasin transfer of water may request that the Commission modify the certificate. The request shall be considered and a determination made according to the following procedures:

a. The certificate must have been issued pursuant to G.S. 162A-7, 143-215.22I, or 143-215.22L and the certificate holder must be in substantial compliance with the certificate.
b. The certificate holder shall file a notice of intent to file a request for modification that includes a nontechnical description of the certificate holder's request and identification of the proposed water source.
c. The certificate holder shall prepare an environmental document pursuant to subsection (d) of this section, except that an environmental impact statement shall not be required for the modification of a certificate unless it would otherwise be required by Article 1 of Chapter 113A of the General Statutes.
d. Upon determining that the documentation submitted by the certificate holder is adequate to satisfy the requirements of this subsection, the Department shall publish a notice of the request for modification in the North Carolina Register and shall hold a public hearing at a location convenient to both the source and receiving river basins. The Department shall provide written notice of the request for the modification and the public hearing in the Environmental Bulletin, a newspaper of general circulation in the source river basin, a newspaper of general circulation in the receiving river basin, and as provided in subdivision (3) of subsection (c) of this section. The certificate holder who petitions the Commission for a modification under this subdivision shall pay the costs associated with the notice and public hearing.
e. The Department shall accept comments on the requested modification for a minimum of 30 days following the public hearing.
f. The Commission or the Department may require the certificate holder to provide any additional information or documentation it deems reasonably necessary in order to make a final determination.
g. The Commission shall make a final determination whether to grant the requested modification based on the factors set out in subsection (k) of this section, information provided by the certificate holder, and any other information the Commission deems relevant. The Commission shall state in writing its findings of fact and conclusions of law with regard to each factor.
h. The Commission shall grant the requested modification if it finds that the certificate holder has established by a preponderance of the evidence that the requested modification satisfies the requirements of subsection (m) of this section. The Commission may grant the requested modification in whole or in part, or deny the request, and may impose such limitations and conditions on the modified certificate as it deems necessary and relevant to the modification.

i. The Commission shall not grant a request for modification if the modification would result in the transfer of water to an additional major river basin.

j. The Commission shall not grant a request for modification if the modification would be inconsistent with the December 3, 2010 Settlement Agreement entered into between the State of North Carolina, the State of South Carolina, Duke Energy Carolinas, and the Catawba River Water Supply Project.

(w) Requirements for Coastal Counties. – A petition for a certificate to transfer surface water to supplement ground water supplies in the 15 counties designated as the Central Capacity Use Area under 15A NCAC 2E .0501, or to transfer surface water withdrawn from the mainstem of a river to provide service to one of the coastal area counties designated pursuant to G.S. 113A-103, shall be considered and a determination made according to the following procedures:

(1) The applicant shall file a notice of intent that includes a nontechnical description of the applicant's request and identification of the proposed water source.

(2) The applicant shall prepare an environmental document pursuant to subsection (d) of this section, except that an environmental impact statement shall not be required unless it would otherwise be required by Article 1 of Chapter 113A of the General Statutes.

(3) Upon determining that the documentation submitted by the applicant is adequate to satisfy the requirements of this subsection, the Department shall publish a notice of the petition in the North Carolina Register and shall hold a public hearing at a location convenient to both the source and receiving river basins. The Department shall provide written notice of the petition and the public hearing in the Environmental Bulletin, a newspaper of general circulation in the source river basin, a newspaper of general circulation in the receiving river basin, and as provided in subdivision (3) of subsection (c) of this section. The applicant who petitions the Commission for a certificate under this subdivision shall pay the costs associated with the notice and public hearing.

(4) The Department shall accept comments on the petition for a minimum of 30 days following the public hearing.

(5) The Commission or the Department may require the applicant to provide any additional information or documentation it deems reasonably necessary in order to make a final determination.

(6) The Commission shall make a final determination whether to grant the certificate based on the factors set out in subsection (k) of this section, information provided by the applicant, and any other information the Commission deems relevant. The Commission shall state in writing its findings of fact and conclusions of law with regard to each factor.

(7) The Commission shall grant the certificate if it finds that the applicant has established by a preponderance of the evidence that the petition satisfies the requirements of subsection (m) of this section. The Commission may grant the certificate in whole or in part, or deny the request, and may impose such limitations and conditions on the certificate as it deems necessary and relevant."

SECTION 3.(a) Section 1 of S.L. 2011-298 reads as rewritten:

"**SECTION 1.** Notwithstanding G.S. 143-215.22I and G.S. 143-215.22L, a certificate issued pursuant to G.S. 143-215.22L is not required for a transfer of water from one river basin to another river basin to supplement groundwater supplies in the 15 counties designated as the Central Coastal Plain Capacity Use Area under 15A NCAC 2E .0501."

SECTION 3.(b) Section 4 of S.L. 2011-298 reads as rewritten:

"**SECTION 4.(a)** This act is effective when it becomes law and applies to any transfer of water from one river basin to another river basin to supplement groundwater supplies in the 15 counties designated as the Central Coastal Plain Capacity Use Area under 15A NCAC 2E .0501 initiated on or after August 31, 2007.

"**SECTION 4.(b)** Section 1 of this act shall expire if the cumulative volume of water ~~transfers~~ transfers, by public water supply systems sharing a single intake, from one river basin to another river basin to supplement groundwater supplies in the 15 counties designated as the Central Coastal Plain Capacity Use Area under 15A NCAC 2E .0501 initiated on or after August 31, 2007, by any person that does not hold a certificate for an interbasin transfer on or before the effective date of this act, exceeds 8,000,000 gallons per day.

"**SECTION 4.(c)** Any transfer of water from one river basin to another river basin to supplement groundwater supplies in the 15 counties designated as the Central Coastal Plain Capacity Use Area under 15A NCAC 2E .0501 initiated while Section 1 of this act is effective shall not require certification pursuant to G.S. 143-215.22L upon expiration of Section 1 of this act."

SECTION 3.(c) Section 7 of S.L. 2007-518, as amended by Section 4 of S.L. 2010-155 and Section 2 of S.L. 2011-298, reads as rewritten:

"~~**SECTION 7.(a)** Except as provided in subsections (b), (c) and (d) of this section, this~~ **SECTION 7.** This act becomes effective when it becomes law and applies to any petition for a certificate for a transfer of surface water from one river basin to another river basin first made on or after that date.

"~~**SECTION 7.(c)** For purposes of this subsection, "isolated river basin" means each of the following river basins set out in G.S. 143-215.22G(1):~~

~~g.~~	~~2-6~~	~~New River.~~
~~v.~~	~~9-4~~	~~Shallotte River.~~
~~aa.~~	~~12-1~~	~~Albemarle Sound.~~
~~hh.~~	~~17-1~~	~~White Oak River.~~

~~For a petition for a certificate for transfer of surface water from a river basin to an isolated river basin, this act becomes effective 1 July 2020. Prior to 1 July 2020, a petition for a certificate for transfer of surface water from a river basin to an isolated river basin shall be considered and acted upon by the Environmental Management Commission pursuant to the procedures and standards set out in G.S. 143-215.22I on 1 July 2007.~~

"~~**SECTION 7.(d)** Notwithstanding subsection (c) of this section, an applicant for a certificate for transfer of surface water from a river basin to an isolated river basin may request that the applicant be subject to the certification process that would apply if the transfer was not into an isolated river basin.~~"

SECTION 4. Section 1(a)(2) of S.L. 2013-50 is repealed.

SECTION 5. S.L. 2013-50 is amended by adding a new section to read:

"**SECTION 1.(g)** For purposes of this section, a public water system shall not include any system that is operated simultaneously with a sewer system by the same public body, in conjunction with the provision of other utility services for its customers."

SECTION 6. If any provision of this act or its application is held invalid, the invalidity does not affect other provisions or applications of this act that can be given effect without the invalid provisions or application, and to this end the provisions of this act are severable.

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

In the General Assembly read three times and ratified this the 22nd day of July, 2013.

Became law upon approval of the Governor at 10:46 a.m. on the 23rd day of August, 2013.

Session Law 2013-389 **S.B. 368**

AN ACT TO PROVIDE FOR A TEN-DOLLAR CO-PAY FOR PRESCRIPTION MEDICATION DISPENSED IN A COUNTY JAIL, TO PROVIDE THE PISTOL PERMIT FEE TO BE AN APPLICATION FEE, AND TO MAKE IT A FELONY TO ESCAPE FROM A COUNTY FACILITY WHEN CHARGED WITH AND BEING HELD FOR A FELONY.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 153A-225(a) reads as rewritten:

"(a) Each unit that operates a local confinement facility shall develop a plan for providing medical care for prisoners in the facility. The plan

(1) Shall be designed to protect the health and welfare of the prisoners and to avoid the spread of contagious disease;

(2) Shall provide for medical supervision of prisoners and emergency medical care for prisoners to the extent necessary for their health and welfare;

(3) Shall provide for the detection, examination and treatment of prisoners who are infected with tuberculosis or venereal diseases.

The unit shall develop the plan in consultation with appropriate local officials and organizations, including the sheriff, the county physician, the local or district health director, and the local medical society. The plan must be approved by the local or district health director after consultation with the area mental health, developmental disabilities, and substance abuse authority, if it is adequate to protect the health and welfare of the prisoners. Upon a determination that the plan is adequate to protect the health and welfare of the prisoners, the plan must be adopted by the governing body.

As a part of its plan, each unit may establish fees of not more than twenty dollars ($20.00) per incident for the provision of nonemergency medical care to ~~prisoners.~~prisoners and a fee of not more than ten dollars ($10.00) for a 30-day supply or less of a prescription drug. In establishing fees pursuant to this section, each unit shall establish a procedure for waiving fees for indigent prisoners."

SECTION 2. G.S. 14-404(e) reads as rewritten:

"(e) The sheriff shall charge for the sheriff's services upon ~~issuing the license or permit~~receipt of an application a fee of five dollars ($5.00) for each permit requested."

SECTION 3. G.S. 14-256 reads as rewritten:

"§ **14-256. Prison breach and escape from county or municipal confinement facilities or officers.**

If any person shall break any prison, jail or lockup maintained by any county or municipality in North Carolina, being lawfully confined therein, or shall escape from the lawful custody of any superintendent, guard or officer of such prison, jail or lockup, he shall be guilty of a Class 1 misdemeanor, except that the person is guilty of a Class H felony if:

(1) He has been charged with or convicted of a felony and has been committed to the facility pending trial or transfer to the State prison system; or

(2) He is serving a sentence imposed upon conviction of a felony."

SECTION 4. Sections 1 and 2 of this act become effective August 1, 2013, and apply to fees assessed or collected on or after that date. Section 3 of this act becomes effective December 1, 2013, and applies to offenses occurring on or after that date. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 26th day of July, 2013.

Became law upon approval of the Governor at 10:46 a.m. on the 23rd day of August, 2013.

Session Law 2013-390 **S.B. 409**

AN ACT TO AMEND PROCEDURES, CLARIFY COSTS AND ATTORNEYS' FEES PROVISIONS APPLICABLE WHEN RELIEF IS NOT ORDERED IN CHAPTER 50B PROTECTIVE ORDER AND CHAPTER 50C NO CONTACT ORDER CASES, AND TO PROVIDE FOR ATTORNEYS' FEES UPON THE GRANT OF RELIEF IN CHAPTER 50C CASES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 50B-2 reads as rewritten:

"§ **50B-2. Institution of civil action; motion for emergency relief; temporary orders; temporary custody.**

(a) Any person residing in this State may seek relief under this Chapter by filing a civil action or by filing a motion in any existing action filed under Chapter 50 of the General Statutes alleging acts of domestic violence against himself or herself or a minor child who resides with or is in the custody of such person. Any aggrieved party entitled to relief under this Chapter may file a civil action and proceed pro se, without the assistance of legal counsel. The district court division of the General Court of Justice shall have original jurisdiction over actions instituted under this Chapter. Any action for a domestic violence protective order requires that a summons be issued and served. The summons issued pursuant to this Chapter shall require the defendant to answer within 10 days of the date of service. Attachments to the summons shall include the complaint, notice of hearing, any temporary or ex parte order that has been issued, and other papers through the appropriate law enforcement agency where the defendant is to be served. In compliance with the federal Violence Against Women Act, ~~No~~ no court costs or attorneys' fees shall be assessed for the filing, issuance, registration, or service of a protective order or petition for a protective order or witness ~~subpoena~~ subpoena, except as provided in G.S. 1A-1, Rule 11. ~~in compliance with the Violence Against Women Act, 42 U.S.C. § 3796gg-5.~~"

SECTION 2. G.S. 50C-2(b) reads as rewritten:

"(b) No court costs or attorneys' fees shall be assessed for the filing or service of the complaint, or the service of any ~~orders.~~ orders, except as provided in G.S. 1A-1, Rule 11."

SECTION 3. G.S. 50C-7 reads as rewritten:

"§ **50C-7. Permanent civil no-contact order.**

Upon a finding that the victim has suffered an act of unlawful conduct committed by the respondent, a permanent civil no-contact order may issue if the court additionally finds that process was properly served on the respondent, the respondent has answered the complaint and notice of hearing was given, or the respondent is in default. No permanent civil no-contact order shall be issued without notice to the respondent."

SECTION 4. G.S. 50C-8(a) reads as rewritten:

"(a) A temporary civil no-contact order shall be effective for not more than 10 days as the court fixes, unless within the time so fixed the temporary civil no-contact order, for good cause shown, is extended for a like period or a longer period if the respondent consents. The reasons for the extension shall be stated in the temporary order. ~~In case~~ If a temporary ex parte civil no-contact ~~order~~ order:

(1) ~~is~~ Is granted without notice and a motion for a permanent civil no-contact order is made, it shall be set down for hearing ~~at the earliest possible time and takes precedence over all matters except older matters of the same character.~~within 10 days from the date of the motion.

(2) Is denied, the trial on the plaintiff's motion for a civil no-contact order shall be set for hearing within 30 days from the date of the denial.

When the motion for a permanent civil no-contact order comes on for hearing, the complainant may proceed with a motion for a permanent civil no-contact order, and, if the complainant fails to do so, the judge shall dissolve the temporary civil no-contact order. On two

days' notice to the complainant or on such shorter notice to that party as the judge may prescribe, the respondent may appear and move its dissolution or modification. In that event the judge shall proceed to hear and determine such motion as expeditiously as the ends of justice require."

SECTION 5. G.S. 50C-5(b)(7) reads as rewritten:

"(b) The court may grant one or more of the following forms of relief in its orders under this Chapter:

…

(7) Order other relief deemed necessary and appropriate by the ~~court.~~court, including assessing attorneys' fees to either party."

SECTION 6. This act becomes effective October 1, 2013, and applies to actions commenced on or after that date.

In the General Assembly read three times and ratified this the 26th day of July, 2013.

Became law upon approval of the Governor at 10:46 a.m. on the 23rd day of August, 2013.

Session Law 2013-391 **S.B. 420**

AN ACT TO MAKE TECHNICAL, ADMINISTRATIVE, AND CLARIFYING CHANGES TO THE UNEMPLOYMENT INSURANCE LAWS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 96-6(a), as rewritten by S.L. 2013-2, reads as rewritten:

"(a) Establishment and Use. – The Unemployment Insurance Fund is established as an enterprise fund. The Division must administer the fund solely for the payment of unemployment compensation as that term is defined by section 3306(h) of the Code, exclusive of expenses of administration, and for refunds of sums erroneously paid into the fund. ~~exclusively for the purposes of this Chapter.~~ No money in the fund may be used, directly or indirectly, to pay interest on an advance received from the Unemployment Trust Fund.

This fund consists of the following sources of revenue:

…

~~(8)~~(9) Amounts transferred from the Unemployment Insurance Reserve Fund."

SECTION 2. G.S. 96-9.2, as enacted by S.L. 2013-2 and as rewritten by S.L. 2013-224, reads as rewritten:

"§ **96-9.2. Required contributions to the Unemployment Insurance Fund.**

(a) Required Contribution. – An employer is required to make a contribution in each calendar year to the Unemployment Insurance Fund in an amount equal to the applicable percentage of the taxable wages the employer pays its employees during the year for services performed in this State. An employer may not deduct the contributions due in whole or in part from the remuneration of the individuals employed. Taxable wages are determined in accordance with G.S. 96-9.3. The applicable percentage for an employer is considered the employer's contribution rate and determined in accordance with this section.~~rate and is determined by the employer's base rate and the balance in the Unemployment Insurance Fund as of the computation date. Taxable wages are determined in accordance with G.S. 96-9.3. An employer's base rate is either the standard beginning rate or an experience rating. An employer's experience rating is computed as a reserve ratio in accordance with G.S. 96-9.4. An employer's reserve ratio percentage (ERRP) is the employer's reserve ratio multiplied by sixty-eight hundredths. A positive ERRP produces a lower contribution rate, and a negative ERRP produces a higher contribution rate.~~

(b) Contribution Rate for ~~Standard~~ Beginning Employer. ~~Rate. –~~ The contribution rate for ~~standard beginning rate applies to an~~ a beginning employer until the employer's account has been chargeable with benefits for at least 12 calendar months ending July 31 immediately preceding the computation date is one percent (1%). ~~date.~~ An employer's account has been

chargeable with benefits for at least 12 calendar months if the employer has reported wages paid in four completed calendar quarters and its liability extends over all or part of two consecutive calendar years.

(c) Contribution ~~Rate.~~Rate for Experience-Rated Employer. – The contribution rate for an experience-rated employer who does not qualify as a beginning employer under subsection (b) of this section is determined in accordance with the table set out below and then rounded to the nearest one-hundredth percent (0.01%), subject to the minimum and maximum contribution rates. The minimum contribution rate is six-hundredths of one percent (0.06%). The maximum contribution rate is five and seventy-six hundredths percent (5.76%). "Total insured wages" are the total wages reported by all insured employers for the 12-month period ending on July 31 preceding the computation date. An employer's experience rating is computed as a reserve ratio in accordance with G.S. 96-9.4. An employer's reserve ratio percentage (ERRP) is the employer's reserve ratio multiplied by sixty-eight hundredths. A positive ERRP produces a lower contribution rate, and a negative ERRP produces a higher contribution rate.

~~**Employer's Base Rate**~~	**UI Trust Fund Balance as Percentage of Total Insured Wages**	**Contribution Rate**
~~Standard Beginning Rate~~	~~All balances~~	~~1%~~
~~Experience Rating~~	Less than or equal to 1%	2.9% minus ERRP
	Greater than 1% but less than or equal to 1.25%	2.4% minus ERRP
	Greater than 1.25%	1.9% minus ERRP

(d) Notification of Contribution Rate. – The Division must notify an employer of the employer's contribution rate for a calendar year by January 1 of that year. The contribution rate becomes final unless the employer files an application for review and redetermination prior to May 1 following the effective date of the contribution rate. The Division may redetermine the contribution rate on its own motion within the same time period.

(e) Voluntary Contribution. – An employer that is subject to this section may make a voluntary contribution to the Unemployment Insurance Fund in addition to its required contribution. A voluntary contribution is credited to the employer's account. A voluntary contribution made by an employer within 30 days after the date on an annual notice of its contribution rate is considered to have been made as of the previous July 31."

SECTION 3. G.S. 96-14.1, as enacted by S.L. 2013-2 and as amended by S.L. 2013-224, reads as rewritten:

"(a) Purpose. – The purpose of this Article is to provide temporary unemployment benefits as required by federal law to an individual who is unemployed through no fault on the part of the individual and who is able, available, and actively seeking work. Benefits are payable on the basis of service, to which section 3309(a)(1) of the Code applies, performed for a governmental entity, a nonprofit organization, and an Indian tribe in the same amount, on the same terms, and subject to the same conditions as compensation payable on the basis of other service.

…

(c) Qualification Determination. – An individual's qualification for benefits is determined based on the reason for separation from employment from the individual's bona fide employer. The individual's bona fide employer is the most recent employer for whom the individual began employment for an indefinite duration or a duration of more than 30 consecutive calendar days, regardless of whether work was performed on all of those days. An individual who is disqualified has no right to benefits. An individual who is disqualified may have the disqualification removed if the individual files a valid claim based on employment with a bona fide employer that employed the individual subsequent to the employment that resulted in disqualification. An individual who had a prior disqualification removed may be determined to be disqualified based on the reason for separation from employment from the

individual's most recent bona fide employer, and the individual must be otherwise eligible for benefits.

…

(e) Federal Restrictions. – Benefits are not payable for services performed by the following individuals, to the maximum extent allowed ~~prohibited~~ by section 3304 of the Code:

(1) Instructional, research, or principal administrative employees of educational institutions.

(2) Employees who provide services ~~Services~~ in any other capacity for an educational institution.

(3) Individuals who performed services described in either subdivision (1) or (2) of this subsection in an educational institution while in the employ of an educational service agency. The term "educational service agency" has the same meaning as defined in section 3304 of the Code.

(4)~~(3)~~ Professional athletes.

(5)~~(4)~~ Aliens."

SECTION 4. G.S. 96-14.2(c), as enacted by S.L. 2013-2, reads as rewritten:

"(c) Retirement Reduction. – The amount of benefits payable to an individual must be reduced as provided in section 3304(a)(15) of the Code. This subsection does not apply to social security retirement benefits."

SECTION 5. G.S. 96-14.9(h), as enacted by S.L. 2013-2, reads as rewritten:

"(h) Job Training. – An individual who is otherwise eligible may not be denied benefits for any week because of the application to any such week of requirements relating to availability for work, active search for work, or refusal to accept work if the individual is attending a training program approved by the Division. ~~has satisfied the work search requirements for any given week if the Division determines for that week that one or more of the following applies:~~

~~(1) Trade Jobs for Success. – The individual is participating in the Trade Jobs for Success initiative under G.S. 143B-438.16.~~

~~(2) Reemployment services. – The individual is participating in the reemployment services as directed by the Division and is actively seeking work in a manner consistent with the planned reemployment services. The Division must refer an individual to reemployment services if the Division finds that the individual would likely exhaust regular benefits and need reemployment services to make a successful transition to new employment.~~

~~(3) Vocational school or training program. – The individual is attending a vocational school or training program approved by the Division.~~"

SECTION 6. G.S. 96-14.11(c), as enacted by S.L. 2013-2 and as rewritten by S.L. 2013-224, reads as rewritten:

"(c) Recall After Layoff. – An individual is disqualified for any remaining benefits if it is determined by the Division that the individual is ~~is, at the time a claim is filed,~~ unemployed because the individual, without good cause attributable to the employer and after receiving notice from the employer, refused to return to work for an employer under one or more of the following circumstances:

…."

SECTION 7. G.S. 96-16(g), as rewritten by S.L. 2013-2, reads as rewritten:

"(g) ~~(1)~~ All benefits paid to a seasonal worker ~~based on seasonal wages~~ shall be charged in accordance with G.S. 96-11.2. ~~against the account of his base period employer or employers who paid him such seasonal wages, and for the purpose of this paragraph such seasonal wages shall be deemed to constitute all of his base period wages.~~

~~(2) All benefits paid to a seasonal worker based on nonseasonal wages shall be charged against the account of his base period employer or employers who paid him such nonseasonal wages, and for the purpose of this paragraph such~~

~~nonseasonal wages shall be deemed to constitute all of his base period wages.~~"

SECTION 8. G.S. 96-32 reads as rewritten:

"§ **96-32. Common follow-up information management system created.**

(a) The Department of Commerce, ~~Division of Labor and Economic Analysis (Labor and Economic Analysis Division) (DLEA),~~ Labor and Economic Analysis Division (LEAD), shall develop, implement, and maintain a common follow-up information management system for tracking the performance measures related to current and former participants in State job training, education, and placement programs. The system shall provide for the automated collection, organization, dissemination, and analysis of data obtained from State-funded programs that provide job training and education and job placement services to program participants. In developing the system, ~~the Division, DLEA,~~ LEAD shall ensure that data and information collected from State agencies is confidential, not open for general public inspection, and maintained and disseminated in a manner that protects the identity of individual persons from general public disclosure.

(b) LEAD~~The Labor and Economic Analysis Division, DLEA,~~ shall adopt procedures and guidelines for the development and implementation of the CFS authorized under this section.

(c) Based on data collected under the CFS, the ~~Labor and Economic Analysis Division, DLEA,~~ LEAD shall evaluate the effectiveness of job training, education, and placement programs to determine if specific program goals and objectives are attained, to determine placement and completion rates for each program, and to make recommendations regarding the continuation of State funding for programs evaluated.

(d) The ~~DLEA~~ LEAD shall do the following:

(1) Collaborate with the Commission on Workforce Development to develop common performance measures across workforce programs in the Department of Commerce, the Department of Health and Human Services, the Community Colleges System Office, the Department of Administration, and the Department of Public Instruction that can be tracked through the CFS in order to assess and report on workforce development program performance.

(2) Determine whether other workforce development programs not participating in CFS should be required to report information and data.

(3) Provide information from CFS to reporting agencies annually.

(4) Provide training for participating agencies to ensure data quality and consistency.

(5) Develop common data definitions that are shared across agencies contributing information to the system.

(e) The Department of Commerce shall ensure that funding and staff resources for the CFS are not diverted to other programs or systems managed by the Department of Commerce."

SECTION 9. This act becomes effective July 1, 2013. Changes made by this act to unemployment benefits apply to claims for benefits filed on or after June 30, 2013. Changes made by this act to the determination and application of the contribution rate apply to contributions payable for calendar quarters beginning on or after January 1, 2014.

In the General Assembly read three times and ratified this the 24th day of July, 2013.

Became law upon approval of the Governor at 10:46 a.m. on the 23rd day of August, 2013.

Session Law 2013-392 **S.B. 470**

AN ACT TO PROHIBIT THE CONSUMPTION OF MALT BEVERAGES OR UNFORTIFIED WINE ON THE PREMISES OF ANY BUSINESS DURING THE PERIOD OF TIME WHERE ANY ON-PREMISES PERMIT ISSUED TO THE

BUSINESS AUTHORIZING THE SALE AND CONSUMPTION OF MALT BEVERAGES OR UNFORTIFIED WINE IS SUSPENDED OR REVOKED BY THE ALCOHOLIC BEVERAGE CONTROL COMMISSION AND AMEND THE DEFINITION OF A CONVENTION CENTER FOR PURPOSES OF THE STATE'S ABC LAWS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 18B-300 is amended by adding a new subsection to read:

"(a1) Consumption on Premises During Time of Permit Revocation or Suspension. – It shall be unlawful to consume or for a permittee or his agent or employee to allow the consumption of malt beverages or unfortified wine on the premises of any business during the period of time that any on-premises permit issued to the business authorizing the sale and consumption of malt beverages or unfortified wine has been suspended or revoked by the Commission. The prohibition in this subsection does not apply to the premises upon which the business was located at the time the permit was suspended or revoked if the business ceases to operate in that location and the owner of the property is not the permittee, provided that the permittee is not engaged in any other business or other activity on the premises during the period of suspension or revocation."

SECTION 2. G.S. 18B-1000(1a) reads as rewritten:

"(1a) Convention center. – An establishment that meets either of the following requirements:

a. A publicly owned or operated establishment that is engaged in the business of sponsoring or hosting conventions and similar large gatherings, including auditoriums, armories, civic centers, convention centers, and coliseums.

b. A privately owned facility located in a city that has a population of at least 200,000 but not more than 250,000 by the 2000 federal census and is located in a county that has previously authorized the issuance of mixed beverage permits by referendum. To qualify as a convention center under this subdivision, the facility shall meet each of the following requirements:

1. The facility shall be ~~located within an area that has been designated as an Urban Redevelopment Area under Article 22 of Chapter 160A of the General Statutes, and shall be~~ certified by the appropriate local official as being consistent with the city's redevelopment plan for the area in which the facility is located.

2. The facility shall contain at least 7,500 square feet of floor space that is available for public use and shall be used exclusively for banquets, receptions, meetings, and similar gatherings.

3. The facility's annual gross receipts from the sale of alcoholic beverages shall be less than fifty percent (50%) of the gross receipts paid to all providers at permitted functions for food, nonalcoholic beverages, alcoholic beverages, service, and facility usage fees (excluding receipts or charges for entertainment and ancillary services not directly related to providing food and beverage service). The person to whom a permit has been issued for a privately owned facility shall be required to maintain copies of all contracts and invoices for items supplied by providers for a period of three years from the date of the event.

A permit issued for a convention center shall be valid only for those parts of the building used for conventions, banquets, receptions, and other events, and only during scheduled activities."

SECTION 3. Section 1 of this act becomes effective December 1, 2013, and applies to offenses committed on or after that date. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 25th day of July, 2013.

Became law upon approval of the Governor at 10:46 a.m. on the 23rd day of August, 2013.

Session Law 2013-393 **S.B. 473**

AN ACT TO AMEND THE PROVISIONS OF HOUSE BILL 834 RELATED TO HEALTH CARE COST REDUCTION AND TRANSPARENCY AND FAIR HEALTH CARE BILLING AND COLLECTIONS PRACTICES; AND TO ALLOW THE SPEAKER OF THE HOUSE AND PRESIDENT PRO TEMPORE OF THE SENATE, AS AGENTS OF THE STATE, TO JOINTLY INTERVENE ON BEHALF OF THE GENERAL ASSEMBLY IN ANY JUDICIAL PROCEEDING CHALLENGING A NORTH CAROLINA STATUTE OR A PROVISION OF THE NORTH CAROLINA CONSTITUTION.

The General Assembly of North Carolina enacts:

SECTION 1. If House Bill 834, 2013 Regular Session becomes law, G.S. 131E-273, as enacted by House Bill 834 reads as rewritten:

"**§ 131E-273. Certain charges/payments prohibited.**

It shall be unlawful for any provider of health care services to charge or accept payment for any health care procedure or component of any health care procedure that was not performed or supplied. If a procedure requires the informed consent of a patient, the charge for any component of the procedure performed prior to consent being given shall not exceed the actual cost to the provider if the patient elects not to consent to the procedure."

SECTION 2. If House Bill 834, 2013 Regular Session becomes law, G.S. 131E-91(d)(5), as enacted by House Bill 834 reads as rewritten:

"(5) For debts arising from the provision of care by a hospital or ambulatory surgical center, the doctrine of necessaries as it existed at common law shall apply equally to both spouses, except where they are permanently living separate and apart, but shall in no event create any liability between the spouses as to each other. No lien arising out of a judgment for a debt owed a hospital or ambulatory surgical facility under this section shall attach to the judgment debtors' principal ~~residence~~ residence, or, if the land upon which the principal residence is located is greater than five acres, then no lien shall attach to the judgment debtors' principal residence and the surrounding five acres, held by them as tenants by the entireties or that was held by them as tenants by the entireties prior to the death of either spouse where the tenancy terminated as a result of the death of either spouse."

SECTION 3. Article 6 of Chapter 1 of the General Statutes is amended by adding a new section to read:

"**§ 1-72.2. Standing of legislative officers.**

The Speaker of the House of Representatives and the President Pro Tempore of the Senate, as agents of the State, shall jointly have standing to intervene on behalf of the General Assembly as a party in any judicial proceeding challenging a North Carolina statute or provision of the North Carolina Constitution. The procedure in State court shall be that set forth in Rule 29 of the Rules of Civil Procedure."

SECTION 4. Section 1 of this act becomes effective December 1, 2013, and applies to health care procedures and services rendered on or after that date. Section 1 shall not apply to administrative actions or litigation filed before the effective date of the section. Section 2 of this act becomes effective October 1, 2013, and applies to hospital and ambulatory surgical facility billings and collections practices occurring on or after that date. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 26th day of July, 2013.

Became law upon approval of the Governor at 10:46 a.m. on the 23rd day of August, 2013.

Session Law 2013-394 **S.B. 480**

AN ACT TO AUTHORIZE THE ACQUISITION OR CONSTRUCTION AND THE FINANCING, WITHOUT APPROPRIATIONS FROM THE GENERAL FUND, OF CERTAIN CAPITAL IMPROVEMENTS PROJECTS OF THE CONSTITUENT INSTITUTIONS OF THE UNIVERSITY OF NORTH CAROLINA.

The General Assembly of North Carolina enacts:

STATEMENT OF PURPOSE

SECTION 1. The purpose of this act is to authorize (i) the acquisition or construction of the capital improvements projects listed in this act for the respective institutions of The University of North Carolina and (ii) the financing of these projects with funds available to the institutions from gifts, grants, receipts, self-liquidating indebtedness, Medicare reimbursements for education costs, hospital receipts from patient care, or other funds, or any combination of these funds, but not including funds received for tuition or appropriated from the General Fund of the State unless previously authorized by General Statute.

SECTION 2.(a) The capital improvements projects and their respective costs authorized by this act to be constructed and financed as provided in Section 1 of this act, including by revenue bonds, by special obligation bonds as authorized in Section 4 of this act, or by both, are as follows:

Appalachian State University	
Anne Belk Hall Renovations	$ 4,000,000
Soccer Field to Field Hockey Renovation	1,500,000
East Carolina University	
Belk Residence Hall Demolition and Reconstruction – Supplement	16,000,000
Women and Children's Clinic Facility	71,605,960
North Carolina A&T State University	
New Student Center	90,000,000
North Carolina State University	
Carmichael Locker Room Renovation	7,600,000
The University of North Carolina at Chapel Hill	
Rizzo Center Phase III Acquisition	36,000,000
Odum Village Replacement	25,000,000
Craige Parking Deck – Supplement	4,000,000
The University of North Carolina at Charlotte	
Holshouser Hall Renovation	16,000,000

Oak Hall Renovation, Phase V	8,900,000
Residence Hall, Phase XIII	34,750,000
The University of North Carolina at Greensboro	
Spartan Village Phase I Acquisition	67,000,000
Western Carolina University	
Upper Campus New Residence Hall	48,000,000
Winston-Salem State University	
Bowman Gray Stadium & Civitan Park Acquisition	7,500,000
New Residence Hall – Freshmen Living/Learning	20,800,000

SECTION 2.(b) Before undertaking a project authorized by this section or undertaking the associated cost and no later than October 1, 2013, the Board of Governors of The University of North Carolina shall prepare an estimate and shall report the estimate to the Joint Legislative Commission on Governmental Operations. The estimate shall include all of the following:

(1) The total anticipated cost associated with each project.

(2) The resources being pledged for each project, including (i) the preceding five fiscal years of any revenue stream anticipated to be obligated and current expenditures and obligations associated with each such revenue stream and (ii) a forecast of not less than five fiscal years of any revenue stream anticipated to be newly obligated or anticipated to be obligated to a greater extent for purposes of financing the project.

(3) Anticipated term, interest rate, structure, and debt servicing schedule of any financing of costs for each authorized project.

(4) Anticipated operating costs associated with each project for not less than five fiscal years, including the source of the funds.

SECTION 3. At the request of the Board of Governors of The University of North Carolina and upon determining that it is in the best interest of the State to do so, the Director of the Budget may authorize an increase or decrease in the cost of, or a change in the method of, funding the projects authorized by this act. In determining whether to authorize a change in cost or funding, the Director of the Budget may consult with the Joint Legislative Commission on Governmental Operations.

SECTION 4. Pursuant to G.S. 116D-26, the Board of Governors may issue, subject to the approval of the Director of the Budget, at one time or from time to time, special obligation bonds of the Board of Governors for the purpose of paying all or any part of the cost of acquiring, constructing, or providing for the projects authorized by Section 2 of this act. The maximum principal amount of bonds to be issued shall not exceed the specified project costs in Section 2 of this act plus five percent (5%) of such amount to pay issuance expenses, fund reserve funds, pay capitalized interest, and pay other related additional costs, plus any increase in the specific project costs authorized by the Director of the Budget pursuant to Section 3 of this act.

SECTION 5.(a) With respect to Winston-Salem State University's Bowman Gray & Civitan Park Acquisition project, the institution may accomplish construction, acquisition, and financing notwithstanding the requirement in G.S. 116D-22(5) as to location at the institution and either through direct ownership of the project or by participation in a long-term agreement with the City of Winston-Salem if the property that is the subject of the project is a stadium that supports a NASCAR-sanctioned one-fourth mile asphalt flat oval short track and if all of the following requirements are met:

(1) The stadium is not renamed.

(2) No parking fees are charged for racing events at the stadium, the amount of public parking remains at or greater than the current level, and replacement parking, if any, is located on property adjacent to current parking areas.

(3) No prohibitions are placed on spectators of racing events at the stadium that would prohibit the spectators from entering with food, nonalcoholic beverages, or both. Nothing in this subdivision shall prohibit regulations on containers that are imposed on the grounds that the regulations are necessary for public safety.

(4) Where the property is subject to a lease at the time of acquisition, the lease provides for or is modified contemporaneously to provide for (i) a dispute resolution process, including the use of a committee, to resolve any disagreement between lessor and lessee, (ii) a process for accountability by the parties and recourse for the failure of the parties to perform any obligations or requirements included in the lease, and (iii) a prohibition against modification to co-located facilities that would adversely and materially impact race safety, operations, and costs, provided that the co-located facilities are football facilities.

(5) Where the property is subject to a lease at the time of acquisition, the lease is for or is modified contemporaneously to be for a term of 30 years from the date of execution. If a modification to the lease term is required, the term of the lease may be extended up to 10 years notwithstanding any other provision of law.

(6) The property continues to be made available, notwithstanding any other provision of law, for racing and racing-related events in a manner consistent with and under terms similar to those agreed upon for the use of the property immediately prior to the acquisition.

SECTION 5.(b) In support of subsection (a) of this section and "NASCAR's longest-running weekly race track" located within Bowman Gray Stadium, G.S. 18B-1006(a) reads as rewritten:

"(a) School and College Campuses. – No permit for the sale of malt beverages, unfortified wine, or fortified wine shall be issued to a business on the campus or property of a public school or college, other than at a regional facility as defined by G.S. 160A-480.2 operated by a facility authority under Part 4 of Article 20 of Chapter 160A of the General Statutes except for a public school or college function, unless that business is a hotel or a nonprofit alumni organization with a mixed beverages permit or a special occasion permit. This subsection shall not apply on property owned by a local board of education which was leased for 99 years or more to a nonprofit auditorium authority created prior to 1991 whose governing board is appointed by a city board of aldermen, a county board of commissioners, or a local school board. This subsection shall also not apply to the constituent institutions of The University of North Carolina with respect to the sale of beer and wine at (i) performing arts centers located on property owned or leased by the institutions if the seating capacity does not exceed 2,000 ~~seats, or to~~seats; (ii) any golf courses owned or leased by the institutions and open to the public for ~~use.~~use; or (iii) any stadiums that support a NASCAR-sanctioned one-fourth mile asphalt flat oval short track, that are owned or leased by the institutions, and that only sell malt beverages, unfortified wine, or fortified wine at events that are not sponsored or funded by the institutions."

SECTION 6. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 26th day of July, 2013.

Became law upon approval of the Governor at 10:46 a.m. on the 23rd day of August, 2013.

Session Law 2013-395 **S.B. 515**

AN ACT TO DELAY ADDITIONAL IMPLEMENTATION OF THE JORDAN LAKE RULES AND JORDAN LAKE SESSION LAWS AND PROVIDE FOR ALTERNATIVE IMPLEMENTATION OF THE PROTECTION OF EXISTING BUFFERS RULE.

Whereas, the United States Congress authorized the United States Army Corps of Engineers (USACE) to create what is now the B. Everett Jordan Lake in 1963; and

Whereas, the USACE submitted a Final Environmental Impact Statement (EIS) in November 1971 that stated, "Of primary concern is the eutrophic tendency of the lake. Eutrophication is a term used to describe the natural change in productivity of a lake during aging. It is usually a long-term phenomenon, which may be measured in geologic time …. Studies have shown that, assuming that all other elements necessary are available, the amounts of nitrogen and phosphorus presently found in the influent are adequate to produce algae blooms in the lake."; and

Whereas, the USACE stated in the EIS, "Several studies have indicated that the major water quality problem will be associated with anticipated nuisance algal growths resulting from excess nutrients from upstream sources."; and

Whereas, the United States Environmental Protection Agency (EPA) commented in the EIS, "Nutrient concentration in both the Haw River and New Hope River are high, and nuisance algal growth detrimental to water supply and recreation are a virtual certainty …. Impoundment should not take place until there is a strong technical basis for the prediction that nuisance algal growths will not occur."; and

Whereas, the USACE, in responding to the EPA's comments in the EIS, stated, "… it is doubtful whether a strong technical basis exists for the prediction that nuisance algal growths will not occur on most existing reservoirs …."; and

Whereas, the United States Department of the Interior Bureau of Sport Fisheries and Wildlife commented in the EIS that, "High nutrient concentrations will intensify and extend water quality problems into the upper surface layers. Therefore, impoundment will create a pollution problem to the detriment of the ecosystem."; and

Whereas, the EIS contained a summary of complaints from pending litigation that included, "Even in the absence of nutrients from wastes, the shallowness … would ensure abnormally heavy algae growths that could not be controlled …. Probably the most serious deficiency of defendants' environmental statement is its de-emphasis on the certainty that the water … will be of exceptionally bad quality."; and

Whereas, despite the many inherent challenges of managing the water quality of Jordan Lake, the General Assembly remains committed to addressing issues that affect the water quality of the Lake; and

Whereas, it is the intent of the General Assembly to continue implementation of current measures to address water quality issues in Jordan Lake; and

Whereas, it is the intent of the General Assembly to temporarily delay additional implementation of measures to address water quality issues in Jordan Lake in order to allow for further evaluation of those measures and further exploration of other measures and technologies to improve the water quality of the Lake; Now, therefore,

The General Assembly of North Carolina enacts:

PART I. DELAY ADDITIONAL IMPLEMENTATION OF THE JORDAN LAKE RULES AND THE JORDAN LAKE SESSION LAWS

SECTION 1.(a) For purposes of this act, the following definitions apply:

(1) "Jordan Lake Rules" means all of the following rules:

a. 15A NCAC 02B .0262 (Jordan Water Supply Nutrient Strategy: Purpose and Scope)

b. 15A NCAC 02B .0263 (Jordan Water Supply Nutrient Strategy: Definitions)
c. 15A NCAC 02B .0264 (Jordan Water Supply Nutrient Strategy: Agriculture)
d. 15A NCAC 02B .0265 (Jordan Water Supply Nutrient Strategy: Stormwater Management for New Development)
e. 15A NCAC 02B .0266 (Jordan Water Supply Nutrient Strategy: Stormwater Management for Existing Development)
f. 15A NCAC 02B .0267 (Jordan Water Supply Nutrient Strategy: Protection of Existing Riparian Buffers)
g. 15A NCAC 02B .0270 (Jordan Water Supply Nutrient Strategy: Wastewater Discharge Requirements)
h. 15A NCAC 02B .0271 (Jordan Water Supply Nutrient Strategy: Stormwater Requirements for State and Federal Entities)
i. 15A NCAC 02B .0272 (Jordan Water Supply Nutrient Strategy: Fertilizer Management)
j. 15A NCAC 02B .0311 (Cape Fear River Basin)

(2) "Jordan Lake Session Laws" means all of the following Session Laws or portions of Session Laws:
a. S.L. 2009-216.
b. Part II of S.L. 2009-484.
c. Section 14 of S.L. 2011-394.
d. Section 12.1 of S.L. 2012-187.
e. Subsections 9(c) through 9(g) of S.L. 2012-200.
f. Subsections 11(a) through 11(e) of S.L. 2012-201.

SECTION 1.(b) The implementation dates of the Jordan Lake Rules and Jordan Lake Session Laws that begin July 1, 2013, or later shall be delayed for a period of three years.

PART II. IMPLEMENTATION OF RULE FOR PROTECTION OF EXISTING BUFFERS

SECTION 2.(a) The definitions set out in G.S. 143-212 and 15A NCAC 02B .0267 (Jordan Water Supply Nutrient Strategy: Protection of Existing Riparian Buffers) apply to this section. For purposes of this section, "Protection of Existing Riparian Buffers Rule" means 15A NCAC 02B .0267 (Jordan Water Supply Nutrient Strategy: Protection of Existing Riparian Buffers).

SECTION 2.(b) Protection of Existing Riparian Buffers Rule. – Until the effective date of the revised permanent rule that the Commission is required to adopt pursuant to Section 2(d) of this act, the Commission and the Department shall implement the Protection of Existing Riparian Buffers Rule as provided in Section 2(c) of this act.

SECTION 2.(c) Implementation. – The Protection of Existing Riparian Buffers Rule shall be implemented as follows:

(1) Notwithstanding the Table of Uses set out in subdivision (9) of the Protection of Existing Riparian Buffers Rule, utility, nonelectric, other than perpendicular crossings that have impacts only in Zone Two shall be categorized as exempt.
(2) Notwithstanding the Table of Uses set out in subdivision (9) of the Protection of Existing Riparian Buffers Rule, the piping of a stream allowed under a permit issued by the United States Army Corps of Engineers shall be categorized as an allowable use.
(3) Notwithstanding the definition of "Airport Facilities" set out in sub-subdivision (b) of subdivision (2) of the Protection of Existing Riparian Buffers Rule, "Airport Facilities" shall include any aeronautic industrial facilities that require direct access to the airfield.

SECTION 2.(d) Additional Rule-Making Authority. – The Environmental Management Commission shall adopt a rule to amend 15A NCAC 02B .0267 (Jordan Water Supply Nutrient Strategy: Protection of Existing Riparian Buffers) consistent with Section 2(c) of this act. Notwithstanding G.S. 150B-19(4), the rule adopted by the Commission pursuant to this section shall be substantively identical to the provisions of Section 2(c) of this act. Rules adopted pursuant to this section are not subject to Part 3 of Article 2A of Chapter 150B of the General Statutes. Rules adopted pursuant to this section shall become effective as provided in G.S. 150B-21.3(b1) as though 10 or more written objections had been received as provided by G.S. 150B-21.3(b2).

SECTION 2.(e) Sunset. – Section 2(c) of this act expires on the date that rules adopted pursuant to Section 2(d) of this act become effective.

PART III. EFFECTIVE DATE

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

In the General Assembly read three times and ratified this the 26th day of July, 2013.

Became law upon approval of the Governor at 10:47 a.m. on the 23rd day of August, 2013.

Session Law 2013-396 **S.B. 547**

AN ACT TO AMEND THE STATUTES GOVERNING GUARANTEED ENERGY SAVINGS CONTRACTS FOR GOVERNMENTAL UNITS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143-64.17 reads as rewritten:

"§ **143-64.17. Definitions.**

As used in this Part:

…

(5) "Qualified provider" means a person or business experienced in the design, implementation, and installation of energy conservation ~~measures.~~measures who has been prequalified by the State Energy Office according to the prequalification criteria established by that Office.

(5a) "Qualified reviewer" means an architect or engineer who is (i) licensed in this State and (ii) experienced in the design, implementation, and installation of energy efficiency measures.

…."

SECTION 2. G.S. 143-64.17A reads as rewritten:

"§ **143-64.17A. Solicitation of guaranteed energy savings contracts.**

(a) RFP Issuance. – Before entering into a guaranteed energy savings contract, a governmental unit shall issue a request for proposals. Notice of the request shall be published at least 15 days in advance of the time specified for opening of the proposals in at least one newspaper of general circulation in the geographic area for which the local governmental unit is responsible or, in the case of a State governmental unit, in which the facility or facilities are located. No guaranteed energy savings contract shall be awarded by any governmental unit unless at least two proposals have been received from qualified providers. Provided that if after the publication of the notice of the request for proposals, fewer than two proposals have been received from qualified providers, or fewer than two qualified providers attend the mandatory prebid meeting, ~~the governmental unit shall again publish notice of the request and if as a result of the second notice, one or more proposals by qualified providers are received,~~ the governmental unit may then open the proposals and select a qualified provider even if only one proposal is received.

(b) Preliminary Proposal Evaluation. – The governmental unit shall evaluate a sealed proposal from any qualified provider. ~~Proposals shall contain estimates of all costs of~~

~~installation, modification, or remodeling, including costs of design, engineering, installation, maintenance, repairs, debt service, and estimates of energy savings.~~A qualified reviewer shall be required to evaluate the proposals and will provide the governmental unit with a letter report containing both qualitative and quantitative evaluation of the proposals. The report may include a recommendation for selection, but the governmental unit is not obligated to follow it.

(c) Receipt of Proposals for Unit of Local Government. – In the case of a local governmental unit, proposals received pursuant to this section shall be opened by a member or an employee of the governing body of the local governmental unit at a public opening at which the contents of the proposals shall be announced and recorded in the minutes of the governing body. Proposals shall be evaluated for the local governmental unit by ~~a licensed architect or engineer~~ a qualified reviewer on the basis of:

(1) The information required in subsection (b) of this section; and

(2) The criteria stated in the request for proposals.

The local governmental unit may require a qualified provider to include in calculating the cost of a proposal for a guaranteed energy savings contract any reasonable fee payable by the local governmental unit for the evaluation of the proposal by a ~~licensed architect or professional engineer~~qualified reviewer not employed as a member of the staff of the local governmental unit or the qualified provider.

(c1) Receipt of Proposals for Unit of State Government. – In the case of a State governmental unit, proposals received pursuant to this section shall be opened by a member or an employee of the State governmental unit at a public opening and the contents of the proposals shall be announced at this opening. Proposals shall be evaluated for the State governmental unit ~~by a licensed architect or engineer~~by a qualified reviewer who is either privately retained, employed with the Department of Administration, or employed as a member of the staff of the State governmental unit. The proposal shall be evaluated on the basis of the information and report required in subsection (b) of this section and the criteria stated in the request for proposals.

The State governmental unit shall require a qualified provider to include in calculating the cost of a proposal for a guaranteed energy savings contract any reasonable fee payable by the State governmental unit for evaluation of the proposal ~~by a licensed architect or professional engineer~~by a qualified reviewer not employed as a member of the staff of the State governmental unit or the qualified provider. The Department of Administration may charge the State governmental unit a reasonable fee for the evaluation of the proposal if the Department's services are used for the evaluation and the cost paid by the State governmental unit to the Department of Administration shall be calculated in the cost of the proposal under this subsection.

(d) Criteria for Selection of Provider. – The governmental unit shall select the qualified provider that it determines to best meet the needs of the governmental unit by evaluating all of the ~~following:~~following and following the procedures set forth in subsection (d1) of this section:

~~(1) Prices offered.~~

~~(2) Proposed costs of construction, financing, maintenance, and training.~~

(3) Quality of the products and energy conservation measures proposed.

~~(4) Amount of energy savings.~~

(5) General reputation and performance capabilities of the qualified providers.

(6) Substantial conformity with the specifications and other conditions set forth in the request for proposals.

(7) Time specified in the proposals for the performance of the contract.

(8) Any other factors the governmental unit deems necessary, which factors shall be made a matter of record.

(d1) Process for Selection of Provider. – The governmental unit shall select a short list of finalists on the basis of its rankings of the written proposals under the criteria set forth in subsection (d) of this section as well as references from past clients. The governmental unit

shall have the highest ranked qualified provider prepare a cost-savings analysis for the proposed contract showing at a minimum a comparison of the total estimated project savings to the total estimated project costs for the proposed term. If the governmental unit and the qualified provider cannot negotiate acceptable terms, pricing, and savings estimates, the governmental unit may terminate the process and begin negotiations with the second highest ranked qualified provider. The State Energy Office shall review the selected qualified provider's proposal, cost-benefit analysis, and other relevant documents prior to the governmental unit announcing the award.

(e) Nothing in this section shall limit the authority of governmental units as set forth in Article 3D of this Chapter."

SECTION 3. G.S. 143-64.17B reads as rewritten:

"§ **143-64.17B. Guaranteed energy savings contracts.**

…

(c) A qualified provider entering into a guaranteed energy savings contract under this Part shall provide security to the governmental unit in the form acceptable to the Office of the State Treasurer and in an amount equal to one hundred percent (100%) of the ~~total cost~~ guaranteed savings for the term of the guaranteed energy savings contract to assure the provider's faithful performance. Any bonds required by this subsection shall be subject to the provisions of Article 3 of Chapter 44A of the General Statutes. If the savings resulting from a guaranteed energy savings contract are not as great as projected under the contract and all required shortfall payments to the governmental unit have not been made, the governmental unit may terminate the contract without incurring any additional obligation to the qualified provider.

…

(g) ~~In the case of a State governmental unit, a~~A qualified provider shall provide an annual reconciliation statement based upon the results of the measurement and verification review. The statement shall disclose any shortfalls or surplus between guaranteed energy and operational savings specified in the guaranteed energy savings contract and actual, not stipulated, energy and operational savings incurred during a given guarantee year. Any guaranteed energy and operational savings shall be determined by using one of the measurement and verification methodologies listed in the United States Department of Energy's Measurement and Verification Guidelines for Energy Savings Performance Contracting, the International Performance Measurement and Verification Protocol (IPMVP) maintained by the Efficiency Valuation Organization, or Guideline 14-2002 of the American Society of Heating, Refrigerating, and Air-Conditioning Engineers. If due to existing data limitations or the nonconformance of specific project characteristics, none of the three methodologies listed in this subsection is sufficient for measuring guaranteed savings, the qualified provider shall develop an alternate method that is compatible with one of the three methodologies and mutually agreeable to the governmental unit. The guarantee year shall consist of a 12-month term commencing from the time that the energy conservation measures become fully operational. A qualified provider shall pay the ~~State~~ governmental unit or its assignee any shortfall in the guaranteed energy and operational savings after the total year savings have been determined. ~~A~~ In the case of a governmental unit, a surplus in any one year shall not be carried forward or applied to a shortfall in any other year."

SECTION 4.(a) G.S. 143-64.17L(e) reads as rewritten:

"(e) The Board of Governors may authorize North Carolina State University and the University of North Carolina at Charlotte to implement an energy conservation measure without entering into a guaranteed energy savings contract pursuant to this section."

SECTION 4.(b) G.S. 142-63 reads as rewritten:

"§ **142-63. Authorization of financing contract.**

Subject to the terms and conditions set forth in this Article, (i) a State governmental unit that is implementing an energy conservation measure pursuant to G.S. 143-64.17L and financing it pursuant to this Article, (ii) a State governmental unit that has solicited a

guaranteed energy conservation measure pursuant to G.S. 143-64.17A or G.S. 143-64.17B, or (iii) the State Treasurer, as designated by the Council of State, is authorized to execute and deliver, for and on behalf of the State of North Carolina, a financing contract to finance the costs of the energy conservation measure. The aggregate outstanding amount payable by the State under financing contracts entered pursuant to this Article shall not exceed five hundred million dollars ($500,000,000) at any one time.

~~Subject to the terms and conditions set forth in this Article, a State governmental unit that has solicited a guaranteed energy conservation measure pursuant to G.S. 143-64.17A or G.S. 143-64.17B or the State Treasurer, as designated by the Council of State, is authorized to execute and deliver, for and on behalf of the State of North Carolina, a financing contract to finance the costs of the energy conservation measure. The aggregate outstanding amount payable by the State under financing contracts entered pursuant to this Article shall not exceed five hundred million dollars ($500,000,000) at any one time.~~"

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

In the General Assembly read three times and ratified this the 25th day of July, 2013.

Became law upon approval of the Governor at 10:47 a.m. on the 23rd day of August, 2013.

Session Law 2013-397 **S.B. 553**

AN ACT TO ESTABLISH GRIEVANCE AND APPEAL PROCEDURES FOR LOCAL MANAGEMENT ENTITY/MANAGED CARE ORGANIZATION (LME/MCO) MEDICAID ENROLLEES; TO REQUIRE THE DEPARTMENT OF HEALTH AND HUMAN SERVICES TO ESTABLISH A SUPPORTIVE HOUSING PROGRAM FOR INDIVIDUALS TRANSITIONING FROM INSTITUTIONAL SETTINGS TO INTEGRATED COMMUNITY-BASED SETTINGS, TO CLARIFY HOW FUNDS APPROPRIATED TO THE DEPARTMENT OF HEALTH AND HUMAN SERVICES FOR THE ESTABLISHMENT AND OPERATION OF THIS PROGRAM SHALL BE USED, AND TO CREATE A COMMUNITY LIVING HOUSING FUND WITHIN THE HOUSING FINANCE AGENCY TO INTEGRATE INDIVIDUALS WITH DISABILITIES INTO COMMUNITY-BASED SUPPORTED HOUSING; AND TO MODIFY ALLOCATION OF STATE'S SHARE IN HOSPITAL PROVIDER ASSESSMENT TAX.

The General Assembly of North Carolina enacts:

PART I. ESTABLISH GRIEVANCE AND APPEAL PROCEDURES FOR LOCAL MANAGEMENT ENTITY/MANAGED CARE ORGANIZATION MEDICAID ENROLLEES.

SECTION 1. The General Statutes are amended by adding a new Chapter to read:

"**Chapter 108D.**

"**Medicaid Managed Care for Behavioral Health Services.**

"Article 1.

"General Provisions.

"**§ 108D-1. Definitions.**

The following definitions apply in this Chapter, unless the context clearly requires otherwise:

(1) Applicant. – A provider of mental health, intellectual or developmental disabilities, and substance abuse services who is seeking to participate in the closed network of one or more local management entity/managed care organizations.

(2) Closed network. – The network of providers that have contracted with a local management entity/managed care organization to furnish mental

health, intellectual or developmental disabilities, and substance abuse services to enrollees.

(3) Contested case hearing. – The hearing or hearings conducted at the Office of Administrative Hearings under G.S. 108D-8 to resolve a dispute between an enrollee and a local management entity/managed care organization about a managed care action.

(4) Department. – The North Carolina Department of Health and Human Services.

(5) Emergency medical condition. – As defined in 42 C.F.R. § 438.114.

(6) Emergency services. – As defined in 42 C.F.R. § 438.114.

(7) Enrollee. – A Medicaid beneficiary who is currently enrolled with a local management entity/managed care organization.

(8) Local Management Entity or LME. – As defined in G.S. 122C-3(20b).

(9) Local Management Entity/Managed Care Organization or LME/MCO. – As defined in G.S. 122C-3(20c).

(10) Managed care action. – An action, as defined in 42 C.F.R. § 438.400(b).

(11) Managed Care Organization or MCO. – As defined in 42 C.F.R. § 438.2.

(12) Mental health, intellectual or developmental disabilities, and substance abuse services or MH/IDD/SA services. – Those mental health, intellectual or developmental disabilities, and substance abuse services covered under a contract in effect between the Department of Health and Human Services and a local management entity to operate a managed care organization or prepaid inpatient health plan (PIHP) under the 1915(b)/(c) Medicaid Waiver approved by the federal Centers for Medicare and Medicaid Services (CMS).

(13) Network provider. – An appropriately credentialed provider of mental health, intellectual or developmental disabilities, and substance abuse services that has entered into a contract for participation in the closed network of one or more local management entity/managed care organizations.

(14) Notice of managed care action. – The notice required by 42 C.F.R. § 438.404.

(15) Notice of resolution. – The notice described in 42 C.F.R. § 438.408(e).

(16) OAH. – The North Carolina Office of Administrative Hearings.

(17) Prepaid Inpatient Health Plan or PIHP. – As defined in 42 C.F.R. § 438.2.

(18) Provider of emergency services. – A provider that is qualified to furnish emergency services to evaluate or stabilize an enrollee's emergency medical condition.

"§ **108D-2. Scope; applicability of this Chapter.**

This Chapter applies to every LME/MCO and to every applicant, enrollee, provider of emergency services, and network provider of an LME/MCO.

"§ **108D-3. Conflicts; severability.**

(a) To the extent that this Chapter conflicts with the Social Security Act or 42 C.F.R. Part 438, federal law prevails.

(b) To the extent that this Chapter conflicts with any other provision of State law that is contrary to the principles of managed care that will ensure successful containment of costs for behavioral health care services, this Chapter prevails and applies.

(c) If any section, term, or provision of this Chapter is adjudged invalid for any reason, these judgments shall not affect, impair, or invalidate any other section, term, or provision of this Chapter, but the remaining sections, terms, and provisions shall be and remain in full force and effect.

"Article 2.

"Enrollee Grievances and Appeals.

"**§ 108D-4. LME/MCO grievance and appeal procedures, generally.**

(a) Each LME/MCO shall establish and maintain internal grievance and appeal procedures that (i) comply with the Social Security Act and 42 C.F.R. Part 438, Subpart F, and (ii) afford enrollees, and network providers authorized in writing to act on behalf of enrollees, constitutional rights to due process and a fair hearing.

(b) Enrollees, or network providers authorized in writing to act on behalf of enrollees, may file requests for grievances and LME/MCO level appeals orally or in writing. However, unless the enrollee or network provider requests an expedited appeal, the oral filing must be followed by a written, signed grievance or appeal.

(c) An LME/MCO shall not attempt to influence, limit, or interfere with an enrollee's right or decision to file a grievance, request for an LME/MCO level appeal, or a contested case hearing. However, nothing in this Chapter shall be construed to prevent an LME/MCO from doing any of the following:

(1) Offering an enrollee alternative services.

(2) Engaging in clinical or educational discussions with enrollees or providers.

(3) Engaging in informal attempts to resolve enrollee concerns prior to the issuance of a notice of grievance disposition or notice of resolution.

(d) An LME/MCO shall not take punitive action against a provider for any of the following:

(1) Filing a grievance on behalf of an enrollee or supporting an enrollee's grievance.

(2) Requesting an LME/MCO level appeal on behalf of an enrollee or supporting an enrollee's request for an LME/MCO level appeal.

(3) Requesting an expedited LME/MCO level appeal on behalf of an enrollee or supporting an enrollee's request for an LME/MCO level expedited appeal.

(4) Requesting a contested case hearing on behalf of an enrollee or supporting an enrollee's request for a contested case hearing.

"**§ 108D-5. LME/MCO grievances.**

(a) Filing of Grievance. – An enrollee, or a network provider authorized in writing to act on behalf of an enrollee, has the right to file a grievance with an LME/MCO at any time to express dissatisfaction about any matter other than a managed care action. Upon receipt of a grievance, an LME/MCO shall cause a written acknowledgment of receipt of the grievance to be sent by United States mail.

(b) Notice of Grievance Disposition. – The LME/MCO shall resolve the grievance and cause a notice of grievance disposition to be sent by United States mail to the enrollee and all other affected parties as expeditiously as the enrollee's health condition requires, but no later than 90 days after receipt of the grievance.

(c) Right to LME/MCO Level Appeal. – There is no right to appeal the resolution of a grievance to OAH or any other forum.

"**§ 108D-6. Standard LME/MCO level appeals.**

(a) Notice of Managed Care Action. – An LME/MCO shall provide an enrollee with written notice of a managed care action by United States mail as required under 42 C.F.R. § 438.404. The notice of action will employ a standardized form included as a provision in the contracts between the LME/MCOs and the Department of Health and Human Services.

(b) Request for Appeal. – An enrollee, or a network provider authorized in writing to act on behalf of the enrollee, has the right to file a request for an LME/MCO level appeal of a notice of managed care action no later than 30 days after the mailing date of the grievance disposition or notice of managed care action. Upon receipt of a request for an LME/MCO level appeal, an LME/MCO shall acknowledge receipt of the request for appeal in writing by United States mail.

(c) Continuation of Benefits. – An LME/MCO shall continue the enrollee's benefits during the pendency of an LME/MCO level appeal to the same extent required under 42 C.F.R. § 438.420.

(d) Notice of Resolution. – The LME/MCO shall resolve the appeal as expeditiously as the enrollee's health condition requires, but no later than 45 days after receiving the request for appeal. The LME/MCO shall provide the enrollee and all other affected parties with a written notice of resolution by United States mail within this 45-day period.

(e) Right to Request Contested Case Hearing. – An enrollee, or a network provider authorized in writing to act on behalf of an enrollee, may file a request for a contested case hearing under G.S. 108D-8 as long as the enrollee or network provider has exhausted the appeal procedures described in this section or G.S. 108D-7.

(f) Request Form for Contested Case Hearing. – In the same mailing as the notice of resolution, the LME/MCO shall also provide the enrollee with an appeal request form for a contested case hearing that meets the requirements of G.S. 108D-8(f).

"**§ 108D-7. Expedited LME/MCO level appeals.**

(a) Request for Expedited Appeal. – When the time limits for completing a standard appeal could seriously jeopardize the enrollee's life or health or ability to attain, maintain, or regain maximum function, an enrollee, or a network provider authorized in writing to act on behalf of an enrollee, has the right to file a request for an expedited appeal of a managed care action no later than 30 days after the mailing date of the notice of managed care action. For expedited appeal requests made by enrollees, the LME/MCO shall determine if the enrollee qualifies for an expedited appeal. For expedited appeal requests made by network providers on behalf of enrollees, the LME/MCO shall presume an expedited appeal is necessary.

(b) Notice of Denial for Expedited Appeal. – If the LME/MCO denies a request for an expedited LME/MCO level appeal, the LME/MCO shall make reasonable efforts to give the enrollee and all other affected parties oral notice of the denial and follow up with written notice of denial by United States mail by no later than two calendar days after receiving the request for an expedited appeal. In addition, the LME/MCO shall resolve the appeal within the time limits established for standard LME/MCO level appeals in G.S. 108D-6.

(c) Continuation of Benefits. – An LME/MCO shall continue the enrollee's benefits during the pendency of an expedited LME/MCO level appeal to the extent required under 42 C.F.R. § 438.420.

(d) Notice of Resolution. – If the LME/MCO grants a request for an expedited LME/MCO level appeal, the LME/MCO shall resolve the appeal as expeditiously as the enrollee's health condition requires, and no later than three working days after receiving the request for an expedited appeal. The LME/MCO shall provide the enrollee and all other affected parties with a written notice of resolution by United States mail within this three-day period.

(e) Right to Request Contested Case Hearing. – An enrollee, or a network provider authorized in writing to act on behalf of an enrollee, may file a request for a contested case hearing under G.S. 108D-8 as long as the enrollee or network provider has exhausted the appeal procedures described in G.S. 108D-6 or this section.

(f) Reasonable Assistance. – An LME/MCO shall provide the enrollee with reasonable assistance in completing forms and taking other procedural steps necessary to file an appeal, including providing interpreter services and toll-free numbers that have adequate teletypewriter/telecommunications devices for the deaf (TTY/TDD) and interpreter capability.

(g) Request Form for Contested Case Hearing. – In the same mailing as the notice of resolution, the LME/MCO shall also provide the enrollee with an appeal request form for a contested case hearing that meets the requirements of G.S. 108D-8(f).

"**§ 108D-8. Contested case hearings on disputed managed care actions.**

(a) Jurisdiction of the Office of Administrative Hearings. – The Office of Administrative Hearings does not have jurisdiction over a dispute concerning a managed care action, except as expressly set forth in this Chapter.

(b) Exclusive Administrative Remedy. – Notwithstanding any provision of State law or rules to the contrary, this section is the exclusive method for an enrollee to contest a notice of resolution issued by an LME/MCO. G.S. 108A-70.9A, 108A-70.9B, and 108A-70.9C do not apply to enrollees contesting a managed care action.

(c) Request for Contested Case Hearing. – A request for an administrative hearing to appeal a notice of resolution issued by an LME/MCO is a contested case subject to the provisions of Article 3 of Chapter 150B of the General Statutes. An enrollee, or a network provider authorized in writing to act on behalf of an enrollee, has the right to file a request for appeal to contest a notice of resolution as long as the enrollee or network provider has exhausted the appeal procedures described in G.S. 108D-6 or G.S. 108D-7.

(d) Filing Procedure. – An enrollee, or a network provider authorized in writing to act on behalf of an enrollee, may file a request for an appeal by sending an appeal request form that meets the requirements of subsection (e) of this section to OAH and the affected LME/MCO by no later than 30 days after the mailing date of the notice of resolution. A request for appeal is deemed filed when a completed and signed appeal request form has been both submitted into the care and custody of the chief hearings clerk of OAH and accepted by the chief hearings clerk. Upon receipt of a timely filed appeal request form, information contained in the notice of resolution is no longer confidential, and the LME/MCO shall immediately forward a copy of the notice of resolution to OAH electronically. OAH may dispose of these records after one year.

(e) Parties. – The LME/MCO shall be the respondent for purposes of this appeal. The LME/MCO or enrollee may move for the permissive joinder of the Department under Rule 20 of the North Carolina Rules of Civil Procedure. The Department may move to intervene as a necessary party under Rules 19 and 24 of the North Carolina Rules of Civil Procedure.

(f) Appeal Request Form. – In the same mailing as the notice of resolution, the LME/MCO shall also provide the enrollee with an appeal request form for a contested case hearing which shall be no more than one side of one page. The form shall include at least all of the following:

(1) A statement that in order to request an appeal, the enrollee must file the form in accordance with OAH rules, by mail or fax to the address or fax number listed on the form, by no later than 30 days after the mailing date of the notice of resolution.

(2) The enrollee's name, address, telephone number, and Medicaid identification number.

(3) A preprinted statement that indicates that the enrollee would like to appeal a specific managed care action identified in the notice of resolution.

(4) A statement informing the enrollee of the right to be represented at the contested case hearing by a lawyer, a relative, a friend, or other spokesperson.

(5) A space for the enrollee's signature and date.

(g) Continuation of Benefits. – An LME/MCO shall continue the enrollee's benefits during the pendency of an appeal to the same extent required under 42 C.F.R. § 438.420. Notwithstanding any other provision of State law, the administrative law judge does not have the power to order and shall not order an LME/MCO to continue benefits in excess of what is required by 42 C.F.R. § 438.420.

(h) Simple Procedures. – Notwithstanding any other provision of Article 3 of Chapter 150B of the General Statutes, the chief administrative law judge of OAH may limit and simplify the administrative hearing procedures that apply to contested case hearings conducted under this section in order to complete these cases as expeditiously as possible. Any simplified hearing procedures approved by the chief administrative law judge under this subsection must comply with all of the following requirements:

(1) OAH shall schedule and hear cases by no later than 55 days after receipt of a request for a contested case hearing.

(2) OAH shall conduct all contested case hearings telephonically or by video technology with all parties, unless the enrollee requests that the hearing be conducted in person before the administrative law judge. An in-person hearing shall be conducted in the county that contains the headquarters of the LME/MCO unless the enrollee's impairments limit travel. For enrollees with impairments that limit travel, an in-person hearing shall be conducted in the enrollee's county of residence. OAH shall provide written notice to the enrollee of the use of telephonic hearings, hearings by video conference, and in-person hearings before the administrative law judge, as well as written instructions on how to request a hearing in the enrollee's county of residence.

(3) The administrative law judge assigned to hear the case shall consider and rule on all prehearing motions prior to the scheduled date for a hearing on the merits.

(4) The administrative law judge may allow brief extensions of the time limits imposed in this section only for good cause shown and to ensure that the record is complete. The administrative law judge shall only grant a continuance of a hearing in accordance with rules adopted by OAH for good cause shown and shall not grant a continuance on the day of a hearing, except for good cause shown. If an enrollee fails to make an appearance at a hearing that has been properly noticed by OAH by United States mail, OAH shall immediately dismiss the case, unless the enrollee moves to show good cause by no later than three business days after the date of dismissal. As used in this section, "good cause shown" includes delays resulting from untimely receipt of documentation needed to render a decision and other unavoidable and unforeseen circumstances.

(5) OAH shall include information on at least all of the following in its notice of hearing to an enrollee:

a. The enrollee's right to examine at a reasonable time before and during the hearing the contents of the enrollee's case file and any documents to be used by the LME/MCO in the hearing before the administrative law judge.

b. The enrollee's right to an interpreter during the hearing process.

c. The circumstances in which a medical assessment may be obtained at the LME/MCO's expense and made part of the record, including all of the following:

1. A hearing involving medical issues, such as a diagnosis, an examining physician's report, or a decision by a medical review team.

2. A hearing in which the administrative law judge considers it necessary to have a medical assessment other than the medical assessment performed by an individual involved in any previous level of review or decision making.

(i) Mediation. – Upon receipt of an appeal request form as provided by G.S. 108D-8(f) or other clear request for a hearing by an enrollee, OAH shall immediately notify the Mediation Network of North Carolina, which shall contact the enrollee within five days to offer mediation in an attempt to resolve the dispute. If mediation is accepted, the mediation must be completed within 25 days of submission of the request for appeal. Upon completion of the mediation, the mediator shall inform OAH and the LME/MCO within 24 hours of the resolution by facsimile or electronic messaging. If the parties have resolved matters in the mediation, OAH shall dismiss the case. OAH shall not conduct a hearing of any contested case involving a dispute of a managed care action until it has received notice from the mediator assigned that either (i) the mediation was unsuccessful, (ii) the petitioner has rejected the offer of mediation, or (iii) the

petitioner has failed to appear at a scheduled mediation. Nothing in this subsection shall restrict the right to a contested case hearing.

(j) Burden of Proof. – The enrollee has the burden of proof on all issues submitted to OAH for a contested case hearing under this section and has the burden of going forward. The administrative law judge shall not make any ruling on the preponderance of evidence until the close of all evidence in the case.

(k) New Evidence. – The enrollee shall be permitted to submit evidence regardless of whether it was obtained before or after the LME/MCO's managed care action and regardless of whether the LME/MCO had an opportunity to consider the evidence in resolving the LME/MCO level appeal. Upon the receipt of new evidence and at the request of the LME/MCO, the administrative law judge shall continue the hearing for a minimum of 15 days and a maximum of 30 days in order to allow the LME/MCO to review the evidence. Upon reviewing the evidence, if the LME/MCO decides to reverse the managed care action taken against the enrollee, it shall immediately inform the administrative law judge of its decision.

(l) Issue for Hearing. – For each managed care action, the administrative law judge shall determine whether the LME/MCO substantially prejudiced the rights of the enrollee and whether the LME/MCO, based upon evidence at the hearing:

(1) Exceeded its authority or jurisdiction.

(2) Acted erroneously.

(3) Failed to use proper procedure.

(4) Acted arbitrarily or capriciously.

(5) Failed to act as required by law or rule.

(m) To the extent that anything in this Part, Chapter 150B of the General Statutes, or any rules or policies adopted under these Chapters is inconsistent with the Social Security Act or 42 C.F.R. Part 438, Subpart F, federal law prevails and applies to the extent of the conflict. All rules, rights, and procedures for contested case hearings concerning managed care actions shall be construed so as to be consistent with federal law and shall provide the enrollee with no lesser and no greater rights than those provided under federal law.

"§ **108D-9. Notice of final decision and right to seek judicial review.**

The administrative law judge assigned to conduct a contested case hearing under G.S. 108D-8 shall hear and decide the case without unnecessary delay. The judge shall prepare a written decision that includes findings of fact and conclusions of law and send it to the parties in accordance with G.S. 150B-37. The written decision shall notify the parties of the final decision and of the right of the enrollee and the LME/MCO to seek judicial review of the decision under Article 4 of Chapter 150B of the General Statutes."

SECTION 2. G.S. 122C-151.3 reads as rewritten:

"§ **122C-151.3. Dispute with area authorities or county programs.**

(a) An area authority or county program shall establish written procedures for resolving disputes over decisions of an area authority or county program that may be appealed to the State MH/DD/SA Appeals Panel under G.S. 122C-151.4. The procedures shall be informal and shall provide an opportunity for those who dispute the decision to present their position.

(b) This section does not apply to LME/MCOs, enrollees, applicants, providers of emergency services, or network providers subject to Chapter 108D of the General Statutes."

SECTION 3. G.S. 122C-151.4(g) reads as rewritten:

"(g) This section does not apply to ~~providers of community support services who appeal directly to the Department of Health and Human Services under the Department's community support provider appeal process.~~LME/MCOs, enrollees, applicants, providers of emergency services, or network providers subject to Chapter 108D of the General Statutes."

SECTION 4. G.S. 150B-23 is amended by adding a new subsection to read:

"(a3) A Medicaid enrollee, or network provider authorized in writing to act on behalf of the enrollee, who appeals a notice of resolution issued by an LME/MCO under Chapter 108D of the General Statutes may commence a contested case under this Article in the same manner as any other petitioner. The case shall be conducted in the same manner as other contested

cases under this Article. Solely and only for the purposes of contested cases commenced as Medicaid managed care enrollee appeals under Chapter 108D of the General Statutes, an LME/MCO is considered an agency as defined in G.S. 150B-2(1a). The LME/MCO shall not be considered an agency for any other purpose."

SECTION 5. By September 30, 2013, the Department of Health and Human Services shall take any action necessary to implement this act, including submitting to the Centers for Medicare and Medicaid Services a Medicaid State Plan Amendment with a retroactive effective date of July 1, 2013. On or before September 30, 2013, the Department of Health and Human Services shall report to the Joint Legislative Oversight Committee on Health and Human Services on the status of the implementation of this act.

PART II. BLUE RIBBON COMMISSION RECOMMENDATIONS/SUPPORTIVE MENTAL HEALTH HOUSING.

SECTION 6.(a) Chapter 122C of the General Statutes is amended by adding a new Article to read:

"Article 1B.
"Transitions to Community Living.
"Part 1. North Carolina Supportive Housing Program.

"**§ 122C-20.5. Definitions.**

The following definitions apply in this Article:

(1) Individual with serious mental illness or SMI. – An individual who is 18 years of age or older with a mental illness or disorder that is described in the Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition, that impairs or impedes functioning in one or more major areas of living and is unlikely to improve without treatment, services, supports, or all three. The term does not include a primary diagnosis of Alzheimer's disease or dementia.

(2) Individual with serious and persistent mental illness or SPMI. – A person who is 18 years of age or older who meets one of the following criteria:

a. Has a mental illness or disorder that is so severe and chronic that it prevents or erodes development of functional capacities in primary aspects of daily life such as personal hygiene and self-care, decision making, interpersonal relationships, social transactions, learning, and recreational activities.

b. Is receiving Supplemental Security Income or Social Security Disability Income due to mental illness.

"**§ 122C-20.6. Department to establish statewide supportive housing program for individuals transitioning into community living; purpose.**

The Department of Health and Human Services, in consultation with the North Carolina Housing Finance Agency, shall establish and administer a tenant-based rental assistance program known as the North Carolina Supportive Housing Program. The purpose of the program is to transition individuals diagnosed with serious mental illness or serious and persistent mental illness from institutional settings to more integrated community-based settings appropriate to meet their needs. Under the program, the Department, in consultation with the North Carolina Housing Finance Agency and LME/MCOs, shall arrange for program participants to be transitioned to housing slots available through the program with all the rights and obligations created by a landlord-tenant relationship.

"**§ 122C-20.7. Administration of housing subsidies for supportive housing.**

The Department may enter into a contract with a private vendor to serve as the housing subsidy administrator for the North Carolina Supportive Housing Program with responsibility for distributing rental vouchers and community living vouchers to program participants based on a formula developed by the Department.

"**§ 122C-20.8. Eligibility requirements for NC Supportive Housing Program.**

The Division of Aging and Adult Services shall adopt rules to establish eligibility requirements for the program. The eligibility requirements shall, at a minimum, include income eligibility requirements and requirements to give priority for program participation and transition services to individuals diagnosed with serious mental illness or serious and persistent mental illness who are currently residing in institutional settings. The Division may adopt temporary rules necessary to implement this Article.

"**§ 122C-20.9. In-reach activities for supportive housing.**

The Department shall have ongoing responsibility for developing and distributing a list of potentially eligible program participants for each LME/MCO by catchment area. Upon receipt of this information, each LME/MCO shall have ongoing responsibility for prioritizing the list of individuals to whom it will provide in-reach activities in order to (i) arrange an in-person meeting with potentially eligible participants to determine their eligibility and level of interest and (ii) report back to the Department on the LME/MCO's recommended list of program participants on a daily basis. Upon receipt of an LME/MCO's recommended list of program participants, the Department shall make a final determination of eligibility.

"**§ 122C-20.10. Allocation of supportive housing slots to LME/MCOs.**

The Department shall annually determine the number of housing slots to be allocated to each LME/MCO as follows:

(1) Each year, the Department shall distribute at least fifty percent (50%) of the housing slots available through this program equally among all LME/MCOs.

(2) The Department shall award additional housing slots to LME/MCOs based on local need, as determined by the information provided by LME/MCOs to the Department in accordance with G.S. 122C-20.9.

"**§ 122C-20.11. Transition of program participants into housing slots.**

The LME/MCO shall develop a written transition plan for each individual determined to be eligible and interested in participating in the North Carolina Supportive Housing Program. The transition plan for the approved housing slot shall identify at least all of the following:

(1) Available housing units that meet the individual's needs.

(2) Any transition services that will be necessary for the individual, including, but not limited to, a one-time transition stability payment, not to exceed two thousand dollars ($2,000) per individual, for up-front move-in costs approved by the Department or the housing subsidy administrator.

(3) Solutions to potential barriers to the individual's successful transition to community-based supported housing.

(4) Any other information the Department deems necessary for the individual program participant's successful transition into community-based supported housing.

"**§ 122C-20.12. Transition services.**

LME/MCOs shall provide individualized transition services to program participants within their respective catchment areas for the 90-day period following the individual's transition into a housing slot provided through the program.

"**§ 122C-20.13. Tenancy support services.**

The Department or the housing subsidy administrator shall provide ongoing tenancy support services to program participants.

"**§ 122C-20.14. Approval of landlords and housing units.**

The Department shall develop an application process for owners of housing units seeking to participate in the program as landlords. The application process shall, at a minimum, include an inspection of the owners' selected housing units and a requirement that owners receive educational information from the Department about the North Carolina Supportive Housing Program prior to being approved as landlords.

"**§ 122C-20.15. Annual reporting on NC Supportive Housing Program.**

Annually on October 1, the Department shall report to the Joint Legislative Oversight Committee on Health and Human Services of the General Assembly on the number of individuals within each LME/MCO catchment area who transitioned into housing slots available through the North Carolina Supportive Housing Program during the preceding calendar year. The report shall include a breakdown of all funds expended by each LME/MCO for transitioning these individuals into the housing slots.

"**§ 122C-20.16. NC Supportive Housing Program not an entitlement.**

The Department shall not be required to provide housing slots to individuals beyond the number that can be supported by funds appropriated by the General Assembly for this purpose. The supportive housing program established under this Part, whether administered by the Department or a private entity, is not an entitlement, and nothing in this Part shall create any property right."

SECTION 6.(b) By no later than October 1, 2013, each LME/MCO shall transition at least 15 eligible individuals to community-based supported housing slots available through the North Carolina Supportive Housing Program established under G.S. 122C-20.5.

SECTION 7. Funds appropriated to the Department of Health and Human Services for the 2013-2015 fiscal biennium to develop and implement housing, support, and other services for people with mental illness pursuant to the Department of Justice settlement agreement shall be used as follows:

(1) The sum of one million seven hundred forty-five thousand two hundred eighty dollars ($1,745,280) for fiscal year 2013-2014 and the sum of three million one hundred twenty thousand thirty-seven dollars ($3,120,037) for fiscal year 2014-2015 shall be used to establish and operate the North Carolina Supportive Housing Program authorized in Article 1B of Chapter 122C of the General Statutes.

(2) The sum of one million four hundred forty thousand dollars ($1,440,000) for fiscal year 2013-2014 and the sum of one million five hundred forty thousand dollars ($1,540,000) for fiscal year 2014-2015 shall be used for program administration for the North Carolina Supportive Housing Program authorized in Article 1B of Chapter 122C of the General Statutes.

(3) The sum of six hundred fifty thousand dollars ($650,000) for fiscal year 2013-2014 and the sum of one million two hundred sixteen thousand dollars ($1,216,000) for fiscal year 2014-2015 shall be used to provide one-time transition stability funds, not to exceed two thousand dollars ($2,000) per individual, to cover the cost of up-front move-in costs for individuals placed in housing slots available through the North Carolina Supportive Housing Program authorized in Article 1B of Chapter 122C of the General Statutes.

(4) Any funds appropriated for the 2014-2015 fiscal year that are not used for the purposes set forth in subdivisions (1) through (3) of this section shall be used to provide a comprehensive array of services that individuals need to transition to and be maintained in the community.

SECTION 8. Chapter 122E of the General Statutes is amended by adding a new section to read:

"**§ 122E-3A. Community Living Housing Fund.**

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

(1) Catchment area. – As defined in G.S. 122C-3.

(2) Targeted units. – Units within Low Income Housing Tax Credit developments that are specifically designed to facilitate the inclusion of individuals with disabilities.

(b) Creation and Source of Funds. – The Community Living Housing Fund is established within the Housing Finance Agency to pay for the transition of individuals diagnosed with severe mental illness or severe and persistent mental illness as defined in

G.S. 122C-20.5 from institutional settings to integrated, community-based supported housing and to increase the percentage of targeted housing units available to individuals with disabilities for use in the North Carolina Supportive Housing Program under Article 1B of Chapter 122C of the General Statutes. Beginning with fiscal year 2013-2014, any unexpended, unencumbered balance of the amount appropriated to the Transitions to Community Living Fund established pursuant to Section 10.23A(d) of S.L. 2012-142 at the end of each fiscal year shall not revert but shall be transferred and made available to the Community Living Housing Fund.

(c) Use of Funds. – The North Carolina Housing Finance Agency, in consultation with the Department of Health and Human Services, shall be responsible for administering the Community Living Housing Fund. The monies in the Fund shall be available for expenditure only upon an act of appropriation by the General Assembly and only for the following purposes:

(1) To provide permanent community-based housing in integrated settings appropriate for individuals with severe mental illness and severe and persistent mental illness.

(2) To support an increase in the number of targeted units for individuals with disabilities located in housing projects funded by the Housing Finance Agency from ten percent (10%) to fifteen percent (15%). The additional targeted units funded shall be made available to the Department of Health and Human Services for use in the North Carolina Supportive Housing Program under Article 1B of Chapter 122C of the General Statutes. Priority for funding of the additional targeted units shall be given to units to be located in catchment areas identified by the Department of Health and Human Services, in consultation with the North Carolina Housing Finance Agency and LME/MCOs, as having the greatest need for targeted units."

SECTION 9. The Transitions to Community Living Fund established pursuant to Section 10.23A(d) of S.L. 2012-142 terminates on June 30, 2020, and any balance remaining on that date shall revert to the General Fund.

PART III. MODIFY ALLOCATION OF STATE'S SHARE IN HOSPITAL PROVIDER ASSESSMENT TAX.

SECTION 10. If Senate Bill 402, 2013 Regular Session, becomes law, then G.S. 108A-123(d) reads as rewritten:

"(d) State's Annual Medicaid Payment. – The first forty-three million dollars ($43,000,000) of the State's annual Medicaid payment must be allocated between the equity assessment and the UPL assessment based on the amount of gross payments received by hospitals under G.S. 108A-124. The remaining portion of the State's annual Medicaid payment must be allocated to the UPL assessment."

SECTION 11. Sections 1 through 5 of this act are effective when this act becomes law and apply to grievances and managed care actions filed on or after that date. Section 7 of this act becomes effective October 1, 2013. Section 10 of this act becomes effective July 1, 2013. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 26th day of July, 2013.

Became law upon approval of the Governor at 10:47 a.m. on the 23rd day of August, 2013.

Session Law 2013-398 **S.B. 558**

AN ACT TO AMEND THE LAW GOVERNING THE STATE TREASURER'S INVESTMENT AUTHORITY WITH REGARD TO SPECIAL FUNDS HELD BY THE TREASURER.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 147-69.2(b) reads as rewritten:

"(b) It shall be the duty of the State Treasurer to invest the cash of the funds enumerated in subsection (a) of this section in excess of the amount required to meet the current needs and demands on such funds. The State Treasurer may invest the funds as provided in this subsection. If an investment was authorized by this subsection at the time the investment was made or contractually committed to be made, then that investment shall continue to be authorized by this subsection, and none of the percentage or other limitation on investments set forth in this subsection shall be construed to require the State Treasurer to subsequently dispose of the investment or fail to honor any contractual commitments as a result of changes in market values, ratings, or other investment qualifications. For purposes of computing market values on which percentage limitations on investments in this subsection are based, all investments shall be valued as of the last date of the most recent fiscal quarter.

(1) Investments authorized by G.S. 147-69.1(c)(1)-(7).

(2) General obligations of other states of the United States.

(3) General obligations of cities, counties and special districts in North Carolina.

(4) Obligations of any company, other organization or legal entity incorporated or otherwise created or located within or outside the United States, including obligations that are convertible into equity securities, if the obligations bear one of the four highest ratings of at least one nationally recognized rating service when acquired.

(5) Repealed by Session Laws 2001-444, s. 2, effective October 1, 2001.

(6) Asset-backed securities (whether considered debt or equity) provided they bear ratings by nationally recognized rating services as provided in G.S. 147-69.2(b)(4).

(6a) In addition to the limitations and requirements with respect to the investments of the Retirement Systems set forth in this subsection, the State Treasurer shall select investments of the assets of the Retirement Systems such that investments made pursuant to subdivisions (b)(1) through (6) of this section shall at all times equal or exceed twenty percent (20%) of the market value of all invested assets of the Retirement Systems.

(6b) Investments pursuant to subdivisions (b)(1) through (6) of this section may be made directly by the State Treasurer or through contractual arrangements in which the investment manager has full and complete discretion and authority to invest assets specified in such arrangements in investments authorized by subdivisions (b)(1) through (6) of this section, provided for each indirect investment, the investment manager has assets under management of at least one hundred million dollars ($100,000,000).

(6c) With respect to Retirement Systems' assets referred to in subdivision (b)(8), they may be invested in ~~obligations and other~~obligations, debt securities, and asset-backed securities, whether considered debt or equity, including~~debt~~ obligations and securities convertible into other securities, that do not meet the requirements of any of subdivisions (b)(1) through (6) of this section nor subdivision (b)(7) of this section, provided such investments are made through investment companies registered under the Investment Company Act of 1940, individual, common, or collective trust funds of banks and trust companies, group trusts and limited partnerships, limited liability companies or other limited liability investment vehicles that invest primarily in investments authorized by this subdivision and through contractual arrangements in which the investment manager has full and complete discretion and authority to invest assets specified in such arrangements in investments authorized by this subdivision, provided the investment manager for each investment pursuant to this subdivision has assets under

management of at least one hundred million dollars ($100,000,000) and provided that the investments authorized under this subdivision shall not exceed ~~five percent (5%)~~ seven and one-half percent (7.5%) of the market value of all invested assets of the Retirement Systems.

(7) With respect to Retirement Systems' assets referred to in subdivision (8) of this subsection, (i) insurance contracts that provide for participation in individual or pooled separate accounts of insurance companies, (ii) group trusts, (iii) individual, common, or collective trust funds of banks and trust companies, (iv) real estate investment trusts, (v) investment companies registered under the Investment Company Act of 1940,~~and~~ (vi) limited partnerships, limited liability companies, or other limited liability investment ~~vehicles;~~vehicles, and (vii) contractual arrangements in which the investment manager has discretion and authority to invest assets specified in such arrangements in investments authorized by this subsection; provided the investment manager has assets under management of at least one hundred million dollars ($100,000,000); provided such investment assets are managed primarily for the purpose of investing in or owning real estate or related debt ~~financing~~financing, excluding asset-backed financing, located within or outside the United States; and provided that the investments authorized by this subdivision shall not exceed ten percent (10%) of the market value of all invested assets of the Retirement Systems.

(8) With respect to assets of the Teachers' and State Employees' Retirement System, the Consolidated Judicial Retirement System, the Firemen's and Rescue Workers' Pension Fund, the Local Governmental Employees' Retirement System, the Legislative Retirement System, the North Carolina National Guard Pension Fund, and the Retiree Health Benefit Fund (hereinafter referred to collectively as the Retirement Systems), and assets invested pursuant to subdivision (b2) of this section, they may be invested in equity securities traded on a public securities exchange or market organized and regulated pursuant to the laws of the jurisdiction of such exchange or market and issued by any company incorporated or otherwise created or located within or outside the United States; provided the investments meet the conditions of this subdivision. The investments authorized for the Retirement Systems under this subdivision cannot exceed sixty-five percent (65%) of the market value of all invested assets of the Retirement Systems.

The assets authorized under this subdivision may be invested directly by the State Treasurer in any equity securities authorized by this subdivision for the primary purpose of approximating the movements of a nationally recognized and published market benchmark index. No more than one and one-half percent (1.5%) of the market value of the Retirement Systems' assets that may be invested directly under this subdivision can be invested in the stock of a single corporation, and the total number of shares in that single corporation cannot exceed eight percent (8%) of the issued and outstanding stock of that corporation.

So long as each investment manager has assets under management of at least one hundred million dollars ($100,000,000), the assets authorized under this subdivision may also be invested through any of the following:

a. Investment companies registered under the Investment Company Act of 1940; individual, common, or collective trust funds of banks and trust companies; and group trusts that invest primarily in investments authorized by this subdivision.

b. Limited partnerships, limited liability companies, or other limited liability investment vehicles that are not publicly traded and invest

primarily in investments authorized by this subdivision. Investments under this sub-subdivision shall not exceed ~~six~~ eight and one-half percent ~~(6.5%)~~(8.5%) of the market value of all invested assets of the Retirement Systems.

c. Contractual arrangements in which investment managers have full and complete discretion and authority to invest assets specified in such contractual arrangements in investments authorized by this subdivision.

(9) With respect to Retirement Systems' assets, as defined in subdivision (b)(8) of this subsection, they may be invested in interests in limited partnerships, limited liability companies, or other limited liability investment vehicles that are not publicly traded if the primary purpose of the limited partnership, limited liability company, or other limited liability investment vehicle is (i) to invest in private equity, or corporate buyout transactions, within or outside the United States or (ii) to engage in other strategies not expressly authorized by any other subdivision of this subsection. The amount invested under this subdivision shall not exceed ~~seven and one-half percent (7.5%)~~ eight and three-quarters percent (8.75%) of the market value of all invested assets of the Retirement Systems.

(9a) With respect to Retirement Systems' assets, as defined in subdivision (b)(8) of this subsection, they may be invested in inflation-linked bonds, timberlands, commodities, and other ~~assets~~investments that are acquired by the Treasurer for the primary purpose of providing protection against risks associated with inflation, provided such investments are made through investment companies registered under the Investment Company Act of 1940, individual, common or collective trust funds of banks and trust companies, group trusts and limited partnerships, limited liability companies or other limited liability investment vehicles that invest primarily in investments authorized by this subdivision and through contractual arrangements in which the investment manager has full and complete discretion and authority to invest assets specified in such arrangements in investments authorized by this subdivision, provided the investment manager for each investment pursuant to this subdivision has assets under management of at least one hundred million dollars ($100,000,000) and provided that the investments authorized under this subdivision shall not exceed ~~five percent (5%)~~ seven and one-half percent (7.5%) of the market value of all invested assets of the Retirement Systems. Notwithstanding anything in this subsection to the contrary, the investments authorized by this subdivision shall not be included in any subdivision other than this subdivision for purposes of the percentage investment limitations therein or otherwise.

(10) Recodified as part of subdivision (b)(9) by Session Laws 2000-160, s. 2.

(10a) With respect to Retirement Systems' assets, as defined in subdivision (8) of this subsection, the market value of any of subdivision (6c) or (7), sub-subdivision b. of subdivision (8), or subdivision (9) or (9a) of this subsection shall not exceed ten percent (10%) of the market value of all invested assets of the Retirement Systems; and the aggregate market value of all assets invested pursuant to subdivisions (6c) and (7), sub-subdivision b. of subdivision (8), and subdivisions (9) and (9a) of this subsection shall not exceed thirty-five percent (35%) of the market value of all invested assets of the Retirement Systems. The quarterly report provided by the Treasurer pursuant to G.S. 147-68(d1) shall include a specific listing of all direct and indirect placement fees, asset fees, performance fees, and any other money

management fees incurred by the State in the management of subdivisions (6c) and (7), sub-subdivision b. of subdivision (8), and subdivisions (9) and (9a) of this subsection. In the event that the market value of any of subdivision (6c) or (7), sub-subdivision b. of subdivision (8), or subdivision (9) or (9a) of this subsection increases during a fiscal year by an amount greater than three percent (3%) of the market value of all invested assets of the Retirement Systems as of the prior fiscal year end, then the quarterly report provided by the Treasurer pursuant to G.S. 147-68(d1) shall describe how that increase complies with the duties described in G.S. 147-69.7 and the consequent expected impact on the risk profile of the Retirement Systems' assets.

(11) With respect to assets of the Escheat Fund, obligations of the North Carolina Global TransPark Authority authorized by G.S. 63A-4(a)(22), not to exceed twenty-five million dollars ($25,000,000), that have a final maturity not later than October 1, 2014. The obligations shall bear interest at the rate set by the State Treasurer. No commitment to purchase obligations may be made pursuant to this subdivision after September 1, 1993, and no obligations may be purchased after September 1, 1994. In the event of a loss to the Escheat Fund by reason of an investment made pursuant to this subdivision, it is the intention of the General Assembly to hold the Escheat Fund harmless from the loss by appropriating to the Escheat Fund funds equivalent to the loss.

If any part of the property owned by the North Carolina Global TransPark Authority now or in the future is divested, proceeds of the divestment shall be used to fulfill any unmet obligations on an investment made pursuant to this subdivision.

(12) With respect to assets of the Escheat Fund, in addition to those investments authorized by subdivisions (1) through (6) of this subsection, up to twenty percent (20%) of such assets may be invested in the investments authorized under subdivisions (7) through (9) of this subsection, notwithstanding the percentage limitations imposed on the Retirement Systems' investments under those subdivisions."

SECTION 2. G.S. 147-69.7 reads as rewritten:

"§ **147-69.7. Discharge of duties to Retirement Systems.**

(a) The Treasurer shall discharge his or her duties with respect to the ~~Teachers' and State Employees' Retirement System, the Consolidated Judicial Retirement System, the Firemen's and Rescue Squad Workers' Pension Fund, the Local Governmental Employees' Retirement System, the Legislative Retirement System, and the North Carolina National Guard Pension Fund (hereinafter referred to collectively as the Retirement Systems)~~Retirement Systems enumerated in G.S. 147-69.2(b)(8) as follows:

(1) Solely in the interest of the participants and beneficiaries.

(2) For the exclusive purpose of providing benefits to participants and beneficiaries and paying reasonable expenses of administering the Retirement Systems.

(3) With the care, skill, and caution under the circumstances then prevailing which a prudent person acting in a like capacity and familiar with those matters would use in the conduct of an activity of like character and purpose.

(4) Impartially, taking into account any differing interests of participants and beneficiaries.

(5) Incurring only costs that are appropriate and reasonable.

(6) In accordance with a good-faith interpretation of the law governing the Retirement Systems.

(b) In investing and managing assets of the Retirement Systems pursuant to subsection (a) of this section, the Treasurer:

(1) Shall consider the following circumstances:
  a. General economic conditions.
  b. The possible effect of inflation or deflation.
  c. The role that each investment or course of action plays within the overall portfolio of the Retirement Systems.
  d. The expected total return from income and the appreciation of capital.
  e. Needs for liquidity, regularity of income, and preservation or appreciation of capital.
  f. The adequacy of funding for the Retirement Systems based on reasonable actuarial factors.

(2) Shall diversify the investments of the Retirement Systems unless the Treasurer reasonably determines that, because of special circumstances, it is clearly prudent not to do so.

(3) Shall make a reasonable effort to verify facts relevant to the investment and management of assets of the Retirement Systems.

(4) May invest in any kind of property or type of investment consistent with the provisions of Article 6 of Chapter 146 of the General Statutes.

(5) May consider benefits created by an investment in addition to investment return only if the Treasurer determines that the investment providing these collateral benefits would be prudent even without collateral benefits.

(c) Compliance by the Treasurer with this section must be determined in light of the facts and circumstances existing at the time of the Treasurer's decision or action and not by hindsight.

(d) The Treasurer's investment and management decisions must be evaluated not in isolation but in the context of the portfolio of the Retirement Systems as a whole and as part of an overall investment strategy having risk and return objectives reasonably suited to the Retirement Systems."

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

In the General Assembly read three times and ratified this the 26th day of July, 2013.

Became law upon approval of the Governor at 10:48 a.m. on the 23rd day of August, 2013.

Session Law 2013-399 **H.B. 692**

AN ACT TO AMEND THE NORTH CAROLINA ANTI-PREDATORY LENDING LAW, AND TO LIMIT THE PROVISIONS OF STATE MORTGAGE LENDING LAW TO BEING NO MORE RESTRICTIVE THAN FEDERAL LAW.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 24-1.1E(a)(5) reads as rewritten:

"(5) "Points and fees" is defined as provided in this subdivision.
  a. The term includes all of the following:
    1. All items paid by a borrower at or before closing and that are required to be disclosed under sections 226.4(a) and 226.4(b) of Title 12 of the Code of Federal Regulations, as amended from time to time, except interest or the time-price differential. However, the meaning of the term "points and fees" shall not include ~~either (i) the portion of the~~any up-front fees collected and paid to the Federal Housing Administration, the Veterans' Administration, or the U.S. Department of Agriculture to insure or guarantee a home ~~loan~~ loan.~~that exceeds one and one-quarter percent (1.25%) of the~~

~~total loan amount or (ii) the portion ofany up-front private mortgage insurance premium, charge, or fee that exceeds one and one-quarter percent (1.25%) of the total loan amount, provided that the private mortgage insurance premium, charge or fee is required to be refundable on a prorated basis, the refund is automatically issued upon notification of the satisfaction of the underlying mortgage loan, and the borrower has the right to request or receive a prorated refund in accordance with state or federal law.~~

2. All charges paid by a borrower at or before closing and that are for items listed under section 226.4(c)(7) of Title 12 of the Code of Federal Regulations, as amended from time to time, but only if the lender receives direct or indirect compensation in connection with the charge or the charge is paid to an affiliate of the lender; otherwise, the charges are not included within the meaning of the phrase "points and fees".
3. To the extent not otherwise included in sub-subdivision a.1. or a.2. of this subdivision, all compensation paid from any source to a mortgage broker, including compensation paid to a mortgage broker in a table-funded transaction. A bona fide sale of a loan in the secondary mortgage market shall not be considered a table-funded transaction, and a table-funded transaction shall not be considered a secondary market transaction.
4. The maximum prepayment fees and penalties which may be charged or collected under the terms of the loan documents.

b. Notwithstanding the remaining provisions of this subdivision, the term does not include (i) taxes, filing fees, recording and other charges and fees paid or to be paid to public officials for determining the existence of or for perfecting, releasing, or satisfying a security interest; and (ii) fees paid to a person other than a lender or an affiliate of the lender or to the mortgage broker or an affiliate of the mortgage broker for the following: fees for tax payment services; fees for flood certification; fees for pest infestation and flood determinations; appraisal fees; fees for inspections performed prior to closing; credit reports; surveys; attorneys' fees (if the borrower has the right to select the attorney from an approved list or otherwise); notary fees; escrow charges, so long as not otherwise included under sub-subdivision a. of this subdivision; title insurance premiums; and premiums for insurance against loss or damage to property, including hazard insurance and flood insurance premiums, provided that the conditions in section 226.4(d)(2) of Title 12 of the Code of Federal Regulations are met.

c. For open-end credit plans, the term includes those points and fees described in sub-subdivisions a.1. through a.3. of this subdivision, plus (i) the minimum additional fees the borrower would be required to pay to draw down an amount equal to the total loan amount, and (ii) the maximum prepayment fees and penalties which may be charged or collected under the terms of the loan documents."

SECTION 2. G.S. 24-1.1E(a)(6) reads as rewritten:

"(6) "Thresholds" means:

a. Without regard to whether the loan transaction is or may be a "residential mortgage transaction" (as the term "residential mortgage

transaction" is defined in section 226.2(a)(24) of Title 12 of the Code of Federal Regulations, as amended from time to time), the annual percentage rate of the loan at the time the loan is consummated is such that the loan is considered a "mortgage" under section 152 of the Home Ownership and Equity Protection Act of 1994 (Pub. Law 103-25, [15 U.S.C. § 1602(aa)]), as the same may be amended from time to time, and regulations adopted pursuant thereto by the Federal Reserve Board, including section 226.32 of Title 12 of the Code of Federal Regulations, as the same may be amended from time to time;

b. The total points and fees, as defined in G.S. 24-1.1E(a)(5), exceed ~~four percent (4%)~~five percent (5%) of the total loan amount if the total loan amount is twenty thousand dollars ($20,000) or more, or (ii) the lesser of eight percent (8%) of the total loan amount or one thousand dollars ($1,000), if the total loan amount is less than twenty thousand dollars ($20,000); provided, the following discount points and prepayment fees and penalties shall be excluded from the calculation of the total points and fees payable by the borrower:

1. Up to and including two bona fide loan discount points payable by the borrower in connection with the loan transaction, but only if the interest rate from which the loan's interest rate will be discounted does not exceed by more than one percentage point (1%) the required net yield for a 90-day standard mandatory delivery commitment for a reasonably comparable loan from either Fannie Mae or the Federal Home Loan Mortgage Corporation, whichever is greater;
2. Up to and including one bona fide loan discount point payable by the borrower in connection with the loan transaction, but only if the interest rate from which the loan's interest rate will be discounted does not exceed by more than two percentage points (2%) the required net yield for a 90-day standard mandatory delivery commitment for a reasonably comparable loan from either Fannie Mae or the Federal Home Loan Mortgage Corporation, whichever is greater;
3. For a closed-end loan, prepayment fees and penalties which may be charged or collected under the terms of the loan documents which do not exceed one percent (1%) of the amount prepaid, provided the loan documents do not permit the lender to charge or collect any prepayment fees or penalties more than 30 months after the loan closing;
4. For an open-end credit plan, prepayment fees and penalties which may be charged or collected under the terms of the loan documents which do not exceed one percent (1%) of the amount prepaid, provided the loan documents do not permit the lender to charge or collect any prepayment fees or penalties more than (i) 30 months after the loan closing if the borrower has no right or option under the loan documents to repay all or any portion of the outstanding balance of the open-end credit plan at a fixed interest rate over a specified period of time or, (ii) if the borrower has a right or option under the loan documents to repay all or any portion of the outstanding balance of the open-end credit plan at a fixed interest rate over a specified period of time, 30 months after

the date the borrower voluntarily exercises that right or option; or

c. If the loan is a closed-end loan, the loan documents permit the lender to charge or collect prepayment fees or penalties more than 30 months after the loan closing or which exceed, in the aggregate, more than two percent (2%) of the amount prepaid. If the loan is an open-end credit plan, the loan documents permit the lender to charge or collect prepayment fees or penalties (i) more than 30 months after the loan closing if the borrower has no right or option under the loan documents to repay all or any portion of the outstanding balance of the open-end credit plan at a fixed interest rate over a specified period of time or, (ii) if the borrower has a right or option under the loan documents to repay all or any portion of the outstanding balance of the open-end credit plan at a fixed interest rate over a specified period of time, more than 30 months after the date the borrower voluntarily exercises that right or option, or (iii) which exceed, in the aggregate, more than two percent (2%) of the amount prepaid."

SECTION 3. G.S. 24-1.1F reads as rewritten:

"§ **24-1.1F. Rate spread home loans.**

~~(a) Definitions. – The following definitions apply for purposes of this section:~~

~~(1) Annual percentage rate. – The annual percentage rate for the loan calculated according to the provisions of the federal Truth-in-Lending Act (15 U.S.C. § 1601, et seq.) and the regulations promulgated thereunder by the Federal Reserve Board, as that Act and regulations are amended from time to time.~~

~~(2) Average prime offer rate. – An annual percentage rate published by the Federal Reserve Board and that is derived from average interest rates, points, and other loan pricing terms currently offered to consumers by a representative sample of creditors for mortgage transactions that have low-risk pricing characteristics.~~

~~(3) Repealed by Session Laws 2009-457, s. 2, effective October 1, 2009.~~

~~(4) Mortgage broker. – A mortgage broker as defined in G.S. 53-243.01.~~

~~(5),(6) Repealed by Session Laws 2009-457, s. 2, effective October 1, 2009.~~

~~(7) Rate spread home loan. – A loan in which all the following apply:~~

~~a. The loan is not (i) an equity line of credit as defined in G.S. 24-9, (ii) a construction loan as defined in G.S. 24-10, (iii) a reverse mortgage transaction, or (iv) a bridge loan with a term of 12 months or less, such as a loan to purchase a new dwelling where the borrower plans to sell a current dwelling within 12 months.~~

~~b. The borrower is a natural person.~~

~~c. The debt is incurred by the borrower primarily for personal, family, or household purposes.~~

~~d. The principal amount of the loan does not exceed the conforming loan size limit for a single-family dwelling as established from time to time by Fannie Mae.~~

~~e. The loan is secured by (i) a security interest in a manufactured home, as defined in G.S. 143-145, in the State which is or will be occupied by the borrower as the borrower's principal dwelling, (ii) a mortgage or deed of trust on real property in the State upon which there is located an existing structure designed principally for occupancy of from one to four families that is or will be occupied by the borrower as the borrower's principal dwelling, or (iii) a mortgage or deed of trust on real property in the State upon which there is to be constructed using the loan proceeds a structure or structures designed~~

~~principally for occupancy of from one to four families which, when completed, will be occupied by the borrower as the borrower's principal dwelling.~~

~~f. The loan's annual percentage rate exceeds each of the following:~~

~~1. The average prime offer rate for a comparable transaction as of the date the interest rate for the loan is set by (i) one and one-half percentage points (1.5%) or more, if the loan is secured by a first lien mortgage or deed of trust or (ii) three and one-half percentage points (3.5%) or more, if the loan is secured by a subordinate lien mortgage or deed of trust.~~

~~2. The conventional mortgage rate by (i) one and three-quarters percentage points (1.75%) or more, if the loan is secured by a first lien mortgage or deed of trust, or (ii) three and three-quarters percentage points (3.75%) or more, if the loan is secured by a subordinate lien mortgage or deed of trust. For purposes of this calculation, the "conventional mortgage rate" means the most recent daily contract interest rate on commitments for fixed-rate first mortgages published by the Board of Governors of the Federal Reserve System in its Statistical Release H. 15, or any publication that may supersede it, during the week preceding the week in which the interest rate for the loan is set.~~

~~3. The yield on U.S. Treasury securities having comparable periods of maturity by (i) three percentage points (3%) or more, if the loan is secured by a first lien mortgage or deed of trust, or (ii) five percentage points (5%) or more, if the loan is secured by a subordinate lien mortgage or deed of trust. Without regard to whether the loan is subject to or reportable under the provisions of the Home Mortgage Disclosure Act 12 U.S.C. § 2801, et seq. (HMDA), the difference between the annual percentage rate and the yield on Treasury securities having comparable periods of maturity shall be determined using the same procedures and calculation methods applicable to loans that are subject to the reporting requirements of HMDA, as those procedures and calculation methods are amended from time to time, provided that the yield on Treasury securities shall be determined as of the fifteenth day of the month prior to the application for the loan.~~

(a1) A rate spread home loan is a loan that has an annual percentage rate that exceeds the limits set out in 15 U.S.C. § 1639c(c)(1)(B)(ii) and any regulations promulgated thereunder.

~~(b) No prepayment fees or penalties shall be charged or collected on a rate spread home loan.~~

(b1) The making of a rate spread home loan that violates 15 U.S.C. § 1639c(a) and any regulations promulgated thereunder is hereby declared usurious in violation of the provisions of this Chapter.

~~(c) No lender shall make a rate spread home loan to a borrower based on the value of the borrower's collateral without due regard to the borrower's repayment ability as of consummation, including the borrower's current and reasonably expected income, employment, assets other than the collateral, current obligations, and mortgage-related obligations. Without regard to whether the loan is a "higher-priced mortgage loan" as defined in section 226.35 of Title 12 of the Code of Federal Regulations, the methodology and standards for the determination of a borrower's repayment ability set forth in section 226.34(a)(4) of Title 12 of~~

~~the Code of Federal Regulations and the related Federal Reserve Board's Official Staff Commentary on Regulation Z, as the regulation and commentary may be amended from time to time, shall be applied to determine a lender's compliance with this requirement.~~

(c1) Any prepayment penalty in violation of 15 U.S.C. § 1639c(c) and any regulations promulgated thereunder shall be unenforceable.

~~(d) The making of a rate spread home loan which violates subsection (b) or (c) of this section is hereby declared usurious in violation of the provisions of this Chapter. In addition, any prepayment penalty in violation of this section shall be unenforceable. However, a borrower shall not be entitled to recover twice for the same wrong. The Attorney General, the Commissioner of Banks, or any party to a rate spread home loan may enforce the provisions of this section. This section establishes specific consumer protections in rate spread home loans in addition to other consumer protections that may be otherwise available by law. A mortgage broker who brokers a rate spread home loan that violates the provisions of this section shall be jointly and severally liable with the lender.~~

(d1) Notwithstanding the foregoing, a borrower shall not be entitled to recover twice for the same wrong. The Attorney General, the Commissioner of Banks, or any party to a rate spread home loan may enforce the provisions of this section. This section establishes specific consumer protections in rate spread home loans in addition to other consumer protections that may be otherwise available by law. A mortgage broker who brokers a rate spread home loan that violates the provisions of this section shall be jointly and severally liable with the lender.

…."

SECTION 4. This act becomes effective October 1, 2013.

In the General Assembly read three times and ratified this the 23rd day of July, 2013.

Became law upon approval of the Governor at 10:48 a.m. on the 23rd day of August, 2013.

Session Law 2013-400 **H.B. 727**

AN ACT TO ALLOW THE DIVISION OF MOTOR VEHICLES TO ISSUE A SALVAGE CERTIFICATE OF TITLE TO AN INSURANCE COMPANY OR USED CAR DEALER IN CERTAIN SITUATIONS WHERE THE INSURANCE COMPANY OR USED CAR DEALER IS UNABLE TO OBTAIN THE ORIGINAL CERTIFICATE OF TITLE FROM THE OWNER OF THE MOTOR VEHICLE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-109.1 reads as rewritten:

"§ **20-109.1. Surrender of titles to salvage vehicles.**

…

(b) Transfer to Insurer. –

(1) If a salvage vehicle owner does not want to keep the vehicle, the owner must assign the vehicle's certificate of title to the insurer when the insurer pays the claim. The insurer must send the assigned title to the Division within 10 days after receiving it from the vehicle owner. The Division must then send the insurer a form to use to transfer title to the vehicle from the insurer to a person who buys the vehicle from the insurer. If the insurer sells the vehicle, the insurer must complete the form and give it to the buyer. If the buyer rebuilds the vehicle, the buyer may apply for a new certificate of title to the vehicle.

(2) If a salvage vehicle owner fails to assign and deliver the vehicle's certificate of title to the insurer within 30 days of the payment of the claim in accordance with subdivision (b)(1) of this section, the insurer, without surrendering the certificate of title, may, at any time thereafter, request that the Division send the insurer a form to use to transfer title to the vehicle

from the insurer to a person who buys the vehicle from the insurer. The request shall be made on a form prescribed by the Division and shall be accompanied by proof of payment of the claim and proof of notice sent to the owner and any lienholder requesting the vehicle's certificate of title. If the records of the Division indicate there is an outstanding lien against the vehicle immediately before the payment of the claim and if the payment was made to a lienholder or to a lienholder and the owner jointly, the proof of payment shall include evidence that funds were paid to the first lienholder shown on the records of the Division. The notice must be sent by the insurer at least 30 days prior to requesting the Division send the insurer a form to use to transfer title and must be sent by certified mail or by another commercially available delivery service providing proof of delivery to the address on record with the Division. Upon the Division's receipt of such request, the vehicle's certificate of title is deemed to be assigned to the insurer. Notwithstanding any outstanding liens against the vehicle, the Division must send the insurer a form to use to transfer title to the vehicle from the insurer to a person who buys the vehicle from the insurer. The Division's issuance of the form extinguishes all existing liens on the motor vehicle. If the insurer sells the vehicle, the insurer must complete the form and give it to the buyer. In such a sale by the insurer, the motor vehicle shall be transferred free and clear of any liens. If the buyer rebuilds the vehicle, the buyer may apply for a new certificate of title to the vehicle.

(c) Owner Keeps Vehicle. – If a salvage vehicle owner wants to keep the vehicle, the insurer must give the owner an owner-retained salvage form. The owner must complete the form and give it to the insurer when the insurer pays the claim. The owner's signature on the owner-retained salvage form must be notarized. The insurer must send the completed form to the Division within 10 days after receiving it from the vehicle owner. The Division must then note in its vehicle registration records that the vehicle listed on the form is a salvage vehicle.

(d) Theft Claim on Salvage Vehicle. – An insurer that pays a theft loss claim on a vehicle and, upon recovery of the vehicle, determines that the vehicle has been damaged to the extent that it is a salvage vehicle must send the vehicle's certificate of title to the Division within 10 days after making the determination. The Division and the insurer must then follow the procedures set in subdivision (1) of subsection (b) of this section.

(e) Out-of-State Vehicle. – A person who acquires a salvage vehicle that is registered in a state that does not require surrender of the vehicle's certificate of title must send the title to the Division within 10 days after the vehicle enters this State. The Division and the person must then follow the procedures set in subdivision (1) of subsection (b) of this section.

(e1) Owner or Lienholder Abandons Vehicle. – If an insurer requests a used motor vehicle dealer, the primary business of which is the sale of salvage vehicles on behalf of insurers, to take possession of a salvage vehicle that is the subject of an insurance claim and subsequently the insurer does not take ownership of the vehicle, the insurer may direct the used motor vehicle dealer to release the vehicle to the owner or lienholder. The insurer shall provide the used motor vehicle dealer a release statement authorizing the used motor vehicle dealer to release the vehicle to the vehicle's owner or lienholder.

Upon receiving a release statement from an insurer, the used motor vehicle dealer shall send notice to the owner and any lienholder of the vehicle informing the owner or lienholder that the vehicle is available for pick up. The notice shall include an invoice for any outstanding charges owed to the used motor vehicle dealer. The notice shall inform the owner and any lienholder that the owner or lienholder has 30 days from the date of the notice, and upon payment of applicable charges owed to the used motor vehicle dealer, to pick up the vehicle from the used motor vehicle dealer. Notice under this subsection must be sent by certified mail or by another commercially available delivery service providing proof of delivery to the address on record with the Division.

If the owner or any lienholder of the vehicle does not pick up the vehicle within 30 days after notice was sent to the owner and any lienholder in accordance with this subsection, the vehicle shall be considered abandoned, the vehicle's certificate of title is deemed to be assigned to the used motor vehicle dealer, and the used motor vehicle dealer, without surrendering the certificate of title, may request that the Division send the used motor vehicle dealer a form to use to transfer title to the vehicle from the used motor vehicle dealer to a person who buys the vehicle from the used motor vehicle dealer. The request shall be accompanied by a copy of the notice required by this subsection and proof of delivery of the notice required by this subsection sent to the owner and any lienholder. Notwithstanding any outstanding liens against the vehicle, the Division must send the used motor vehicle dealer a form to use to transfer title to the vehicle from the used motor vehicle dealer to a person who buys the vehicle from the used motor vehicle dealer. The Division's issuance of the form extinguishes all existing liens on the motor vehicle. If the used motor vehicle dealer sells the vehicle, the used motor vehicle dealer must complete the form and give it to the buyer. In such a sale by the used motor vehicle dealer, the motor vehicle shall be transferred free and clear of any liens. If the buyer rebuilds the vehicle, the buyer may apply for a new certificate of title.

(f) Sanctions. – Violation of this section is a Class 1 misdemeanor. In addition to this criminal sanction, a person who violates this section is subject to a civil penalty of up to one hundred dollars ($100.00), to be imposed in the discretion of the Commissioner.

(g) Fee. – G.S. 20-85 sets the fee for issuing a salvage certificate of title.

(h) Claims. – The Division shall not be subject to a claim under Article 31 of Chapter 143 of the General Statutes related to the cancellation of a title pursuant to this section if the claim is based on reliance by the Division on any proof of payment or proof of notice submitted to the Division by a third party pursuant to subdivision (b)(2) or subsection (e1) of this section."

SECTION 2. G.S. 20-72(b) reads as rewritten:

"(b) In order to assign or transfer title or interest in any motor vehicle registered under the provisions of this Article, the owner shall execute in the presence of a person authorized to administer oaths an assignment and warranty of title on the reverse of the certificate of title in form approved by the Division, including in such assignment the name and address of the transferee; and no title to any motor vehicle shall pass or vest until such assignment is executed and the motor vehicle delivered to the transferee. The provisions of this section shall not apply to any foreclosure or repossession under a chattel mortgage or conditional sales contract or any judicial sale. The provisions of this subsection shall not apply to (i) any transfer to an insurer pursuant to G.S. 20-109.1(b)(2) or (ii) any transfer to a used motor vehicle dealer pursuant to G.S. 20-109.1(e1).

When a manufacturer's statement of origin or an existing certificate of title on a motor vehicle is unavailable, a motor vehicle dealer licensed under Article 12 of this Chapter may also transfer title to another by certifying in writing in a sworn statement to the Division that all prior perfected liens on the vehicle have been paid and that the motor vehicle dealer, despite having used reasonable diligence, is unable to obtain the vehicle's statement of origin or certificate of title. The Division is authorized to develop a form for this purpose. The filing of a false sworn certification with the Division pursuant to this paragraph shall constitute a Class H felony.

Any person transferring title or interest in a motor vehicle shall deliver the certificate of title duly assigned in accordance with the foregoing provision to the transferee at the time of delivering the vehicle, except that where a security interest is obtained in the motor vehicle from the transferee in payment of the purchase price or otherwise, the transferor shall deliver the certificate of title to the lienholder and the lienholder shall forward the certificate of title together with the transferee's application for new title and necessary fees to the Division within 20 days. Any person who delivers or accepts a certificate of title assigned in blank shall be guilty of a Class 2 misdemeanor.

The title to a salvage vehicle shall be forwarded to the Division as provided in ~~G.S. 20-109.1.~~G.S. 20-109.1, except with respect to the title of any salvage vehicle transferred pursuant to G.S. 20-109.1(b)(2) or G.S. 20-109.1(e1)."

SECTION 3. G.S. 20-75 reads as rewritten:

"§ **20-75. When transferee is dealer or insurance company.**

When the transferee of a vehicle registered under this Article is:

(1) A dealer who is licensed under Article 12 of this Chapter and who holds the vehicle for resale; or

(2) An insurance company taking the vehicle for sale or disposal for salvage purposes where the title is taken or requested as a part of a bona fide claim settlement transaction and only for the purpose of resale,

the transferee shall not be required to register the vehicle nor forward the certificate of title to the Division as provided in G.S. 20-73.

To assign or transfer title or interest in the vehicle, the dealer or insurance company shall execute, in the presence of a person authorized to administer oaths, a reassignment and warranty of title on the reverse of the certificate of title in the form approved by the Division, which shall include the name and address of the transferee. The title to the vehicle shall not pass or vest until the reassignment is executed and the motor vehicle delivered to the transferee.

The dealer transferring title or interest in a motor vehicle shall deliver the certificate of title duly assigned in accordance with the foregoing provision to the transferee at the time of delivering the vehicle, except:

(1) Where a security interest in the motor vehicle is obtained from the transferee in payment of the purchase price or otherwise, the dealer shall deliver the certificate of title to the lienholder and the lienholder shall forward the certificate of title together with the transferee's application for new certificate of title and necessary fees to the Division within 20 days; or

(2) Where the transferee has the option of cancelling the transfer of the vehicle within 10 days of delivery of the vehicle, the dealer shall deliver the certificate of title to the transferee at the end of that period. Delivery need not be made if the contract for sale has been rescinded in writing by all parties to the contract.

Any person who delivers or accepts a certificate of title assigned in blank shall be guilty of a Class 2 misdemeanor.

The title to a salvage vehicle shall be forwarded to the Division as provided in ~~G.S. 20-109.1.~~G.S. 20-109.1, except with respect to the title of any salvage vehicle transferred pursuant to G.S. 20-109.1(b)(2) or G.S. 20-109.1(e1)."

SECTION 4. G.S. 20-78(a) reads as rewritten:

"(a) The Division, upon receipt of a properly endorsed certificate of title, application for transfer thereof and payment of all proper fees, shall issue a new certificate of title as upon an original registration. The Division, upon receipt of an application for transfer of registration plates, together with payment of all proper fees, shall issue a new registration card transferring and assigning the registration plates and numbers thereon as upon an original assignment of registration plates. The Division, upon receipt of an application for transfer thereof and payment of all proper fees, but without receipt of a properly endorsed certificate of title, shall issue a salvage certificate of title pursuant to G.S. 20-109.1(b)(2) or G.S. 20-109.1(e1)."

SECTION 5. G.S. 20-85(a)(10) reads as rewritten:

"(a) The following fees are imposed concerning a certificate of title, a registration card, or a registration plate for a motor vehicle. These fees are payable to the Division and are in addition to the tax imposed by Article 5A of Chapter 105 of the General Statutes.

…

(10) Each application for a salvage certificate of title made by an ~~insurer~~insurer or by a used motor vehicle dealer

pursuant to subdivision (b)(2) or subsection (e1) of G.S. 20-109.1 ..... 15.00

…."

SECTION 6. G.S. 105-187.6(a)(1) reads as rewritten:

"(a) Full Exemptions. – The tax imposed by this Article does not apply when a certificate of title is issued as the result of a transfer of a motor vehicle:

(1) To (i) the insurer of the motor vehicle under G.S. 20-109.1 because the vehicle is a salvage ~~vehicle.~~vehicle or (ii) a used motor vehicle dealer under G.S. 20-109.1 because the vehicle is a salvage vehicle that was abandoned.

…."

SECTION 7. This act becomes effective October 1, 2013.

In the General Assembly read three times and ratified this the 25th day of July, 2013.

Became law upon approval of the Governor at 10:48 a.m. on the 23rd day of August, 2013.

Session Law 2013-401 **H.B. 857**

AN ACT AUTHORIZING PUBLIC CONTRACTS TO UTILIZE THE DESIGN-BUILD METHOD OR PUBLIC-PRIVATE PARTNERSHIP CONSTRUCTION CONTRACTS.

Whereas, the legislature recognizes that there is a public need for the design, construction, improvement, renovation, and expansion of high-performing public buildings within the State of North Carolina; and

Whereas, the public need may not be, in limited situations, wholly satisfied by existing procurement methods in which public buildings are designed, constructed, improved, renovated, or expanded; and

Whereas, many local governmental entities request special legislative authorization to enter into public-private partnerships and use design-build contracting every legislative session; and

Whereas, in some instances, more efficient delivery of quality design and construction can be realized when a governmental entity is authorized to utilize an integrated approach for the design and construction of a project under one contract with a single point of responsibility; and

Whereas, the design-build integrated approach to project delivery, based upon qualifications and experience, in some instances, can yield improved collaboration among design professionals, builders, and owners throughout the entire process and deliver a quality and cost-efficient building; and

Whereas, certain governmental entities within the State lack the financial resources required to undertake capital building construction projects that are necessary to satisfy critical public needs; and

Whereas, partnerships with private developers may offer an effective financial mechanism for governmental entities to secure public buildings to satisfy critical public needs that cannot otherwise be met; and

Whereas, the legislature recognizes that the general public must have confidence in governmental entities' processes for construction contracting; and

Whereas, the legislature realizes that open competition delivers the best value for taxpayers and public owners; and

Whereas, the legislature seeks to create transparent, fair, and equitable contracting procedures for the use of public funds in government construction contracting; and

Whereas, the legislation proposed in this act is not intended to affect the existing statutes, regulations, or practices relevant to projects administered by the North Carolina Department of Transportation nor licensing requirements of designers or contractors; Now, therefore,

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143-64.31 reads as rewritten:

"§ **143-64.31. Declaration of public policy.**

(a) It is the public policy of this State and all public subdivisions and Local Governmental Units thereof, except in cases of special emergency involving the health and safety of the people or their property, to announce all requirements for architectural, engineering, ~~surveying and~~surveying, construction management at risk ~~services,~~services, design-build services, and public-private partnership construction services to select firms qualified to provide such services on the basis of demonstrated competence and qualification for the type of professional services required without regard to fee other than unit price information at this stage, and thereafter to negotiate a contract for those services at a fair and reasonable fee with the best qualified firm. If a contract cannot be negotiated with the best qualified firm, negotiations with that firm shall be terminated and initiated with the next best qualified firm. Selection of a firm under this Article shall include the use of good faith efforts by the public entity to notify minority firms of the opportunity to submit qualifications for consideration by the public entity.

(a1) A resident firm providing architectural, engineering, surveying, ~~or~~ construction management at risk ~~services~~ services, design-build services, or public-private partnership construction services shall be granted a preference over a nonresident firm, in the same manner, on the same basis, and to the extent that a preference is granted in awarding contracts for these services by the other state to its resident firms over firms resident in the State of North Carolina. For purposes of this section, a resident firm is a firm that has paid unemployment taxes or income taxes in North Carolina and whose principal place of business is located in this State.

(b) Public entities that contract with a construction manager at ~~risk~~ risk, design-builder, or private developer under a public-private partnership under this section shall report to the Secretary of Administration the following information on all projects where a construction manager at ~~risk~~ risk, design-builder, or private developer under a public-private partnership is utilized:

(1) A detailed explanation of the reason why the particular construction manager at ~~risk~~ risk, design-builder, or private developer was selected.

(2) The terms of the contract with the construction manager at ~~risk.~~risk, design-builder, or private developer.

(3) A list of all other firms considered but not selected as the construction manager at ~~risk~~ risk, design-builder, or private developer, and the amount of their proposed fees for services.

(4) A report on the form of bidding utilized by the construction manager at ~~risk~~ risk, design-builder, or private developer on the project.

(5) A detailed explanation of why the particular delivery method was used in lieu of the delivery methods identified in G.S. 143-128(a1) subdivisions (1) through (3) and the anticipated benefits to the public entity from using the particular delivery method.

(c) The Secretary of Administration shall adopt rules to implement the provisions of this subsection including the format and frequency of reporting.

(d) A public body letting a contract pursuant to any of the delivery methods identified in subdivisions (a1)(4), (a1)(6), (a1)(7), or (a1)(8) of G.S. 143-128 shall submit the report required by G.S. 143-64.31(b) no later than 12 months from the date the public body takes beneficial occupancy of the project. In the event that the public body fails to do so, the public body shall be prohibited from utilizing subdivisions (a1)(4), (a1)(6), (a1)(7), or (a1)(8) of G.S. 143-128 until such time as the public body completes the reporting requirement under this this section. Contracts entered into in violation of this prohibition shall not be deemed ultra vires and shall remain valid and fully enforceable. Any person, corporation or entity, however, which has submitted a bid or response to a request for proposals on any construction project

previously advertised by the public body shall be entitled to obtain an injunction against the public body compelling the public body to comply with the reporting requirements of this section and from commencing or continuing a project let in violation of this subdivision until such time as the public body has complied with the reporting requirements of this section. The plaintiff in such cases shall not be entitled to recover monetary damages caused by the public body's failure to comply with this reporting requirements section, and neither the plaintiff nor the defendant shall be allowed to recover attorneys fees except as otherwise allowed by G.S. 1A-11 or G.S. 6-21.5. An action seeking the injunctive relief allowed by this subdivision must be filed within four years from the date that the owner took beneficial occupancy of the project for which the report remains due.

(e) For purposes of this Article, the definition in G.S. 143-128.1B and G.S. 143-128.1C shall apply."

SECTION 2. G.S. 143-64.32 reads as rewritten:

"§ **143-64.32. Written exemption of particular contracts.**

Units of local government or the North Carolina Department of Transportation may in writing exempt particular projects from the provisions of this Article in the case ~~of:~~

~~(a)~~ ~~Proposed~~ of proposed projects where an estimated professional fee is in an amount less than ~~thirty thousand dollars ($30,000), or~~fifty thousand dollars ($50,000).

~~(b)~~ ~~Other particular projects exempted in the sole discretion of the Department of Transportation or the unit of local government, stating the reasons therefor and the circumstances attendant thereto.~~"

SECTION 3. G.S. 143-128(a1) reads as rewritten:

"(a1) Construction methods. – The State, a county, municipality, or other public body shall award contracts to erect, construct, alter, or repair buildings pursuant to any of the following methods:

(1) Separate-prime bidding.
(2) Single-prime bidding.
(3) Dual bidding pursuant to subsection (d1) of this section.
(4) Construction management at risk contracts pursuant to G.S. 143-128.1.
(5) Alternative contracting methods authorized pursuant to G.S. 143-135.26(9).
(6) Design-build contracts pursuant to G.S. 143-128.1A.
(7) Design-build bridging contracts pursuant to G.S. 143-128.1B.
(8) Public-private partnership construction contracts pursuant to G.S. 143-128.1C."

SECTION 4. Article 8 of Chapter 143 of the General Statutes is amended by adding the following new sections to read:

"§ **143-128.1A. Design-build contracts.**

(a) Definitions for purposes of this section:

(1) Design-builder. – As defined in G.S. 143-128.1B.
(2) Governmental entity. – As defined in G.S. 143-128.1B.

(b) A governmental entity shall establish in writing the criteria used for determining the circumstances under which the design-build method is appropriate for a project, and such criteria shall, at a minimum, address all of the following:

(1) The extent to which the governmental entity can adequately and thoroughly define the project requirements prior to the issuance of the request for qualifications for a design-builder.
(2) The time constraints for the delivery of the project.
(3) The ability to ensure that a quality project can be delivered.
(4) The capability of the governmental entity to manage and oversee the project, including the availability of experienced staff or outside consultants who are experienced with the design-build method of project delivery.

(5) A good-faith effort to comply with G.S. 143-128.2, G.S. 143-128.4, and to recruit and select small business entities. The governmental entity shall not limit or otherwise preclude any respondent from submitting a response so long as the respondent, itself or through its proposed team, is properly licensed and qualified to perform the work defined by the public notice issued under subsection (c) of this section.

(6) The criteria utilized by the governmental entity, including a comparison of the costs and benefits of using the design-build delivery method for a given project in lieu of the delivery methods identified in subdivisions (1), (2), and (4) of G.S. 143-128(a1).

(c) A governmental entity shall issue a public notice of the request for qualifications that includes, at a minimum, general information on each of the following:

(1) The project site.

(2) The project scope.

(3) The anticipated project budget.

(4) The project schedule.

(5) The criteria to be considered for selection and the weighting of the qualifications criteria.

(6) Notice of any rules, ordinances, or goals established by the governmental entity, including goals for minority- and women-owned business participation and small business participation.

(7) Other information provided by the owner to potential design-builders in submitting qualifications for the project.

(8) A statement providing that each design-builder shall submit in its response to the request for qualifications an explanation of its project team selection, which shall consist of either of the following:

a. A list of the licensed contractors, licensed subcontractors, and licensed design professionals whom the design-builder proposes to use for the project's design and construction.

b. An outline of the strategy the design-builder plans to use for open contractor and subcontractor selection based upon the provisions of Article 8 of Chapter 143 of the General Statutes.

(d) Following evaluation of the qualifications of the design-builders, the three most highly qualified design-builders shall be ranked. If after the solicitation for design-builders not as many as three responses have been received from qualified design-builders, the governmental entity shall again solicit for design-builders. If as a result of such second solicitation not as many as three responses are received, the governmental entity may then begin negotiations with the highest-ranked design-builder under G.S. 143-64.31 even though fewer than three responses were received. If the governmental entity deems it appropriate, the governmental entity may invite some or all responders to interview with the governmental entity.

(e) The design-builder shall be selected in accordance with Article 3D of this Chapter. Each design-builder shall certify to the governmental entity that each licensed design professional who is a member of the design-build team, including subconsultants, was selected based upon demonstrated competence and qualifications in the manner provided by G.S. 143-64.31.

(f) The design-builder shall provide a performance and payment bond to the governmental entity in accordance with the provisions of Article 3 of Chapter 44A of the General Statutes. The design-builder shall obtain written approval from the governmental entity prior to changing key personnel as listed in sub-subdivision (c)(8)a. of this section after the contract has been awarded.

"**§ 143-128.1B. Design-build bridging contracts.**

(a) Definitions for purposes of this section:

(1) Design-build bridging. – A design and construction delivery process whereby a governmental entity contracts for design criteria services under a separate agreement from the construction phase services of the design-builder.

(2) Design-builder. – An appropriately licensed person, corporation, or entity that, under a single contract, offers to provide or provides design services and general contracting services where services within the scope of the practice of professional engineering or architecture are performed respectively by a licensed engineer or licensed architect and where services within the scope of the practice of general contracting are performed by a licensed general contractor.

(3) Design criteria. – The requirements for a public project expressed in drawings and specifications sufficient to allow the design-builder to make a responsive bid proposal.

(4) Design professional. – Any professional licensed under Chapters 83A, 89A, or 89C of the General Statutes.

(5) First-tier subcontractor. – A subcontractor who contracts directly with the design-builder, excluding design professionals.

(6) Governmental entity. – Every officer, board, department, commission, or commissions charged with responsibility of preparation of specifications or awarding or entering into contracts for the erection, construction, alteration, or repair of any buildings for the State or for any county, municipality, or other public body.

(b) A governmental entity shall establish in writing the criteria used for determining the circumstances under which engaging a design criteria design professional is appropriate for a project, and such criteria shall, at a minimum, address all of the following:

(1) The extent to which the governmental entity can adequately and thoroughly define the project requirements prior to the issuance of the request for proposals for a design-builder.

(2) The time constraints for the delivery of the project.

(3) The ability to ensure that a quality project can be delivered.

(4) The capability of the governmental entity to manage and oversee the project, including the availability of experienced staff or outside consultants who are experienced with the design-build method of project delivery.

(5) A good-faith effort to comply with G.S. 143-128.2, G.S. 143-128.4, and to recruit and select small business entities. The governmental entity shall not limit or otherwise preclude any respondent from submitting a response so long as the respondent, itself or through its proposed team, is properly licensed and qualified to perform the work defined by the public notice issued under subsection (d) of this section.

(6) The criteria utilized by the governmental entity, including a comparison of the cost and benefit of using the design-build delivery method for a given project in lieu of the delivery methods identified in subdivisions (1), (2), and (4) of G.S. 143-128(a1).

(c) On or before entering into a contract for design-build services under this section, the governmental entity shall select or designate a staff design professional, or a design professional who is independent of the design-builder, to act as its design criteria design professional as its representative for the procurement process and for the duration of the design and construction. If the design professional is not a full-time employee of the governmental entity, the governmental entity shall select the design professional on the basis of demonstrated competence and qualifications as provided by G.S. 143-64.31. The design criteria design professional shall develop design criteria in consultation with the governmental entity. The design criteria design professional shall not be eligible to submit a response to the request for

proposals nor provide design input to a design-build response to the request for proposals. The design criteria design professional shall prepare a design criteria package equal to thirty-five percent (35%) of the completed design documentation for the entire construction project. The design criteria package shall include all of the following:

(1) Programmatic needs, interior space requirements, intended space utilization, and other capacity requirements.
(2) Information on the physical characteristics of the site, such as a topographic survey.
(3) Material quality standards or performance criteria.
(4) Special material requirements.
(5) Provisions for utilities.
(6) Parking requirements.
(7) The type, size, and location of adjacent structures.
(8) Preliminary or conceptual drawings and specifications sufficient in detail to allow the design-builder to make a proposal which is responsive to the request for proposals.
(9) Notice of any ordinances, rules, or goals adopted by the governmental entity.

(d) A governmental entity shall issue a public notice of the request for proposals that includes, at a minimum, general information on each of the following:

(1) The project site.
(2) The project scope.
(3) The anticipated project budget.
(4) The project schedule.
(5) The criteria to be considered for selection and the weighting of the selection criteria.
(6) Notice of any rules, ordinances, or goals established by the governmental entity, including goals for minority- and women-owned business participation and small business entities.
(7) The thirty-five percent (35%) design criteria package prepared by the design criteria design professional.
(8) Other information provided by the owner to design-builders in submitting responses to the request for proposals for the project.
(9) A statement providing that each design-builder shall submit in its request for proposal response an explanation of its project team selection, which shall consist of a list of the licensed contractor and licensed design professionals whom the design-builder proposes to use for the project's design and construction.
(10) A statement providing that each design-builder shall submit in its request for proposal a sealed envelope with all of the following:
a. The design-builder's price for providing the general conditions of the contract.
b. The design-builder's proposed fee for general construction services.
c. The design-builder's fee for design services.

(e) Following evaluation of the qualifications of the design-builders, the governmental entity shall rank the design-builders who have provided responses, grouping the top three without ordinal ranking. If after the solicitation for design-builders not as many as three responses have been received from qualified design-builders, the governmental entity shall again solicit for design-builders. If as a result of such second solicitation not as many as three responses are received, the governmental entity may then make its selection. From the grouping of the top three design-builders, the governmental entity shall select the design-builder who is the lowest responsive, responsible bidder based on the cumulative amount of fees provided in accordance with subdivision (d)(10) of this section and taking into consideration quality, performance, and the time specified in the proposals for the performance of the contract. Each

design-builder shall certify to the governmental entity that each licensed design professional who is a member of the design-build team, including subconsultants, was selected based upon demonstrated competence and qualifications in the manner provided by G.S. 143-64.31.

(f) The design-builder shall accept bids based upon the provisions of this Article from first-tier subcontractors for all construction work under this section.

(g) The design-builder shall provide a performance and payment bond to the governmental entity in accordance with the provisions of Article 3 of Chapter 44A of the General Statutes. The design-builder shall obtain written approval from the governmental entity prior to changing key personnel, as listed under subdivision (d)(9) of this section, after the contract has been awarded.

"**§ 143-128.1C. Public-private partnership construction contracts.**

(a) Definitions for purposes of this section:

(1) Construction contract. – Any contract entered into between a private developer and a contractor for the design, construction, reconstruction, alteration, or repair of any building or other work or improvement required for a private developer to satisfy its obligations under a development contract.

(2) Contractor. – Any person who has entered into a construction contract with a private developer under this section.

(3) Design-builder. – Defined in G.S. 143-128.1B.

(4) Development contract. – Any contract between a governmental entity and a private developer under this section and, as part of the contract, the private developer is required to provide at least fifty percent (50%) of the financing for the total cost necessary to deliver the capital improvement project, whether through lease or ownership, for the governmental entity.

(5) Governmental entity. – Defined in G.S. 143-128.1B.

(6) Labor or materials. – Includes all materials furnished or labor performed in the performance of the work required by a construction contract whether or not the labor or materials enter into or become a component part of the improvement and shall include gas, power, light, heat, oil, gasoline, telephone services, and rental of equipment or the reasonable value of the use of equipment directly utilized in the performance of the work required by a construction contract.

(7) Private developer. – Any person who has entered into a development contract with a governmental entity under this section.

(8) Public-private project. – A capital improvement project undertaken for the benefit of a governmental entity and a private developer pursuant to a development contract that includes construction of a public facility or other improvements, including paving, grading, utilities, infrastructure, reconstruction, or repair, and may include both public and private facilities.

(9) State entity. – The State and every agency, authority, institution, board, commission, bureau, council, department, division, officer, or employee of the State. The term does not include a unit of local government as defined in G.S. 159-7.

(10) State-supported financing arrangement. – Any installment financing arrangement, lease-purchase arrangement, arrangement under which funds are to be paid in the future based upon the availability of an asset or funds for payment, or any similar arrangement in the nature of a financing, under which a State entity agrees to make payments to acquire or obtain a capital asset for the State entity or any other State entity for a term, including renewal options, of greater than one year. Any arrangement that results in the identification of a portion of a lease payment, installment payment, or similar scheduled payment thereunder by a State entity as "interest" for

purposes of federal income taxation shall automatically be a State-supported financing arrangement for purposes of this section.

(11) Subcontractor. – Any person who has contracted to furnish labor, services, or materials to, or who has performed labor or services for, a contractor or another subcontractor in connection with a development contract.

(b) If the governmental entity determines in writing that it has a critical need for a capital improvement project, the governmental entity may acquire, construct, own, lease as lessor or lessee, and operate or participate in the acquisition, construction, ownership, leasing, and operation of a public-private project, or of specific facilities within such a project, including the making of loans and grants from funds available to the governmental entity for these purposes. If the governmental entity is a public body under Article 33C of this Chapter, the determination shall occur during an open meeting of that public body. The governmental entity may enter into development contracts with private developers with respect to acquiring, constructing, owning, leasing, or operating a project under this section. The development contract shall specify the following:

(1) The property interest of the governmental entity and all other participants in the development of the project.

(2) The responsibilities of the governmental entity and all other participants in the development of the project.

(3) The responsibilities of the governmental entity and all other participants with respect to financing of the project.

(4) The responsibilities to put forth a good-faith effort to comply with G.S. 143-128.2, G.S. 143-128.4, and to recruit and select small business entities.

(c) The development contract may provide that the private developer shall be responsible for any or all of the following:

(1) Construction of the entire public-private project.

(2) Reconstruction or repair of the public-private project or any part thereof subsequent to construction of the project.

(3) Construction of any addition to the public-private project.

(4) Renovation of the public-private project or any part thereof.

(5) Purchase of apparatus, supplies, materials, or equipment for the public-private project whether during or subsequent to the initial equipping of the project.

(6) A good-faith effort to comply with G.S. 143-128.2, G.S. 143-128.4, and to recruit and select small business entities.

(d) The development contract may also provide that the governmental entity and private developer shall use the same contractor or contractors in constructing a portion of or the entire public-private project. If the development contract provides that the governmental entity and private developer shall use the same contractor, the development contract shall include provisions deemed appropriate by the governmental entity to assure that the public facility or facilities included in or added to the public-private project are constructed, reconstructed, repaired, or renovated at a reasonable price and that the apparatus, supplies, materials, and equipment purchased for the public facility or facilities included in the public-private project are purchased at a reasonable price. For public-private partnerships using the design-build project delivery method, the provisions of G.S. 143-128.1A shall apply.

(e) A private developer and its contractors shall make a good-faith effort to comply with G.S. 143-128.2, G.S. 143-128.4, and to recruit and select small business entities.

(f) A private developer may perform a portion of the construction or design work only if both of the following criteria apply:

(1) A previously engaged contractor defaults, and a qualified replacement cannot be obtained after a good-faith effort has been made in a timely manner.

(2) The governmental entity approves the private developer to perform the work.

(g) The following bonding provisions apply to any development contract entered into under this section:

(1) A payment bond shall be required for any development contract as follows: A payment bond in the amount of one hundred percent (100%) of the total anticipated amount of the construction contracts to be entered into between the private developer and the contractors to design or construct the improvements required by the development contract. The payment bond shall be conditioned upon the prompt payment for all labor or materials for which the private developer or one or more of its contractors or those contractors' subcontractors are liable. The payment bond shall be solely for the protection of the persons furnishing materials or performing labor or services for which the private developer or its contractors or subcontractors are liable. The total anticipated amount of the construction contracts shall be stated in the development contract and certified by the private developer as being a good-faith projection of its total costs for designing and constructing the improvements required by the development contract. The payment bond shall be executed by one or more surety companies legally authorized to do business in the State of North Carolina and shall become effective upon the awarding of the development contract. The development contract may provide for the requirement of a performance bond.

(2) Subject to the provisions of this subsection, any claimant who has performed labor or furnished materials in the prosecution of the work required by any contract for which a payment bond has been given pursuant to the provisions of this subsection, and who has not been paid in full therefor before the expiration of 90 days after the day on which the claimant performed the last labor or furnished the last materials for which that claimant claims payment, may bring an action on the payment bond in that claimant's own name to recover any amount due to that claimant for the labor or materials and may prosecute the action to final judgment and have execution on the judgment.

a. Any claimant who has a direct contractual relationship with any contractor or any subcontractor but has no contractual relationship, express or implied, with the private developer may bring an action on the payment bond only if that claimant has given written notice of claim on the payment bond to the private developer within 120 days from the date on which the claimant performed the last of the labor or furnished the last of the materials for which that claimant claims payment, in which that claimant states with substantial accuracy the amount claimed and the name of the person for whom the work was performed or to whom the material was furnished.

b. The notice required by sub-subdivision a. of this subdivision shall be served by certified mail or by signature confirmation as provided by the United States Postal Service, postage prepaid, in an envelope addressed to the private developer at any place where that private developer's office is regularly maintained for the transaction of business or in any manner provided by law for the service of summons. The claimants' service of a claim of lien on real property or a claim of lien on funds as funds as allowed by Article 2 of Chapter 44A of the General Statutes on the private developer shall be deemed, nonexclusively, as adequate notice under this section.

(3) Every action on a payment bond as provided in this subsection shall be brought in a court of appropriate jurisdiction in a county where the

development contract or any part thereof is to be or has been performed. Except as provided in G.S. 44A-16(c), no action on a payment bond shall be commenced after one year from the day on which the last of the labor was performed or material was furnished by the claimant.

(4) No surety shall be liable under a payment bond for a total amount greater than the face amount of the payment bond. A judgment against any surety may be reduced or set aside upon motion by the surety and a showing that the total amount of claims paid and judgments previously rendered under the payment bond, together with the amount of the judgment to be reduced or set aside, exceeds the face amount of the bond.

(5) No act of or agreement between the governmental entity, a private developer, or a surety shall reduce the period of time for giving notice under sub-subdivision (2)a. of this subsection or commencing action under subdivision (3) of this subsection or otherwise reduce or limit the liability of the private developer or surety as prescribed in this subsection. Every bond given by a private developer pursuant to this subsection shall be conclusively presumed to have been given in accordance with the provisions of this subsection, whether or not the bond is drawn as to conform to this subsection. The provisions of this subsection shall be conclusively presumed to have been written into every bond given pursuant to this subsection.

(6) Any person entitled to bring an action or any defendant in an action on a payment bond shall have a right to require the governmental entity or the private developer to certify and furnish a copy of the payment bond, the development contract, and any construction contracts covered by the bond. It shall be the duty of the private developer or the governmental entity to give any such person a certified copy of the payment bond and the construction contract upon not less than 10 days' notice and request. The governmental entity or private developer may require a reasonable payment for the actual cost of furnishing the certified copy. A copy of any payment bond, development contract, and any construction contracts covered by the bond certified by the governmental entity or private developer shall constitute prima facie evidence of the contents, execution, and delivery of the bond, development contract, and construction contracts.

(7) A payment bond form containing the following provisions shall comply with this subsection:

a. The date the bond is executed.

b. The name of the principal.

c. The name of the surety.

d. The governmental entity.

e. The development contract number.

f. All of the following:

1. "KNOW ALL MEN BY THESE PRESENTS, That we, the PRINCIPAL and SURETY above named, are held and firmly bound unto the above named [governmental entity], hereinafter called [governmental entity], in the penal sum of the amount stated above, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators, and successors, jointly and severally, firmly by these presents."

2. "THE CONDITION OF THIS OBLIGATION IS SUCH, that whereas the Principal entered into a certain development contract with [governmental entity], numbered as shown above and hereto attached."

3. "NOW THEREFORE, if the Principal shall promptly make payment to all persons supplying labor and material in the prosecution of the construction or design work provided for in the development contract, and any and all duly authorized modifications of the contract that may hereafter be made, notice of which modifications to the surety being hereby waived, then this obligation to be void; otherwise to remain in full force and virtue."

4. "IN WITNESS WHEREOF, the above bounden parties have executed this instrument under their several seals on the date indicated above, the name and corporate seal of each corporate party being hereto affixed and these presents duly signed by its undersigned representative, pursuant to authority of its governing body." Appropriate places for execution by the surety and principal shall be provided.

(8) In any suit brought or defended under the provisions of this subsection, the presiding judge may allow reasonable attorneys' fees to the attorney representing the prevailing party. Attorneys' fees under this subdivision are to be taxed as part of the court costs and shall be payable by the losing party upon a finding that there was an unreasonable refusal by the losing party to fully resolve the matter which constituted the basis of the suit or the basis of the defense. For purposes of this subdivision, the term "prevailing party" means a party plaintiff or third-party plaintiff who obtains a judgment of at least fifty percent (50%) of the monetary amount sought in a claim or a party defendant or third-party defendant against whom a claim is asserted which results in a judgment of less than fifty percent (50%) of the amount sought in the claim defended. Notwithstanding the provisions of this subdivision, if an offer of judgment is served in accordance with G.S. 1A-1, Rule 68, a "prevailing party" is an offeree who obtains judgment in an amount more favorable than the last offer or is an offeror against whom judgment is rendered in an amount less favorable than the last offer.

(9) The obligations and lien rights set forth in Article 2 of Chapter 44A of the General Statutes shall apply to a project awarded under this section to the extent of any property interests held by the private developer in the project. For purposes of applying the provisions of Article 2 of Chapter 44A of the General Statutes, the private developer shall be deemed the owner to the extent of that private developer's ownership interest. This subdivision shall not be construed as making the provisions of Article 2 of Chapter 44A of the General Statutes apply to governmental entities or public buildings to the extent of any property interest held by the governmental entity in the building.

(h) The governmental entity shall determine its programming requirements for facilities to be constructed under this section and shall determine the form in which private developers may submit their qualifications. The governmental entity shall advertise a notice for interested private developers to submit qualifications in a newspaper having general circulation within the county in which the governmental entity is located. Prior to the submission of qualifications, the governmental entity shall make available, in whatever form it deems appropriate, the programming requirements for facilities included in the public-private project. Any private developer submitting qualifications shall include the following:

(1) Evidence of financial stability. However, "trade secrets" as that term is defined in G.S. 66-152(3) shall be exempt from disclosure under Chapter 132 of the General Statutes.

(2) Experience with similar projects.

(3) Explanation of project team selection by either listing of licensed contractors, licensed subcontractors, and licensed design professionals whom the private developer proposes to use for the project's design and construction or a statement outlining a strategy for open contractor and subcontractor selection based upon the provisions of this Article.

(4) Statement of availability to undertake the public-private project and projected time line for project completion.

(5) Any other information required by the governmental entity.

(i) Based upon the qualifications package submitted by the private developers and any other information required by the governmental entity, the governmental entity may select one or more private developers with whom to negotiate the terms and conditions of a contract to perform the public-private project. The governmental entity shall advertise the terms of the proposed contract to be entered into by the governmental entity in a newspaper having general circulation within the county in which the governmental entity is located at least 30 days prior to entering into the development contract. If the governmental entity is a public body under Article 33C of this Chapter, the development contract shall be considered in an open meeting of that public body following a public hearing on the proposed development contract. Notice of the public hearing shall be published in the same notice as the advertisement of the terms under this subsection.

(j) The governmental entity shall make available a summary of the development contract terms which shall include a statement of how to obtain a copy of the complete development contract.

(k) Leases entered into under this section are subject to approval as follows:

(1) If a capital lease or operating lease is entered into by a unit of local government as defined in G.S. 159-7, that capital lease or operating lease is subject to approval by the local government commission under Article 8 of Chapter 159 of the General Statutes if it meets the standards set out in G.S. 159-148(a)(1), 159-148(a)(2), and 159-148(a)(3), 159-148(a)(4) or 159-153. For purposes of determining whether the standards set out in G.S. 159-148(a)(3) have been met, only the five hundred thousand dollar ($500,000) threshold applies.

(2) If a capital lease is entered into by a State entity that constitutes a State-supported financing arrangement and requires payments thereunder that are payable, whether directly or indirectly, and whether or not subject to the appropriation of funds for such payment, by payments from the General Fund of the State or other funds and accounts of the State that are funded from the general revenues and other taxes and fees of the State or State entities, not including taxes and fees that are required to be deposited to the Highway Fund or Highway Trust Fund, that capital lease shall be subject to the approval procedures required for special indebtedness by G.S. 142-83 and G.S. 142-84. This requirement shall not apply to any arrangement where bonds or other obligations are issued or incurred by a State entity to carry out a financing program authorized by the General Assembly under which such bonds or other obligations are payable from monies derived from specified, limited, nontax sources, so long as the payments under that arrangement by a State entity are limited to the sources authorized by the General Assembly.

(l) A capital lease or operating lease entered into under this section may not contain any provision with respect to the assignment of specific students or students from a specific area to any specific school.

(m) This section shall not apply to any contract or other agreement between or among The University of North Carolina or one of its constituent institutions, a private, nonprofit corporation established under Part 2B of Article 1 of Chapter 116 of the General Statutes, or

any private foundation, private association, or private club created for the primary purpose of financial support to The University of North Carolina or one of its constituent institutions."

SECTION 5. G.S. 143-128.1 reads as rewritten:

"§ **143-128.1. Construction management at risk contracts.**

(a) For purposes of this section and G.S. 143-64.31:

(1) "Construction management services" means services provided by a construction manager, which may include preparation and coordination of bid packages, scheduling, cost control, value engineering, evaluation, preconstruction services, and construction administration.

(2) "Construction management at risk services" means services provided by a person, corporation, or entity that (i) provides construction management services for a project throughout the preconstruction and construction phases, (ii) who is licensed as a general contractor, and (iii) who guarantees the cost of the project.

(3) "Construction manager at risk" means a person, corporation, or entity that provides construction management at risk services.

(4) "First-tier subcontractor" means a subcontractor who contracts directly with the construction manager at risk.

(b) The construction manager at risk shall be selected in accordance with Article 3D of this Chapter. Design services for a project shall be performed by a licensed architect or engineer. The public owner shall contract directly with the architect or engineer. The public owner shall make a good-faith effort to comply with G.S. 143-128.2, G.S. 143-128.4, and to recruit and select small business entities when selecting a construction manager at risk.

(c) The construction manager at risk shall contract directly with the public entity for all construction; shall publicly advertise as prescribed in G.S. 143-129; and shall prequalify and accept bids from first-tier subcontractors for all construction work under this section. The prequalification criteria shall be determined by the public entity and the construction manager at risk to address quality, performance, the time specified in the bids for performance of the contract, the cost of construction oversight, time for completion, capacity to perform, and other factors deemed appropriate by the public entity. The public entity shall require the construction manager at risk to submit its plan for compliance with G.S. 143-128.2 for approval by the public entity prior to soliciting bids for the project's first-tier subcontractors. A construction manager at risk and first-tier subcontractors shall make a good faith effort ~~to recruit and select minority businesses for participation in contracts pursuant to G.S. 143-128.2.~~ to comply with G.S. 143-128.2, G.S. 143-128.4, and to recruit and select small business entities. A construction manager at risk may perform a portion of the work only if (i) bidding produces no responsible, responsive bidder for that portion of the work, the lowest responsible, responsive bidder will not execute a contract for the bid portion of the work, or the subcontractor defaults and a prequalified replacement cannot be obtained in a timely manner, and (ii) the public entity approves of the construction manager at risk's performance of the work. All bids shall be opened publicly, and once they are opened, shall be public records under Chapter 132 of the General Statutes. The construction manager at risk shall act as the fiduciary of the public entity in handling and opening bids. The construction manager at risk shall award the contract to the lowest responsible, responsive bidder, taking into consideration quality, performance, the time specified in the bids for performance of the contract, the cost of construction oversight, time for completion, compliance with G.S. 143-128.2, and other factors deemed appropriate by the public entity and advertised as part of the bid solicitation. The public entity may require the selection of a different first-tier subcontractor for any portion of the work, consistent with this section, provided that the construction manager at risk is compensated for any additional cost incurred.

When contracts are awarded pursuant to this section, the public entity shall provide for a dispute resolution procedure as provided in G.S. 143-128(f1). (d) The construction manager

at risk shall provide a performance and payment bond to the public entity in accordance with the provisions of Article 3 of Chapter 44A of the General Statutes."

SECTION 6. G.S. 44A-16 is amended by adding a new subsection to read:

"(c) For improvements performed in conjunction with a development contract under G.S. 143-128.1C, a claim of lien on real property or a claim of lien on funds served on a private developer may also be discharged by the private developer and the surety on a payment bond issued under G.S. 143-128.1C(g)(1) in accordance with this subsection. The claim of lien may be discharged by the private developer and surety jointly filing with the clerk of superior court of the county where the project is located a copy of the payment bond together with an affidavit executed by the surety stating that, as of the date of the filing of the payment bond with the clerk of superior court, the amount of the penal sum of the payment bond minus any amounts paid in good faith to other claimants on the project and minus the amount of all other claims of lien on real property filed against the property improved by the project exceeds the amount claimed by the lien claim being discharged by at least one hundred twenty-five percent (125%). Notwithstanding any other contractual provision or law, where a claimant's lien claim has been discharged under this subsection, the claimant shall have no less than one year from the date of being served with the payment bond and affidavit to file suit on the payment bond."

SECTION 7. G.S. 115C-521 is amended by adding a new subsection to read:

"(f) A local board of education may use prototype designs from the clearinghouse established under subsection (e) of this section that is a previously approved and constructed project by the School Planning Division of the State Board of Education, and other appropriate review agencies. The local board of education may contract with the architect of record to make changes and upgrades as necessary for regulatory approval.

(g) For prototype schools under this section, local boards of education shall be exempt from the designer selection procedure in Article 3D of Chapter 143 of the General Statutes and may enter into an agreement with the original design professional of the prototype to supply design services for future construction of the prototype school."

SECTION 8.(a) There shall be established a Purchase and Contract Study Committee to study the issue of prequalification on public nontransportation construction work for both local and State government projects. The Committee may study any of the following:

(1) An analysis of existing prequalification requirements and consider whether or not current State construction voluntary standards should be required for all public projects.

(2) An analysis of whether and/or how prequalification standards may have effectively disqualified licensed North Carolina general contractors who are able to satisfy all applicable bonding requirements under Chapter 44A of the North Carolina General Statutes.

(3) Development of one or more objective and nondiscriminatory systems for prequalification to permit all appropriately licensed North Carolina general contractors to have the opportunity to bid in open competition for public construction projects in the State.

(4) Any other matter relevant to the implementation of House Bill 857, 2013 Regular Session.

SECTION 8.(b) Appointments to the committee established by subsection (a) of this section shall be as follows:

(1) Two Senators, appointed by the President Pro Tempore of the Senate.

(2) Two Representatives, appointed by the Speaker of the House of Representatives.

(3) Three licensed general contractors, appointed by the President Pro Tempore of the Senate.

(4) One professional engineer, appointed by the Speaker of the House of Representatives.

(5) One registered architect, appointed by the Speaker of the House of Representatives.

(6) One person upon recommendation of the North Carolina League of Municipalities, appointed by the Speaker of the House of Representatives.

(7) One person upon recommendation of the North Carolina County Commissioners Association, appointed by the President Pro Tempore of the Senate.

(8) A representative from the State Construction Office.

SECTION 8.(c) The Committee shall report its findings, together with any recommendations, to the General Assembly on or before the convening of the 2014 Session of the 2013 General Assembly.

SECTION 9. This act becomes effective 30 days after it becomes law and applies to projects bid on or after that date and public-private development contracts entered into on or after that date, and does not supersede any prior enacted local act of the General Assembly enacted on or before July 1, 2013.

In the General Assembly read three times and ratified this the 24th day of July, 2013.

Became law upon approval of the Governor at 10:48 a.m. on the 23rd day of August, 2013.

Session Law 2013-402 **H.B. 552**

AN ACT TO PROVIDE A PROCEDURE TO REMOVE AN AREA FROM A COUNTY SERVICE DISTRICT.

The General Assembly of North Carolina enacts:

SECTION 1. Part 1 of Article 16 of Chapter 153A of the General Statutes is amended by adding a new section to read:

"**§ 153A-303.1. Removal of territory from service districts.**

(a) Standards. – A board of commissioners may by resolution remove territory from a service district upon finding that:

(1) One hundred percent (100%) of the owners of real property in the territory to be removed have petitioned for removal.

(2) The territory to be removed no longer requires the services, facilities, or functions financed, provided, or maintained for the district.

(3) The service district was created only to provide the services listed in G.S. 153A-301(a)(4) or G.S. 153A-301(a)(6) or both.

(4) The service district does not have any obligation or expense related to the issuance of bonds.

(b) Report. – Before the public hearing required by subsection (c) of this section, the board shall cause to be prepared a report containing:

(1) A map of the district highlighting the territory proposed to be removed, showing the present and proposed boundaries of the district; and

(2) A statement showing that the territory to be removed meets the standards and requirements of subsection (a) of this section.

The report shall be available for public inspection in the office of the clerk to the board for at least 10 days before the date of the public hearing.

(c) Hearing and Notice. – The board shall hold a public hearing before adopting any resolution reducing the boundaries of a district. Notice of the hearing shall state the date, hour, and place of the hearing and its subject and shall include a statement that the report required by subsection (b) of this section is available for inspection in the office of the clerk to the board. The notice shall be published at least once not less than seven days before the hearing. In addition, the notice shall be mailed at least two weeks before the date of the hearing by any class of U.S. mail which is fully prepaid to the owners as shown by the county tax records as of

the preceding January 1 (and at the address shown thereon) of all property located within the territory to be removed. The person designated by the board to mail the notice shall certify to the board that the mailing has been completed, and the certificate shall be conclusive in the absence of fraud.

(d) Effective Date. – The resolution reducing the boundaries of the district shall take effect at the beginning of a fiscal year commencing after its passage, as determined by the board."

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

In the General Assembly read three times and ratified this the 26th day of July, 2013.

Became law upon approval of the Governor at 10:49 a.m. on the 23rd day of August, 2013.

Session Law 2013-403 **H.B. 565**

AN ACT TO AMEND THE LAWS REGULATING REAL ESTATE APPRAISERS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 93E-1-3(a) reads as rewritten:

"(a) No trainee registration, license, or certificate shall be issued under the provisions of this Chapter to a partnership, association, corporation, firm, or group. However, nothing herein shall preclude a registered trainee or licensed or certified real estate appraiser from rendering appraisals for or on behalf of a partnership, association, corporation, firm, or group, provided the appraisal report is prepared by a licensed or certified real estate appraiser or by a registered trainee under the immediate personal direction ~~of,~~ of the ~~licensed or~~ certified real estate appraiser and is reviewed and signed by that ~~licensed or~~ certified appraiser."

SECTION 2. G.S. 93E-1-6 reads as rewritten:

"§ **93E-1-6. Qualifications for ~~registration~~ registration, licensure, and certification; applications; application fees; examinations.**

(a) Any person desiring to be registered as a trainee or to obtain licensure as a licensed real estate appraiser or certification as a certified real estate appraiser shall make written application to the Board on the forms as are prescribed by the Board setting forth the applicant's qualifications for registration, licensure, or certification. Each applicant shall satisfy the following qualification requirements:

(1) Each applicant for registration as a trainee shall:

a. Have obtained a high school diploma or its equivalent; and

b. Demonstrate to the Board that the applicant possesses the knowledge and competence necessary to perform appraisals of real property, by: (i) having satisfactorily completed within the five-year period immediately preceding the date application is made, a course of instruction, approved by the Board, in real estate appraisal principles and practices consisting of at least 90 hours of classroom instruction in subjects determined by the Board; and (ii) satisfying any additional qualification the Board imposes by rule, not inconsistent with any requirements imposed by the Appraisal Foundation.

(1a) Each applicant for licensure as a licensed real estate appraiser shall:

a. Hold an associate's degree or higher from an accredited college, community college, or university;

b. Demonstrate to the Board that the applicant possesses the knowledge and competence necessary to perform appraisals of real property by having satisfactorily completed a course of instruction consisting of at least 150 hours of classroom instruction in subjects determined by the Board. All instructional courses must be completed on or after January 1, 2008;

c. Present evidence satisfactory to the Board of at least 2,500 hours, or the minimum requirement as imposed by the federal government, whichever is greater, of experience in real estate appraising within the eight-year period immediately preceding the date the application is made and over a period of at least two calendar years; and

d. Satisfy the additional qualifications criteria as may be imposed by the Board by rule, not inconsistent with any requirements imposed by the federal government, or shall possess education and experience which is found by the Board in its discretion to be equivalent to the above requirements.

(2) Each applicant for certification as a certified residential real estate appraiser shall:

a. Hold ~~an associate's degree or higher~~a bachelor's degree from an accredited college~~, junior college, community college,~~ or university; ~~or have a high school diploma or its equivalent and have successfully completed at least 21 semester credit hours of college courses from an accredited college, junior college, community college, or university in English composition, principles of economics, finance, higher mathematics, such as geometry or algebra, statistics, introduction to computers, and business or real estate law;~~

b. Demonstrate that the applicant possesses the knowledge and competence necessary to perform appraisals of real property as the Board may prescribe by having satisfactorily ~~completed, within the five-year period immediately preceding the date the application is made,~~completed a course of instruction, approved by the Board, in real estate appraisal principles and practices consisting of at least 200 ~~hours;~~hours. All instructional courses shall have been completed on or after January 1, 2008;

c. Present evidence satisfactory to the Board of at least 2,500 hours or the minimum requirement as imposed by the Appraisal Foundation, whichever is greater, of experience in real estate appraising within the ~~five-year~~eight-year period immediately preceding the date application is made, and over a period of at least two calendar years; and

d. Satisfy the additional qualifications criteria as may be imposed by the Board by rule, not inconsistent with any requirements imposed by the Appraisal Foundation; or

e. Possess education and experience which is found by the Board in its discretion to be equivalent to the above requirements.

(3) Each applicant for certification as a certified general real estate appraiser shall:

a. Hold a bachelor's degree or higher from an accredited college or university; ~~or have a high school diploma or its equivalent and have successfully completed at least 30 semester credit hours of college courses from an accredited college or university in English composition, macroeconomics and microeconomics, finance, higher mathematics, such as geometry or algebra, statistics, introduction to computers, and business or real estate law and two elective courses in accounting, geography, business management, or real estate;~~

b. Demonstrate that the applicant possesses the knowledge and competence necessary to perform appraisals of all types of real property by having satisfactorily ~~completed, within the five-year period immediately preceding the date application is made,~~completed

a course of instruction, approved by the Board, in general real estate appraisal practices consisting of at least 300 ~~hours;~~hours. All instructional courses shall have been completed on or after January 1, 2008;

c. Present evidence satisfactory to the Board of at least 3,000 hours or the minimum requirement as imposed by the Appraisal Foundation, whichever is greater, of experience in real estate appraising within the ~~five-year~~eight-year period immediately preceding the date application is made, and over a period of at least two and one-half calendar years, fifty percent (50%) of which must be in appraising nonresidential real estate; and

d. Satisfy the additional qualifications criteria as may be imposed by the Board by rule, not inconsistent with any requirements imposed by the Appraisal Foundation; or

e. Possess education or experience which is found by the Board in its discretion to be equivalent to the above requirements.

(4) Repealed by Session Laws 2001-399, s. 1.

(b) Each application for registration as a trainee or for licensure or certification as a real estate appraiser shall be accompanied by a fee of two hundred dollars ($200.00), plus any additional fee as may be necessary to defray the cost of any competency examination administered by a private testing service.

(c) Any person who files with the Board an application for ~~registration~~ licensure or certification as a real estate appraiser shall be required to pass an examination to demonstrate the person's competence.

(c1) The Board shall also make an investigation as it deems necessary into the background of the applicant to determine the applicant's qualifications with due regard to the paramount interest of the public as to the applicant's competency, honesty, truthfulness, and integrity. ~~All applicants shall obtain criminal record reports from one or more reporting services designated by the Board to provide criminal record reports. Applicants are required to pay the designated reporting service for the cost of the reports.~~All applicants shall consent to a criminal history record check. Refusal to consent to a criminal history record check may constitute grounds for the Board to deny an application. The Board shall ensure that the State and national criminal history of an applicant is checked. The Board shall be responsible for providing to the North Carolina Department of Justice the fingerprints of the applicant to be checked, a form signed by the applicant consenting to the criminal history record check, and the use of fingerprints and other identifying information required by the State or National Repositories of Criminal Histories and any additional information required by the Department of Justice in accordance with G.S. 114-19.30. The Board shall keep all information obtained pursuant to this section confidential. The Board shall collect any fees required by the Department of Justice and shall remit the fees to the Department of Justice for expenses associated with conducting the criminal history record check.

(c2) In addition, the Board may investigate and consider whether the applicant has had any disciplinary action taken against any other professional license in North Carolina or any other state, or if the applicant has committed or done any act which, if committed or done by any real estate trainee or appraiser, would be grounds under the provisions hereinafter set forth for disciplinary action including the suspension or revocation of registration, licensure, or certification, or whether the applicant has been convicted of or pleaded guilty to any criminal act. If the results of the investigation shall be satisfactory to the Board, and the applicant is otherwise qualified, then the Board shall issue to the applicant a trainee registration or certificate authorizing the applicant to act as a registered trainee real estate appraiser or certified real estate appraiser in this State.

(d) If the applicant has not affirmatively demonstrated that the applicant meets the requirements for registration or certification, action on the application will be deferred pending a hearing before the Board."

SECTION 3. G.S. 93E-1-6.1 reads as rewritten:

"§ **93E-1-6.1. Trainee supervision.**

All trainees shall perform all real estate appraisal-related activities under the immediate, active, and personal supervision of a ~~licensed or~~ certified real estate appraiser. All appraisal reports must be signed by the appraiser who supervised the trainee. By signing the appraisal report, the appraiser accepts shared responsibility, with the trainee, for the content of and conclusions in the report. All trainees and any appraisers desiring to supervise a trainee shall complete a course in trainee supervision as required in rules adopted by the Board."

SECTION 4. G.S. 93E-1-8 reads as rewritten:

"§ **93E-1-8. Education program approval and fees.**

(a) The Board may by rule prescribe minimum standards for the approval and renewal of approval of schools and other course sponsors and their instructors to conduct appraiser ~~prelicensing and precertification~~qualifying courses required by G.S. 93E-1-6(a). Such standards may address subject matter, program structuring, instructional materials, requirements for satisfactory course completion, instructors' qualifications, and other related matters relevant to the provision of such courses in a manner that best serves the public interest. The standards may require that schools and course sponsors obtain approval for the content of ~~prelicensing and precertification~~qualifying courses from the Appraiser Qualifications Board of the Appraisal Foundation as part of the application process with the Appraisal Board and pay any fees directly to the Appraiser Qualifications Board as required by the Appraiser Qualifications Board for the approval.

(b) The Board may by rule set nonrefundable fees chargeable to private real estate appraisal schools or course sponsors, including appraisal trade organizations, for the approval and annual renewal of approval of their ~~prelicensing and precertification~~qualifying courses required by G.S. 93E-1-6(a), or equivalent courses. The fees shall be one hundred dollars ($100.00) per course for approval and fifty dollars ($50.00) per course for renewal of approval. No fees shall be charged for the approval or renewal of approval to conduct appraiser ~~prelicensing or precertification~~qualifying courses where such courses are offered by a North Carolina college, university, junior college, or community or technical college accredited by the Southern Association of Colleges and Schools, or an agency of the federal, State, or local government.

(c) The Board may by rule prescribe minimum standards for the approval and annual renewal of approval of schools and other course sponsors and their instructors to conduct appraiser continuing education courses. Such standards may address subject matter, instructional materials, requirements for satisfactory course completion, minimum course length, instructors' qualifications, and other related matters relevant to the provision of such courses in a manner that best serves the public interest.

(d) Nonrefundable fees of one hundred dollars ($100.00) per course may be charged to schools and course sponsors for the approval to conduct appraiser continuing education courses and fifty dollars ($50.00) per course for renewal of approval. However, no fees shall be charged for the approval or renewal of approval to conduct appraiser continuing education courses where such courses are offered by a North Carolina college, university, junior college, or community or technical college accredited by the Southern Association of Colleges and Schools, or by an agency of the federal, State, or local government. A nonrefundable fee of fifty dollars ($50.00) per course may be charged to current or former licensees or certificate holders requesting approval by the Board of a course for continuing education credit when approval of such course has not been previously obtained by the offering school or course sponsor."

SECTION 5. G.S. 93E-2-4 reads as rewritten:

"§ **93E-2-4. Qualifications for registration; duties of registrants.**

(a) Any person or entity desiring to be registered as an appraisal management company in this State shall make written application to the Board on forms prescribed by the Board setting forth the applicant's qualifications for registration. The application shall be accompanied by the applicable fee under G.S. 93E-2-6 and any other information the Board deems necessary pursuant to rules adopted by the Board. Upon receipt of a properly completed application and fee and upon a determination by the Board that the applicant is of good moral character, the Board shall issue to the applicant a certificate of registration authorizing the applicant to act as a real estate appraisal management company in this State.

(b) The registration required by subsection (a) of this section shall include the following information:

(1) Legal name of the entity seeking registration.
(2) Business address of the entity seeking registration.
(3) Phone contact information of the entity seeking registration.
(4) If the entity is not a corporation that is domiciled in this State, the name and contact information for the company's agent for service of process in this State.
(5) The name, address, and contact information for any individual or any corporation, partnership, or other business entity that owns ten percent (10%) or more of the appraisal management company.
(6) The name, address, and contact information for the compliance manager.
(7) A certification that the entity has a system and process in place to verify that a person being added to the appraiser panel of the appraisal management company holds a license in good standing in this State pursuant to the North Carolina Appraisers Act if a license or certification is required to perform appraisals.
(8) A certification that the entity has a system in place to require that appraisers inform the appraisal management company of their areas of geographic competency, the types of properties the appraiser is competent to appraise, and the methodologies the appraiser is competent to perform.
(9) A certification that the entity has a system in place to review the work of all independent appraisers that are performing real estate appraisal services for the appraisal management company on a periodic basis to validate that the real estate appraisal services are being conducted in accordance with the Uniform Standards of Professional Appraisal Practice.
(10) A certification that the entity maintains a detailed record of each service request that it receives and the independent appraiser that performs the residential real estate appraisal services for the appraisal management company.
(10a) A certification that the entity has obtained a surety bond as required by this Article.
(11) An irrevocable Uniform Consent to Service of Process.
(12) Any other information required by the Board pursuant to G.S. 93E-2-3.

(c) Any registrant having a good faith belief that a real estate appraiser licensed or certified in this State has violated applicable law or the Uniform Standards of Professional Appraisal Practice or engaged in unethical conduct shall promptly file a complaint with the Board.

(d) Registered appraisal management companies shall pay fees to an appraiser within 30 days of the date the appraisal is transmitted by the real estate appraiser to the registrant, except in cases of noncompliance with the conditions of the engagement. In such cases, the registrant shall notify the real estate appraiser in writing that the fees will not be paid.

(e) To qualify to be registered as an appraisal management company, each individual who owns, directly or indirectly, more than ten percent (10%) of the appraisal management

company shall be of good moral character, as determined by the Board, and shall submit all information the Board deems necessary pursuant to the rules adopted by the Board. Additionally, each owner shall certify that he or she has never had a license to act as an appraiser refused, denied, cancelled, or revoked by the State of North Carolina or any other state.

(f) A registered appraisal management company shall not enter into any contracts or agreements with an independent appraiser for the performance of residential real estate appraisal services for properties located in this State unless the independent appraiser is licensed or certified in good standing pursuant to the North Carolina Appraisers Act.

(g) Each applicant for registration or for a renewal of a registration shall post with the Board and maintain a surety bond in the amount of twenty-five thousand dollars ($25,000).

(1) The bond shall be in a form satisfactory to the Board.

(2) The bond will accrue to the Board for the benefit of a claimant against the registrant to secure the faithful performance of the registrant's obligations under this Article and to a real estate appraiser who has performed an appraisal for the registrant for which the appraiser has not been paid.

(3) The aggregate liability of the surety shall not exceed the principal sum of the bond.

(4) A party having a claim against the registrant may bring suit directly on the surety bond, or the Board may bring suit on behalf of the party having a claim against the registrant, either in one action or in successive actions.

(5) A claim reducing the face amount of the bond shall be annually restored upon renewal of the registrant's registration.

(6) The bond shall remain in effect until cancellation, which may occur only after 90 days written notice to the Board. Cancellation shall not affect any liability incurred or accrued during that period.

(7) The surety bond shall remain in place for no less than two years after the registrant ceases operations in this State. However, notwithstanding this provision, the Board may permit the surety bond to be reduced or eliminated prior to that time to the extent that the amount of the registrant's outstanding obligations to appraisers is reduced."

SECTION 6. G.S. 93E-2-8(a) reads as rewritten:

"§ **93E-2-8. Disciplinary authority.**

(a) The Board may, by order, deny, suspend, revoke, or refuse to issue or renew a registration of an appraisal management company under this Article or may restrict or limit activities of a person who owns an interest in or participates in the business of an appraisal management company if the Board determines that an applicant, registrant, or any partner, member, manager, officer, director, compliance manager, or person occupying a similar status, performing similar functions, or directly or indirectly controlling the applicant or registrant has done any of the following:

(1) Filed an application for registration that, as of its effective date or as of any date after filing, contained any statement that, in light of the circumstances under which it was made, is false or misleading with respect to any material fact.

(2) Violated or failed to comply with any provision of this Article or any rules adopted by the Board.

(3) Been convicted of any felony or, within the past 10 years, been convicted of any misdemeanor involving mortgage lending or real estate appraisal or any offense involving breach of trust, moral turpitude, or fraudulent or dishonest dealing.

(4) Been permanently or temporarily enjoined by any court of competent jurisdiction from engaging in or continuing any conduct or practice involving any aspect of the real estate appraisal management business.

(5) Been the subject of an order of the Board or any other state appraiser regulatory agency denying, suspending, or revoking the person's license as a real estate appraiser.

(6) Acted as an appraisal management company while not properly licensed by the Board.

(7) Failed to pay the proper filing or renewal fee under this Article.

(8) Failed to maintain the bond required by G.S. 93E-2-4."

SECTION 7. G.S. 93E-2-8(g) reads as rewritten:

"(g) If the Board has reasonable grounds to believe that an appraisal management company has violated the provisions of this Article or that facts exist that would be the basis for an order against an appraisal management company, the Board may at any time, either personally or by a person duly designated by the Board, investigate or examine the books, accounts, records, and files of any registrant or other person relating to the complaint or matter under investigation.

(g1) The Board may require any registrant or other person to submit a criminal history record check and a set of that person's fingerprints in connection with any examination or investigation. Refusal to submit the requested criminal history record check or a set of fingerprints shall be grounds for disciplinary action. The reasonable cost of the investigation or examination shall be charged against the registrant."

SECTION 8. G.S. 114-19.30 reads as rewritten:

"§ **114-19.30. Criminal history record checks of applicants for trainee registration, appraiser licensure, appraiser certification, or registrants for registration as real estate appraisal management companies.**

The Department of Justice may provide to the North Carolina Appraisal Board from the State and National Repositories of Criminal Histories the criminal history of any applicant or registrant for registration under Article 1 and Article 2 of Chapter 93E of the General Statutes. Along with the request, the Board shall provide to the Department of Justice the fingerprints of the applicant or registrant, a form signed by the applicant or registrant consenting to the criminal history record check and use of fingerprints and other identifying information required by the State and National Repositories, and any additional information required by the Department of Justice. The applicant's or registrant's fingerprints shall be forwarded to the State Bureau of Investigation for a search of the State's criminal history record file, and the State Bureau of Investigation shall forward a set of fingerprints to the Federal Bureau of Investigation for a national criminal history record check. The Board shall keep all information obtained pursuant to this section confidential. The Department of Justice may charge a fee to offset the cost incurred by the Department to conduct a criminal history record check under this section. The fee shall not exceed the actual cost of locating, editing, researching, and retrieving the information."

SECTION 9. Any person who has been licensed or certified by the Board as a residential or general real estate appraiser on or before the effective date of this act shall be deemed to have complied with the requirements of G.S. 93E-1-6, as enacted in Section 2 of this act.

SECTION 10. The Legislative Research Commission is authorized to study issues relating the North Carolina Appraisal Board limited to the advisability of establishing a recovery fund to provide restitution to appraisers. In conducting the study, the Commission may study the following:

(1) The need for the fund and whether a surety bond is adequate.

(2) Review any existing recovery funds in other states for efficacy and appropriateness.

(3) Review other similar consumer protection funds in other regulated settings, and the funds that protect the consumer and the licensee.

(4) Conduct a cost benefit analysis of the recovery fund.

(5) Consider the financial impact of the fund on licensees.

(6) Any other matters the Commission finds relevant to the issue.

SECTION 11. Sections 10 and 11 are effective when this act becomes law. The remainder of this act becomes effective January 1, 2014.

In the General Assembly read three times and ratified this the 23rd day of July, 2013.

Became law upon approval of the Governor at 10:49 a.m. on the 23rd day of August, 2013.

Session Law 2013-404 **H.B. 652**

AN ACT TO MODIFY THE LAW REGARDING DISCIPLINE FOR JUDGES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 7A-374.2 reads as rewritten:

"§ **7A-374.2. Definitions.**

Unless the context clearly requires otherwise, the definitions in this section shall apply throughout this Article:

(1) "Censure" means a finding by the Supreme Court, based upon a written recommendation by the Commission, that a judge has willfully engaged in misconduct prejudicial to the administration of justice that brings the judicial office into disrepute, but which does not warrant the suspension of the judge from the judge's judicial duties or the removal of the judge from judicial office. A censure may require that the judge follow a corrective course of action. Unless otherwise ordered by the Supreme Court, the judge shall personally appear in the Supreme Court to receive a censure.

(2) "Commission" means the North Carolina Judicial Standards Commission.

(3) "Incapacity" means any physical, mental, or emotional condition that seriously interferes with the ability of a judge to perform the duties of judicial office.

(4) "Investigation" means the gathering of information with respect to alleged misconduct or disability.

(5) "Judge" means any justice or judge of the General Court of Justice of North Carolina, including any retired justice or judge who is recalled for service as an emergency judge of any division of the General Court of Justice.

(6) "Letter of caution" means a written action of the Commission that cautions a judge not to engage in certain conduct that violates the Code of Judicial Conduct as adopted by the Supreme Court.

(7) "Public reprimand" means a ~~written action of the Commission issued upon a finding~~finding by the Supreme Court, based upon a written recommendation by the Commission that a judge has violated the Code of Judicial Conduct and has engaged in conduct prejudicial to the administration of justice, but that misconduct is ~~minor and does not warrant a recommendation by the Commission that the judge be disciplined by the Supreme Court.~~minor. A public reprimand may require that the judge follow a corrective course of action.

(8) "Remove" or "removal" means a finding by the Supreme Court, based upon a written recommendation by the Commission, that a judge should be relieved of all duties of the judge's office and disqualified from holding further judicial office.

(9) "Suspend" or "suspension" means a finding by the Supreme Court, based upon a written recommendation by the Commission, that a judge should be relieved of the duties of the judge's office for a period of time, and upon conditions, including those regarding treatment and compensation, as may be specified by the Supreme Court."

SECTION 2. G.S. 7A-376 reads as rewritten:

"§ **7A-376. Grounds for discipline by Commission; public reprimand, censure, suspension, or removal by the Supreme Court.**

(a) The Commission, upon a determination that any judge has engaged in conduct that violates the North Carolina Code of Judicial Conduct as adopted by the Supreme Court but that is not of such a nature as would warrant a recommendation of public reprimand, censure, suspension, or removal, may issue to the judge a private letter of ~~caution or may issue to the judge a public reprimand.~~caution.

(b) Upon recommendation of the Commission, the Supreme Court may issue a public reprimand, censure, suspend, or remove any judge for willful misconduct in office, willful and persistent failure to perform the judge's duties, habitual intemperance, conviction of a crime involving moral turpitude, or conduct prejudicial to the administration of justice that brings the judicial office into disrepute. A judge who is suspended for any of the foregoing reasons shall receive no compensation during the period of that suspension. A judge who is removed for any of the foregoing reasons shall receive no retirement compensation and is disqualified from holding further judicial office.

(c) Upon recommendation of the Commission, the Supreme Court may suspend, for a period of time the Supreme Court deems necessary, any judge for temporary physical or mental incapacity interfering with the performance of the judge's duties, and may remove any judge for physical or mental incapacity interfering with the performance of the judge's duties which is, or is likely to become, permanent. A judge who is suspended for temporary incapacity shall continue to receive compensation during the period of the suspension. A judge removed for mental or physical incapacity is entitled to retirement compensation if the judge has accumulated the years of creditable service required for incapacity or disability retirement under any provision of State law, but he shall not sit as an emergency justice or judge."

SECTION 3. G.S. 7A-377 reads as rewritten:

"§ **7A-377. Procedures.**

(a) Any citizen of the State may file a written complaint with the Commission concerning the qualifications or conduct of any justice or judge of the General Court of Justice, and thereupon the Commission shall make such investigation as it deems necessary. The Commission may also make an investigation on its own motion. The Commission may issue process to compel the attendance of witnesses and the production of evidence, to administer oaths, and to punish for contempt. No justice or judge shall be recommended for public reprimand, censure, suspension, or removal unless he has been given a hearing affording due process of law.

(a1) Unless otherwise waived by the justice or judge involved, all papers filed with and proceedings before the Commission, including any investigation that the Commission may make, are confidential, and no person shall disclose information obtained from Commission proceedings or papers filed with or by the Commission, except as provided herein. Those papers are not subject to disclosure under Chapter 132 of the General Statutes.

(a2) Information submitted to the Commission or its staff, and testimony given in any proceeding before the Commission, shall be absolutely privileged, and no civil action predicated upon that information or testimony may be instituted against any complainant, witness, or his or her counsel.

(a3) If, after an investigation is completed, the Commission concludes that a letter of caution is appropriate, it shall issue to the judge a letter of caution in lieu of any further proceeding in the matter. The issuance of a letter of caution is confidential in accordance with subsection (a1) of this section.

~~(a4) If, after an investigation is completed, the Commission concludes that a public reprimand is appropriate, the judge shall be served with a copy of the proposed reprimand and shall be allowed 20 days within which to accept the reprimand or to reject it and demand, in writing, that disciplinary proceedings be instituted in accordance with subsection (a5) of this~~

~~section. A public reprimand, when issued by the Commission and accepted by the respondent judge, is not confidential.~~

(a5) If, after an investigation is completed, the Commission concludes that disciplinary proceedings should be instituted, the notice and statement of charges filed by the Commission, along with the answer and all other pleadings, ~~are not~~remain confidential. Disciplinary hearings ordered by the Commission are ~~not~~ confidential, and recommendations of the Commission to the Supreme Court, along with the record filed in support of such recommendations are ~~not~~ confidential. Testimony and other evidence presented to the Commission is privileged in any action for defamation. At least five members of the Commission must concur in any recommendation to issue a public reprimand, censure, suspend, or remove any judge. A respondent who is recommended for public reprimand, censure, suspension, or removal is entitled to a copy of the proposed record to be filed with the Supreme Court, and if the respondent has objections to it, to have the record settled by the Commission's chair. The respondent is also entitled to present a brief and to argue the respondent's case, in person and through counsel, to the Supreme Court. A majority of the members of the Supreme Court voting must concur in any order of public reprimand, censure, suspension, or removal. The Supreme Court may approve the recommendation, remand for further proceedings, or reject the recommendation. A justice of the Supreme Court or a member of the Commission who is a judge is disqualified from acting in any case in which he is a respondent.

(a6) Upon issuance of a public reprimand, censure, suspension, or removal by the Supreme Court, the notice and statement of charges filed by the Commission along with the answer and all other pleadings, and recommendations of the Commission to the Supreme Court along with the record filed in support of such recommendations, are no longer confidential.

(b) Repealed by Session Laws 2006-187, s. 11, effective January 1, 2007.

(c) The Commission may issue advisory opinions to judges, in accordance with rules and procedures adopted by the Commission.

(d) The Commission has the same power as a trial court of the General Court of Justice to punish for contempt, or for refusal to obey lawful orders or process issued by the Commission."

SECTION 4. G.S. 7A-378 is repealed.

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

In the General Assembly read three times and ratified this the 26th day of July, 2013.

Became law upon approval of the Governor at 10:49 a.m. on the 23rd day of August, 2013.

Session Law 2013-405 **H.B. 359**

AN ACT TO MAKE CHANGES TO ADMINISTRATION OF THE STATE RETIREMENT SYSTEMS THAT WILL EXTEND THE TRANSFER BENEFIT OPTION TO PARTICIPANTS IN THE 403(B) SUPPLEMENTAL RETIREMENT PLAN, CLARIFY THE TIMING OF THE SOCIAL SECURITY OFFSET FOR LONG-TERM DISABILITY BENEFITS, ESTABLISH A 415(M) BENEFITS PRESERVATION ARRANGEMENT AS ALLOWED UNDER FEDERAL LAW, AND PROVIDE THAT DOMESTIC RELATIONS ORDERS DIVIDING INTERESTS UNDER THE RETIREMENT SYSTEM MUST BE SUBMITTED ON APPROVED FORMS, AND TO CORRECT AN OVERSIGHT IN THE DISABILITY INCOME PLAN, AND TO AMEND THE PROVISIONS FOR ALLOWANCE OF RETROACTIVE MEMBERSHIP SERVICE IN THE TEACHERS' AND STATE EMPLOYEES' RETIREMENT SYSTEM AND THE LOCAL GOVERNMENTAL EMPLOYEES' RETIREMENT SYSTEM.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 135-5(m2) reads as rewritten:

"(m2) Special Retirement Allowance. – At any time coincident with or following retirement, a member may make a one-time election to transfer any portion of the member's eligible accumulated contributions, not including any Roth after-tax contributions and the earnings thereon, from the Supplemental Retirement Income Plan of North Carolina or the North Carolina Public Employee Deferred Compensation Plan to this Retirement System and receive, in addition to the member's basic service, early or disability retirement allowance, a special retirement allowance which shall be based upon the member's transferred balance.

A member who became a member of the Supplemental Retirement Income Plan prior to retirement and who remains a member of the Supplemental Retirement Income Plan may make a one-time election to transfer eligible balances, not including any Roth after-tax contributions and the earnings thereon, from any of the following plans to the Supplemental Retirement Income Plan, subject to the applicable requirements of the Supplemental Retirement Income Plan, and then through the Supplemental Retirement Income Plan to this Retirement System:

(1) A plan participating in the North Carolina Public School Teachers' and Professional Educators' Investment Plan.

(2) A plan described in section 403(b) of the Internal Revenue Code.

(3) A plan described in section 457(b) of the Internal Revenue Code that is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state.

(4) An individual retirement account or annuity described in Section 408(a) or 408(b) of the Internal Revenue Code that is eligible to be rolled over and would otherwise be includible in gross income.

(5) A tax-qualified plan described in section 401(a) or 403(a) of the Internal Revenue Code.

Notwithstanding anything to the contrary, a member may not transfer such amounts as will cause the member's retirement allowance under the System to exceed the amount allowable under G.S. 135-18.7(b). The Board of Trustees may establish a minimum amount that must be transferred if a transfer is elected. The member may elect a special retirement allowance with no postretirement increases or a special retirement allowance with annual postretirement increases equal to the annual increase in the U.S. Consumer Price Index. Postretirement increases on any other allowance will not apply to the special retirement allowance. The Board of Trustees shall provide educational materials to the members who apply for the transfer authorized by this section. Those materials shall describe the special retirement allowance and shall explain (i) the relationship between the transferred balance and the monthly benefit; and (ii) how the member's heirs may be impacted by the election to make this transfer and any costs and fees involved.

For the purpose of determining the special retirement allowance, the Board of Trustees shall adopt straight life annuity factors on the basis of yields on U.S. Treasury Bonds and mortality and such other tables as may be necessary based upon actual experience. A single set of mortality and such other tables will be used for all members, with factors differing only based on the age of the member and the election of postretirement increases. The Board of Trustees shall modify the mortality and such other tables every five years, as shall be deemed necessary, based upon the five-year experience study as required by G.S. 135-6(n). Provided, however, a member who transfers the member's eligible accumulated contributions from ~~the Supplemental Retirement Income Plan of North Carolina or the North Carolina Public Employee Deferred Compensation Plan~~an eligible retirement plan pursuant to this subsection to this Retirement System shall be taxed for North Carolina State Income Tax purposes on the special retirement allowance the same as if that special retirement allowance had been paid directly by the ~~Supplemental Retirement Income Plan of North Carolina or the North Carolina Public Employee Deferred Compensation Plan.~~eligible plan or the plan through which the transfer was made, whichever is most favorable to the member. The Teachers' and State Employees' Retirement System shall be responsible to determine the taxable amount, if any, and report accordingly.

The Supplemental Retirement Board of Trustees established under G.S. 135-96 may assess a one-time flat administrative fee not to exceed the actual cost of the administrative expenses relating to these transfers. An eligible plan shall not assess a fee specifically relating to a transfer of accumulated contributions authorized under this subsection. This provision shall not prohibit other fees that may be assessable under the plan. Each plan, contract, account, or annuity shall fully disclose to any member participating in a transfer under this subsection any surrender charges or other fees, and such disclosure shall be made contemporaneous with the initiation of the transfer by the member.

The special retirement allowance shall continue for the life of the member and the beneficiary designated to receive a monthly survivorship benefit under Option 2, 3 or 6 as provided in G.S. 135-5(g), if any. The Board of Trustees, however, shall establish two payment options that guarantee payments as follows:

(1) A member may elect to receive the special retirement allowance for life but with payments guaranteed for a number of months to be specified by the Board of Trustees. Under this plan, if the member dies before the expiration of the specified number of months, the special retirement allowance will continue to be paid to the member's designated beneficiary for the life of the beneficiary, if Option 2, 3 or 6 is selected. If Option 2, 3 or 6 is not selected, the member's designated beneficiary will receive the benefit only for the remainder of the specified number of months. If the member's designated beneficiary dies before receiving payments for the specified number of months, any remaining payments will be paid to the member's estate.

(2) A member may elect to receive the special retirement allowance for life but is guaranteed that the sum of the special allowance payments will equal the total of the transferred amount. Under this payment option, if the member dies before receiving the total transferred amount, the special retirement allowance will continue to be paid to the member's designated beneficiary for the life of the beneficiary, if Option 2, 3 or 6 is selected. If Option 2, 3 or 6 is not selected, the member's designated beneficiary or the member's estate shall be paid any remaining balance of the transferred amount.

The Board of Trustees shall report annually to the Joint Legislative Commission on Governmental Operations on the number of persons who made an election in the previous calendar year, with any recommendations it might make on amendment or repeal based on any identified problems.

The General Assembly reserves the right to repeal or amend this subsection, but such repeal or amendment shall not affect any person who has already made the one-time election provided in this subsection."

SECTION 2. G.S. 135-106(b) reads as rewritten:

"(b) After the commencement of benefits under this section, the benefits payable under the terms of this section during the first 36 months of the long-term disability period shall be equal to sixty-five percent (65%) of 1/12th of the annual base rate of compensation last payable to the participant or beneficiary prior to the beginning of the short-term disability period as may be adjusted for percentage increases as provided under G.S. 135-108, plus sixty-five percent (65%) of 1/12th of the annual longevity payment to which the participant or beneficiary would be eligible, to a maximum of three thousand nine hundred dollars ($3,900) per month reduced by any primary Social Security disability benefits to which the beneficiary may be entitled, effective as of the first of the month following the month of initial entitlement, and by monthly payments for Workers' Compensation to which the participant or beneficiary may be entitled. When primary Social Security disability benefits are increased by cost-of-living adjustments, the increased reduction shall be applied in the first month following the month in which the member becomes entitled to the increased Social Security benefit. The monthly benefit shall be further reduced by the amount of any monthly payments from the federal Department of Veterans Affairs, any other federal agency or any payments made under the provisions of

G.S. 127A-108, to which the participant or beneficiary may be entitled on account of the same disability. Provided, in any event, the benefit payable shall be no less than ten dollars ($10.00) a month. However, a disabled participant may elect to receive any salary continuation as provided in G.S. 135-104 in lieu of long-term disability benefits; provided such election shall not extend the first 36 consecutive calendar months of the long-term disability period. An election to receive any salary continuation for any part of any given day shall be in lieu of any long-term benefit payable for that day, provided further, any lump-sum payout for vacation leave shall be treated as if the beneficiary or participant had exhausted the leave and shall be in lieu of any long-term benefit otherwise payable. Provided that, in any event, a beneficiary's benefit shall be reduced during the first 36 months of the long-term disability period by an amount, as determined by the Board of Trustees, equal to a primary Social Security retirement benefit to which the beneficiary might be entitled.

After 36 months of long-term disability, no further benefits are payable under the terms of this section unless the member has been approved and is in receipt of primary Social Security disability benefits. In that case the benefits payable shall be equal to sixty-five percent (65%) of 1/12th of the annual base rate of compensation last payable to the participant or beneficiary prior to the beginning of the short-term disability period as may be adjusted for percentage increases as provided under G.S. 135-108, plus sixty-five percent (65%) of 1/12th of the annual longevity payment to which the participant or beneficiary would be eligible, to a maximum of three thousand nine hundred dollars ($3,900) per month reduced by the primary Social Security disability benefits to which the beneficiary may be entitled, effective as of the first of the month following the month of initial entitlement, and by monthly payments for Workers' Compensation to which the participant or beneficiary may be entitled. When primary Social Security disability benefits are increased by cost-of-living adjustments, the increased reduction shall be applied in the first month following the month in which the member becomes entitled to the increased Social Security benefit. The monthly benefit shall be further reduced by the amount of any monthly payments from the federal Department of Veterans Affairs, for payments from any other federal agency, or for any payments made under the provisions of G.S. 127A-108, to which the participant or beneficiary may be entitled on account of the same disability. Provided, in any event, the benefit payable shall be no less than ten dollars ($10.00) a month.

Notwithstanding the foregoing, but subject to an additional integration with the five-year and 10-year retirement vesting provisions as set forth in this paragraph, the long-term disability benefit is payable so long as the beneficiary is disabled and is in receipt of a primary Social Security disability benefit until the earliest date at which the beneficiary who became a member prior to August 1, 2011, is eligible for an unreduced service retirement allowance from the Retirement System, at which time the beneficiary would receive a retirement allowance calculated on the basis of the beneficiary's average final compensation at the time of disability as adjusted to reflect compensation increases subsequent to the time of disability and the creditable service accumulated by the beneficiary, including creditable service while in receipt of benefits under the Plan. In the case of any long-term disability beneficiary who became a member on and after August 1, 2011, and ordinarily would not be eligible for a retirement benefit without 10 years of membership service, for purposes of this conversion from long-term disability to service retirement, and for that purpose only, noncontributory creditable service granted while in receipt of disability benefits under this Article shall be deemed to be membership service, through the completion of 10 years of combined membership and noncontributory service on short-term and long-term disability benefits in total. In the event the beneficiary has not been approved and is not in receipt of a primary Social Security disability benefit, the long-term disability benefit shall cease after the first 36 months of the long-term disability period. When such a long-term disability recipient begins receiving this unreduced service retirement allowance from the System, that recipient shall not be subject to the six-month waiting period set forth in G.S. 135-1(20). However, a beneficiary shall be entitled to a restoration of the long-term disability benefit in the event the Social Security

Administration grants a retroactive approval for primary Social Security disability benefits with a benefit effective date within the first 36 months of the long-term disability period. In such event, the long-term disability benefit shall be restored retroactively to the date of cessation."

SECTION 3.(a) Chapter 135 of the General Statutes is amended by adding a new Article to read:

"Article 7.

"Qualified Excess Benefit Arrangement.

"**§ 135-150. Definitions.**

The following words and phrases as used in this Article, unless a different meaning is plainly required by the context, have the following meanings:

(1) "Board of Trustees" means the Board of Trustees established by G.S. 135-6.

(2) "Internal Revenue Code" means the Internal Revenue Code of 1986, as amended from time to time.

(3) "Payee" means a retired member, or the survivor beneficiary of a member or retired member.

(4) "Qualified Excess Benefit Arrangement" means the qualified excess benefit arrangement under section 415(m) of the Internal Revenue Code established under this Article.

(5) "Retirement System" means the Teachers' and State Employees' Retirement System.

"**§ 135-151. Qualified Excess Benefit Arrangement.**

(a) The Qualified Excess Benefit Arrangement (QEBA) is established effective January 1, 2014, and placed under the management of the Board of Trustees. The purpose of the QEBA is solely to provide the part of a retirement allowance or benefit that would otherwise have been payable by a Retirement System except for the limitations under section 415(b) of the Internal Revenue Code. The QEBA, as set forth in this Article, is intended to constitute a qualified governmental excess benefit arrangement under section 415(m) of the Internal Revenue Code.

(b) Eligibility to Participate in the QEBA. – Effective as of January 1, 2014, a payee shall participate in the QEBA for any calendar year, or portion of the calendar year, during which he or she receives a retirement allowance or benefit payment on and after January 1, 2014, from the Teachers' and State Employees' Retirement System that is reduced due to the application of the maximum benefit provisions of section 415(b) of the Internal Revenue Code. For purposes of the QEBA, a payee is a retired member or survivor beneficiary of a member or retired member who is receiving monthly retirement benefit payments from a Retirement System.

(c) Supplemental Benefit Payable Under the QEBA. – Effective January 1, 2014, a payee shall receive each month, commencing on and after January 1, 2014, a monthly supplemental benefit equal to the difference between the amount of that payee's monthly retirement benefit paid under the Teachers' and State Employees' Retirement System on and after January 1, 2014, and the amount that would have been payable to that payee from the Teachers' and State Employees' Retirement System in that month if not for the reduction due to the application of section 415(b) of the Internal Revenue Code. That supplemental benefit shall be computed and payable under the same terms, at the same time, and to the same person as the related benefit payable under the Retirement System. A payee cannot elect to defer the receipt of all or any part of the supplemental payments due under the QEBA. The supplemental benefit paid under this section shall be taxable under North Carolina law in the same manner as the benefit paid under the Teachers' and State Employees' Retirement System.

(d) Funding of the QEBA. – The QEBA shall be unfunded within the meaning of federal tax laws. No payee contributions or deferrals, direct or indirect, by election or otherwise shall be made or allowed. The Board of Trustees, upon the recommendation of the actuary engaged by the Board of Trustees, shall determine the employer contributions required to pay the benefits due under the QEBA for each fiscal year. The required contributions shall be paid by all participating employers. The required contributions shall be deposited in a separate fund

from the fund into which regular employer contributions are deposited for the Retirement System. The benefit liability for the QEBA shall be determined each fiscal year, and assets shall not be accumulated to pay benefits in future fiscal years.

(e) Treatment of Unused Assets. – Any assets of the QEBA plan not used to pay benefits in the current fiscal year shall be used for payment of the administrative expenses of the QEBA for the current or future fiscal years or shall be paid to the Retirement System as an additional employer contribution.

(f) Assets Subject to Claims of Creditors. – A payee, or a payee's beneficiary or heirs, shall have no right to, and shall have no property interest in, any assets held to support the liabilities created under this Article. To the extent that any person acquires the right to receive benefits under the QEBA, that right shall be no greater than the right of any unsecured general creditor of the State of North Carolina or such other applicable employer under this Article.

(g) Administration. – The QEBA shall be administered by the Board of Trustees, which shall compile and maintain all records necessary or appropriate for administration. The Board of Trustees shall have full discretionary authority to interpret, construe, and implement the QEBA and to adopt such rules and regulations as may be necessary or desirable to implement the provisions of the QEBA in accordance with section 415(m) of the Internal Revenue Code.

(h) No Assignment. – Except for the application of the provisions of G.S. 110-136 and G.S. 110-136.3, et seq., or in connection with a court-ordered equitable distribution under G.S. 50-20, any supplemental benefit under this Article shall be exempt from levy and sale, garnishment, attachment, or any other process, and shall be unassignable except as specifically otherwise provided in this Chapter.

(i) Reservation of Power to Change. – The General Assembly reserves the right at any time and, from time to time, to modify or amend, in whole or in part, any or all of the provisions of the QEBA. No member of the Retirement System and no beneficiary of such a member shall be deemed to have acquired any vested right to a supplemental payment under this Article.

(j) Sunset of Eligibility to Participate in the QEBA. – No member of the Teachers' and State Employees' Retirement System retiring on or after January 1, 2015, shall be eligible to participate in the QEBA, and the Retirement System shall not pay any new retiree more retirement benefits than allowed under the limitations of section 415(b) of the Internal Revenue Code."

SECTION 3.(b) Article 3 of Chapter 128 of the General Statutes is amended by adding a new section to read:

"**§ 128-38.10. Qualified Excess Benefit Arrangement.**

(a) The following words and phrases as used in this section, unless a different meaning is plainly required by the context, have the following meanings:

(1) "Board of Trustees" means the Board of Trustees established by G.S. 128-28.

(2) "Internal Revenue Code" means the Internal Revenue Code of 1986, as amended from time to time.

(3) "Payee" means a retired member, or the survivor beneficiary of a member or retired member.

(4) "Qualified Excess Benefit Arrangement" means the qualified excess benefit arrangement under section 415(m) of the Internal Revenue Code established under this Article.

(5) "Retirement System" means the North Carolina Local Governmental Employees' Retirement System.

(b) The Qualified Excess Benefit Arrangement (QEBA) is established effective January 1, 2014, and placed under the management of the Board of Trustees. The purpose of the QEBA is solely to provide the part of a retirement allowance or benefit that would otherwise have been payable by the North Carolina Local Governmental Employees' Retirement System except for the limitations under section 415(b) of the Internal Revenue Code. The QEBA, as set forth in

this section, is intended to constitute a qualified governmental excess benefit arrangement under section 415(m) of the Internal Revenue Code.

(c) Eligibility to Participate in the QEBA. – Effective as of January 1, 2014, a payee shall participate in the QEBA for any calendar year, or portion of the calendar year, during which he or she receives a retirement allowance or benefit payment on and after January 1, 2014, from the North Carolina Local Governmental Employees' Retirement System that is reduced due to the application of the maximum benefit provisions of section 415(b) of the Internal Revenue Code. For purposes of the QEBA, a payee is a retired member or survivor beneficiary of a member or retired member who is receiving monthly retirement benefit payments from a Retirement System.

(d) Supplemental Benefit Payable Under the QEBA. – Effective January 1, 2014, a payee shall receive each month, commencing on and after January 1, 2014, a monthly supplemental benefit equal to the difference between the amount of that payee's monthly retirement benefit paid under the North Carolina Local Governmental Employees' Retirement System on and after January 1, 2014, and the amount that would have been payable to that payee from the North Carolina Local Governmental Employees' Retirement System in that month if not for the reduction due to the application of section 415(b) of the Internal Revenue Code. That supplemental benefit shall be computed and payable under the same terms, at the same time, and to the same person as the related benefit payable under the Retirement System. A payee cannot elect to defer the receipt of all or any part of the supplemental payments due under the QEBA. The supplemental benefit paid under this section shall be taxable under North Carolina law in the same manner as the benefit paid under the North Carolina Local Governmental Employees' Retirement System.

(e) Funding of the QEBA. – The QEBA shall be unfunded within the meaning of federal tax laws. No payee contributions or deferrals, direct or indirect, by election or otherwise shall be made or allowed. The Board of Trustees, upon the recommendation of the actuary engaged by the Board of Trustees, shall determine the employer contributions required to pay the benefits due under the QEBA for each fiscal year. The required contributions shall be paid by all participating employers. The required contributions shall be deposited in a separate fund from the fund into which regular employer contributions are deposited for the underlying Retirement System. The benefit liability for the QEBA shall be determined each fiscal year and assets shall not be accumulated to pay benefits in future fiscal years.

(f) Treatment of Unused Assets. – Any assets of the QEBA plan not used to pay benefits in the current fiscal year shall be used for payment of the administrative expenses of the QEBA for the current or future fiscal years or shall be paid to the Retirement System as an additional employer contribution.

(g) Assets Subject to Claims of Creditors. – A payee, or a payee's beneficiary or heirs, shall have no right to, and shall have no property interest in, any assets held to support the liabilities created under this section. To the extent that any person acquires the right to receive benefits under the QEBA, that right shall be no greater than the right of any unsecured general creditor of the State of North Carolina or such other applicable employer under this section.

(h) Administration. – The QEBA shall be administered by the Board of Trustees, which shall compile and maintain all records necessary or appropriate for administration. The Board of Trustees shall have full discretionary authority to interpret, construe, and implement the QEBA and to adopt such rules and regulations as may be necessary or desirable to implement the provisions of the QEBA in accordance with section 415(m) of the Internal Revenue Code.

(i) No Assignment. – Except for the application of the provisions of G.S. 110-136 and G.S. 110-136.3, et seq., or in connection with a court-ordered equitable distribution under G.S. 50-20, any supplemental benefit under this section shall be exempt from levy and sale, garnishment, attachment, or any other process, and shall be unassignable except as specifically otherwise provided in this section.

(j) Reservation of Power to Change. – The General Assembly reserves the right at any time and, from time to time, to modify or amend, in whole or in part, any or all of the

provisions of the QEBA. No member of the Retirement System and no beneficiary of such a member shall be deemed to have acquired any vested right to a supplemental payment under this section.

(k) Sunset of Eligibility to Participate in the QEBA. – No member of the North Carolina Local Governmental Employees' Retirement System retiring on or after January 1, 2015, shall be eligible to participate in the QEBA, and the Retirement System shall not pay any new retiree more retirement benefits than allowed under the limitations of section 415(b) of the Internal Revenue Code."

SECTION 4.(a) G.S. 135-9 reads as rewritten:

"§ **135-9. Exemption from garnishment, attachment, etc.**

Except for the applications of the provisions of G.S. 110-136, and G.S. 110-136.3 et seq., and in connection with a court-ordered equitable distribution under G.S. 50-20, the right of a person to a pension, or annuity, or a retirement allowance, to the return of contributions, the pension, annuity or retirement allowance itself, any optional benefit or any other right accrued or accruing to any person under the provisions of this Chapter, and the moneys in the various funds created by this Chapter, are exempt from levy and sale, garnishment, attachment, or any other process whatsoever, and shall be unassignable except as in this Chapter specifically otherwise provided. Application for System approval of a domestic relations order dividing a person's interest under the Retirement System shall be accompanied by an order consistent with the system-designed template order provided on the System's Web site. Notwithstanding any provisions to the contrary, any overpayment of benefits to a member in a State-administered retirement system or the former Disability Salary Continuation Plan or the Disability Income Plan of North Carolina may be offset against any retirement allowance, return of contributions or any other right accruing under this Chapter to the same person, the person's estate, or designated beneficiary."

SECTION 4.(b) G.S. 128-31 reads as rewritten:

"§ **128-31. Exemptions from execution.**

Except for the applications of the provisions of G.S. 110-136, and G.S. 110-136.3 et seq., and in connection with a court-ordered equitable distribution under G.S. 50-20, the right of a person to a pension, an annuity, or a retirement allowance, to the return of contributions, the pension, annuity or retirement allowance itself, any optional benefit or any other right accrued or accruing to any person under the provisions of this Article, and the moneys in the various funds created by this Article, are exempt from levy and sale, garnishment, attachment, or any other process whatsoever, and shall be unassignable except as in this Article specifically otherwise provided. Application for System approval of a domestic relations order dividing a person's interest under the Retirement System shall be accompanied by an order consistent with the system-designed template order provided on the System's Web site. Notwithstanding any provisions to the contrary, any overpayment of benefits to a member in a State-administered retirement system, the Disability Salary Continuation Plan, or the Disability Income Plan of North Carolina may be offset against any retirement allowance, return of contributions or any other right accruing under this Chapter to the same person, the person's estate, or designated beneficiary."

SECTION 5. G.S. 135-3(8)d. reads as rewritten:

"d. Should a beneficiary who retired on an early or service retirement allowance under this Chapter be restored to service as an employee or teacher, then the retirement allowance shall cease as of the first of the month following the month in which the beneficiary is restored to service and the beneficiary shall become a member of the Retirement System and shall contribute thereafter as allowed by law at the uniform contribution payable by all members.

Upon his subsequent retirement, he shall be paid a retirement allowance determined as follows:

1. For a member who earns at least three years' membership service after restoration to service, creditable service earned while in receipt of disability benefits under Article 6 of this Chapter shall count as membership service for this purpose only, and the retirement allowance shall be computed on the basis of his compensation and service before and after the period of prior retirement without restrictions; provided, that if the prior allowance was based on a social security leveling payment option, the allowance shall be adjusted actuarially for the difference between the amount received under the optional payment and what would have been paid if the retirement allowance had been paid without optional modification. In the alternative, the member may receive a refund of the member's accumulated contributions for the period of service after restoration to service in accordance with G.S. 135-5(f).
2. For a member who does not earn three years' membership service after restoration to service, the retirement allowance shall be equal to the sum of the retirement allowance to which he would have been entitled had he not been restored to service, without modification of the election of an optional allowance previously made, and the retirement allowance that results from service earned since being restored to service; provided, that if the prior retirement allowance was based on a social security leveling payment option, the prior allowance shall be adjusted actuarially for the difference between the amount that would have been paid for each month had the payment not been suspended and what would have been paid if the retirement allowance had been paid without optional modification. In the alternative, the member may receive a refund of the member's accumulated contributions for the period of service after restoration to service in accordance with G.S. 135-5(f), or the member may allow this new account to remain inactive."

SECTION 6.(a) G.S. 135-4(ff) reads as rewritten:

"(ff) Retroactive Membership Service. – A member who is reinstated to service as an employee as defined in G.S. 135-1(10) or as a teacher as defined in G.S. 135-1(25) retroactively to the date of prior involuntary termination ~~(with backpay and benefits)~~ with back pay, as defined by the State Personnel Commission, and associated benefits may be allowed membership service, after submitting clear and convincing evidence of the ~~reinstatement,~~reinstatement, payment of back pay, and restoration of associated benefits, as follows:

(1) When the reinstatement to service is by court order, final decision of an Administrative Law Judge, or decision of the State Personnel Commission, and is:
   a. Within 90 days of the involuntary termination, by the payment of employee and employer contributions that would have been paid; or
   ~~(2)~~b. After 90 days of the involuntary termination, by the payment of the employee and employer contributions that would have been paid plus interest compounded annually at a rate equal to the greater of the average yield on the pension accumulation fund for the preceding calendar year or the actuarial investment rate-of-return assumption, as adopted by the Board of Trustees.

(2) When the reinstatement to service is by settlement agreement voluntarily entered into by the affected parties, by the payment of a lump-sum amount equal to the full liability of the service credits calculated on the basis of the assumptions used for purposes of the actuarial valuation of the system's liabilities, taking into account the retirement allowance arising on account of the additional service credit commencing at the earliest age at which the member could retire on an unreduced retirement allowance, as determined by the Board of Trustees upon the advice of the consulting actuary, plus an administrative fee to be set by the Board of Trustees. Notwithstanding the foregoing provisions of this subsection that provide for the purchase of service credits, the terms "full cost," "full liability," and "full actuarial cost" include assumed annual postretirement allowance increases, as determined by the Board of Trustees, from the earliest age at which a member could retire on an unreduced service allowance.

Nothing contained in this subsection shall prevent an employer or member from paying all or a part of the cost of the retroactive membership service; and to the extent paid by the employer, the cost paid by the employer shall be credited to the pension accumulation fund; and to the extent paid by the member, the cost paid by the member shall be credited to the member's annuity savings account; provided, however, an employer does not discriminate against any member or group of members in his employ in paying all or any part of the cost of the retroactive membership service.

In the event a member received a return of accumulated contributions subsequent to an involuntary termination as provided in G.S. 135-5(f), the member may redeposit, within 90 days of reinstatement retroactive to the date of prior involuntary termination, in the annuity savings fund by single payment an amount equal to the total amount he previously withdrew plus regular interest and restore the creditable service forfeited upon receiving his return of accumulated contributions."

SECTION 6.(b) G.S. 128-26(v) reads as rewritten:

"(v) Retroactive Membership Service. – A member who is reinstated to service as an employee as defined in G.S. 128-21(10) retroactively to the date of prior involuntary termination ~~(with backpay and benefits)~~ with back pay and associated benefits may be allowed membership service, after submitting clear and convincing evidence of the reinstatement, payment of back pay, and restoration of associated benefits, as follows:

(1) When the reinstatement to service is by court order and is:

a. Within 90 days of the involuntary termination, by the payment of employee and employer contributions that would have been paid; or

~~(2)~~b. After 90 days of the involuntary termination, by the payment of the employee and employer contributions that would have been paid plus interest compounded annually at a rate equal to the greater of the average yield on the pension accumulation fund for the preceding calendar year or the actuarial investment rate-of-return assumption, as adopted by the Board of Trustees.

(2) When the reinstatement to service is by settlement agreement voluntarily entered into by the affected parties, by the payment of a lump-sum amount equal to the full liability of the service credits calculated on the basis of the assumptions used for purposes of the actuarial valuation of the system's liabilities, taking into account the retirement allowance arising on account of the additional service credit commencing at the earliest age at which the member could retire on an unreduced retirement allowance, as determined by the Board of Trustees upon the advice of the consulting actuary, plus an administrative fee to be set by the Board of Trustees. Notwithstanding the foregoing provisions of this subsection that provide for the purchase of service credits, the terms "full cost," "full liability," and "full actuarial cost"

include assumed annual postretirement allowance increases, as determined by the Board of Trustees, from the earliest age at which a member could retire on an unreduced service allowance.

Nothing contained in this subsection shall prevent an employer or member from paying all or a part of the cost of the retroactive membership service; and to the extent paid by the employer, the cost paid by the employer shall be credited to the pension accumulation fund; and to the extent paid by the member, the cost paid by the member shall be credited to the member's annuity savings account; provided, however, an employer does not discriminate against any member or group of members in his employ in paying all or any part of the cost of the retroactive membership service.

In the event a member received a return of accumulated contributions subsequent to an involuntary termination as provided in G.S. 128-27(f), the member may redeposit, within 90 days of reinstatement retroactive to the date of prior involuntary termination, in the annuity savings fund by single payment, an amount equal to the total amount he previously withdrew plus regular interest and restore the creditable service forfeited upon receiving his return of accumulated contributions."

SECTION 7. If any provision of this act or its application is held invalid, the invalidity does not affect other provisions or applications of this act that can be given effect without the invalid provisions or application, and to this end the provisions of this act are severable.

SECTION 8. Section 3 of this act becomes effective January 1, 2014. Section 5 of this act becomes effective January 1, 2012, and applies to persons retiring on or after that date. Section 4 of this act becomes effective September 1, 2013. The remainder of this act becomes effective July 1, 2013.

In the General Assembly read three times and ratified this the 24th day of July, 2013.

Became law upon approval of the Governor at 10:50 a.m. on the 23rd day of August, 2013.

Session Law 2013-406 **H.B. 417**

AN ACT TO MODIFY THE INTERNAL AUDITING STATUTES APPLICABLE TO LARGE STATE DEPARTMENTS AND THE UNIVERSITY SYSTEM.

The General Assembly of North Carolina enacts:

SECTION 1. Article 79 of Chapter 143 of the General Statutes reads as rewritten:

"Article 79.

"Internal Auditing.

"§ **143-745. Definitions; intent; applicability.**

(a) For the purposes of this section:

(1) "Agency head" means the Governor, a Council of State member, a cabinet secretary, the President of The University of North Carolina, the President of the Community College System, the State Controller, and other independent appointed officers with authority over a State agency.~~and the Superintendent of Public Instruction.~~ The agency head for the Department of Public Instruction shall be the State Board of Education.

(2) "State agency" means each department created pursuant to Chapter 143A or 143B of the General Statutes, and includes all institutions, boards, commissions, authorities, by whatever name, that is a unit of the executive branch of State government, including The University of North Carolina, and the ~~Department of Public Instruction.~~Community Colleges System Office. The term does not include a unit of local government.

(b) This Article applies only to a State agency that:

(1) Has an annual operating budget that exceeds ten million dollars ($10,000,000);
(2) Has more than 100 full-time equivalent employees; or
(3) Receives and processes more than ten million dollars ($10,000,000) in cash in a fiscal year.

"§ **143-746. Internal auditing required.**

(a) Requirements. – A State agency shall establish a program of internal auditing that:
(1) ~~Implements~~ Promotes an effective system of internal controls that safeguards public funds and assets and minimizes incidences of fraud, waste, and abuse.
(2) ~~Ensures~~ Determines if programs and business operations are administered in compliance with federal and state laws, regulations, and other requirements.
(3) Reviews the effectiveness and efficiency of agency and program operations and service delivery.
(4) Periodically audits the agency's major systems and controls, including:
a. Accounting systems and controls.
b. Administrative systems and controls.
c. ~~Electronic data processing~~Information technology systems and controls.

(b) Internal Audit Standards. – Internal audits shall comply with current Standards for the Professional Practice of Internal Auditing issued by the Institute for Internal Auditors or, if appropriate, Government Auditing Standards issued by the Comptroller General of the United States.

(c) Appointment and Qualifications of Internal Auditors. – ~~Any internal auditor employed by a State agency shall at a minimum have a bachelor's degree from an accredited college or university and:~~Any State employee who performs the internal audit function shall meet the minimum qualifications for internal auditors established by the Office of State Personnel, in consultation with the Council of Internal Auditing.
~~(1) Certification or licensure as a certified public accountant, certified internal auditor, certified fraud examiner, certified information systems auditor, professional engineer, or attorney; or~~
~~(2) A minimum of five years' experience in internal or external auditing, management consulting, program evaluation, management analysis, economic analysis, industrial engineering, or operations research.~~

(d) Director of Internal Auditing. – The agency head shall appoint a Director of Internal Auditing who shall report ~~to~~to, as designated by the agency head, (i) the agency ~~head and shall not report to any employee subordinate to the agency head.~~head, (ii) the chief deputy or chief administrative assistant, or (iii) the agency governing board, or subcommittee thereof, if such a governing board exists. The Director of Internal Auditing shall be organizationally situated to avoid impairments to independence as defined in the auditing standards referenced in subsection (b) of this section.

(e) If a State agency has insufficient personnel to comply with this section, the Office of State Budget and Management shall provide technical assistance.

"§ **143-747. Council of Internal Auditing.**

(a) The Council of Internal Auditing is created, consisting of the following members:
(1) The State Controller who shall serve as Chair.
(2) The State Budget Officer.
(3) The Secretary of Administration.
(4) The Attorney General.
(5) The Secretary of Revenue.
(6) The State Auditor who shall serve as a nonvoting member. The State Auditor may appoint a designee.

(b) The Council shall be supported by the Office of State Budget and Management.

(c) The Council shall:

(1) Hold ~~its first meeting before November 1, 2007, and thereafter~~meetings at the call of the Chair or upon written request to the Chair by two members of the Council.
(2) Keep minutes of all proceedings.
(3) Promulgate guidelines for the uniformity and quality of State agency internal audit activities.
(4) Recommend the number of internal audit employees required by each State agency.
(5) Develop internal audit guides, technical manuals, and suggested best internal audit practices.
(6) Administer an independent peer review system for each State agency internal audit activity; specify the frequency of such reviews consistent with applicable national standards; and assist agencies with selection of independent peer reviewers from other State agencies.
(7) Provide central training sessions, professional development opportunities, and recognition programs for internal auditors.
(8) Administer a program for sharing internal auditors among State agencies needing temporary assistance and assembly of interagency teams of internal auditors to conduct internal audits beyond the capacity of a single agency.
(9) Maintain a central database of all annual internal audit plans; topics for review proposed by internal audit plans; internal audit reports issued and individual findings and recommendations from those reports.
(10) Require reports in writing from any State agency relative to any internal audit matter.
(11) If determined necessary by a majority vote of the council:
  a. Conduct hearings relative to any attempts to interfere with, compromise, or intimidate an internal auditor.
  b. Inquire as to the effectiveness of any internal audit unit.
  c. Authorize the Chair to issue subpoenas for the appearance of any person or internal audit working papers, report drafts, and any other pertinent document or record regardless of physical form needed for the hearing.
(12) Issue an annual report including, but not limited to, service efforts and accomplishments of State agency internal auditors and to propose legislation for consideration by the Governor and General Assembly.

"§ **143-748. Confidentiality of internal audit work papers.**

Internal audit work papers are confidential except as otherwise provided in this section or upon subpoena issued by a duly authorized court. A published internal audit report is a public record as defined in G.S. 132-1 to the extent it does not include information which is confidential under State or federal law or would compromise the security of a State agency. An internal auditor shall maintain for 10 years a complete file of all audit reports and reports of other examinations, investigations, surveys, and reviews conducted under the internal auditor's authority. Audit work papers and other evidence and related supportive material directly pertaining to the work of the internal auditor's office shall be retained in accordance with Chapter 132 of the General Statutes. Unless otherwise prohibited by law and to promote intergovernmental cooperation and avoid unnecessary duplication of audit effort, audit work papers related to released audit reports shall be made available for inspection by duly authorized representatives of the State and federal government in connection with some matter officially before them.

"§ **143-749. Obstruction of audit.**

It shall be a Class 2 misdemeanor for any officer, employee, or agent of a State agency subject to the provisions of this Article to willfully make or cause to be made to a State agency internal auditor or the internal auditor's designated representatives any false, misleading, or

unfounded report for the purpose of interfering with the performance of any audit, special review, or investigation or to hinder or obstruct the State agency internal auditor or the internal auditor's designated representatives in the performance of their duties."

SECTION 2. This act is effective when it becomes law. G.S. 143-749, as enacted in Section 1 of this act, applies to offenses committed on or after December 1, 2013.

In the General Assembly read three times and ratified this the 26th day of July, 2013.

Became law upon approval of the Governor at 10:50 a.m. on the 23rd day of August, 2013.

Session Law 2013-407 **H.B. 476**

AN ACT REWRITING THE LAWS REGULATING UNDERGROUND UTILITY DAMAGE PREVENTION.

The General Assembly of North Carolina enacts:

SECTION 1. Article 8 of Chapter 87 of the General Statutes is repealed.

SECTION 2. Chapter 87 of the General Statutes is amended by adding the following new Article to read:

"Article 8A.

"Underground Utility Safety and Damage Prevention Act.

"**§ 87-115. Short title.**

This Article may be cited as the "Underground Utility Safety and Damage Prevention Act."

"**§ 87-116. Declaration of policy and purpose.**

The General Assembly of North Carolina hereby declares as a matter of public policy that it is necessary to protect the citizens and workforce of this State from the dangers inherent in excavating or demolishing in areas where underground lines, systems, or infrastructure are buried beneath the surface of the ground, and it is necessary to protect from costly damage underground facilities used for producing, storing, conveying, transmitting, or distributing communication, electricity, gas, petroleum, petroleum products, hazardous liquids, water, steam, or sewage. In order to carry out this public policy and to satisfy these compelling interests, the General Assembly has enacted the provisions of this Article providing for a systematic, orderly, and uniform process to identify existing facilities in advance of any excavation or demolition in this State and to implement safe digging practices.

"**§ 87-117. Definitions.**

The following definitions apply in this Article:

(1) APWA. – The American Public Works Association or its successors.

(2) Business continuation plan. – A plan that includes actions to be taken in an effort to provide uninterrupted service during catastrophic events.

(3) Contract locator. – A person hired by an operator to identify and mark facilities.

(4) Damage. – The substantial weakening of structural or lateral support of a facility; penetration or destruction of protective coating, housing, or other protective device of a facility; or the partial or complete severance of a facility.

(5) Demolish or demolition. – Any operation by which a structure or mass of material is wrecked, razed, rendered, moved, or removed by any means, including the use of any tools, equipment, or discharge of explosives.

(6) Designer. – Any architect, engineer, or other person who prepares or issues a drawing or blueprint for a construction or other project that requires excavation or demolition work.

(7) Design notice. – A communication to the Notification Center in which a request for identifying existing facilities for advance planning purposes is made. A design notice may not be used for excavation purposes.

(8) Emergency. – An event involving a clear and imminent danger to life, health, or property, the interruption of essential utility services, or the blockage of transportation facilities, including highways, railways, waterways, or airways that require immediate action.

(9) Excavate or excavation. – An operation for the purpose of the movement or removal of earth, rock, or other materials in or on the ground by use of manual or mechanized equipment or by discharge of explosives, including, but not limited to, auguring, backfilling, boring, digging, ditching, drilling, directional drilling, driving, grading, horizontal directional drilling, well drilling, plowing-in, pounding, pulling-in, ripping, scraping, trenching, and tunneling.

(10) Excavator. – A person engaged in excavation or demolition.

(11) Extraordinary circumstances. – Circumstances that make it impossible for the operator to comply with the provisions of this Article, including hurricanes, tornadoes, floods, ice, snow, and acts of God.

(12) Facility. – Any underground line, underground system, or underground infrastructure used for producing, storing, conveying, transmitting, identifying, locating, or distributing communication, electricity, gas, petroleum, petroleum products, hazardous liquids, water, steam, or sewage. Provided there is no encroachment on any operator's right-of-way, easement, or permitted use, for the purposes of this Article, the following shall not be considered an underground facility: (i) swimming pools and irrigation systems; (ii) petroleum storage systems under Part 2A of Article 21A of Chapter 143 of the General Statutes; (iii) septic tanks under Article 11 of Chapter 130A of the General Statutes; and (iv) liquefied petroleum gas systems under Article 5 of Chapter 119 of the General Statutes, unless the system is subject to Title 49 C.F.R. § 192 or § 195.

(13) Locator. – An individual who identifies and marks facilities for operators who has been trained and whose training has been documented.

(14) Mechanized equipment. – Equipment operated by means of mechanical power, including, but not limited to, trenchers, bulldozers, power shovels, augers, backhoes, scrapers, drills, horizontal directional drills, cable and pipe plows, and other equipment used for plowing-in or pulling-in cable or pipe.

(15) Nonmechanized equipment. – Hand tools.

(16) Notice. – Oral, written, or electronic communication to the Notification Center from any person planning to excavate or demolish in the State that informs an operator of the person's intent to excavate or demolish.

(17) Notification Center. – A North Carolina member-owned not-for-profit corporation sponsored by operators that will provide a system through which a person can notify operators of proposed excavations and demolitions and submit reports of alleged violations of this Article.

(18) Operator. – Any person, public utility, communications or cable service provider, municipality, electrical utility, or electric or telephone cooperative that owns or operates a facility in this State.

(19) Person. – Any individual, owner, corporation, partnership, association, or any other entity organized under the laws of any state, any political subdivision of a state, or any other instrumentality of a state, or any authorized representative thereof.

(20) Positive response. – An automated information system that allows excavators, locators, operators, and other interested parties to determine the status of a locate request.

(21) Subaqueous. – A facility that is under a body of water, including rivers, streams, lakes, waterways, swamps, and bogs.

(22) Tolerance zone. – If the diameter of the facility is known, the distance of one-half of the known diameter plus 24 inches on either side of the designated center line or, if the diameter of the facility is not marked, 24 inches on either side of the outside edge of the mark indicating a facility or, for subaqueous facilities, a clearance of 15 feet on either side of the indicated facility.

(23) Working day. – Every day, except Saturday, Sunday, or State legal holidays.

"**§ 87-118. Reserve to the State the power to regulate.**

The provisions in this Article supersede and preempt any ordinance adopted by a city or county that purports to do any of the following:

(1) Require operators to obtain permits from a city or county in order to identify facilities.

(2) Require premarking or marking of facilities.

(3) Specify the types of paint or other marking devices that are used to identify facilities.

(4) Require removal of unexpired marks. The removal of expired marks shall be the responsibility of the city or county.

"**§ 87-119. Costs associated with compliance; effect of permit.**

Any costs or expenses associated with an excavator's compliance with the requirements of this Article shall not be charged to any operator. Any costs or expenses associated with an operator's compliance with the requirements of this Article shall not be charged to any excavator. The Notification Center may not impose any charge on any person giving notice to the Notification Center. This section shall not affect costs related to the operation of the Notification Center apportioned to an operator pursuant to G.S. 87-120(b). This section shall not excuse an operator or excavator from liability for any damage or injury for which the operator or excavator would be responsible under applicable law.

"§ 87-120. Notification Center; responsibilities.

(a) The operators in the State shall maintain a Notification Center for the sole purpose of providing the services required by this Article. The Notification Center shall maintain information concerning receipt of notification of proposed excavation and demolition activities as provided in this Article and shall maintain information received from operators concerning the location of the operators' facilities and the operators' positive responses to marking of the facilities. The Notification Center shall also receive, maintain, and provide general administration of reports of alleged violations of this Article and responses. The Notification Center is not responsible in any way for identifying or marking facilities for operators. The Notification Center is not responsible in any way for resolving reports of alleged violations of this Article. All operators in the State shall join the Notification Center as provided in subsection (b) of this section, and they shall use the services of the Notification Center to perform the acts required by the provisions of this Article. There shall be only one Notification Center for the State of North Carolina. The Notification Center is not an agency of the State or any of the State's political subdivisions and is not subject to the provisions of Chapter 132 or Chapter 133 of the General Statutes.

(b) Operators who are members of the Notification Center by whatever name that is in existence on October 1, 2013, must remain members. Operators with more than 50,000 customers or 1,000 miles of facilities who are not members on October 1, 2013, must join no later than October 1, 2014. Operators with more than 25,000 customers or 500 miles of facilities who are not members on October 1, 2013, must join no later than October 1, 2015. All operators that do not meet one of the criteria provided in this subsection must join no later than October 1, 2016. Each engineering division of the Department of Transportation established pursuant to G.S. 136-14.1 must join no later than October 1, 2016. The board of directors of the Notification Center shall develop a reasonable method of apportioning the costs of operating the Notification Center among the member operators. Prior to adopting a method of determining such cost allocation, the board of directors shall publish the proposed method of

cost allocation to the member operators, and the proposed method of cost allocation shall be approved by the member operators.

(c) The Notification Center shall have the following duties and responsibilities:

(1) Maintain a record of the notices received under subsection (d) of this section for at least four years.

(2) Maintain a record of reports of alleged violations of this Article received under subsection (e) of this section for at least four years, including responses to such reports.

(3) Receive and transmit notices as provided in subsection (d) of this section.

(4) Develop and update, as needed, a business continuation plan.

(5) Notify those persons against whom reports of alleged violations of this Article have been made and receive and maintain information submitted from such persons in defense against the allegations.

(6) Provide a positive response system.

(7) Establish and operate a damage prevention training program for members of the Notification Center. No person may recover damages in any manner or form from the Notification Center arising out of or related to the manner in which the Notification Center conducts a damage prevention training program or receives, transmits, or otherwise administers a report of an alleged violation of this Article.

(d) The Notification Center shall receive notice from any person intending to excavate or demolish in the State and shall, at a minimum, transmit the following information to the appropriate operator:

(1) The name, address, and telephone number of the person providing the notice and, if different, the person responsible for the proposed excavation or demolition.

(2) The starting date of the proposed excavation or demolition.

(3) The anticipated duration of the proposed excavation or demolition.

(4) The type of proposed excavation or demolition operation to be conducted.

(5) The location of the proposed excavation or demolition.

(6) Whether or not explosives are to be used in the proposed excavation or demolition.

(e) The Notification Center shall receive reports of alleged violations of this Article. The Notification Center shall contact persons against whom reports have been filed to inform them of the alleged violation within 10 days of the filing of the report. The Notification Center shall maintain the following information regarding reports of alleged violations:

(1) The name, address, and telephone number of the person making the report;

(2) The nature of the report, including the statute that is alleged to have been violated;

(3) Information provided by the person making the report, including correspondence, both written and electronic, pictures, and videos; and

(4) Information provided by the person against whom the report has been filed, including correspondence, both written and electronic, pictures, and videos.

"**§ 87-121. Facility operator responsibilities.**

(a) An operator shall provide to the excavator the following:

(1) The horizontal location and description of all of the operator's facilities in the area where the proposed excavation or demolition is to occur. The location shall be marked by stakes, soluble paint, flags, or any combination thereof, as appropriate, depending upon the conditions in the area of the proposed excavation or demolition. The operator shall, when marking as provided under this subdivision, use the APWA Uniform Color Code. If the diameter or width of the facility is greater than four inches, the dimension of the facility shall be indicated at least every 25 feet in the area of the

proposed excavation or demolition. An operator who operates multiple facilities in the area of the proposed excavation or demolition shall locate each facility.

(2) Any other information that would assist the excavator in identifying and thereby avoiding damage to the marked facilities.

(b) Unless otherwise provided in a written agreement between the operator and the excavator, the operator shall provide to the excavator the information required by subsection (a) of this section within the times provided below:

(1) For a facility, within three full working days after the day notice of the proposed excavation or demolition was provided to the Notification Center.

(2) For a subaqueous facility, within 10 full working days after the day notice of the proposed excavation or demolition was provided to the Notification Center.

(3) If the operator declares an extraordinary circumstance, the times provided in this subsection shall not apply.

(c) The operator shall provide a positive response to the Notification Center before the expiration of the time provided in subsection (b) of this section. The response shall indicate whether and to what extent the operator is able to provide the information required by subsection (a) of this section to respond to the notice from the excavator.

(d) If the operator determines that provisions for marking subaqueous facilities are required, the operator will provide a positive response to the Notification Center not more than three full working days after notice has been provided by the excavator.

(e) If extraordinary circumstances prevent the operator from marking the location of the facilities within the time specified in subsection (b) of this section, the operator shall either notify the excavator directly or notify the excavator through the Notification Center. When providing the notification under this subsection, the operator shall state the date and time when the location will be marked.

(f) An operator shall prepare or cause to be prepared installation records of all facilities installed on or after the date this Article becomes effective in a public street, alley, or right-of-way dedicated to public use, excluding service drops and services lines. The operator shall maintain these records in the operator's possession while the facility is in service.

(g) All facilities installed by or on behalf of operators on or after the date this Article becomes effective shall be electronically locatable using a locating method that is generally accepted by operators in the particular industry or trade in which the operator is engaged.

(h) A locator shall notify the operator if the locator becomes aware of an error or omission in the records or documentation showing the location of the operator's facilities. The operator must update its records to correct any error or omission.

(i) An operator may reject an excavation or demolition notice due to homeland security considerations based upon federal statutes or federal regulations until the operator can confirm the legitimacy of the notice. The operator shall notify the person making the notice of the denial and may request additional information through the positive response system.

(j) Gravity fed sanitary sewers installed prior to the date this Article becomes effective and all storm water facilities shall be exempt from the location requirements provided in subsection (a) of this section. Neither the excavator nor the person financially responsible for the excavation will be liable for any damage to an unmarked gravity fed sanitary sewer line or unmarked storm water facility if the person doing the excavation exercises due care to protect existing facilities when there is evidence of the existence of those facilities near the proposed excavation area.

(k) An operator who does not become a member of the Notification Center as required by G.S. 87-120(b) may not recover for damages to a facility caused by an excavator who has complied with the provisions of this Article and has exercised reasonable care in the performance of the excavation or demolition.

"**§ 87-122. Excavator responsibilities.**

(a) Before commencing any excavation or demolition operation, the person responsible for the excavation or demolition shall provide or cause to be provided notice to the Notification Center of his or her intent to excavate or demolish. Notice for any excavation or demolition that does not involve a subaqueous facility must be given within three to 12 full working days before the proposed commencement date of the excavation or demolition. Notice for any excavation or demolition in the vicinity of a subaqueous facility must be given within 10 to 20 full working days before the proposed commencement date of the excavation or demolition. Notice given pursuant to this subsection shall expire 15 full working days after the date notice was given. No excavation or demolition may continue after this 15-day period unless the person responsible for the excavation or demolition provides a subsequent notice which shall be provided in the same manner as the original notice required by this subsection. When demolition of a building is proposed, the operator shall be given a reasonable time in which to remove or protect the operator's facilities before the demolition commences.

(b) The notice required by subsection (a) of this section shall, at a minimum, contain all of the following:

(1) The name, address, and telephone number of the person providing the notice.

(2) The anticipated starting date of the proposed excavation or demolition.

(3) The anticipated duration of the proposed excavation or demolition.

(4) The type of proposed excavation or demolition operation to be conducted.

(5) The location of the proposed excavation or demolition, not to exceed one-quarter mile in geographical length, or five adjoining addresses, not to exceed one-quarter mile in geographical length.

(6) Whether or not explosives are to be used in the proposed excavation or demolition.

(c) An excavator shall comply with the following:

(1) When the excavation area cannot be clearly and adequately identified within the area described in the notice, the excavator shall designate the route, specific area to be excavated, or both by premarking the area before the operator performs a locate. Premarking shall be made with soluble white paint, white flags, or white stakes.

(2) Confirm through the Notification Center's positive response system prior to excavation or demolition that all operators have responded and that all facilities that may be affected by the proposed excavation or demolition have been marked.

(3) Plan the excavation or demolition to avoid damage to or minimize interference with facilities in or near the construction area.

(4) Begin excavation or demolition prior to the specified waiting period only if the excavator has confirmed that all operators have responded with an appropriate positive response.

(5) If the operator declares extraordinary circumstances, the excavator shall not excavate or demolish until after the time and date that the operator has provided in the operator's response.

(6) If an operator fails to respond to the positive response system, the excavator may proceed if there are no visible indications of a facility at the proposed excavation or demolition area, such as a pole, marker, pedestal, meter, or valve. However, if the excavator is aware of or observes indications of an unmarked facility at the proposed excavation or demolition area, the excavator shall not begin excavation or demolition until an additional call is made to the Notification Center detailing the facility and an arrangement is made for the facility to be marked by the operator within three hours from the time the additional call is received by the Notification Center.

(7) Beginning on the date provided in the excavator's notice to the Notification Center, the excavator shall preserve the staking, marking, or other designation until they are no longer required. When a mark is no longer visible or is destroyed, but the excavation or demolition continues in the vicinity of the facility, the excavator shall request a re-mark from the Notification Center to ensure the protection of the facility.

(8) When demolition of a building is proposed, the excavator shall give the operator a reasonable time in which to remove or protect the operator's facilities before demolition commences.

(9) An excavator shall not perform any excavation or demolition within the tolerance zone unless the excavator complies with all of the following conditions:

a. The excavator shall not use mechanized equipment, except noninvasive equipment specifically designed or intended to protect the integrity of the facility, within the marked tolerance zone of an existing facility until:

1. The excavator has visually identified the precise location of the facility or has visually confirmed that no facility is present up to the depth of excavation;

2. The excavator has taken reasonable precautions to avoid any substantial weakening of the facility's structural or lateral support, or both, or penetration or destruction of the facilities or their protective coatings; and

3. The excavator may use mechanical means, as necessary, for the initial penetration and removal of pavement or other materials requiring use of mechanical means of excavation but only to the depth of the pavement or other materials. For parallel type excavations within the tolerance zone, the existing facility shall be visually identified at intervals not to exceed 50 feet along the line of excavation to avoid damages. The excavator shall exercise due care at all times to protect the facilities when exposing these facilities.

b. The excavator shall maintain clearance between a facility and the cutting edge or point of any mechanized equipment, taking into account the known limit of control of the cutting edge or point, as may be reasonably necessary to avoid damage to the facility.

c. The excavator shall provide support for facilities in and near the excavation or demolition area, including backfill operations, as may be reasonably required by the operator for the protection of the facilities.

(10) The excavator shall not use mechanized equipment within 24 inches of a facility that is a gas, oil, petroleum, or electric transmission line unless the facility operator has consented to the use in writing and the operator's representative is on site during the use of the mechanized equipment. For purposes of this subdivision, the term "gas, oil, petroleum transmission line" has the same meaning as the term "transmission line" in Title 49 C.F.R. § 192.3, and the term "electric transmission line" has the same meaning as the term "transmission line" in G.S. 62-100(7).

"**§ 87-123. Training.**

(a) Every person who is an excavator, locator, or operator under this Article by virtue of engaging in these activities in the course of a business or trade has a duty to provide education and training to employees and to document such education and training. The training shall include sufficient information, guidance, and supervision such that employees can competently

and safely operate the equipment used in the course of the business or trade and complete assigned tasks in a competent and safe manner while minimizing the potential for damage.

(b) When an excavator, locator, or operator under this Article retains an independent contractor to perform activities regulated by this Article, the duty set forth in subsection (a) of this section shall not apply to the excavator, locator, or operator. Independent contractors shall provide training to their employees in accordance with this section.

(c) Excavation shall be conducted in accordance with OSHA Standard 1926 and under the direction of a competent person, as defined therein.

(d) Locators shall be properly trained. Locator training shall be documented.

"**§ 87-124. Exemptions.**

The notice requirements in G.S. 87-122(a) and G.S. 87-122(b) do not apply to the following:

(1) An excavation or demolition performed by the owner of a single-family residential property on his or her own land that does not encroach on any operator's right-of-way, easement, or permitted use.

(2) An excavation or demolition performed by the owner of a single-family residential property on his or her own land that encroaches on any operator's right-of-way, easement, or permitted use that is performed with nonmechanized equipment.

(3) An excavation or demolition that involves the tilling of soil for agricultural or gardening purposes.

(4) An excavation or demolition for agricultural purposes, as defined in G.S. 106-581.1, performed on property that does not encroach on any operator's right-of-way, easement, or permitted use.

(5) An excavation by an operator or surveyor with nonmechanized equipment for the following purposes:

a. Locating for a valid notification request or for the minor repair, connection, or routine maintenance of an existing facility or survey pin.

b. Probing underground to determine the extent of gas or water migration.

(6) An excavation or demolition performed when the Department of Transportation, a local government, special purpose district, or public service district is conducting maintenance activities within its designated right-of-way. Maintenance activities shall include resurfacing, milling, emergency replacement of signs critical for maintaining safety, or the reshaping of shoulders and ditches to the original road profile. Maintenance activities do not include the initial installation of traffic signs, traffic control equipment, or guardrails.

(7) An excavation or demolition performed by a railroad entirely on land which the railroad owns or operates or, in the event of an emergency, on adjacent land. No provision in this Article shall apply to any railroad which owns, operates, or permits facilities under land which the railroad owns or operates.

(8) An excavation of a grave space, as defined in G.S. 65-48(10), the installation of a monument or memorial at a grave space, or an excavation related to the placement of a temporary structure or tent by a cemetery regulated under Chapter 65 of the General Statutes that does not encroach on any operator's right-of-way, easement, or permitted use.

"**§ 87-125. Notice in case of emergency excavation or demolition.**

(a) An excavator performing an emergency excavation or demolition is not required to give notice to the Notification Center as provided in G.S. 87-122. However, the excavator shall, as soon as practicable, give oral notice to the Notification Center which shall include a

description of the circumstances justifying the emergency. The excavator may request emergency assistance from each affected operator in locating and providing immediate protection to the facilities in the affected area.

(b) The declaration of an emergency excavation or demolition shall not relieve any party of liability for causing damage to an operator's facilities even if those facilities are unmarked.

(c) Any person who falsely claims that an emergency exists requiring an excavation or demolition shall be guilty of a Class 3 misdemeanor.

"**§ 87-126. Notification required when damage is done.**

(a) The excavator performing an excavation or demolition that results in any damage to a facility shall immediately upon discovery of the damage notify the Notification Center and the facility operator, if known, of the location and nature of the damage. The excavator shall allow the operator reasonable time to accomplish necessary repairs before completing the excavation or demolition in the immediate area of the facility. The excavator shall delay any backfilling in the immediate area of the damaged facility until authorized by the operator. The operator or qualified personnel authorized by the operator shall repair any damage to the facility.

(b) An excavator who is responsible for an excavation or demolition where any damage to a facility results in the discharge of electricity or escape of any flammable, toxic, or corrosive gas or liquid, or that endangers life, health, or property shall immediately notify emergency responders, including 911 services, the Notification Center, and the facility operator. The excavator shall take reasonable measures to protect himself or herself, other persons in immediate danger, members of the general public, property, and the environment until the operator or emergency responders arrive and complete an assessment of the situation.

"**§ 87-127. Design notices.**

(a) A designer may submit a design notice to the Notification Center. The design notice shall describe the tract or parcel of land for which the design notice has been submitted with sufficient particularity, as defined by policies and procedures adopted by the Notification Center, to allow the operator to ascertain the precise tract or parcel of land involved.

(b) Within 10 working days, not including the day the notice was given, after a design notice for a proposed project has been submitted to the Notification Center, the operator shall respond in one of the following manners:

(1) By designating the location of all facilities owned by the operator within the area of the proposed excavation as provided in G.S. 87-121(a).

(2) By providing to the person submitting the design notice the best available description of all facilities in the area designated by the design notice, which may include drawings marked with a scale, dimensions, and reference points for underground utilities already built in the area or other facility records that are maintained by the operator.

(3) Allowing the person submitting the design notice or any other authorized person to inspect the drawings or other records for all facilities within the proposed area of excavation at a location that is acceptable to the operator.

(c) An operator may reject a design notice based upon homeland security considerations pending the operator obtaining additional information confirming the legitimacy of the notice. The operator shall notify the person making the request through a design notice of the denial and may request additional information through the positive response system.

"**§ 87-128. Absence of facility location.**

If an operator who has been given notice as provided in G.S. 87-120(d) by the Notification Center fails to respond to that notice as provided in G.S. 87-121 or fails to properly locate the facility, the person excavating is free to proceed with the excavation. Neither the excavator nor the person financially responsible for the excavation will be liable to the nonresponding or improperly responding operator for damages to the operator's facilities if the person doing the

excavating exercises due care to protect existing facilities when there is evidence of the existence of those facilities near the proposed excavation area.

"**§ 87-129. Underground Damage Prevention Review Board; enforcement; civil penalties.**

(a) The Notification Center shall establish an Underground Damage Prevention Review Board to review reports of alleged violations of this Article. The members of the Board shall be appointed by the Governor. The Board shall consist of the following members:

(1) A representative from the North Carolina Department of Transportation;
(2) A representative from a facility contract locator;
(3) A representative from the Notification Center;
(4) A representative from an electric public utility;
(5) A representative from the telecommunications industry;
(6) A representative from a natural gas utility;
(7) A representative from a hazardous liquid transmission pipeline company;
(8) A representative recommended by the League of Municipalities;
(9) A highway contractor licensed under G.S. 87-10(b)(2) who does not own or operate facilities;
(10) A public utilities contractor licensed under G.S. 87-10(b)(3) who does not own or operate facilities;
(11) A surveyor licensed under Chapter 89C of the General Statutes;
(12) A representative from a rural water system;
(13) A representative from an investor-owned water system;
(14) A representative from an electric membership corporation; and
(15) A representative from a cable company.

(b) The Notification Center shall transmit all reports of alleged violations of this Article to the Board, including any information received by the Notification Center regarding the report. The Board shall meet at least quarterly to review all reports filed pursuant to G.S. 87-120(e). The Board shall act as an arbitrator between the parties to the report. If, after reviewing the report and any accompanying information, the Board determines that a violation of this Article has occurred, the Board shall notify the violating party in writing of its determination and the recommended penalty. The violating party may request a hearing before the Board, after which the Board may reverse or uphold its original finding. If the Board recommends a penalty, the Board shall notify the Utilities Commission of the recommended penalty, and the Utilities Commission shall issue an order imposing the penalty.

(c) A party determined by the Board under subsection (b) of this section to have violated this Article may initiate an arbitration proceeding before the Utilities Commission. If the violating party elects to initiate an arbitration proceeding, the violating party shall pay a filing fee of two hundred fifty dollars ($250.00) to the Utilities Commission, and the Utilities Commission shall open a docket regarding the report. The Utilities Commission shall direct the parties enter into an arbitration process. The parties shall be responsible for selecting and contracting with the arbitrator. Upon completion of the arbitration process, the Utilities Commission shall issue an order encompassing the outcome of the binding arbitration process, including a determination of fault, a penalty, and assessing the costs of arbitration to the non-prevailing party. Any party may appeal an order issued by the Utilities Commission pursuant to this section to the superior court division of the General Court of Justice in the county where the alleged violation of this Article occurred or in Wake County, for trial de novo. The authority granted to the Utilities Commission within this section is limited to this section and does not grant the Utilities Commission any authority that they are not otherwise granted under Chapter 62 of the General Statutes.

(d) Any person who violates any provision of this Article shall be subject to a penalty as set forth in this subsection. The provisions of this Article do not affect any civil remedies for personal injury or property damage otherwise available to any person, except as otherwise specifically provided for in this Article. The penalty provisions of this Article are cumulative to and not in conflict with provisions of law with respect to civil remedies for personal injury or

property damage. The clear proceeds of any civil penalty assessed under this section shall be used as provided in Section 7(a) of Article IX of the North Carolina Constitution. The penalties for a violation of this Article shall be as follows:

(1) If the violation was the result of negligence, the penalty shall be a requirement of training, a requirement of education, or both.

(2) If the violation was the result of gross negligence, the penalty shall be a civil penalty of one thousand dollars ($1,000), a requirement of training, a requirement of education, or a combination of the three.

(3) If the violation was the result of willful or wanton negligence or intentional conduct, the penalty shall be a civil penalty of two thousand five hundred dollars ($2,500), a requirement of training, and a requirement of education.

"**§ 87-130. Severability.**

If any provision of this Article or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications, and to this end the provisions of this Article are severable."

SECTION 3. This act becomes effective October 1, 2014, and applies to all activities regulated by the provisions of Article 8A of Chapter 87 of the General Statutes, as enacted by this act, that occur on or after that date.

In the General Assembly read three times and ratified this the 23rd day of July, 2013.

Became law upon approval of the Governor at 10:50 a.m. on the 23rd day of August, 2013.

Session Law 2013-408 **H.B. 135**

AN ACT TO MAKE ADJUSTMENTS TO THE FEE SCHEDULE FOR PERMITS FOR SANITARY LANDFILLS AND TRANSFER STATIONS TO REFLECT EXTENSION OF THE DURATION OF THESE PERMITS AS DIRECTED BY S.L. 2012-187, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 130A-294 is amended by adding a new subsection to read:

"(a2) Permits for sanitary landfills and transfer stations shall be issued for (i) a design and operation phase of five years or (ii) a design and operation phase of 10 years. A permit issued for a design and operation phase of 10 years shall be subject to a limited review within five years of the issuance date."

SECTION 2. G.S. 130A-295.8 reads as rewritten:

"**§ 130A-295.8. Fees applicable to permits for solid waste management facilities.**

(a) The Solid Waste Management Account is established as a nonreverting account within the Department. All fees collected under this section shall be credited to the Account and shall be used to support the solid waste management program established pursuant to G.S. 130A-294.

(b) As used in this section:

(1) "New permit" means any of the following:

a. An application for a permit for a solid waste management facility that has not been previously permitted by the Department. The term includes one site suitability review, the initial permit to construct, and one permit to operate the constructed portion of a phase included in the permit to construct.

b. An application that proposes to expand the boundary of a permitted waste management facility for the purpose of expanding the permitted activity.

c. An application that includes a proposed expansion to the boundary of a waste disposal unit within a permitted solid waste management facility.

d. An application for a substantial amendment to a solid waste permit, as defined in G.S. 130A-294.

(2) "Permit amendment" means any of the following:

a. An application for a permit to construct and one permit to operate for the second and subsequent phases of landfill development described in the approved facility plan for a permitted solid waste management facility.

b. An application for the five-year renewal of a permit for a permitted solid waste management facility or for a permit review of a permitted solid waste management facility.

c. Any application that proposes a change in ownership or corporate structure of a permitted solid waste management facility.

(3) "Permit modification" means any of the following:

a. An application for any change to the plans approved in a permit for a solid waste management facility that does not constitute a "permit amendment" or a "new permit".

b. A second or subsequent permit to operate for a constructed portion of a phase included in the permit to construct.

c. An application for a five-year limited review of a 10-year permit, as required by G.S. 130A-294(a2), including review of the operations plan, closure plan, post-closure plan, financial assurance cost estimates, environmental monitoring plans, and any other applicable plans for the facility.

(4) "Major permit modification" means an application for any change to the approved engineering plans for a sanitary landfill or transfer station permitted for a 10-year design capacity that does not constitute a "permit amendment," "new permit," or "permit modification."

(c) An applicant for a permit shall pay an application fee upon submission of an application according to the following schedule:

(1) Municipal Solid Waste Landfill accepting less than 100,000 tons/year of solid waste, New ~~Permit –~~ Permit (Five-Year) – $25,000.

(1a) Municipal Solid Waste Landfill accepting less than 100,000 tons/year of solid waste, New Permit (Ten-Year) – $38,500.

(2) Municipal Solid Waste Landfill accepting less than 100,000 tons/year of solid waste, ~~Amendment –~~ Amendment (Five-Year) – $15,000.

(2a) Municipal Solid Waste Landfill accepting less than 100,000 tons/year of solid waste, Amendment (Ten-Year) – $28,500.

(3) Municipal Solid Waste Landfill accepting less than 100,000 tons/year of solid waste, ~~Modification –~~ Modification (Five-Year) – $1,500.

(3a) Municipal Solid Waste Landfill accepting less than 100,000 tons/year of solid waste, Major Modification (Ten-Year) – $7,500.

(4) Municipal Solid Waste Landfill accepting 100,000 tons/year or more of solid waste, New ~~Permit –~~ Permit (Five-Year) – $50,000.

(4a) Municipal Solid Waste Landfill accepting 100,000 tons/year or more of solid waste, New Permit (Ten-Year) – $77,000.

(5) Municipal Solid Waste Landfill accepting 100,000 tons/year or more of solid waste, ~~Amendment –~~ Amendment (Five-Year) – $30,000.

(5a) Municipal Solid Waste Landfill accepting 100,000 tons/year or more of solid waste, Amendment (Ten-Year) – $57,000.

(6) Municipal Solid Waste Landfill accepting 100,000 tons/year or more of solid waste, ~~Modification –~~Modification (Five-Year) – $3,000.

(6a) Municipal Solid Waste Landfill accepting 100,000 tons/year or more of solid waste, Major Modification (Ten-Year) – $15,000.

(7) Construction and Demolition Landfill accepting less than 100,000 tons/year of solid waste, New ~~Permit –~~Permit (Five-Year) – $15,000.

(7a) Construction and Demolition Landfill accepting less than 100,000 tons/year of solid waste, New Permit (Ten-Year) – $22,500.

(8) Construction and Demolition Landfill accepting less than 100,000 tons/year of solid waste, ~~Amendment –~~Amendment (Five-Year) – $9,000.

(8a) Construction and Demolition Landfill accepting less than 100,000 tons/year of solid waste, Amendment (Ten-Year) – $16,500.

(9) Construction and Demolition Landfill accepting less than 100,000 tons/year of solid waste, ~~Modification –~~Modification (Five-Year) – $1,500.

(9a) Construction and Demolition Landfill accepting less than 100,000 tons/year of solid waste, Major Modification (Ten-Year) – $4,500.

(10) Construction and Demolition Landfill accepting 100,000 tons/year or more of solid waste, New ~~Permit –~~Permit (Five-Year) – $30,000.

(10a) Construction and Demolition Landfill accepting 100,000 tons/year or more of solid waste, New Permit (Ten-Year) – $46,000.

(11) Construction and Demolition Landfill accepting 100,000 tons/year or more of solid waste, ~~Amendment –~~Amendment (Five-Year) – $18,500.

(11a) Construction and Demolition Landfill accepting 100,000 tons/year or more of solid waste, Amendment (Ten-Year) – $34,500.

(12) Construction and Demolition Landfill accepting 100,000 tons/year or more of solid waste, ~~Modification –~~Modification (Five-Year) – $2,500.

(12a) Construction and Demolition Landfill accepting 100,000 tons/year or more of solid waste, Major Modification (Ten-Year) – $9,250.

(13) Industrial Landfill accepting less than 100,000 tons/year of solid waste, New ~~Permit –~~Permit (Five-Year) – $15,000.

(13a) Industrial Landfill accepting less than 100,000 tons/year of solid waste, New Permit (Ten-Year) – $22,500.

(14) Industrial Landfill accepting less than 100,000 tons/year of solid waste, ~~Amendment –~~Amendment (Five-Year) – $9,000.

(14a) Industrial Landfill accepting less than 100,000 tons/year of solid waste, Amendment (Ten-Year) – $16,500.

(15) Industrial Landfill accepting less than 100,000 tons/year of solid waste, ~~Modification –~~Modification (Five-Year) – $1,500.

(15a) Industrial Landfill accepting less than 100,000 tons/year of solid waste, Major Modification (Ten-Year) – $4,500.

(16) Industrial Landfill accepting 100,000 tons/year or more of solid waste, New ~~Permit –~~Permit (Five-Year) – $30,000.

(16a) Industrial Landfill accepting 100,000 tons/year or more of solid waste, New Permit (Ten-Year) – $46,000.

(17) Industrial Landfill accepting 100,000 tons/year or more of solid waste, ~~Amendment –~~Amendment (Five-Year) – $18,500.

(17a) Industrial Landfill accepting 100,000 tons/year or more of solid waste, Amendment (Ten-Year) – $34,500.

(18) Industrial Landfill accepting 100,000 tons/year or more of solid waste, ~~Modification –~~Modification (Five-Year) – $2,500.

(18a) Industrial Landfill accepting 100,000 tons/year or more of solid waste, Major Modification (Ten-Year) – $9,250.

(19) Tire Monofill, New Permit – $1,750.

(19a) Tire Monofill, New Permit (Ten-Year) – $2,500.
(20) Tire Monofill, Amendment – $1,250.
(20A) Tire Monofill, Amendment (Ten-Year) – $2,000.
(21) Tire Monofill, Modification – $500.
(21A) Tire Monofill, Major Modification – $625.
(22) Treatment and Processing, New Permit – $1,750.
(23) Treatment and Processing, Amendment – $1,250.
(24) Treatment and Processing, Modification – $500.
(25) Transfer Station, New ~~Permit –~~ Permit (Five-Year) – $5,000.
(25a) Transfer Station, New Permit (Ten-Year) – $7,500.
(26) Transfer Station, ~~Amendment –~~ Amendment (Five-Year) – $3,000.
(26a) Transfer Station, Amendment (Ten-Year) – $5,500.
(27) Transfer Station, ~~Modification –~~ Modification (Five-Year) – $500.
(27a) Transfer Station, Major Modification (Ten-Year) – $1,500.
(28) Incinerator, New Permit – $1,750.
(29) Incinerator, Amendment – $1,250.
(30) Incinerator, Modification – $500.
(31) Large Compost Facility, New Permit – $1,750.
(32) Large Compost Facility, Amendment – $1,250.
(33) Large Compost Facility, Modification – $500.
(34) Land Clearing and Inert, New Permit – $1,000.
(35) Land Clearing and Inert, Amendment – $500.
(36) Land Clearing and Inert, Modification – $250.

(d) A permitted solid waste management facility shall pay an annual permit fee on or before 1 August of each year according to the following schedule:

(1) Municipal Solid Waste Landfill – $3,500.
(2) Post-Closure Municipal Solid Waste Landfill – $1,000.
(3) Construction and Demolition Landfill – $2,750.
(4) Post-Closure Construction and Demolition Landfill – $500.
(5) Industrial Landfill – $2,750.
(6) Post-Closure Industrial Landfill – $500.
(7) Transfer Station – $750.
(8) Treatment and Processing Facility – $500.
(9) Tire Monofill – $500.
(10) Incinerator – $500.
(11) Large Compost Facility – $500.
(12) Land Clearing and Inert Debris Landfill – $500.

(e) The Department shall determine whether an application for a permit for a solid waste management facility that is subject to a fee under this section is complete within 90 days after the Department receives the application for the permit. A determination of completeness means that the application includes all required components but does not mean that the required components provide all of the information that is required for the Department to make a decision on the application. If the Department determines that an application is not complete, the Department shall notify the applicant of the components needed to complete the application. An applicant may submit additional information to the Department to cure the deficiencies in the application. The Department shall make a final determination as to whether the application is complete within the later of: (i) 90 days after the Department receives the application for the permit less the number of days that the applicant uses to provide the additional information; or (ii) 30 days after the Department receives the additional information from the applicant. The Department shall issue a draft permit decision on an application for a permit within one year after the Department determines that the application is complete. The Department shall hold a public hearing and accept written comment on the draft permit decision for a period of not less than 30 or more than 60 days after the Department issues a

draft permit decision. The Department shall issue a final permit decision on an application for a permit within 90 days after the comment period on the draft permit decision closes. The Department and the applicant may mutually agree to extend any time period under this subsection. If the Department fails to act within any time period set out in this subsection, the applicant may treat the failure to act as a denial of the permit and may challenge the denial as provided in Chapter 150B of the General Statutes."

SECTION 3. This act is effective when it becomes law and applies to permit applications submitted on or after July 1, 2013.

In the General Assembly read three times and ratified this the 25th day of July, 2013.

Became law upon approval of the Governor at 10:51 a.m. on the 23rd day of August, 2013.

Session Law 2013-409 **H.B. 321**

AN ACT TO REPEAL THE REQUIREMENT THAT LOCAL GOVERNMENTS DEVELOP AND MAINTAIN A SOLID WASTE MANAGEMENT PLAN.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 130A-309.09A reads as rewritten:

"§ **130A-309.09A. Local government solid waste responsibilities.**

(a) The governing board of each unit of local government shall assess local solid waste collection services and disposal capacity and shall determine the adequacy of collection services and disposal capacity to meet local needs and to protect human health and the environment. Each unit of local government shall implement programs and take other actions that it determines are necessary to address deficiencies in service or capacity required to meet local needs and to protect human health and the environment. A unit of local government may adopt ordinances governing the disposal, in facilities that it operates, of solid waste generated outside of the area designated to be served by the facility. Such ordinances shall not be construed to apply to privately operated disposal facilities located within the boundaries of the unit of local government.

(b) ~~Each unit of local government, either individually or in cooperation with other units of local government, shall develop a 10-year comprehensive solid waste management plan.~~Units of local government shall make a good-faith effort to achieve the State's forty percent (40%) municipal solid waste reduction goal and to comply with the State's comprehensive solid waste management plan. ~~Each unit of local government shall develop its solid waste management plan with public participation, including, at a minimum, one advertised public meeting. The Department shall assist units of local government in the preparation of the plan required by this subsection if the unit of local government requests assistance. Each plan shall be updated at least every three years. In order to assure compliance with this subsection, each unit of local government shall provide the Department with a copy of its current plan upon request by the Department. Each plan shall:~~

~~(1) Evaluate the solid waste stream in the geographic area covered by the plan.~~

~~(2) Include a goal for the reduction of municipal solid waste on a per capita basis by 30 June 2001 and a goal for the further reduction of municipal solid waste by 30 June 2006. The solid waste reduction goals shall be determined by the unit or units of local government that prepare the plan, and shall be determined so as to assist the State, to the maximum extent practical, to achieve the State's forty percent (40%) municipal solid waste reduction goal as set out in G.S. 130A-309.04(c).~~

~~(3) Be designed to achieve the solid waste reduction goals established by the plan.~~

~~(4) Include a description of the process by which the plan was developed, including provisions for public participation in the development of the plan.~~

~~(5) Include an assessment of current programs and a description of intended actions with respect to the following solid waste management methods:~~

~~a. Reduction at the source.~~

~~b. Collection.~~

~~c. Recycling and reuse.~~

~~d. Composting and mulching.~~

~~e. Incineration with energy recovery.~~

~~f. Incineration without energy recovery.~~

~~g. Transfer outside the geographic area covered by the plan.~~

~~h. Disposal.~~

~~(6) Include an assessment of current programs and a description of intended actions with respect to:~~

~~a. Education with the community and through the schools.~~

~~b. Management of special wastes.~~

~~c. Prevention of illegal disposal and management of litter.~~

~~d. Purchase of recycled materials and products manufactured with recycled materials.~~

~~e. For each county and each municipality with a population in excess of 25,000, collection of discarded computer equipment and televisions, as defined in G.S. 130A-309.131.~~

~~(7) Include a description and assessment of the full cost of solid waste management, including the costs of collection, disposal, waste reduction, and other programs, and of the methods of financing those costs.~~

~~(8) Consider the use of facilities and other resources for management of solid waste that may be available through private enterprise.~~

~~(9) **(Expires October 1, 2023)** Include as a component a written plan for the management of abandoned manufactured homes as required under G.S. 130A-309.113(a).~~

(d) In order to assess the progress in meeting the goal set out in G.S. 130A-309.04, each unit of local government shall report to the Department on the solid waste management programs and waste reduction activities within the unit of local government by 1 September of each year. At a minimum, the report shall include:

(1) A description of public education programs on recycling.

(2) The amount of solid waste received at municipal solid waste management facilities, by type of solid waste.

(3) The amount and type of materials from the solid waste stream that were recycled.

(4) The percentage of the population participating in various types of recycling activities instituted.

(5) The annual reduction in municipal solid waste, measured as provided in G.S. 130A-309.04.

~~(6) Information regarding programs and other actions implemented as part of the local comprehensive solid waste management plan.~~

(7) A statement of the costs of solid waste management programs implemented by the unit of local government and the methods of financing those costs.

(8) Information regarding permanent recycling programs for discarded computer equipment and televisions for which funds are received pursuant to G.S. 130A-309.137, and information on operative interlocal agreements executed in conjunction with funds received, if any.

(9) A description of the disaster debris management program.

(10) A description of scrap tire disposal procedures.

(11) A description of white goods management procedures.

(12) Information regarding the prevention of illegal disposal and management of litter.

…."

SECTION 2. G.S. 130A-309.09B(a) reads as rewritten:

"§ **130A-309.09B. Local government waste reduction programs.**

(a) Each unit of local government shall establish and maintain a solid waste reduction ~~program that will enable the unit of local government to meet the local solid waste reduction goals established pursuant to G.S. 130A-309.09A(b)(2).~~program. The following requirements shall apply:

…."

SECTION 3. G.S. 130A-309.09C(g) reads as rewritten:

"§ **130A-309.09C. Additional powers of local governments; construction of this Part; effect of noncompliance.**

…

(g) In addition to any other penalties provided by law, a unit of local government that does not comply with the requirements of ~~G.S. 130A-309.09A(b)~~G.S. 130A-309.09A(b), G.S. 130A-309.09A(d), and G.S. 130A-309.09B(a) shall not be eligible for grants from the Solid Waste Management Trust Fund, the Scrap Tire Disposal Account, or the White Goods Management Account and shall not receive the proceeds of the scrap tire disposal tax imposed by Article 5B of Chapter 105 of the General Statutes or the proceeds of the white goods disposal tax imposed by Article 5C of Chapter 105 of the General Statutes to which the unit of local government would otherwise be entitled. The Secretary shall notify the Secretary of Revenue to withhold payment of these funds to any unit of local government that fails to comply with the requirements of ~~G.S. 130A-309.09A(b)~~ G.S. 130A-309.09A(b), G.S. 130A-309.09A(d), and G.S. 130A-309.09B(a). Proceeds of the scrap tire disposal tax that are withheld pursuant to this subsection shall be credited to the Scrap Tire Disposal Account and may be used as provided in G.S. 130A-309.63. Proceeds of the white goods disposal tax that are withheld pursuant to this subsection shall be credited to the White Goods Management Account and may be used as provided in G.S. 130A-309.83."

SECTION 4. G.S. 130A-309.58(d) reads as rewritten:

"§ **130A-309.58. Disposal of scrap tires.**

…

(d) Each county is responsible for developing a description of scrap tire disposal procedures. ~~These procedures shall be included in any solid waste management plan required by the Department under this Article.~~ These procedures shall be included in the annual report required under G.S. 130A-309.09A. Further, any revisions to the initial description of the scrap tire disposal procedures shall be forwarded to the Department."

SECTION 5. G.S. 130A-309.81(c) reads as rewritten:

"§ **130A-309.81. Management of discarded white goods; disposal fee prohibited.**

…

(c) Plan. – Each county shall establish written procedures for the management of white goods. ~~The county shall include the procedures in any solid waste management plan required by the Department under this Article.~~These procedures shall be included in the annual report required under G.S. 130A-309.09A."

SECTION 6. G.S. 130A-309.113(a) reads as rewritten:

"§ **130A-309.113. (Effective July 1, 2009, and expiring October 1, 2023) Management of abandoned manufactured homes.**

(a) Plan. – Each county shall consider whether to implement a program for the management of abandoned manufactured homes. ~~If, after consideration, the county decides not to implement a program, the county must state in the comprehensive solid waste management plan that it is required to develop under G.S. 130A-309.09A(b) that the county considered whether to implement a program for the management of abandoned manufactured homes and decided not to do so. A county may, at any time, reconsider its decision not to implement a~~

~~program for the management of abandoned manufactured homes. If~~ If at any time the county decides to implement a program, the county shall develop a written plan for the management of abandoned manufactured ~~homes and include the plan as a component of the comprehensive solid waste management plan it is required to develop under G.S. 130A-309.09A(b).~~homes. This plan shall be included in the annual report required under G.S. 130A-309.09A. At a minimum, the plan shall include:

(1) A method by which the county proposes to identify abandoned manufactured homes in the county, including, without limitation, a process by which manufactured home owners or other responsible parties may request designation of their home as an abandoned manufactured home.

(2) A plan for the deconstruction of these abandoned manufactured homes.

(3) A plan for the removal of the deconstructed components, including mercury switches from thermostats, for reuse or recycling, as appropriate.

(4) A plan for the proper disposal of abandoned manufactured homes that are not deconstructed under subdivision (2) of this subsection."

SECTION 7. G.S. 130A-309.137 reads as rewritten:

"§ **130A-309.137. (See editor's note) Electronics Management Fund.**

…

(c) Eligibility. – Except as provided in subsection (d) of this section, no more than one unit of local government per county, including the county itself, may receive funding pursuant to this section for a program to manage discarded computer equipment, televisions, and other electronic devices. ~~In order to be eligible for funding, a~~ A unit of local government ~~shall:~~shall submit a plan to include:

(1) ~~Submit a comprehensive solid waste management plan required pursuant to G.S. 130A-309.09A, amended as necessary to include the following information:~~

~~a.~~ Information on existing programs within the jurisdiction to recycle or reuse discarded computer equipment, televisions, and other electronic devices, or information on a plan to begin such a program on a date certain. This information shall include a description of the implemented or planned practices for collection of the equipment and a description of the types of equipment to be collected and how the equipment will be marketed for recycling.

(2) ~~b.~~ Information on a public awareness and education program concerning the recycling and reuse of discarded computer equipment, televisions, and other electronic devices.

(3) ~~c.~~ Information on methods to track and report total tonnage of computer equipment, televisions, and other electronic devices collected and recycled in the jurisdiction.

(4) ~~d.~~ Information on interactions with other units of local government to provide or receive services concerning disposal of discarded computer equipment, televisions, and other electronic devices.

(5) ~~e.~~ Information on how the unit of local government will account for the expenditure of funds received pursuant to this section.

~~(2) Establish a separate local budget account for the receipt and expenditure of funds received pursuant to this section.~~

~~(3)~~(6) ~~Contract~~ Proof of contract or agreement with a recycler that is certified as adhering to Responsible Recycling ("R2") practices or that is certified as an e-Steward recycler adhering to the e-Stewards Standard for Responsible Recycling and Reuse of Electronic Equipment® to process the discarded computer equipment, televisions, and other electronic devices that the unit of local government collects.

(c1) Submittal of Information for Distribution of Funding. – Documentation meeting the requirements of subdivision (6) of subsection (c) of this section, and other information required by subsection (c) of this section, including new plans or revisions to plans as necessary, must be submitted annually on or before December 31 in order to be eligible for funding during the next distribution by the Department.

(d) Local Government Designation. – If more than one unit of local government in a county, including the county itself, requests funding pursuant to this section, the units of local government in question ~~may: (i)~~may enter into interlocal agreements for provision of services concerning disposal of discarded computer equipment and televisions, and distribution of funds received pursuant to this section among the parties to the ~~agreement; or (ii) submit separate and distinct comprehensive solid waste management plans pursuant to G.S. 130A-309.09A, with the information set forth in sub-subdivisions a. through e. of subdivision (1) of subsection (c) of this section. In the case of (ii), the Department shall distribute funds to the local governments determined to be eligible based on the percentage of the county's population to be served under each eligible local government's program.~~agreement. If the units of local government do not enter into an interlocal agreement regarding funding under this section, the Department shall distribute funds to the eligible local governments based on the percentage of the county's population to be served under each eligible local government's program.

…."

SECTION 8. G.S. 130A-294 reads as rewritten:

"§ **130A-294. Solid waste management program.**

(a) The Department is authorized and directed to engage in research, conduct investigations and surveys, make inspections and establish a statewide solid waste management program. In establishing a program, the Department shall have authority to:

…

(4) a. Develop a permit system governing the establishment and operation of solid waste management facilities. A landfill with a disposal area of 1/2 acre or less for the on-site disposal of land clearing and inert debris is exempt from the permit requirement of this section and shall be governed by G.S. 130A-301.1. Demolition debris from the decommissioning of manufacturing buildings, including electric generating stations, that is disposed of on the same site as the decommissioned buildings, is exempt from the permit requirement of this section and rules adopted pursuant to this section and shall be governed by G.S. 130A-301.3. The Department shall not approve an application for a new permit, the renewal of a permit, or a substantial amendment to a permit for a sanitary landfill, excluding demolition landfills as defined in the rules of the Commission, except as provided in subdivisions (3) and (4) of subsection (b1) of this section. No permit shall be granted for a solid waste management facility having discharges that are point sources until the Department has referred the complete plans and specifications to the Environmental Management Commission and has received advice in writing that the plans and specifications are approved in accordance with the provisions of G.S. 143-215.1. ~~If the applicant is a unit of local government, and has not submitted a solid waste management plan that has been approved by the Department pursuant to G.S. 130A-309.09A(b), the Department may deny a permit for a sanitary landfill or a facility that disposes of solid waste by incineration, unless the Commission has not adopted rules pursuant to G.S. 130A-309.29 for local solid waste management plans.~~ In any case where the Department denies a permit for a solid waste management facility, it shall state in writing the reason for denial and

shall also state its estimate of the changes in the applicant's proposed activities or plans that will be required for the applicant to obtain a permit.

…

(b1) …

(2) A person who intends to apply for a new permit, the renewal of a permit, or a substantial amendment to a permit for a sanitary landfill shall obtain, prior to applying for a permit, a franchise for the operation of the sanitary landfill from each local government having jurisdiction over any part of the land on which the sanitary landfill and its appurtenances are located or to be located. A local government may adopt a franchise ordinance under G.S. 153A-136 or G.S. 160A-319. A franchise granted for a sanitary landfill shall include all of the following:

a. A statement of the population to be served, including a description of the geographic area.

b. A description of the volume and characteristics of the waste stream.

c. A projection of the useful life of the sanitary landfill.

~~d. An explanation of how the franchise will be consistent with the jurisdiction's solid waste management plan required under G.S. 130A-309.09A, including provisions for waste reduction, reuse, and recycling.~~

e. The procedures to be followed for governmental oversight and regulation of the fees and rates to be charged by facilities subject to the franchise for waste generated in the jurisdiction of the franchising entity.

f. A facility plan for the sanitary landfill that shall include the boundaries of the proposed facility, proposed development of the facility site in five-year operational phases, the boundaries of all waste disposal units, final elevations and capacity of all waste disposal units, the amount of waste to be received per day in tons, the total waste disposal capacity of the sanitary landfill in tons, a description of environmental controls, and a description of any other waste management activities to be conducted at the facility. In addition, the facility plan shall show the proposed location of soil borrow areas, leachate facilities, and all other facilities and infrastructure, including ingress and egress to the facility.

…."

SECTION 9. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 25th day of July, 2013.

Became law upon approval of the Governor at 10:51 a.m. on the 23rd day of August, 2013.

Session Law 2013-410 **H.B. 92**

AN ACT TO MAKE TECHNICAL CORRECTIONS TO THE GENERAL STATUTES AND SESSION LAWS, AS RECOMMENDED BY THE GENERAL STATUTES COMMISSION, AND TO MAKE ADDITIONAL TECHNICAL AND OTHER CHANGES TO THE GENERAL STATUTES AND SESSION LAWS.

The General Assembly of North Carolina enacts:

PART I. TECHNICAL CORRECTIONS RECOMMENDED BY THE GENERAL STATUTES COMMISSION

SECTION 1. The title of Article 9 of Chapter 7A of the General Statutes reads as rewritten:

"Article 9.

District Attorneys and ~~Judicial~~ Prosecutorial Districts."

SECTION 2. G.S. 13-1 reads as rewritten:

"§ **13-1. Restoration of citizenship.**

Any person convicted of a crime, whereby the rights of citizenship are forfeited, shall have such rights automatically restored upon the occurrence of any one of the following conditions:

(1) The unconditional discharge of an inmate, of a probationer, or of a parolee by the ~~Division of Adult Correction of the Department of Public Safety;~~ agency of the State having jurisdiction of that person or of a defendant under a suspended sentence by the court.

(2) The unconditional pardon of the offender.

(3) The satisfaction by the offender of all conditions of a conditional pardon.

(4) With regard to any person convicted of a crime against the United States, the unconditional discharge of such person by the agency of the United States having jurisdiction of such person, the unconditional pardon of such person or the satisfaction by such person of a conditional pardon.

(5) With regard to any person convicted of a crime in another state, the unconditional discharge of such person by the agency of that state having jurisdiction of such person, the unconditional pardon of such person or the satisfaction by such person of a conditional pardon."

SECTION 3.(a) G.S. 14-17(a) reads as rewritten:

"(a) A murder which shall be perpetrated by means of a nuclear, biological, or chemical weapon of mass destruction as defined in G.S. 14-288.21, poison, lying in wait, imprisonment, starving, torture, or by any other kind of willful, deliberate, and premeditated killing, or which shall be committed in the perpetration or attempted perpetration of any arson, rape or a sex offense, robbery, kidnapping, burglary, or other felony committed or attempted with the use of a deadly weapon shall be deemed to be murder in the first degree, a Class A felony, and any person who commits such murder shall be punished with death or imprisonment in the State's prison for life without parole as the court shall determine pursuant to G.S. 15A-2000, except that any such person who was under 18 years of age at the time of the murder shall be punished ~~with imprisonment in the State's prison for life without parole.~~in accordance with Part 2A of Article 81B of Chapter 15A of the General Statutes."

SECTION 3.(b) G.S. 15A-1340.17(c) reads as rewritten:

"(c) Punishments for Each Class of Offense and Prior Record Level; Punishment Chart Described. — The authorized punishment for each class of offense and prior record level is as specified in the chart below. Prior record levels are indicated by the Roman numerals placed horizontally on the top of the chart. Classes of offense are indicated by the letters placed vertically on the left side of the chart. Each cell on the chart contains the following components:

(1) A sentence disposition or dispositions: "C" indicates that a community punishment is authorized; "I" indicates that an intermediate punishment is authorized; "A" indicates that an active punishment is authorized; and "Life Imprisonment Without Parole" indicates that the defendant shall be imprisoned for the remainder of the prisoner's natural life.

(2) A presumptive range of minimum durations, if the sentence of imprisonment is neither aggravated or mitigated; any minimum term of imprisonment in that range is permitted unless the court finds pursuant to G.S. 15A-1340.16

that an aggravated or mitigated sentence is appropriate. The presumptive range is the middle of the three ranges in the cell.

(3) A mitigated range of minimum durations if the court finds pursuant to G.S. 15A-1340.16 that a mitigated sentence of imprisonment is justified; in such a case, any minimum term of imprisonment in the mitigated range is permitted. The mitigated range is the lower of the three ranges in the cell.

(4) An aggravated range of minimum durations if the court finds pursuant to G.S. 15A-1340.16 that an aggravated sentence of imprisonment is justified; in such a case, any minimum term of imprisonment in the aggravated range is permitted. The aggravated range is the higher of the three ranges in the cell.

PRIOR RECORD LEVEL

	I 0-1 Pt	II 2-5 Pts	III 6-9 Pts	IV 10-13 Pts	V 14-17 Pts	VI 18+ Pts	
A	Life Imprisonment ~~Without Parole or Death~~ With Parole or Without Parole, or Death, as Established by Statute						
	A	A	A	A	A	A	DISPOSITION
	240-300	276-345	317-397	365-456	Life Imprisonment Without Parole		Aggravated
B1	192-240	221-276	254-317	292-365	336-420	386-483	PRESUMPTIVE
	144-192	166-221	190-254	219-292	252-336	290-386	Mitigated
	A	A	A	A	A	A	DISPOSITION
	157-196	180-225	207-258	238-297	273-342	314-393	Aggravated
B2	125-157	144-180	165-207	190-238	219-273	251-314	PRESUMPTIVE
	94-125	108-144	124-165	143-190	164-219	189-251	Mitigated
	A	A	A	A	A	A	DISPOSITION
	73-92	83-104	96-120	110-138	127-159	146-182	Aggravated
C	58-73	67-83	77-96	88-110	101-127	117-146	PRESUMPTIVE
	44-58	50-67	58-77	66-88	76-101	87-117	Mitigated
	A	A	A	A	A	A	DISPOSITION
	64-80	73-92	84-105	97-121	111-139	128-160	Aggravated
D	51-64	59-73	67-84	78-97	89-111	103-128	PRESUMPTIVE
	38-51	44-59	51-67	58-78	67-89	77-103	Mitigated
	I/A	I/A	A	A	A	A	DISPOSITION
	25-31	29-36	33-41	38-48	44-55	50-63	Aggravated
E	20-25	23-29	26-33	30-38	35-44	40-50	PRESUMPTIVE
	15-20	17-23	20-26	23-30	26-35	30-40	Mitigated
	I/A	I/A	I/A	A	A	A	DISPOSITION
	16-20	19-23	21-27	25-31	28-36	33-41	Aggravated
F	13-16	15-19	17-21	20-25	23-28	26-33	PRESUMPTIVE
	10-13	11-15	13-17	15-20	17-23	20-26	Mitigated
	I/A	I/A	I/A	I/A	A	A	DISPOSITION
	13-16	14-18	17-21	19-24	22-27	25-31	Aggravated
G	10-13	12-14	13-17	15-19	17-22	20-25	PRESUMPTIVE
	8-10	9-12	10-13	11-15	13-17	15-20	Mitigated
	C/I/A	I/A	I/A	I/A	I/A	A	DISPOSITION
	6-8	8-10	10-12	11-14	15-19	20-25	Aggravated
H	5-6	6-8	8-10	9-11	12-15	16-20	PRESUMPTIVE
	4-5	4-6	6-8	7-9	9-12	12-16	Mitigated
	C	C/I	I	I/A	I/A	I/A	DISPOSITION
	6-8	6-8	6-8	8-10	9-11	10-12	Aggravated

I	4-6	4-6	5-6	6-8	7-9	8-10	PRESUMPTIVE
	3-4	3-4	4-5	4-6	5-7	6-8	Mitigated"

SECTION 4. G.S. 15A-145.5 reads as rewritten:

"§ **15A-145.5. Expunction of certain misdemeanors and felonies; no age limitation.**

(a) For purposes of this section, the term "nonviolent misdemeanor" or "nonviolent felony" means any misdemeanor or felony except the following:

(1) A Class A through G felony or a Class A1 misdemeanor.

(2) An offense that includes assault as an essential element of the offense.

(3) An offense requiring registration pursuant to Article 27A of Chapter 14 of the General Statutes, whether or not the person is currently required to register.

(4) Any of the following sex-related or stalking offenses: G.S. 14-27.7A(b), 14-190.7, 14-190.8, 14-190.9, 14-202, 14-208.11A, 14-208.18, 14-277.3, 14-277.3A, 14-321.1.

(5) Any felony offense in Chapter 90 of the General Statutes where the offense involves methamphetamines, heroin, or possession with intent to sell or deliver or sell and deliver cocaine.

(6) An offense under G.S. 14-12.12(b), 14-12.13, or 14-12.14, or any offense for which punishment was determined pursuant to G.S. 14-3(c).

(7) An offense under G.S. 14-401.16.

(8) Any felony offense in which a commercial motor vehicle was used in the commission of the offense.

…

(c) A person may file a petition, in the court where the person was convicted, for expunction of a nonviolent misdemeanor or nonviolent felony conviction from the person's criminal record if the person has no other misdemeanor or felony convictions, other than a traffic ~~violation, and was convicted of a nonviolent misdemeanor or nonviolent felony that is eligible pursuant to subsection (b) of this section.~~ violation. The petition shall not be filed earlier than 15 years after the date of the conviction or when any active sentence, period of probation, and post-release supervision has been served, whichever occurs later. The petition shall contain, but not be limited to, the following:

(1) An affidavit by the petitioner that the petitioner has been of good moral character since the date of conviction for the nonviolent misdemeanor or nonviolent felony and has not been convicted of any other felony or misdemeanor, other than a traffic violation, under the laws of the United States or the laws of this State or any other state.

(2) Verified affidavits of two persons who are not related to the petitioner or to each other by blood or marriage, that they know the character and reputation of the petitioner in the community in which the petitioner lives and that the petitioner's character and reputation are good.

(3) A statement that the petition is a motion in the cause in the case wherein the petitioner was convicted.

(4) An application on a form approved by the Administrative Office of the Courts requesting and authorizing a name-based State and national criminal history record check by the Department of Justice using any information required by the Administrative Office of the Courts to identify the individual, a search by the Department of Justice for any outstanding warrants on pending criminal cases, and a search of the confidential record of expunctions maintained by the Administrative Office of the Courts. The application shall be forwarded to the Department of Justice and to the Administrative Office of the Courts, which shall conduct the searches and report their findings to the court.

(5) An affidavit by the petitioner that no restitution orders or civil judgments representing amounts ordered for restitution entered against the petitioner are outstanding.

Upon filing of the petition, the petition shall be served upon the district attorney of the court wherein the case was tried resulting in conviction. The district attorney shall have 30 days thereafter in which to file any objection thereto and shall be duly notified as to the date of the hearing of the petition. Upon good cause shown, the court may grant the district attorney an additional 30 days to file objection to the petition. The district attorney shall make his or her best efforts to contact the victim, if any, to notify the victim of the request for expunction prior to the date of the hearing.

The presiding judge is authorized to call upon a probation officer for any additional investigation or verification of the petitioner's conduct since the conviction. The court shall review any other information the court deems relevant, including, but not limited to, affidavits or other testimony provided by law enforcement officers, district attorneys, and victims of crimes committed by the petitioner.

If the court, after hearing, finds that the petitioner has not previously been granted an expunction under this section, G.S. 15A-145, 15A-145.1, 15A-145.2, 15A-145.3, or 15A-145.4; the petitioner has remained of good moral character; the petitioner has no outstanding warrants or pending criminal cases; the petitioner has no other felony or misdemeanor convictions other than a traffic violation; the petitioner has no outstanding restitution orders or civil judgments representing amounts ordered for restitution entered against the petitioner; and the petitioner was convicted of an offense eligible for expunction under this section and was convicted of, and completed any sentence received for, the nonviolent misdemeanor or nonviolent felony at least 15 years prior to the filing of the petition, it may order that such person be restored, in the contemplation of the law, to the status the person occupied before such arrest or indictment or information. If the court denies the petition, the order shall include a finding as to the reason for the denial.

…."

SECTION 4.1. G.S. 19A-2, as amended by S.L. 2013-3, reads as rewritten:

"§ **19A-2. Purpose.**

It shall be the purpose of this Article to provide a civil remedy for the protection and humane treatment of animals in addition to any criminal remedies that are available and it shall be proper in any action to combine causes of action against one or more defendants for the protection of one or more animals. A real party in interest as plaintiff shall be held to include any person even though the person does not have a possessory or ownership right in an animal; a real party in interest as defendant shall include any person who owns or has possession of an animal. Venue for any action filed under this ~~Chapter~~ Article shall only be in the county ~~in superior court~~ where any violation is alleged to have occurred."

SECTION 4.2. G.S. 20-171.19(a) reads as rewritten:

"(a) No person shall operate an all-terrain vehicle on a public street or highway or public vehicular area when such operation is otherwise permitted by law, unless the person wears eye protection and a safety helmet meeting United States Department of Transportation standards for motorcycle helmets."

SECTION 5. G.S. 20-183.2(a1) reads as rewritten:

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

(1) Historic vehicles, as ~~defined~~ described in ~~G.S. 20-79.4(b)(63).~~ G.S. 20-79.4(b)(88).

(2) Buses titled to a local board of education and subject to the school bus inspection requirements specified by the State Board of Education and G.S. 115C-248."

SECTION 6. G.S. 28A-2-6(e) reads as rewritten:

"(e) Rules of Civil Procedure. – Unless the clerk of superior court otherwise directs, ~~Rules 4.5,~~ Rules 4, 5, 6(a), 6(d), 6(e), 18, 19, 20, 21, 24, 45, 56, and 65 of G.S. 1A-1, the Rules of Civil Procedure, shall apply to estate proceedings. Upon motion of a party or the clerk of superior court, the clerk may further direct that any or all of the remaining Rules of Civil Procedure shall apply, including, without limitation, discovery rules; however, nothing in Rule 17 requires the appointment of a guardian ad litem for a party represented except as provided in G.S. 28A-2-7. In applying these Rules to an estate proceeding pending before the clerk of superior court, the term "judge" shall mean "clerk of superior court.""

SECTION 6.1. G.S. 62-333 reads as rewritten:

"§ **62-333. Screening employment applications.**

The Chief Personnel ~~Officer or his designee~~ Officer, or that person's designee, of any public utility franchised to do business in North Carolina shall be permitted to obtain from the State Bureau of Investigation a confidential copy of criminal history record information for screening an applicant for employment with or an employee of a utility or utility contractor where the employment or job to be performed falls within a class or category of positions certified by the North Carolina Utilities Commission as permitting or requiring access to nuclear power facilities or access to or control over nuclear material.

The State Bureau of Investigation shall charge a reasonable fee to defray the administrative costs of providing criminal history record information for purposes of employment application screening. The State Bureau of Investigation is authorized to retain fees charged pursuant to this section and to expend those fees in accordance with the ~~Executive Budget Act~~ State Budget Act for the purpose of discharging its duties under this section."

SECTION 7.(a) G.S. 74-54(b) reads as rewritten:

"(b) The applicant shall have the option of filing a separate bond for each operating permit or of filing a blanket bond covering all mining operations within the State for which the applicant holds a permit. The amount of each bond shall be based upon the area of affected land to be reclaimed under the approved reclamation plan or plans to which the bond pertains, less any area where reclamation has been completed and released from coverage by the Department, pursuant to G.S. 74-56, or based on any other criteria established by the ~~North Carolina Mining and Energy~~ Commission. The Department shall set the amount of the required bond in all cases, based upon a schedule established by the ~~North Carolina Mining and Energy~~ Commission."

SECTION 7.(b) G.S. 74-54.1(c) reads as rewritten:

"(c) The Department shall annually report on or before ~~1 September~~ September 1 to the Environmental Review Commission, the Fiscal Research Division, and the ~~North Carolina Mining and Energy~~ Commission on the cost of implementing this Article. The report shall include the fees established, collected, and disbursed under this section and any other information requested by the General Assembly or the Commission."

SECTION 7.(c) G.S. 74-67 reads as rewritten:

"§ **74-67. Exemptions.**

The provisions of this Article shall not apply to those activities of the Department of Transportation, nor of any person, firm, or corporation acting under contract with ~~said~~ the Department of Transportation, on highway rights-of-way or borrow pits maintained solely in connection with the construction, repair, and maintenance of the public road systems of North Carolina; provided, that this exemption shall not become effective until the Department of Transportation shall have adopted reclamation standards applying to such activities and such standards have been approved by the ~~North Carolina Mining and Energy~~ Commission. The provisions of this Article shall not apply to mining on federal lands under a valid permit from the U.S. Forest Service or the U.S. Bureau of Land Management."

SECTION 8. G.S. 90B-3 reads as rewritten:

"§ **90B-3. Definitions.**

The following definitions apply in this Chapter:

(1) Board. – The North Carolina Social Work Certification and Licensure Board.

~~(2) Licensed Clinical Social Worker. – A person who is competent to function independently, who holds himself or herself out to the public as a social worker, and who offers or provides clinical social work services or supervises others engaging in clinical social work practice.~~

(3) Certified Master Social Worker. – A person who is certified under this Chapter to practice social work as a master social worker and is engaged in the practice of social work.

(4) Certified Social Work Manager. – A person who is certified under this Chapter to practice social work as a social work manager and is engaged in the practice of social work.

(5) Certified Social Worker. – A person who is certified under this Chapter to practice social work as a social worker and is engaged in the practice of social work.

(6) Clinical Social Work Practice. – The professional application of social work theory and methods to the biopsychosocial diagnosis, treatment, or prevention, of emotional and mental disorders. Practice includes, by whatever means of communications, the treatment of individuals, couples, families, and groups, including the use of psychotherapy and referrals to and collaboration with other health professionals when appropriate. Clinical social work practice shall not include the provision of supportive daily living services to persons with severe and persistent mental illness as defined in G.S. 122C-3(33a).

(6a) Licensed Clinical Social Worker. – A person who is competent to function independently, who holds himself or herself out to the public as a social worker, and who offers or provides clinical social work services or supervises others engaging in clinical social work practice.

(6b) Licensed Clinical Social Worker Associate. – A person issued an associate license to provide clinical social work services pursuant to G.S. 90B-7(f).

(7) Practice of Social Work. – To perform or offer to perform services, by whatever means of communications, for other people that involve the application of social work values, principles, and techniques in areas such as social work services, consultation and administration, and social work planning and research.

(8) Social Worker. – A person certified, licensed, or associate licensed by this Chapter or otherwise exempt under G.S. 90B-10."

SECTION 9. G.S. 115D-12 reads as rewritten:

"§ **115D-12. Each institution to have board of trustees; selection of trustees.**

(a) Each community college established or operated pursuant to this Chapter shall be governed by a board of trustees consisting of 13 members, or of additional members if selected according to the special procedure prescribed by the third paragraph of this subsection, who shall be selected by the following agencies. No member of the General Assembly may be appointed to a local board of trustees for a community college.

Group One – four trustees, elected by the board of education of the public school administrative unit located in the administrative area of the institution. If there are two or more public school administrative units, whether city or county units, or both, located within the administrative area, the trustees shall be elected jointly by all of the boards of education of those units, each board having one vote in the election of each trustee, except as provided in G.S. 115D-59. No board of education shall elect a member of the board of education or any person employed by the board of education to serve as a trustee, however, any such person currently serving on a board of trustees shall be permitted to fulfill the unexpired portion of the trustee's current term.

Group Two – four trustees, elected by the board of commissioners of the county in which the institution is located. Provided, however, if the administrative area of the institution is composed of two or more counties, the trustees shall be elected jointly by the boards of commissioners of all those counties, each board having one vote in the election of each trustee. Provided, also, the county commissioners of the county in which the community college has established a satellite campus may elect an additional two members if the board of trustees of the community college agrees. No more than one trustee from Group Two may be a member of a board of county commissioners. Should the boards of education or the boards of commissioners involved be unable to agree on one or more trustees the senior resident superior court judge in the superior court district or set of districts as defined in G.S. 7A-41.1 where the institution is located shall fill the position or positions by appointment.

Group Three – four trustees, appointed by the Governor.

Group Four – the president of the student government or the chairman of the executive board of the student body of each community college established pursuant to ~~G.S. 115D~~this Chapter shall be an ex officio nonvoting member of the board of trustees of each said institution.

(b) All trustees shall be residents of the administrative area of the institution for which they are selected or of counties contiguous thereto with the exception of members provided for in ~~G.S. 115D-12(a), Group Four.~~subsection (a) of this section, Group Four.

(b1) No person who has been employed full time by the community college within the prior 5 years and no spouse or child of a person currently employed full time by the community college shall serve on the board of trustees of that college.

(c) Vacancies occurring in any group for whatever reason shall be filled for the remainder of the unexpired term by the agency or agencies authorized to select trustees of that group and in the manner in which regular selections are made. Should the selection of a trustee not be made by the agency or agencies having the authority to do so within 60 days after the date on which a vacancy occurs, whether by creation or expiration of a term or for any other reason, the Governor shall fill the vacancy by appointment for the remainder of the unexpired term."

SECTION 9.1. G.S. 116-201(b)(1) reads as rewritten:

"(1) "Article" or "this Article" means ~~this article 23~~ Article 23 of Chapter 116 of the General Statutes of North ~~Carolina, presently comprising G.S. 116-201 through 116-209.24;~~Carolina;"

SECTION 10. G.S. 120-12.1 reads as rewritten:

"§ **120-12.1. Reports on vacant positions in the Judicial Department and ~~three~~ two other departments.**

The Judicial Department, the Department of Justice, and the Department of Public Safety shall each report by February 1 of each year to the Chairs of the House and Senate Appropriations Committees and the Chairs of the House and Senate Appropriations Subcommittees on Justice and Public Safety on all positions within that department that have remained vacant for 12 months or more. The report shall include the original position vacancy dates, the dates of any postings or repostings of the positions, and an explanation for the length of the vacancies."

SECTION 11. G.S. 122C-22(a) reads as rewritten:

"(a) ~~The~~ All of the following are excluded from the provisions of this Article and are not required to obtain licensure under this Article:

(1) Physicians and psychologists engaged in private office ~~practice;~~practice.

(2) General hospitals licensed under Article 5 of Chapter 131E of the General Statutes, that operate special units for the mentally ill, developmentally disabled, or substance ~~abusers;~~abusers.

(3) State and federally operated ~~facilities;~~facilities.

(4) Adult care homes licensed under Chapter 131D of the General ~~Statutes;~~Statutes.

(5) Developmental child care centers licensed under Article 7 of Chapter 110 of the General ~~Statutes;~~Statutes.

(6) Persons subject to licensure under rules of the Social Services ~~Commission;~~Commission.

(7) Persons subject to rules and regulations of the Division of Vocational Rehabilitation ~~Services;~~Services.

(8) Facilities that provide occasional respite care for not more than two individuals at a time; provided that the primary purpose of the facility is other than as defined in ~~G.S. 122C-3(14);~~G.S. 122C-3(14).

(9) Twenty-four-hour nonprofit facilities established for the purposes of shelter care and recovery from alcohol or other drug addiction through a 12-step, self-help, peer role modeling, and self-governance ~~approach;~~approach.

(10) Inpatient chemical dependency or substance abuse facilities that provide services exclusively to inmates of the Division of Adult Correction of the Department of Public Safety, as described in ~~G.S. 148-19.1; and~~G.S. 148-19.1.

(11) A charitable, nonprofit, faith-based, adult residential treatment facility that does not receive any federal or State funding and is a religious organization exempt from federal income tax under section 501(a) of the Internal Revenue ~~Code; [and]~~Code.

(12) A home in which up to three adults, two or more having a disability, co-own or co-rent a home in which the persons with disabilities are receiving three or more hours of day services in the home or up to 24 hours of residential services in the home. The individuals who have disabilities cannot be required to move if the individuals change services, change service providers, or discontinue services."

SECTION 12. G.S. 136-89.210(1) reads as rewritten:

"(1) ~~Reserved.~~"

SECTION 12.1. The catchline of G.S. 143B-721 reads as rewritten:

"§ **143B-721. Post-Release Supervision and Parole Commission – members; selection; removal; ~~chairman;~~ chair; compensation; quorum; services.**"

SECTION 13. G.S. 143B-1100(a) reads as rewritten:

"(a) There is hereby created the Governor's Crime Commission of the Department of Public Safety. The Commission shall consist of ~~36~~37 voting members and ~~six~~ five nonvoting members. The composition of the Commission shall be as follows:

(1) The voting members shall be:

a. The Governor, the Chief Justice of the Supreme Court of North Carolina (or the Chief Justice's designee), the Attorney General, the Director of the Administrative Office of the Courts, the Secretary of the Department of Health and Human Services, the Secretary of Public Safety (or the Secretary's designee), and the Superintendent of Public Instruction;

b. A judge of superior court, a judge of district court specializing in juvenile matters, a chief district court judge, a clerk of superior court, and a district attorney;

c. A defense attorney, three sheriffs (one of whom shall be from a "high crime area"), three police executives (one of whom shall be from a "high crime area"), eight citizens (two with knowledge of juvenile delinquency and the public school system, two of whom shall be under the age of 21 at the time of their appointment, one advocate for victims of all crimes, one representative from a domestic violence or sexual assault program, one representative of a "private juvenile delinquency program," and one in the discretion of the Governor),

three county commissioners or county officials, and three mayors or municipal officials;

d. Two members of the North Carolina House of Representatives and two members of the North Carolina Senate.

(2) The nonvoting members shall be the Director of the State Bureau of Investigation, the Deputy Director of the Division of Juvenile Justice of the Department of Public Safety who is responsible for Intervention/Prevention programs, the Deputy Director of the Division of Juvenile Justice of the Department of Public Safety who is responsible for Youth Development programs, the Section Chief of the Section of Prisons of the Division of Adult Correction and the Section Chief of the Section of Community Corrections of the Division of Adult Correction."

SECTION 14.(a) G.S. 163-82.12 reads as rewritten:

"§ **163-82.12. Promulgation of guidelines relating to computerized voter registration.**

The State Board of Elections shall make all guidelines necessary to administer the statewide voter registration system established by this Article. All county boards of elections shall follow these guidelines and cooperate with the State Board of Elections in implementing guidelines. These guidelines shall include provisions for all of the following:

…

(8b) Notifying voter-registration applicants whose drivers license or last four digits of social security number does not result in a validation, attempting to resolve the discrepancy, initiating investigations under G.S. 163-33(3) or challenges under Article 8 of this Chapter where warranted, and notifying any voters of the requirement under ~~G.S. 163-166.2(b2)~~ G.S. 163-166.12(b2) to present identification when voting.

…."

SECTION 14.(b) G.S. 163-166.12 reads as rewritten:

"§ **163-166.12. Requirements for certain voters who register by mail.**

(a) Voting in Person. – An individual who has registered to vote by mail on or after January 1, 2003, and has not previously voted in an election that includes a ballot item for federal office in North Carolina, shall present to a local election official at a voting place before voting there one of the following:

(1) A current and valid photo identification.

(2) A copy of one of the following documents that shows the name and address of the voter: a current utility bill, bank statement, government check, paycheck, or other government document.

(b) Voting Mail-In Absentee. – An individual who has registered to vote by mail on or after January 1, 2003, and has not previously voted in an election that includes a ballot item for federal office in North Carolina, in order to cast a mail-in absentee vote, shall submit with the mailed-in absentee ballot one of the following:

(1) A copy of a current and valid photo identification.

(2) A copy of one of the following documents that shows the name and address of the voter: a current utility bill, bank statement, government check, paycheck, or other government document.

(b1) Notation of Identification Proof. – The county board of elections shall note the type of identification proof submitted by the voter under the provisions of subsection (a) or (b) of this section and may dispose of the tendered copy of identification proof as soon as the type of proof is noted in the voter registration records.

(b2) Voting When Identification Numbers Do Not Match. – Regardless of whether an individual has registered by mail or by another method, if the individual has provided with the registration form a drivers license number or last four digits of a Social Security number but the computer validation of the number as required by G.S. 163-82.12 did not result in a match, and the number has not been otherwise validated by the board of elections, in the first election in

which the individual votes that individual shall submit with the ballot the form of identification described in subsection (a) or subsection (b) of this section, depending upon whether the ballot is voted in person or absentee. If that identification is provided and the board of elections does not determine that the individual is otherwise ineligible to vote a ballot, the failure of identification numbers to match shall not prevent that individual from registering to vote and having that individual's vote counted. If the individual registers and votes under G.S. 163-82.6A, the identification documents required in that section, rather than those described in subsection (a) or (b) of this section, apply.

(c) The Right to Vote Provisionally. – If an individual is required under subsection (a), (b), or (b2) of this section to present identification in order to vote, but that individual does not present the required identification, that individual may vote a provisional official ballot. If the voter is at the voting place, the voter may vote provisionally there without unnecessary delay. If the voter is voting by mail-in absentee ballot, the mailed ballot without the required identification shall be treated as a provisional official ballot.

(d) Exemptions. – This section does not apply to any of the following:

(1) An individual who registers by mail and submits as part of the registration application either of the following:

a. A copy of a current and valid photo identification.

b. A copy of one of the following documents that shows the name and address of the voter: a current utility bill, bank statement, government check, paycheck, or other government document.

(2) An individual who registers by mail and submits as part of the registration application the individual's drivers license number or at least the last four digits of the individual's social security number where an election official matches either or both of the numbers submitted with an existing State identification record bearing the same number, name, and date of birth contained in the submitted registration. If any individual's number does not match, the individual shall provide identification as required in subsection (b2) of this section in the first election in which the individual votes.

(3) An individual who is entitled to vote by absentee ballot under the Uniformed and Overseas Citizens Absentee Voting Act.

(4) An individual who is entitled to vote otherwise than in person under section 3(b)(2)(B)(ii) of the Voting Accessibility for the Elderly and Handicapped Act.

(5) An individual who is entitled to vote otherwise than in person under any other federal law."

SECTION 15. The introductory language of Section 5 of S.L. 2012-11 reads as rewritten:

"**SECTION 5.** ~~G.S. 160A-60(a)~~ G.S. 160A-58.60(a) reads as rewritten:"

SECTION 16. The introductory language of Section 2(b) of S.L. 2012-120 reads as rewritten:

"**SECTION 2.(b)** ~~G.S. 140-3.15(g)~~ G.S. 140-5.13(g) reads as rewritten:"

SECTION 16.1. Section 1(b) of S.L. 2013-1 reads as rewritten:

"**SECTION 1.(b)** The State Board of Education shall make high school diploma endorsements, as provided under this section, available to students graduating from high school beginning with the 2014-2015 school year. The State Board of Education shall report to the Joint Legislative Education Oversight Committee on the progress toward establishing specific college and career endorsements for high school diplomas and for awarding these endorsements by February 1, 2014. The State Board of Education shall submit the report on the impact of awarding the high school endorsements on high school graduation, college acceptance and remediation, and post-high school employment rates by September 1, 2016, and annually thereafter."

SECTION 16.2. The introductory language of Section 2 of S.L. 2013-26 reads as rewritten:

"**SECTION 2.** Article II of Chapter 5 of the Charter of the City of ~~Charlotte~~ Charlotte, being S.L. 2000-26, is amended by adding the following new section:"

SECTION 16.3. The introductory language of Section 3 of S.L. 2013-55 reads as rewritten:

"**SECTION 3.** ~~G.S. 47-29~~ G.S. 47-29.1 is amended by adding a new subsection to read:"

PART II. OTHER TECHNICAL AMENDMENTS

SECTION 17.(a) G.S. 15-11.2(f), as amended by Section 2 of S.L. 2013-158, reads as rewritten:

"(f) Disbursement of Proceeds of Sale. – If the law enforcement agency sells the firearm pursuant to subdivision (2) of ~~subsection (e)~~ subsection (d) of this section, then the proceeds of the sale shall be retained by the law enforcement agency and used for law enforcement purposes. The receiving law enforcement agency shall maintain a record and inventory of all firearms received pursuant to this section, as well as the disposition of the firearm, including any funds received from a sale of a firearm or any firearms or other property received in exchange or trade of a firearm."

SECTION 17.(b) This section becomes effective September 1, 2013.

SECTION 18.(a) G.S. 20-28.2(a1)(2), as amended by Section 1 of S.L. 2013-243, reads as rewritten:

"(2) Innocent Owner. – A motor vehicle owner:

…

e. Who is (i) a rental car company as defined in ~~G.S. 66-201(a),~~ G.S. 66-201(a) and the vehicle was driven by a person who is not listed as an authorized driver on the rental ~~agreement,~~ agreement as defined in G.S. 66-201; or (ii) ~~is~~ a rental car company as defined in G.S. 66-201(a) and the vehicle was driven by a person who is listed as an authorized driver on the rental agreement as defined in G.S. 66-201 and if the offense resulting in seizure was an impaired driving offense, the rental car company has no actual knowledge of the revocation of the renter's drivers' license at the time the rental agreement is entered, or if the offense resulting in seizure was a felony speeding to elude arrest offense, the rental agreement expressly prohibits use of the vehicle while committing a felony; or

…."

SECTION 18.(b) This section becomes effective December 1, 2013.

SECTION 18.5. G.S. 90-113.75(c), as amended by S.L. 2013-152, reads as rewritten:

"(c) ~~An~~ A person or entity permitted access to data under this Article that, in good faith, makes a report or transmits data required or allowed by this Article is immune from civil or criminal liability that might otherwise be incurred or imposed as a result of making the report or transmitting the data."

SECTION 19. G.S. 97-29(g) reads as rewritten:

"(g) The weekly compensation payment for members of the North Carolina National Guard and the North Carolina State Defense Militia shall be the maximum amount established annually in accordance with ~~the last paragraph~~ subsection (i) of this section per week as fixed herein. The weekly compensation payment for deputy sheriffs, or those acting in the capacity of deputy sheriffs, who serve upon a fee basis, shall be thirty dollars ($30.00) a week as fixed herein."

SECTION 20.(a) G.S. 115C-296(b)(1)c., as amended by Section 5(b) and (c) of S.L. 2013-226, reads as rewritten:

"c. The State Board of Education, in consultation with local boards of education and the Board of Governors of The University of North Carolina, shall (i) reevaluate and enhance the requirements for renewal of teacher ~~licenses~~ licenses, (ii) consider modifications in the license renewal achievement and to make it a mechanism for teachers to renew continually their knowledge and professional skills, and (iii) integrate digital teaching and learning into the requirements for licensure renewal."

SECTION 20.(b) This section becomes effective July 1, 2017, and applies beginning with the 2017-2018 school year.

SECTION 21. G.S. 115C-366(a3) reads as rewritten:

"(a3) A student who is not a domiciliary of a local school administrative unit may attend, without the payment of tuition, the public schools of that unit if all of the following apply:

(1) The student resides with an adult, who is a domiciliary of that unit, as a result of any one of the following:

a. The death, serious illness, or incarceration of a parent or legal ~~guardian,~~guardian.

b. The abandonment by a parent or legal guardian of the complete control of the student as evidenced by the failure to provide substantial financial support and parental ~~guidance,~~guidance.

c. Abuse or neglect by the parent or legal ~~guardian,~~guardian.

d. The physical or mental condition of the parent or legal guardian is such that he or she cannot provide adequate care and supervision of the ~~student,~~student.

e. The relinquishment of physical custody and control of the student by the student's parent or legal guardian upon the recommendation of the department of social services or the Division of Mental ~~Health,~~Health.

f. The loss or uninhabitability of the student's home as the result of a natural ~~disaster, or~~disaster.

g. The parent or legal guardian is one of the following:

~~(1)~~1. On active military duty and is deployed out of the local school administrative unit in which the student ~~resides;~~resides. For purposes of this sub-sub-subdivision, the term "active duty" does not include periods of active duty for training for less than 30 days.

~~(2)~~2. A member or veteran of the uniformed services who is severely injured and medically discharged or retired, but only for a period of one year after the medical discharge or retirement of the parent or ~~guardian; or~~guardian.

~~(3)~~3. A member of the uniformed services who dies on active duty or as a result of injuries sustained on active duty, but only for a period of one year after death. For purposes of this sub-sub-subdivision, the term "active duty" is as defined in G.S. 115C-407.5

~~For purposes of this sub-subdivision, the term "active duty" does not include periods of active duty for training for less than 30 days.~~ Assignment under this sub-subdivision is only available if some evidence of the ~~deployment~~ deployment, medical discharge, retirement, or death is tendered with the affidavits required under subdivision (3) of this subsection.

(2) The student is:

a. Not currently under a term of suspension or expulsion from a school for conduct that could have led to a suspension or an expulsion from the local school administrative unit, or

b. Currently under a term of suspension or expulsion from a school for conduct that could have led to a suspension or an expulsion from the local school administrative unit and is identified as eligible for special education and related services under the Individuals with Disabilities Education Improvement Act, 20 U.S.C. § 1400, et seq., (2004). Assignment under this sub-subdivision is available only if evidence of current eligibility is tendered with the affidavit required under subdivision (3) of this subsection.

(3) The caregiver adult and the student's parent, guardian, or legal custodian have each completed and signed separate affidavits ~~that:~~that do all of the following:

a. Confirm the qualifications set out in this subsection establishing the student's ~~residency,~~residency.

b. Attest that the student's claim of residency in the unit is not primarily related to attendance at a particular school within the ~~unit, and~~unit.

c. Attest that the caregiver adult has been given and accepts responsibility for educational decisions for the student.

If the student's parent, guardian, or legal custodian is unable, refuses, or is otherwise unavailable to sign the affidavit, then the caregiver adult shall attest to that fact in the affidavit. If the student is a minor, the caregiver adult must make educational decisions concerning the student and has the same legal authority and responsibility regarding the student as a parent or legal custodian would have even if the parent, guardian, or legal custodian does not sign the affidavit. The minor student's parent, legal guardian, or legal custodian retains liability for the student's acts.

Upon receipt of both affidavits or an affidavit from the caregiver adult that includes an attestation that the student's parent, guardian, or legal custodian is unable, refuses, or is otherwise unavailable to sign an affidavit, the local board shall admit and assign as soon as practicable the student to an appropriate school, as determined under the local board's school assignment policy, pending the results of any further procedures for verifying eligibility for attendance and assignment within the local school administrative unit.

If it is found that the information contained in either or both affidavits is false, then the local board may, unless the student is otherwise eligible for school attendance under other laws or local board policy, remove the student from school. If a student is removed from school, the board shall provide an opportunity to appeal the removal under the appropriate policy of the local board and shall notify any person who signed the affidavit of this opportunity. If it is found that a person willfully and knowingly provided false information in the affidavit, the maker of the affidavit shall be guilty of a Class 1 misdemeanor and shall pay to the local board an amount equal to the cost of educating the student during the period of enrollment. Repayment shall not include State funds.

Affidavits shall include, in large print, the penalty, including repayment of the cost of educating the student, for providing false information in an affidavit."

SECTION 22. G.S. 116E-4(c), as amended by Section 5 of S.L. 2013-80, reads as rewritten:

"(c) The Board shall report quarterly to the Joint Legislative Education Oversight Committee, the Joint Legislative Commission on Governmental Operations, and the Joint Legislative Oversight Committee on Information Technology beginning September 30, 2013. The report shall include the following:

(1) An update on the implementation of the System's activities.

(2) Any proposed or planned expansion of System data.

(3) Any other recommendations made by the Board, including the most effective and efficient configuration for the System."

SECTION 23.(a) G.S. 122C-115(a), as amended by Section 4(a) of S.L. 2013-85, reads as rewritten:

"(a) A county shall provide mental health, developmental disabilities, and substance abuse services in accordance with rules, policies, and guidelines adopted pursuant to statewide restructuring of the management responsibilities for the delivery of services for individuals with mental illness, intellectual or other developmental disabilities, and substance abuse disorders under a 1915(b)/(c) Medicaid Waiver through an area authority. Beginning July 1, 2012, the catchment area of an area authority shall contain a minimum population of at least 300,000. Beginning July 1, 2013, the catchment area of an area authority shall contain a minimum population of at least 500,000. To the extent this section conflicts with ~~G.S. 153A-77(a)~~ G.S. 153A-77 or G.S. 122C-115.1, the provisions of this section control."

SECTION 23.(b) This section becomes effective January 1, 2014.

SECTION 24. G.S. 147-33.81(1), as enacted by Section 1(b) of S.L. 2013-333, reads as rewritten:

"(1) "Cooperative purchasing agreement" means an agreement between a vendor and one or more states or state agencies providing that the parties may collaboratively or collectively purchase information technology goods and services in order to increase ~~economics~~economies of scale and reduce costs."

SECTION 25.(a) The introductory language of G.S. 160A-388(b1), as enacted by Section 1 of S.L. 2013-126, reads as rewritten:

"(b1) Appeals. – The board of adjustment shall hear and decide appeals from zoning or unified development ordinance and may hear appeals arising out of any other ordinance that regulates land use or development, pursuant to all of the following:"

SECTION 25.(b) This section becomes effective October 1, 2013.

SECTION 26. The Revisor of Statutes shall replace the term "cash converter" with "currency converter" wherever it appears in the General Statutes.

SECTION 27. Effective October 1, 2013, Section 28 of S.L. 2013-129 is repealed.

SECTION 27.5. If Senate Bill 558, 2013 Regular Session, becomes law, Section 1(e) of S.L. 2013-284 is repealed.

SECTION 27.7. If House Bill 14, 2013 Regular Session, becomes law, then Section 2 of S.L. 2007-112, as amended by Section 40 of S.L. 2007-484, Section 1 of S.L. 2013-223, and Section 60(f) of House Bill 14, reads as rewritten:

"**SECTION 2.** Occupancy Tax. – (a) Authorization and Scope. – The Carteret County Board of Commissioners may levy a room occupancy and tourism development tax of five decisions of administrative officials charged with enforcement of the accommodation furnished by any hotel, motel, inn, tourist camp, condominium, cottage, campground, rental agency, or other similar place within the county that is subject to sales tax imposed by the State under G.S. 105-164.4(a)(3). This tax is in addition to any State or local sales tax. ~~This tax does not apply to accommodations furnished by nonprofit charitable, educational, or religious organizations when furnished in furtherance of their nonprofit purpose.~~"

PART III. OTHER CHANGES

SECTION 27.8. G.S. 14-118.6(b) reads as rewritten:

"§ **14-118.6. Filing false lien or encumbrance.**

…

(b) In the case of a lien or encumbrance presented to the register of deeds for filing, if the register of deeds has a reasonable suspicion that the lien or encumbrance is false, the register of deeds may refuse to file the lien or encumbrance. Neither the register of deeds nor any other entity shall be liable for filing or refusing to file a lien or encumbrance under this section. If the filing of the lien or encumbrance is denied, the register of deeds shall allow the filing of a Notice of Denied Lien or Encumbrance Filing on a form adopted by the Secretary of

~~State.~~State, for which no filing fee shall be collected. The Notice of Denied Lien or Encumbrance Filing shall not itself constitute a lien or encumbrance. If the filing of the lien or encumbrance is denied, any interested person may file a special proceeding in the county where the filing was denied within ten (10) business days of the filing of the Notice of Denied Lien or Encumbrance Filing asking the court to find that the proposed filing has a statutory or contractual basis and to order that the document be filed. If, after hearing, upon a minimum of five (5) days' notice and opportunity to be heard to all interested persons and all persons claiming an ownership interest in the property, the court finds that there is a statutory or contractual basis for the proposed filing, the court shall order the document filed. A lien or encumbrance filed upon order of the court under this subsection shall have a priority interest as of the time of the filing of the Notice of Denied Lien or Encumbrance Filing. If the court finds that there is no statutory or contractual basis for the proposed filing, the court shall order that the proposed filing is null and void and that it shall not be filed, indexed, or recorded and a copy of that order shall be filed by the register of deeds that originally denied the filing. The review by the judge under this subsection shall not be deemed a finding as to any underlying claim of the parties involved. If a special proceeding is not filed under this subsection within ten (10) business days of the filing of the Notice of Denied Lien or Encumbrance Filing, the lien or encumbrance is deemed null and void."

SECTION 27.9. G.S. 18B-1006(a) reads as rewritten:

"(a) School and College Campuses. – No permit for the sale of malt beverages, unfortified wine, or fortified wine shall be issued to a business on the campus or property of a public school or college, other than at a regional facility as defined by G.S. 160A-480.2 operated by a facility authority under Part 4 of Article 20 of Chapter 160A of the General Statutes except for a public school or college function, unless that business is a hotel or a nonprofit alumni organization with a mixed beverages permit or a special occasion permit. This subsection shall not apply on property owned by a local board of education which was leased for 99 years or more to a nonprofit auditorium authority created prior to 1991 whose governing board is appointed by a city board of aldermen, a county board of commissioners, or a local school board. This subsection shall also not apply to the constituent institutions of The University of North Carolina with respect to the sale of beer and wine at performing arts centers located on property owned or leased by the institutions if the seating capacity does not exceed 2,000 seats, or to any golf courses owned or leased by the institutions and open to the public for use. Notwithstanding this subsection, special one-time permits as described in G.S. 18B-1002(a)(5) may be issued to the University of North Carolina at Chapel Hill for the Loudermilk Center for Excellence facility."

SECTION 28.(a) G.S. 20-62.1(a)(1a), as enacted by S.L. 2013-323, is amended by adding a new sub-subdivision to read:

"c. If the Division of Motor Vehicles has not received information from a federal, State, or local department or independent source that a vehicle has been stolen and reports pursuant to this section that a vehicle is not stolen, any person damaged does not have a cause of action against the Division."

SECTION 28.(b) S.L. 2013-323 is amended by adding a new section to read:

"**SECTION 2.1.** The Division of Motor Vehicles shall establish procedures and/or software solutions to most efficiently, reliably, and cost-effectively comply with the requirements of G.S. 20-62.1(a1). This may include software solutions with private entities for the tracking of salvage vehicles in compliance with State and federal requirements. The Division shall implement these procedures and/or software solutions on or before October 1, 2014. The Division shall update the Joint Legislative Transportation Oversight Committee on implementation."

SECTION 28.5.(a) Part 6 of Article 50 of Chapter 58 of the General Statutes is amended by adding a new section to read:

"**§ 58-50-260. Dissolution of Pool.**

(a) Insurance operations of the Pool under this Part shall sunset on January 1, 2014.

(b) In order to be handled in the regular course of business, rather than under subsection (f) of this section, all invoices for medical, pharmacy, and any other services provided under this Part must be submitted no later than 90 days after the sunset of insurance operations of the Pool under subsection (a) of this section.

(c) In order to be handled in the regular course of business, rather than under subsection (f) of this section, all appeals and grievances under this Part must be submitted no later than 90 days after the sunset of insurance operations of the Pool under subsection (a) of this section.

(d) On or before September 1, 2013, the Pool shall submit to the Commissioner a plan for dissolution of the Pool. The plan shall address the following:

(1) Continuity of care for those participants in the Pool that are inpatient at the time of sunset of insurance operations of the Pool under subsection (a) of this section.

(2) Continuation of administrative services following the sunset of the Pool's insurance operations.

(3) Closing the Pool's bank and investment accounts.

(4) Cessation of premium subsidy programs.

(5) Performance and completion by June 30, 2014, of a final audit by the State Auditor and submission of the Pool's annual report to the State.

(6) A plan for maintenance of the Pool's books and records pursuant to G.S. 58-56-16 by the Pool's final third-party administrator.

(7) Efforts to secure contingency funding should the Pool's operations so require.

(8) Final dissolution of the Pool.

(9) The deposit and management of funding held in reserve following final dissolution of the Pool to be used in connection with actions by or against the Pool that are timely filed, as provided in subsection (f) of this section.

(10) Other matters that the Commissioner may reasonably require.

(e) The plan of dissolution for the Pool shall become effective upon approval in writing by the Commissioner. The Commissioner shall approve the plan of dissolution if he or she determines that the plan is suitable to assure the fair, reasonable, and equitable dissolution of the Pool and that the plan complies with subsection (d) of this section.

(f) Notwithstanding any longer statute of limitations provided under law for an action, all actions by or against the Pool must be filed on or before one year following the sunset of insurance operations of the Pool under subsection (a) of this section. After final dissolution of the Pool, the Pool's liability for insurance benefits, provider or vendor invoices, and all other matters shall be limited to the reserve amount established under subdivision (9) of subsection (d) of this section, less the costs of resolving the claims by or against the Pool.

(g) Any funds in excess of the reserve amount established under subdivision (9) of subsection (d) of this section that remain in the North Carolina Health Insurance Risk Pool Fund at the time of final dissolution shall be paid into the General Fund. After the resolution of timely filed actions against the Pool, any reserve funds remaining in the Risk Pool Fund shall be paid into the General Fund."

SECTION 28.5.(b) G.S. 58-50-225(c) reads as rewritten:

"(c) For the purposes of providing the funds necessary to carry out the powers and duties of the Pool, effective July 1, 2008, the Teachers' and State Employees' Comprehensive Major Medical Plan and any successor Plan shall pay an annual surcharge to the North Carolina Health Insurance Risk Pool Fund in the amount of one dollar and fifty cents ($1.50) per member per year based on enrollment of active employee Plan members and their dependents covered under the Plan. The final surcharge shall be paid to the Pool Fund for the 2013-2014 State fiscal year and shall be paid in quarterly installments rather than in one annual payment. Such installments shall be paid to the Pool Fund 60 days after the close of each quarter and

shall be due on December 1, 2013, March 1, 2014, June 1, 2014, and September 1, 2014. The Pool shall transfer to the General Fund any funds in excess of the reserve amount established under G.S. 58-50-260(d)(9) that remain in the Pool Fund following the final dissolution of the Pool."

SECTION 28.5.(c) Effective January 1, 2015, G.S. 58-50-225(c), as amended by subsection (b) of this section, is repealed.

SECTION 28.5.(d) Effective January 1, 2017, Part 6 of Article 50 of Chapter 58 of the General Statutes is repealed.

SECTION 28.5.(e) G.S. 58-3-276 is repealed.

SECTION 29. G.S. 62-82(a) reads as rewritten:

"(a) Notice of Application for Certificate for Generating Facility; Hearing; Briefs and Oral Arguments. – Whenever there is filed with the Commission an application for a certificate of public convenience and necessity for the construction of a facility for the generation of electricity under G.S. 62-110.1, the Commission shall require the applicant to publish a notice thereof once a week for four successive weeks in a ~~daily~~ newspaper of general circulation in the county where such facility is proposed to be constructed and thereafter the Commission upon complaint shall, or upon its own initiative may, upon reasonable notice, enter upon a hearing to determine whether such certificate shall be awarded. Any such hearing must be commenced by the Commission not later than three months after the filing of such application, and the procedure for rendering decisions therein shall be given priority over all other cases on the Commission's calendar of hearings and decisions, except rate proceedings referred to in G.S. 62-81. Such applications shall be heard as provided in G.S. 62-60.1, and the Commission shall furnish a transcript of evidence and testimony submitted by the end of the second business day after the taking of each day of testimony. The Commission or panel shall require that briefs and oral arguments in such cases be submitted within 30 days after the conclusion of the hearing, and the Commission or panel shall render its decision in such cases within 60 days after submission of such briefs and arguments. If the Commission or panel does not, upon its own initiative, order a hearing and does not receive a complaint within 10 days after the last day of publication of the notice, the Commission or panel shall enter an order awarding the certificate. Notwithstanding this section, applicants for a certificate for solar photovoltaic facilities of 10 kilowatts or less are exempt from the requirement to publish public notice in newspapers."

SECTION 30.5. Part 3 of Article 45 of Chapter 66 of the General Statutes is amended by adding a new section to read:

"**§ 66-420.1 Applicability.**

This Chapter shall not apply to a salvage yard regulated pursuant to Chapter 20 of the General Statutes, unless the salvage yard is engaged in the business of gathering or obtaining ferrous or nonferrous metals that have served their original economic purpose and is in the business of performing the manufacturing process by which ferrous metals or nonferrous metals are converted into raw material products consisting of prepared grades and having an existing or potential economic value."

SECTION 31. G.S. 83A-3 is amended by adding a new subsection to read:

"(c) The Board shall have the power to acquire, hold, rent, encumber, alienate, and otherwise deal with real property in the same manner as a private person or corporation, subject only to approval of the Governor and the Council of State. Collateral pledged by the Board for an encumbrance shall be limited to the assets, income, and revenues of the Board."

SECTION 32. G.S. 84-2.1 reads as rewritten:

"§ **84-2.1. "Practice law" defined.**

The phrase "practice law" as used in this Chapter is defined to be performing any legal service for any other person, firm or corporation, with or without compensation, specifically including the preparation or aiding in the preparation of deeds, mortgages, wills, trust instruments, inventories, accounts or reports of guardians, trustees, administrators or executors, or preparing or aiding in the preparation of any petitions or orders in any probate or court

proceeding; abstracting or passing upon titles, the preparation and filing of petitions for use in any court, including administrative tribunals and other judicial or quasi-judicial bodies, or assisting by advice, counsel, or otherwise in any legal work; and to advise or give opinion upon the legal rights of any person, firm or corporation: Provided, that the above reference to particular acts which are specifically included within the definition of the phrase "practice law" shall not be construed to limit the foregoing general definition of the term, but shall be construed to include the foregoing particular acts, as well as all other acts within the general definition. The phrase "practice law" does not encompass the drafting or writing of memoranda of understanding or other mediation summaries by mediators at community mediation centers authorized by G.S. 7A-38.5 or by mediators of ~~personnel~~ employment-related matters for The University of North Carolina or a constituent ~~institution.~~institution, or for an agency, commission, or board of the State of North Carolina."

SECTION 32.5.(a) G.S. 93D-1 reads as rewritten:

"§ **93D-1. Definitions.**

For the purposes of this Chapter:

(1) "Board" shall mean the North Carolina State Hearing Aid Dealers and Fitters Board.

(2) "Fitting and selling hearing aids" shall mean the evaluation or measurement of the powers or range of human hearing by means of an audiometer or by other means and the consequent selection or adaptation or sale or rental of hearing aids intended to compensate for hearing loss including the making of an impression of the ear.

(3) "Hearing aid" shall mean any instrument or device designed for or represented as aiding, improving or compensating for defective human hearing and any parts, attachments or accessories of such an instrument or device.

(4) "Hearing Aid Specialist" shall mean a person licensed by the Board to engage in ~~fitting or selling hearing aids~~the activities within the scope of practice of a hearing aid specialist in North Carolina.

(5) "Registered Sponsor" shall mean a person with a permanent license as an audiologist under Article 22 of Chapter 90 of the General Statutes who is registered in accordance with G.S. 93D-3(c)(16), or a licensee of the Board who has been approved as a sponsor of an apprentice."

SECTION 32.5.(b) Chapter 93D of the General Statutes is amended by adding a new section to read:

"§ **93D-1.1. Hearing aid specialist; scope of practice.**

The scope of practice of a hearing aid specialist regulated pursuant to this Chapter shall include the following activities:

(1) Fitting and selling hearing aids.

(2) Eliciting patient histories.

(3) Performing hearing evaluations.

(4) Administering and interpreting tests of human hearing.

(5) Referring, as appropriate, for cochlear implant evaluation or other clinical, rehabilitative, or medical intervention.

(6) Determining candidacy for hearing aids, tinnitus management devices, and other assistive listening devices.

(7) Providing hearing aid, tinnitus management device, and assistive device recommendations and selection.

(8) Performing hearing aid fittings, programming, and adjustments.

(9) Assessing hearing aid efficacy utilizing appropriate fitting verification methodology.

(10) Performing hearing aid repairs.

(11) Administering cerumen management in the course of examining ears.

(12) Taking ear impressions, and preparing, designing, and modifying ear molds.
(13) Providing counseling and rehabilitation services related to hearing aids.
(14) Providing supervision and in-service training for those entering the hearing aid dispensing profession.
(15) Providing hearing health education.
(16) Providing community services for individuals with hearing loss and the deaf."

SECTION 32.5.(c) G.S. 93D-2 reads as rewritten:

"§ **93D-2. ~~Fitting and selling~~ Practice without license unlawful.**

It shall be unlawful for any person to ~~fit or sell hearing aids~~ engage in any activity within the scope of practice of a hearing aid specialist, unless the person has first obtained a license from the North Carolina State Hearing Aid Dealers and Fitters ~~Board or~~ Board, is an apprentice working under the supervision of a Registered ~~Sponsor.~~Sponsor, or is otherwise authorized by law to engage in the activity within the scope of practice of another regulated profession."

SECTION 32.5.(d) G.S. 93D-3(c)(6) reads as rewritten:

"(c) The Board shall:

…

(6) Make and publish rules, including a code of ethics, that are necessary and proper to regulate hearing aid specialists~~the fitting and selling of hearing aids~~ and to carry out the provisions of this Chapter;"

SECTION 32.5.(e) G.S. 93D-5(a) reads as rewritten:

"(a) No person shall ~~begin the fitting and selling of hearing aids~~undertake any activity within the scope of practice of a hearing aid specialist in this State unless the person first has been issued a license by the Board or is an apprentice working under the supervision of a Registered Sponsor. Except as hereinafter provided, each applicant for a license shall pay a fee set by the Board, not to exceed two hundred fifty dollars ($250.00), which fee may be prorated by the Board, and shall show to the satisfaction of the Board that the applicant:

(1) Is a person of good moral character.
(2) Is 18 years of age or older.
(3) Has an education equivalent to a four-year course in an accredited high school.
(4) Repealed by Session Laws 2007-406, s. 3, effective August 21, 2007."

SECTION 32.5.(f) G.S. 93D-6 reads as rewritten:

"§ **93D-6. ~~Persons selling in other jurisdictions.~~Hearing aid specialists licensed in other States.**

Whenever the Board determines that another state or jurisdiction has requirements at least equivalent to those in effect pursuant to this Chapter for ~~the fitting and selling of hearing aids,~~ engaging in activities within the scope of practice of a hearing aid specialist and that such state or jurisdiction has a program at least equivalent to the program for determining whether applicants pursuant to this Chapter are qualified to ~~sell and fit hearing aids,~~engage in activities within the scope of practice of a hearing aid specialist, the Board may issue, but is not compelled to issue, licenses to applicants therefor who hold current, unsuspended and unrevoked certificates or licenses to ~~fit and sell hearing aids~~engage in activities within the scope of practice of a hearing aid specialist in such other state or jurisdiction. No such applicant shall be required to submit to any examination or other procedure required by G.S. 93D-5, but shall be required to pay an application fee to the Board in an amount set by the Board, not to exceed one hundred fifty dollars ($150.00). Such applicant must have one full year of experience satisfactory to the Board before issuance of the license."

SECTION 32.5.(g) G.S. 93D-8(a) reads as rewritten:

"(a) Every applicant for a license who is notified by the Board that he has fulfilled the requirements of G.S. 93D-5, except those making application pursuant to G.S. 93D-6, shall appear at a time, place and before such persons as the Board may designate, to be examined by written and practical tests in order to demonstrate that the applicant is qualified ~~for the fitting~~

~~and selling of hearing aids.~~to engage in the activities within the scope of a hearing aid specialist. The Board shall give one examination of the type prescribed herein each year at a duly prescribed time and place, which shall be publicized for at least 90 days in advance. Additional examinations may be given at the discretion of the Board. The examination provided in this section shall not include questions requiring a medical or surgical education but shall consist of:

(1) Tests of knowledge in the following areas as they pertain to the fitting of hearing aids:
   a. The basic physics of sound,
   b. The human hearing mechanism, including the science of hearing and the cause and rehabilitation of abnormal hearing and hearing disorders, and
   c. The structure and function of hearing aids.

(2) Tests of proficiency in the following techniques as they pertain to the fitting of hearing aids:
   a. Pure tone audiometry, including air conduction testing and bone conduction testing,
   b. Live voice and recorded voice speech audiometry, including speech reception threshold testing and speech discrimination testing,
   c. Effective masking,
   d. Recording and evaluation of audiograms and speech audiometry to determine hearing aid candidacy,
   e. Selection and adaption of hearing aids and testing of hearing aids,
   f. Taking earmold impressions, and
   g. Such other skills as may be required for the fitting of hearing aids in the opinion of the Board."

SECTION 32.5.(h) G.S. 93D-11 reads as rewritten:

"§ **93D-11. Annual fees; failure to pay; expiration of license; occupational instruction courses.**

Every ~~licensed person who engages in the fitting and selling of hearing aids~~person licensed as a hearing aid specialist shall pay to the Board an annual license renewal fee in an amount set by the Board, not to exceed two hundred fifty dollars ($250.00). The payment shall be made prior to the first day of April in each year. In case of default in payment the license shall expire 30 days after notice by the secretary-treasurer to the last known address of the licensee by registered mail, certified mail, or in a manner provided by G.S. 1A-1, Rule 4(j)(1)d. The Board may reinstate an expired license upon the showing of good cause for late payment of fees, upon payment of said fees within 60 days after expiration of the license, and upon the further payment of a late penalty of twenty-five dollars ($25.00). After 60 days after the expiration date, the Board may reinstate the license for good cause shown upon application for reinstatement and payment of a late penalty of fifty dollars ($50.00) and the renewal fee. The Board may require all licensees to successfully attend and complete a course or courses of occupational instruction funded, conducted or approved or sponsored by the Board on an annual basis as a condition to any license renewal and evidence of satisfactory attendance and completion of any such course or courses shall be provided the Board by the licensee."

SECTION 32.5.(i) G.S. 93D-12 reads as rewritten:

"§ **93D-12. License to be displayed at office.**

Every person to whom a license, apprenticeship certificate, or sponsor registration is granted shall display the same in a conspicuous part of his office ~~wherein the fitting and selling of hearing aids is conducted,~~ where the person conducts business as a hearing aid specialist or shall have a copy of such license certificate, or registration on his person and exhibit the same upon request when fitting or selling hearing aids outside of his office."

SECTION 32.5.(j) G.S. 93D-15 reads as rewritten:

"§ **93D-15. Violation of Chapter.**

Any person who violates any of the provisions of this Chapter and any person who holds himself out to the public as a ~~fitter and seller of hearing aids~~hearing aid specialist without having first obtained a license or apprenticeship registration as provided for herein shall be deemed guilty of a Class 2 misdemeanor."

SECTION 33.(a) Industrial Commission Hospital Fee Schedule:

(1) Medicare methodology for physician and hospital fee schedules. – With respect to the schedule of maximum fees for physician and hospital compensation adopted by the Industrial Commission pursuant to G.S. 97-26, those fee schedules shall be based on the applicable Medicare payment methodologies, with such adjustments and exceptions as are necessary and appropriate to ensure that (i) injured workers are provided the standard of services and care intended by Chapter 97 of the General Statutes, (ii) providers are reimbursed reasonable fees for providing these services, and (iii) medical costs are adequately contained. Such fee schedules shall also be periodically reviewed to ensure that they continue to adhere to these standards and applicable fee schedule requirements of Chapter 97. In addition to the statewide fee averages, geographical and community variations in provider costs, and other factors affecting provider costs that the Commission may consider pursuant to G.S. 97-26, the Commission may also consider other payment systems in North Carolina, other states' cost and payment structures for workers' compensation, the impact of changes over time to Medicare fee schedules on payers and providers, and cost issues for providers and payers relating to frequency of service, case mix index, and related issues.

(2) Transition to direct billing. – Pursuant to G.S. 97-26(g) through (g1) and applicable rules, the Commission shall provide for transition to direct claims submission and reimbursement for medical and hospital fees, including an implementation timeline, notice to affected stakeholders, and related compliance issues.

(3) Expedite rule-making process for fee schedule. – The Industrial Commission is exempt from the certification requirements of G.S. 150B-19.1(h) and the fiscal note requirement of G.S. 150B-21.4 in developing the fee schedules required pursuant to this section."

SECTION 33.(b) G.S. 97-26 reads as rewritten:

"§ **97-26. Fees allowed for medical treatment; malpractice of physician.**

(a) Fee Schedule. – The Commission shall adopt by rule a schedule of maximum fees for medical ~~compensation, except as provided in subsection (b) of this section,~~compensation and shall periodically review the schedule and make revisions.

The fees adopted by the Commission in its schedule shall be adequate to ensure that (i) injured workers are provided the standard of services and care intended by this Chapter, (ii) providers are reimbursed reasonable fees for providing these services, and (iii) medical costs are adequately contained.

The Commission may consider any and all reimbursement systems and plans in establishing its fee schedule, including, but not limited to, the State Health Plan for Teachers and State Employees (hereinafter, "State Plan"), Blue Cross and Blue Shield, and any other private or governmental plans. The Commission may also consider any and all reimbursement methodologies, including, but not limited to, the use of current procedural terminology ("CPT") codes, diagnostic-related groupings ("DRGs"), per diem rates, capitated payments, and resource-based relative-value system ("RBRVS") payments. The Commission may consider statewide fee averages, geographical and community variations in provider costs, and any other factors affecting provider costs.

(b) Hospital Fees. – Each hospital subject to the provisions of this ~~subsection~~ section shall be reimbursed the amount provided for in this ~~subsection~~ section unless it has agreed under contract with the insurer, managed care organization, employer (or other payor obligated to reimburse for inpatient hospital services rendered under this Chapter) to accept a different amount or reimbursement methodology.

~~Except as otherwise provided herein, payment for medical treatment and services rendered to workers' compensation patients by a hospital shall be a reasonable fee determined by the Commission and adopted by rule. Effective September 16, 2001, through June 30, 2002, the fee shall be the following amount unless the Commission adopts a different fee schedule in accordance with the provisions of this section:~~

~~(1) For inpatient hospital services, the amount that the hospital would have received for those services as of June 30, 2001. The payment shall not be more than a maximum of one hundred percent (100%) of the hospital's itemized charges as shown on the UB-92 claim form nor less than the minimum percentage for payment of inpatient DRG claims that was in effect as of June 30, 2001.~~

~~(2) For outpatient hospital services and any other services that were reimbursed as a discount off of charges under the State Plan as of June 30, 2001, the amount calculated by the Commission as a percentage of the hospital charges for such services. The percentage applicable to each hospital shall be the percentage used by the Commission to determine outpatient rates for each hospital as of June 30, 2001.~~

~~(3) For any other services, a reasonable fee as determined by the Industrial Commission.~~

The explanation of the fee schedule change that is published pursuant to G.S. 150B-21.2(c)(2) shall include a summary of the data and calculations on which the fee schedule rate is based.

A hospital's itemized charges on the UB-92 claim form for workers' compensation services shall be the same as itemized charges for like services for all other payers.

…."

SECTION 36.(a) G.S. 115D-67.2(b) reads as rewritten:

"(b) The Advisory Board shall consist of 14 ~~members:~~members as follows:

(1) The President of Gaston College, who shall serve ex ~~officio;~~officio.

(2) ~~Four~~ Two members who are residents of North Carolina appointed by the ~~North Carolina Manufacturers Association, Inc.;~~National Council of Textile Organizations.

(2a) Two members appointed by the Southern Textile Association, Inc.

(3) Two members appointed by the board of the North Carolina Center for Applied Textile Technology ~~Foundation;~~Foundation.

(4) Two members appointed by the board of trustees of Gaston ~~College;~~College.

(5) Three members appointed by the State Board of Community ~~Colleges;~~Colleges.

(6) One member appointed by the dean of the College of Textiles at North Carolina State ~~University; and~~University.

(7) The Director of the Manufacturing Solutions Center at Catawba Valley Community College who shall serve ex officio as a nonvoting member.

The appointing entities shall attempt to appoint members who are distributed geographically throughout the State; members representing large and small companies; and members from each segment of the diverse textile industry including spun yarn manufacturing, filament yarn manufacturing, knitting, weaving, dyeing and finishing, apparel, nonwoven, technical/medical textiles, and fiber producers."

SECTION 36.(b) This section is effective when it becomes law and applies to appointments made for vacancies that arise, or upon the expiration of the existing terms, of

members appointed by the North Carolina Manufacturers Association, Inc., whichever occurs first, with the first two appointments to be made in accordance with G.S. 115D-67.2(b)(2a) and the next two appointments to be made in accordance with G.S. 115D-67.2(b)(2).

SECTION 36.5. G.S. 116-43.10(c) reads as rewritten:

"(c) Once a student is enrolled in The University of North Carolina System under the Academic Common Market program, the student shall be entitled to pay in-State tuition as long as the student is enrolled in that graduate program.~~The Board of Governors shall provide a report on the Academic Common Market program to the Joint Legislative Education Oversight Committee by September 2007 and each biennium thereafter.~~"

SECTION 36.7. G.S. 120-133 reads as rewritten:

"§ **120-133. Redistricting communications.**

(a) Notwithstanding any other provision of law, all drafting and information requests to legislative employees and documents prepared by legislative employees for legislators concerning redistricting the North Carolina General Assembly or the Congressional Districts are no longer confidential and become public records upon the act establishing the relevant district plan becoming law. Present and former legislative employees may be required to disclose information otherwise protected by G.S. 120-132 concerning redistricting the North Carolina General Assembly or the Congressional Districts upon the act establishing the relevant district plan becoming law.

(b) Nothing in this Chapter nor in Chapter 132 of the General Statutes shall be construed as a waiver of the common law attorney-client privilege nor of the common law work product doctrine with respect to legislators as defined in G.S. 120-129."

SECTION 38.(a) G.S. 136-189.10, as enacted by S.L. 2013-183, reads as rewritten:

"§ **136-189.10. Definitions.**

…

(2) Regional impact projects. – Includes only the following:

a. Projects listed in subdivision (1) of this section, subject to the limitations noted in that subdivision.

b. U.S. highway routes not included in subdivision (1) of this section.

c. N.C. highway routes not included in subdivision (1) of this section.

d. Commercial service airports included in the NPIAS that are not included in subdivision (1) of this section, provided that the State's annual financial participation in any single airport project included in this subdivision may not exceed three hundred thousand dollars ($300,000).

e. The State-maintained ferry system, excluding passenger vessel replacement.

f. Rail lines that span two or more counties not included in subdivision (1) of this section. This sub-subdivision does not include short-line railroads.

g. Public transportation service that spans two or more counties and that serves more than one municipality. ~~Expenditures~~Programmed funds pursuant to this sub-subdivision shall not exceed ten percent (10%) of any distribution region allocation. This sub-subdivision includes commuter rail, intercity rail, and light rail.

(3) Division needs projects. – Includes only the following:

a. Projects listed in subdivision (1) or (2) of this section, subject to the limitations noted in those subsections.

b. State highway routes not included in subdivision (1) or (2) of this section.

c. Airports included in the NPIAS that are not included in subdivision (1) or (2) of this section, provided that the State's total annual

financial participation under this sub-subdivision shall not exceed eighteen million five hundred thousand dollars ($18,500,000).

d. Rail lines not included in subdivision (1) or (2) of this section. This sub-subdivision does not include short-line railroads.

e. Public transportation service not included in subdivision (1) or (2) of this section. This sub-subdivision includes commuter rail, intercity rail, and light rail.

f. Multimodal terminals and stations serving passenger transit systems.

g. Federally funded independent bicycle and pedestrian improvements.

h. Replacement of State-maintained ferry vessels.

i. Federally funded municipal road projects.

…."

SECTION 38.(b) G.S. 136-189.11(b), as enacted by S.L. 2013-183, reads as rewritten:

"(b) Funds Excluded From Formula. – The following funds are not subject to this section:

(1) Federal congestion mitigation and air quality improvement program funds appropriated to the State by the United States pursuant to 23 U.S.C. § 104(b)(2) and 23 U.S.C. § 149.

(2) Funds received through competitive awards or discretionary grants through federal appropriations either for local governments, transportation authorities, transit authorities, or the Department.

(3) Funds received from the federal government that under federal law may only be used for Appalachian Development Highway System projects.

(4) Funds used in repayment of "GARVEE" bonds related to Phase I of the Yadkin River Veterans Memorial Bridge project.

(5) Funds committed to gap funding for toll roads funded with bonds issued pursuant to G.S. 136-176.

(6) Funds obligated for projects in the State Transportation Improvement Program that are scheduled for construction as of ~~April 1, 2013,~~October 1, 2013, in State fiscal year 2012-2013, 2013-2014, or 2014-2015.

(7) Toll collections from a turnpike project under Article 6H of this Chapter and other revenue from the sale of the Authority's bonds or notes or project loans, in accordance with G.S. 136-89.192.

(8) Toll collections from the State-maintained ferry system collected under the authority of G.S. 136-82.

(9) Federal State Planning and Research Program ~~funds.~~funds (23 U.S.C. § 505) and Metropolitan Planning funds (23 U.S.C. §§ 104 and 134)."

SECTION 38.(c) G.S. 136-189.11(d), as enacted by S.L. 2013-183, reads as rewritten:

"§ **136-189.11. Transportation Investment Strategy Formula.**

…

(d) Transportation Investment Strategy Formula. – Funds subject to the Formula shall be distributed as follows:

(1) Statewide Strategic Mobility Projects. – Forty percent (40%) of the funds subject to this section shall be used for Statewide Strategic Mobility Projects.

a. Criteria. – Transportation-related quantitative criteria shall be used by the Department to rank highway projects that address cost-effective Statewide Strategic Mobility needs and promote economic and employment growth. The criteria for selection of Statewide Strategic Mobility Projects shall utilize a numeric scale of

100 points, based on consideration of the following quantitative criteria:

1. Benefit cost.
2. Congestion.
3. Safety.
4. Economic competitiveness.
5. Freight.
6. Multimodal.
7. Pavement condition.
8. Lane width.
9. Shoulder width.

b. Project cap. – No more than ten percent (10%) of the funds projected to be allocated to the Statewide Strategic Mobility category over any five-year period may be assigned to any contiguous project or group of projects in the same corridor within a Highway Division or within adjoining Highway Divisions.

(2) Regional Impact Projects. – Thirty percent (30%) of the funds subject to this section shall be used for Regional Impact Projects and allocated by population of Distribution Regions based on the most recent estimates certified by the Office of State Budget and Management.

a. Criteria. – A combination of transportation-related quantitative criteria, qualitative criteria, and local input shall be used to rank Regional Impact Projects involving highways that address cost-effective needs from a region-wide perspective and promote economic growth. Local input is defined as the rankings identified by the Department's Transportation Division Engineers, Metropolitan Planning Organizations, and Rural Transportation Planning Organizations. Transportation Division Engineer local input scoring shall take into account public comments. The Department shall ensure that the public has a full opportunity to submit public comments, by widely available notice to the public, an adequate time period for input, and public hearings. Board of Transportation input shall be in accordance with G.S. 136-189.11(g)(1) and G.S. 143B-350(g). The criteria utilized for selection of Regional Impact Projects shall be based thirty percent (30%) on local input and seventy percent (70%) on consideration of a numeric scale of 100 points based on the following quantitative criteria:

1. Benefit cost.
2. Congestion.
3. Safety.
4. Freight.
5. Multimodal.
6. Pavement condition.
7. Lane width.
8. Shoulder width.
9. Accessibility and connectivity to employment centers, tourist destinations, or military installations.

(3) Division Need Projects. – Thirty percent (30%) of the funds subject to this section shall be allocated in equal share to each of the Department divisions, as defined in G.S. 136-14.1, and used for Division Need Projects.

a. Criteria. – A combination of transportation-related quantitative criteria, qualitative criteria, and local input shall be used to rank Division Need Projects involving highways that address

cost-effective needs from a Division-wide perspective, provide access, and address safety-related needs of local communities. Local input is defined as the rankings identified by the Department's Transportation Division Engineers, Metropolitan Planning Organizations, and Rural Transportation Planning Organizations. Transportation Division Engineer local input scoring shall take into account public comments. The Department shall ensure that the public has a full opportunity to submit public comments, by widely available notice to the public, an adequate time period for input, and public hearings. Board of Transportation input shall be in accordance with G.S. 136-189.11(g)(1) and G.S. 143B-350(g). The criteria utilized for selection of Division Need Projects shall be based fifty percent (50%) on local input and fifty percent (50%) on consideration of a numeric scale of 100 points based on the following quantitative criteria, except as provided in sub-subdivision b. of this subdivision:

1. Benefit cost.
2. Congestion.
3. Safety.
4. Freight.
5. Multimodal.
6. Pavement condition.
7. Lane width.
8. Shoulder width.
9. Accessibility and connectivity to employment centers, tourist destinations, or military installations.

b. Alternate criteria. – Funding from the following programs shall be included in the computation of each of the Department division equal shares but shall be subject to alternate quantitative criteria:

1. Federal Surface Transportation Program-Direct Attributable funds expended on eligible projects in the Division Need Projects category.
2. Federal Transportation Alternatives funds appropriated to the State.
3. Federal Railway-Highway Crossings Program funds appropriated to the State.
4. Projects requested from the Department in support of a time-critical job creation opportunity, when the opportunity would be classified as transformational under the Job Development Investment Grant program established pursuant to G.S. 143B-437.52, provided that the total State investment in each fiscal year for all projects funded under this sub-subdivision shall not exceed ten million dollars ($10,000,000) in the aggregate ~~or~~and~~two million dollars ($2,000,000)~~ five million dollars ($5,000,000) per project.
5. Federal funds for municipal road projects.

c. Bicycle and pedestrian limitation. – The Department shall not provide financial support for independent bicycle and pedestrian improvement projects, except for federal funds administered by the Department for that purpose. This sub-subdivision shall not apply to funds allocated to a municipality pursuant to G.S. 136-41.1 that are committed by the municipality as matching funds for federal funds administered by the Department and used for bicycle and pedestrian

improvement projects. This limitation shall not apply to funds authorized for projects in the State Transportation Improvement Program that are scheduled for construction as of October 1, 2013, in State fiscal year 2012-2013, 2013-2014, or 2014-2015.

(4) Criteria for nonhighway projects. – Nonhighway projects subject to this subsection shall be evaluated through a separate prioritization process established by the Department that complies with all of the following:

a. The criteria used for selection of projects for a particular transportation mode shall be based on a minimum of four quantitative criteria.

b. Local input shall include rankings of projects identified by the Department's Transportation Division Engineers, Metropolitan Planning Organizations, and Rural Transportation Planning Organizations. Transportation Division Engineer local input scoring shall take into account public comments. The Department shall ensure that the public has a full opportunity to submit public comments, by widely available notice to the public, an adequate time period for input, and public hearings. Board of Transportation input shall be in accordance with G.S. 136-189.11(g)(1) and G.S. 143B-350(g).

c. The criteria shall be based on a scale not to exceed 100 points that includes no bonus points or other alterations favoring any particular mode of transportation."

SECTION 38.(d) G.S. 136-189.11(g), as enacted by S.L. 2013-183, reads as rewritten:

"(g) Reporting. – The Department shall publish on its Web site, in a link to the "Strategic Transportation Investments" Web site linked directly from the Department's home page, the following information in an accessible format as promptly as possible:

(1) The quantitative criteria used in each highway and nonhighway project scoring, including the methodology used to define each criteria, the criteria presented to the Board of Transportation for approval, and any adjustments made to finalize the criteria.

(2) The quantitative and qualitative criteria in each highway or nonhighway project scoring that is used in each region or division to finalize the local input score and shall include distinctions between the Department Division scoring and methodologies and Metropolitan Planning Organization and Rural Transportation Planning Organization scoring and methodologies.

(3) Notification of changes to the methodologies used to calculate quantitative criteria.

(4) The final quantitative formulas, including the number of points assigned to each criteria, used in each highway and nonhighway project scoring used to obtain project rankings in the Statewide, Regional, and Division categories. If the Department approves different formulas or point assignments regionally or by division, the final scoring for each area shall be noted.

(5) The project scorings associated with the release of the draft and final State Transportation Improvement ~~Program.~~Program, including Division Engineer, Metropolitan Planning Organization, and Rural Transportation Planning Organization scoring and ranking."

SECTION 38.(e) G.S. 136-89.199, as enacted by S.L. 2013-183, reads as rewritten:

"§ **136-89.199. Designation of high-occupancy toll and managed lanes.**

Notwithstanding any other provision of this Article, the Authority may designate one or more lanes of any highway, or portion thereof, within the State, including lanes that may

previously have been designated as HOV lanes under G.S. 20-146.2, as high-occupancy toll (HOT) or other type of managed lanes; provided, however, that such designation shall not reduce the number of existing non-toll general purpose lanes. In making such designations, the Authority shall specify the high-occupancy requirement or other conditions for use of such lanes, which may include restricting vehicle types, access controls, or the payment of tolls for vehicles that do not meet the high-occupancy requirements or conditions for use."

SECTION 38.(f) G.S. 120-70.52 reads as rewritten:

"§ **120-70.52. Organization of Committee.**

(a) The President Pro Tempore of the Senate and the Speaker of the House of Representatives shall each designate a cochair of the Joint Legislative Transportation Oversight Committee. The Committee shall meet at least once a quarter and may meet at other times upon the joint call of the cochairs.

(b) A quorum of the Committee is nine members. No action may be taken except by a majority vote at a meeting at which a quorum is present. While in the discharge of its official duties, the Committee has the powers of a joint committee under G.S. 120-19 and G.S. 120-19.1 through 120-19.4.

(c) The Committee shall be funded by appropriations made ~~to~~ from the Highway Trust ~~Fund and allocated to the Intrastate System projects.~~Fund to the Department of Transportation. Members of the Committee receive subsistence and travel expenses as provided in G.S. 120-3.1. The Committee may contract for consultants or hire employees in accordance with G.S. 120-32.02. The Legislative Services Commission, through the Legislative Services Officer, shall assign professional staff to assist the Committee in its work. Upon the direction of the Legislative Services Commission, the Supervisors of Clerks of the Senate and of the House of Representatives shall assign clerical staff to the Committee. The expenses for clerical employees shall be borne by the Committee."

SECTION 38.(g) Section 6.1 of S.L. 2013-183 reads as rewritten:

"**SECTION 6.1.** Formula Implementation Report. – The Department of Transportation shall report to the Joint Legislative Transportation Oversight Committee and the Fiscal Research Division no later than August 15, 2013, on the Department's recommended formulas that will be used in the prioritization process to rank highway and nonhighway projects. The Department of Transportation's Prioritization Office shall develop the prioritization processes and formulas for all modes of transportation. The report will include a statement on the process used by the Department to develop the formulas, include a listing of external partners consulted during this ~~process,~~process, indicate differences between the criteria and weights for highway and non-highway modes between the 3.0 workgroup recommendations and the final Department recommendations, and include feedback from its 3.0 workgroup partners on the Department's proposed recommendations. The Department shall not finalize the formula without consulting with the Joint Legislative Transportation Oversight Committee. The Joint Legislative Transportation Oversight Committee has 30 days after the report is received to meet and consult on the Department's recommendations. If no meeting occurs within 30 days after the report is received, the consultation requirement will be met. If consultation occurs and a majority of members serving on the Committee request changes to the Department's recommended formulas for highway and nonhighway modes, the Department shall review the requests and provide to the Committee its response to the requested changes no later than October 1, 2013. A final report on the highway and intermodal formulas shall be submitted to the Joint Legislative Transportation Oversight Committee by January 1, 2014."

SECTION 38.(h) G.S. 136-189.11, as enacted by S.L. 2013-183, is amended by adding a new subsection to read:

"(h) Improvement of Prioritization Process. – The Department shall endeavor to continually improve the methodology and criteria used to score highway and non-highway projects pursuant to this Article, including the use of normalization techniques, and methods to strengthen the data collection process. The Department is directed to continue the use of a workgroup process to develop improvements to the prioritization process. Workgroup

participants shall include, but not be limited to, the North Carolina League of Municipalities, the North Carolina Association of County Commissioners, the North Carolina Metropolitan Mayors Coalition, and the North Carolina Council of Regional Governments. The workgroup, led by the Prioritization Office, shall contain a minimum of four representatives each from the North Carolina Association of Municipal Planning Organizations and the North Carolina Association of Rural Planning Organizations, and these members will be selected by a vote of each organization. Department participants in the workgroup shall not exceed half of the total group. Beginning December 1, 2016, the Department shall report annually to the Joint Legislative Transportation Oversight Committee on any changes made to the highway or non-highway prioritization process and the resulting impact to the State Transportation Improvement Program. The General Assembly members and staff may attend all workgroup meetings related to the prioritization process, all subgroup meetings of the workgroup, and have access to all related workgroup or subgroup documents."

SECTION 38.(i) Section 6.2 of S.L. 2013-183 reads as rewritten:

"**SECTION 6.2.** State Transportation Improvement Program Transition Report. – The Department of Transportation shall submit transition reports to members of the Joint Legislative Transportation Oversight Committee, House of Representatives Appropriations Subcommittee on Transportation and the Senate Appropriations Committee on Department of Transportation, and the Fiscal Research Division on March 1, 2014, and November 1, 2014. The reports shall include information on the Department's transition to Strategic Prioritization, overview changes to the State Transportation Improvement Program (STIP) and other internal and external processes that feed into the STIP, and offer statutory and policy recommendations or items for consideration to the General Assembly that will enhance the prioritization process. The March 1, 2014, report shall also include an analysis of the distribution of tax and fee revenues between the Highway Fund and Highway Trust Fund and an analysis to determine if maintenance, construction, operations, administration, and capital expenditures are properly budgeted within the two funds and existing revenues are most effectively distributed between the two funds. The report shall also include recommendations to restructure maintenance operations and funding to improve efficiency, achieve greater cost effectiveness, and streamline operations to best apply limited resources to the State's maintenance needs."

SECTION 38.5. If Senate Bill 485, 2013 Regular Session, becomes law, then G.S. 143-64.70, as amended by Senate Bill 485, reads as rewritten:

"§ **143-64.70. Personal service contracts – reporting requirements.**

(a) By January 1 of each year, each State department, agency, and institution shall make a detailed written report to the Office of State Budget and Management and the Office of State Personnel on its utilization of personal services contracts that have an annual expenditure greater than twenty-five thousand dollars ($25,000). The report by each State department, agency, and institution shall include the following:

(1) Identification of the department and employee responsible for oversight of the performance of the contract.

(2) Vendor or contractor name, object of expenditure description, contract award amount, purchase order or contract number, purchase order start and end date, source of funds, and amount disbursed during the fiscal year.

(3) through (7) Repealed by Session Laws 2007-322, s. 7, effective July 30, 2007.

(b) By March 15 of each year, the Office of State Budget and Management and the Office of State Personnel shall compile and analyze the information required under subsection (a) of this section and shall submit to the Joint Legislative Commission on Governmental Operations a detailed report on the type, number, duration, cost and effectiveness of State personal services contracts throughout State government.

~~(c) This section does not apply to The University of North Carolina.~~"

SECTION 39.5. If Senate Bill 315, 2013 Regular Session, and House Bill 857, 2013 Regular Session, become law, then Section 5 of Senate Bill 315 is repealed.

SECTION 40. If Senate Bill 402, 2013 Regular Session, becomes law, then G.S. 143B-426.52(d), as enacted by Section 6.18(a) of Senate Bill 402, reads as rewritten:

"(d) The Commission shall adopt rules for the determination of eligibility and the processing of ~~claims.~~claims in accordance with G.S. 150B-21.1. Notwithstanding G.S. 150B-21.1(d), the rules adopted pursuant to this section shall expire on the earlier of the date all claims made under this section are finally adjudicated or June 30, 2018."

SECTION 42. Section 1 of S.L. 2007-86, as amended by S.L. 2008-5, reads as rewritten:

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

SECTION 43. S.L. 2011-148, 2011-154, 2011-155, and 2011-178 are repealed.

SECTION 43.5.(a) Section 1.4 of S.L. 2011-176, as amended by Section 3.1 of S.L. 2011-406, reads as rewritten:

"**SECTION 1.4.(a)** Effective immediately, Michelle Shaw of Harnett County is appointed to the Board of Trustees for the State Health Plan for Teachers and State Employees for a term expiring on December 31, 2011.

"**SECTION 1.4.(b)** Effective ~~January 1, 2012,Michelle Shaw of Harnett County~~ August 1, 2013, Charles Johnson of Wake County is appointed to the Board of Trustees for the State Health Plan for Teachers and State Employees for a term expiring on June 30, 2014, to meet the requirements that an appointee shall be an employee of a State department, agency, or institution pursuant to G.S. 135-48.20(i)(1).

"**SECTION 1.4.(c)** Effective January 1, 2012, Noah H. Huffstetler III of Wake County is appointed to the Board of Trustees for the State Health Plan for Teachers and State Employees for a term expiring on June 30, 2015, to meet the requirements that an appointee shall have an expertise in the area of health law and policy pursuant to G.S. 135-48.20(j)(4)."

SECTION 43.5.(b) If House Bill 669, 2013 Regular Session, becomes law, Section 1.47 of that act reads as rewritten:

"**SECTION 1.47.** George Richard Edwards, Jr. of New Hanover County, the Honorable Timothy L. Spear of Washington County, Thomas L. Fonville of Wake County, and Chief Michell Hicks of ~~Cherokee~~ Jackson County are appointed to the North Carolina Wildlife Resources Commission for terms expiring on June 30, 2015."

SECTION 43.5.(c) If House Bill 669, 2013 Regular Session, becomes law, Section 2.4(a) of that act reads as rewritten:

"**SECTION 2.4.(a)** ~~Tara Fields of Johnston~~Dr. Roger B. Moore, Jr., of Wake County is appointed to the Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services for a term expiring on June 30, 2014, to fill the unexpired term of Frank H. Edwards."

SECTION 43.5.(d) If House Bill 669, 2013 Regular Session, becomes law, Section 2.7(b) of that act reads as rewritten:

"**SECTION 2.7.(b)** Michael ~~Edward~~ Edwards of Wake County is appointed to the Disciplinary Hearing Commission of the North Carolina State Bar for a term expiring on June 30, 2016."

SECTION 43.5.(e) If House Bill 669, 2013 Regular Session, becomes law, Section 2.46 of that act reads as rewritten:

"**SECTION 2.46.(a)** Baker A. Mitchell, Jr. of New Hanover County is appointed to the North Carolina Charter School Advisory Board for a term expiring on June 30, 2015.

"**SECTION 2.46.(b)** Alan Hawkes of Guilford County and Paul Norcross of Guilford County are appointed to the North Carolina Charter School Advisory Board for terms expiring on June 30, 2017."

SECTION 43.5.(f) If House Bill 669, 2013 Regular Session, becomes law, Section 2.47 of that act is repealed.

SECTION 44. Section 25 of S.L. 2013-199 reads as rewritten:

"**SECTION 25.** Section 10 of this act becomes effective January 1, 2016. Section 20 of this act becomes effective January 1, ~~2015,~~2014, and applies to policies whose effective date is on or after that date. Sections 22 and 24 of this act are effective when they become law. Section 23 of this act becomes effective October 1, 2013. The remainder of this act becomes effective July 1, 2013."

SECTION 44.5. Section 2(e) of S.L. 2013-318 is rewritten to read:

"**SECTION 2.(e)** This section becomes effective the first Monday in December 2014. In the 2014 election, the individual elected to fill the vacant seat for District 1, Seat A, for the remainder of the term shall serve a term of two years. In the 2014 election, three members shall be elected to serve a term of two years, one each from the following geographic areas: Districts 1 and 2, Districts 4 and 5, Districts 3 and 6, as those districts existed on July 1, 2013. Only the qualified voters of each combination of districts shall elect the one member from that combined district. This act does not affect the terms of office of any member elected in 2008 for a six-year term."

SECTION 46. If House Bill 74, 2013 Regular Session, becomes law, Section 12 of House Bill 74 is repealed.

SECTION 47. If House Bill 269, 2013 Regular Session, becomes law, Section 7 of House Bill 269 reads as rewritten:

"**SECTION 7.** Notwithstanding the definition for "eligible student" set forth in G.S. 115C-112.2, as enacted by this act, a child who is otherwise eligible to receive a scholarship grant for the spring semester of the 2013-2014 school year is deemed to have met the requirements of G.S. 115C-112.2(2)f., as enacted by this act, if the child is a dependent child for whom a taxpayer is allowed a credit for the fall semester of the 2013-2014 school year under G.S. 105-151.33 and the taxpayer affirms, under oath, that the taxpayer will claim the credit for that semester. Notwithstanding G.S. 105-259(b), the Department of Revenue shall furnish, upon request, to the Authority a list of claimants that received a credit pursuant to G.S. 105-151.33 for the taxable year beginning on or after January 1, 2013. Notwithstanding the definition for "eligible student" set forth in G.S. 115C-112.2, as enacted by this act, a child who meets the requirements of G.S. 115C-112.2(a) through (e) and who is eligible for enrollment in kindergarten or the first grade in a North Carolina public school during the 2013-2014 school year shall be eligible to receive a scholarship grant for the spring semester of the 2013-2014 school year."

SECTION 47.2.(a) If House Bill 834, 2013 Regular Session, becomes law, Section 2.2 of that act reads as rewritten:

"**SECTION 2.2.** The terms of the two attorney members appointed under G.S. 126-2(b)(1), serving on the Commission on ~~January 1, 2013,~~July 1, 2013, shall expire on ~~June 30, 2013.~~July 31, 2013. The terms of the persons from private business or industry appointed under G.S. 126-2(b)(2), serving on the Commission on ~~January 1, 2013,~~July 1, 2013, shall expire on June 30, 2014. The terms of the two State employees appointed under G.S. 126-2(b)(3), serving on the Commission on ~~January 1, 2013,~~July 1, 2013, shall expire on ~~June 30, 2013.~~July 31, 2013. The terms of the two local government employees appointed under G.S. 126-2(b)(4), serving on the Commission on ~~January 1, 2013,~~July 1, 2013, shall expire on June 30, 2014. The term of the public at-large member appointed under G.S. 126-2(b)(5), serving on the Commission on ~~January 1, 2013,~~July 1, 2013, shall expire ~~June 30, 2013.~~July 31, 2013. If the terms of office eliminated in this act have not been set out, then the appointing authorities shall determine by ~~July 1, 2013,~~October 1, 2013, which terms to eliminate to achieve the membership totals pursuant to this act. After determining which terms to eliminate, the appointing authority shall notify in writing all the persons and entities required to receive notification pursuant to G.S. 143-47.7."

SECTION 47.2.(b) If House Bill 834, 2013 Regular Session, becomes law, Section 4.6 of that act reads as rewritten:

"**SECTION 4.6.** This Part ~~becomes~~ is effective ~~June 30, 2013,~~when it becomes law, with the repeal of the provisions in G.S. 126-5(e) and G.S. 126-5(f) applying as to State employees hired on or after that date."

SECTION 47.5. G.S. 20-4.01 reads as rewritten:

"§ **20-4.01. Definitions.**

Unless the context requires otherwise, the following definitions apply throughout this Chapter to the defined words and phrases and their cognates:

…

(1c) All-Terrain Vehicle or ATV. – A motorized ~~off-highway~~ vehicle 50 inches or less in width that is designed to travel on three or ~~four~~ more low-pressure ~~tires,~~ tires ~~having a seat designed to be straddled by the operator and handlebars for steering control.~~and manufactured for off-highway use. The terms "all-terrain vehicle" or "ATV" do not include a golf cart or a utility vehicle, as defined in this section, or a riding lawn mower.

…

(48c) Utility Vehicle. – ~~Vehicle designed and manufactured for general maintenance, security, recreational, and landscaping purposes, but does not include vehicles designed and used primarily for the transportation of persons or property on a street or highway.~~A motor vehicle that is (i) designed for off-road use and (ii) used for general maintenance, security, agricultural, or horticultural purposes. "Utility vehicle" does not include an all-terrain vehicle or golf cart, as defined in this section, or a riding lawn mower.

…."

SECTION 47.6. If House Bill 74, 2013 Regular Session, becomes law, then it is amended by adding a new bill section to read:

"**SECTION 59.1.(a)** This section is effective when it becomes law, and (i) G.S. 130A-295.6(a), as enacted by Section 59.1 of this act, applies to applications for new permits, as defined in sub-subdivisions a. through d. of subdivision (1) of subsection (b) of G.S. 130A-295.8, submitted on after that date; and (ii) G.S. 130A-295.6(h2), as enacted by Section 59.1 of this act, applies to new landfills for which a permit is issued on or after that date."

SECTION 47.7.(a) G.S. 90-294(c) is repealed.

SECTION 47.7.(b) G.S. 90-294 is amended by adding the following new subsection to read:

"(c1) The provisions of this Article do not apply to:

(1) The activities, services, and use of an official title by a person employed by an agency of the federal government and solely in connection with such employment.

(2) The activities and services of a student or trainee in speech and language pathology or audiology pursuing a course of study in an accredited college or university, or working in a training center program approved by the Board, if these activities and services constitute a part of the person's course of study.

(3) Individuals licensed under Chapter 93D of the General Statutes."

SECTION 47.7.(c) G.S. 90-295 reads as rewritten:

"§ **90-295. Qualifications of applicants for permanent licensure.**

(a) To be eligible for permanent licensure by the Board as a speech and language pathologist, the applicant must:

…

(3) Submit evidence of the completion of a minimum of 400 clock hours of supervised, direct clinical experience with individuals who present a variety of communication disorders. This experience must have been obtained within the training institution or in one of its cooperating programs in the following areas: (i) Speech – Adult (20 diagnostic and 20 therapeutic); Children (20 diagnostic and 20 therapeutic); ~~or~~ and (ii) Language – Adult (20 diagnostic and 20 therapeutic); Children (20 diagnostic and 20 therapeutic). Each new applicant must submit a verified clinical clock hour summary sheet signed by the clinic or program director, in addition to completion of the license application.

…

(6) Exercise good moral conduct as defined in rules adopted by the Board or in a code of moral conduct adopted by the Board.

(b) To be eligible for permanent licensure by the Board as an audiologist, the applicant must:

…

(6) Exercise good moral conduct as defined in rules adopted by the Board or in a code of moral conduct adopted by the Board."

SECTION 47.7.(d) G.S. 90-296(a) reads as rewritten:

"(a) An applicant for ~~permanent~~ licensure who has satisfied the academic requirements of G.S. 90-295, shall pass a written examination approved or established by the Board.~~A person who holds a temporary license during the supervised experience year must take and pass the examination required by the Board for permanent licensure before the end of the temporary license period.~~"

SECTION 47.7.(e) G.S.90 -298(b) reads as rewritten:

"(b) A temporary license is required when an applicant has not completed the required supervised experience and passed the required examination.~~A person who holds a temporary license during the supervised experience year must take and pass the examination required by the Board for permanent licensure before the end of the temporary license period.~~"

SECTION 47.7.(f) G.S. 90-301 reads as rewritten:

"§ **90-301. Grounds for suspension or revocation of license.**

Any person licensed under this Article may have his license revoked or suspended for a fixed period by the Board under the provisions of North Carolina General Statutes, Chapter 150B, for any of the following causes:

(1) His license has been secured by fraud or deceit practiced upon the Board.

(2) Fraud or deceit in connection with his services rendered as an audiologist or speech and language pathologist.

(3) Unethical or immoral conduct as defined in this Article or in a code of ethics adopted by the Board.

(4) Violation of any lawful order, rule or regulation rendered or adopted by the Board.

(5) Failure to exercise a reasonable degree of professional skill and care in the delivery of professional services.

(6) Any violation of the provisions of this Article.

(7) Failure to exercise good moral conduct as defined in rules adopted by the Board or in a code of moral conduct adopted by the Board."

SECTION 47.7.(g) G.S. 90-302(2) reads as rewritten:

"§ **90-302. Prohibited acts and practices.**

No person, partnership, corporation, or other entity may:

…

(2) Purchase or procure by barter a license with intent to use it as evidence of the holder's qualification to practice audiology or speech and language pathology.

…."

PART IV. EFFECTIVE DATE

SECTION 48. Except where otherwise provided, this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 26th day of July, 2013.

Became law upon approval of the Governor at 10:52 a.m. on the 23rd day of August, 2013.

Session Law 2013-411 **H.B. 122**

AN ACT TO AMEND THE LAWS PERTAINING TO INTERLOCUTORY APPEALS AS RELATED TO FAMILY LAW.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 7A-27 reads as rewritten:

"§ **7A-27. Appeals of right from the courts of the trial divisions.**

(a) Appeal lies of right directly to the Supreme Court in all cases in which the defendant is convicted of murder in the first degree and the judgment of the superior court includes a sentence of death.

(b) Appeal lies of right directly to the Court of Appeals in any of the following cases:

(1) From any final judgment of a superior court, other than the one described in subsection (a) of this section, or one based on a plea of guilty or nolo contendere, including any final judgment entered upon review of a decision of an administrative agency, except for a final judgment entered upon review of a court martial under G.S. 127A-62.

(2) From any final judgment of a district court in a civil action.

(3) From any interlocutory order or judgment of a superior court or district court in a civil action or proceeding which does any of the following:

a. Affects a substantial right.

b. In effect determines the action and prevents a judgment from which an appeal might be taken.

c. Discontinues the action.

d. Grants or refuses a new trial.

e. Determines a claim prosecuted under G.S. 50-19.1.

(4) From any other order or judgment of the superior court from which an appeal is authorized by statute.

~~(b) From any final judgment of a superior court, other than the one described in subsection (a) of this section, or one based on a plea of guilty or nolo contendere, including any final judgment entered upon review of a decision of an administrative agency, except for a final judgment entered upon review of a court-martial under G.S. 127A-62, appeal lies of right to the Court of Appeals.~~

~~(c) From any final judgment of a district court in a civil action appeal lies of right directly to the Court of Appeals.~~

~~(d) From any interlocutory order or judgment of a superior court or district court in a civil action or proceeding which~~

~~(1) Affects a substantial right, or~~

~~(2) In effect determines the action and prevents a judgment from which appeal might be taken, or~~

~~(3) Discontinues the action, or~~

~~(4) Grants or refuses a new trial, appeal lies of right directly to the Court of Appeals.~~

~~(e) From any other order or judgment of the superior court from which an appeal is authorized by statute, appeal lies of right directly to the Court of Appeals.~~"

SECTION 2. Article 1 of Chapter 50 of the General Statutes is amended by adding the following new section to read:

"**§ 50-19.1. Maintenance of certain appeals allowed.**

Notwithstanding any other pending claims filed in the same action, a party may appeal from an order or judgment adjudicating a claim for absolute divorce, divorce from bed and board, child custody, child support, alimony, or equitable distribution if the order or judgment would otherwise be a final order or judgment within the meaning of G.S. 1A-1, Rule 54(b), but for the other pending claims in the same action. A party does not forfeit the right to appeal under this section if the party fails to immediately appeal from an order or judgment described in this section. An appeal from an order or judgment under this section shall not deprive the trial court of jurisdiction over any other claims pending in the same action."

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

In the General Assembly read three times and ratified this the 26th day of July, 2013.

Became law upon approval of the Governor at 10:52 a.m. on the 23rd day of August, 2013.

Session Law 2013-412 **H.B. 293**

AN ACT AMENDING THE SECURE AND FAIR ENFORCEMENT MORTGAGE LICENSING ACT TO REDUCE REGULATORY BURDENS, MAKING CLARIFYING AND TECHNICAL CHANGES, AND MODIFYING CERTAIN FORECLOSURE PROCEEDINGS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 53-244.050 reads as rewritten:

"§ **53-244.050. License and registration application; claim of exemption.**

…

(b) The eligibility requirements for an application for licensure under this Article are as follows:

(1) Each individual applicant for licensure as a mortgage loan originator or qualifying individual shall:

…

c. Have passed, within the ~~three~~ five years immediately preceding the date of application, the test required under G.S. 53-244.080.

…

(3) If an individual applicant to be licensed as a mortgage broker is a licensed mortgage loan originator and meets the requirements for licensure as a mortgage broker, but is not an employee as defined in G.S. 53-244.030(10) and does not meet the experience requirements of G.S. 53-244.050(b)(2)a., the individual may be licensed as an exclusive mortgage broker upon compliance with all of the following:

a. Successfully completes ~~a 16-hour residential mortgage lending course approved by the Commissioner supplementing~~the prelicensing education required under G.S. 53-244.070."

SECTION 2. G.S. 53-244.080 reads as rewritten:

"§ **53-244.080. Testing requirements for mortgage loan originators.**

…

(e) An applicant may retake a test three consecutive times with each consecutive test occurring at least 30 days after the preceding test. After failing three consecutive tests, an

applicant must wait at least six months before retaking the test. A licensed mortgage loan originator who fails to maintain a valid license for a period of ~~three~~ five years or longer must retake the test."

SECTION 3. G.S. 53-244.102 reads as rewritten:

"§ **53-244.102. Continuing education for mortgage loan originators.**

…

(d) A licensed mortgage loan originator:

(1) Except for G.S. 53-244.070(a) and subsection (e) of this section, may ~~only~~ receive credit for a continuing education course ~~in the year in which the course is taken; and~~taken prior to the end of the reinstatement period under G.S. 53-244.101(d); and

…."

SECTION 4. G.S. 53-244.114 reads as rewritten:

"§ **53-244.114. Licensure authority.**

(a) The Commissioner may, by order, deny, suspend, revoke, or refuse to issue or renew a license of a licensee or applicant under this Article, or may restrict or limit the manner in which a licensee, applicant, or any person who owns an interest in or participates in the business of a licensee engages in the mortgage business, if the Commissioner finds both of the following:

…

(2) That any of the following circumstances apply to the applicant, licensee, or any partner, member, manager, officer, director, loan ~~officer, limited loan officer,~~ originator, qualifying individual, or any person occupying a similar status or performing similar functions or any person directly or indirectly controlling the applicant or licensee. The person:

…

e. Is the subject of an order entered within the past five years by the authority of any state or federal agency with jurisdiction over ~~that state's~~ the mortgage brokerage, mortgage lending, or mortgage servicing ~~industry denying that person's license as a mortgage loan originator, mortgage broker, mortgage lender, or mortgage servicer;~~industry;

…."

SECTION 4.1. If House Bill 616, 2013 Regular Session, becomes law, the amendment to G.S. 53-244.114(a)(2)e. made by Section 12 of that bill is repealed.

SECTION 5. G.S. 53-244.116 reads as rewritten:

"§ **53-244.116. Disciplinary authority.**

…

(b) When a licensee is accused of any act, omission, or misconduct that would subject the licensee to disciplinary action, the licensee, with the consent and approval of the Commissioner, may surrender the license and all the rights and privileges pertaining to it. A person who surrenders a license shall not be eligible for or submit any application for licensure under this ~~Article.~~Article during any period specified by the Commissioner.

…."

SECTION 6. G.S. 53-244.117 is repealed.

SECTION 7. G.S. 45-21.16B is repealed.

SECTION 8. G.S. 45-94 reads as rewritten:

"§ **45-94. Remedies.**

In addition to any equitable remedies and any other remedies at law, any borrower injured by any violation of this Article may bring an action for recovery of actual damages, including reasonable attorneys' fees. The Commissioner of Banks, the Attorney General, or any party to a home loan may enforce the provisions of this section. ~~The Clerk of Superior Court shall also suspend foreclosure proceedings for 60 days if notified by the Commissioner of Banks as~~

~~provided in G.S. 53-243.12(n).~~ With the exception of an action by the Commissioner of Banks or the Attorney General, at least 30 days before a borrower or a borrower's representative institutes a civil action for damages against a servicer for a violation of this Article, the borrower or a borrower's representative shall notify the servicer in writing of any claimed errors or disputes regarding the borrower's home loan that forms the basis of the civil action. The notice must be sent to the address as designated on any of the servicer's bills, statements, invoices, or other written communication, and must enable the servicer to identify the name and loan account of the borrower. For purposes of this section, notice shall not include a complaint or summons. Nothing in this section shall limit the rights of a borrower to enjoin a civil action, or make a counterclaim, cross-claim, or plead a defense in a civil action. A servicer will not be in violation of this Article if the servicer shows by a preponderance of evidence that:

(1) The violation was not intentional or the result of bad faith; and

(2) Within 30 days after discovering or being notified of an error, and prior to the institution of any legal action by the borrower against the servicer under this section, the servicer corrected the error and compensated the borrower for any fees or charges incurred by the borrower as a result of the violation."

SECTION 9. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 25th day of July, 2013.

Became law upon approval of the Governor at 10:52 a.m. on the 23rd day of August, 2013.

Session Law 2013-413 **H.B. 74**

AN ACT TO IMPROVE AND STREAMLINE THE REGULATORY PROCESS IN ORDER TO STIMULATE JOB CREATION, TO ELIMINATE UNNECESSARY REGULATION, TO MAKE VARIOUS OTHER STATUTORY CHANGES, AND TO AMEND CERTAIN ENVIRONMENTAL AND NATURAL RESOURCES LAWS.

The General Assembly of North Carolina enacts:

PART I. IMPROVE RULE-MAKING PROCESS

SECTION 1. G.S. 150B-2 is amended by adding a new subdivision to read:

"(7a) "Policy" means any nonbinding interpretive statement within the delegated authority of an agency that merely defines, interprets, or explains the meaning of a statute or rule. The term includes any document issued by an agency which is intended and used purely to assist a person to comply with the law, such as a guidance document."

SECTION 2. G.S. 150B-21.4 reads as rewritten:

"§ **150B-21.4. Fiscal notes on rules.**

(a) State Funds. – Before an agency ~~publishes in the North Carolina Register the proposed text of~~ adopts a permanent rule change that would require the expenditure or distribution of funds subject to the State Budget Act, Chapter 143C of the General Statutes it must ~~submit the text of the proposed rule change, an analysis of the proposed rule change, and a fiscal note on the proposed rule change to the Office of State Budget and Management and~~ obtain certification from the Office of State Budget and Management that the funds that would be required by the proposed rule change are available. The agency shall submit the text of the proposed rule change, an analysis of the proposed rule change, and a fiscal note on the proposed rule change to the Office at the same time as the agency submits the notice of text for publication pursuant to G.S. 150B-21.2. The fiscal note must state the amount of funds that would be expended or distributed as a result of the proposed rule change and explain how the amount was computed. The Office of State Budget and Management must certify a proposed rule change if funds are available to cover the expenditure or distribution required by the proposed rule change.

(a1) DOT Analyses. – In addition to the requirements of subsection (a) of this section, any agency that adopts a rule affecting environmental permitting of Department of Transportation projects shall conduct an analysis to determine if the rule will result in an increased cost to the Department of Transportation. The analysis shall be conducted and submitted to the Board of Transportation ~~before~~ when the agency ~~publishes the proposed text of the rule change in the North Carolina Register.~~submits the notice of text for publication. The agency shall consider any recommendations offered by the Board of Transportation prior to adopting the rule. Once a rule subject to this subsection is adopted, the Board of Transportation may submit any objection to the rule it may have to the Rules Review Commission. If the Rules Review Commission receives an objection to a rule from the Board of Transportation no later than 5:00 P.M. of the day following the day the Commission approves the rule, then the rule shall only become effective as provided in G.S. 150B-21.3(b1).

(b) Local Funds. – Before an agency ~~publishes in the North Carolina Register the proposed text of~~adopts a permanent rule change that would affect the expenditures or revenues of a unit of local government, it must submit the text of the proposed rule change and a fiscal note on the proposed rule change to the Office of State Budget and Management as provided by G.S. 150B-21.26, the Fiscal Research Division of the General Assembly, the North Carolina Association of County Commissioners, and the North Carolina League of Municipalities. The fiscal note must state the amount by which the proposed rule change would increase or decrease expenditures or revenues of a unit of local government and must explain how the amount was computed.

(b1) Substantial Economic Impact. – Before an agency ~~publishes in the North Carolina Register the proposed text of~~adopts a permanent rule change that would have a substantial economic impact and that is not identical to a federal regulation that the agency is required to adopt, the agency shall prepare a fiscal note for the proposed rule change and have the note approved by the Office of State Budget and Management. The agency may request the Office of State Budget and Management to prepare the fiscal note only after, working with the Office, it has exhausted all resources, internal and external, to otherwise prepare the required fiscal note. If an agency requests the Office of State Budget and Management to prepare a fiscal note for a proposed rule change, that Office must prepare the note within 90 days after receiving a written request for the note. If the Office of State Budget and Management fails to prepare a fiscal note within this time period, the agency proposing the rule change shall prepare a fiscal note. A fiscal note prepared in this circumstance does not require approval of the Office of State Budget and Management.

If an agency prepares the required fiscal note, the agency must submit the note to the Office of State Budget and Management for review. The Office of State Budget and Management shall review the fiscal note within 14 days after it is submitted and either approve the note or inform the agency in writing of the reasons why it does not approve the fiscal note. After addressing these reasons, the agency may submit the revised fiscal note to that Office for its review. If an agency is not sure whether a proposed rule change would have a substantial economic impact, the agency shall ask the Office of State Budget and Management to determine whether the proposed rule change has a substantial economic impact. Failure to prepare or obtain approval of the fiscal note as required by this subsection shall be a basis for objection to the rule under G.S. 150B-21.9(a)(4).

As used in this subsection, the term "substantial economic impact" means an aggregate financial impact on all persons affected of at least ~~five hundred thousand dollars ($500,000)~~ one million dollars ($1,000,000) in a 12-month period. In analyzing substantial economic impact, an agency shall do the following:

(1) Determine and identify the appropriate time frame of the analysis.
(2) Assess the baseline conditions against which the proposed rule is to be measured.
(3) Describe the persons who would be subject to the proposed rule and the type of expenditures these persons would be required to make.

(4) Estimate any additional costs that would be created by implementation of the proposed rule by measuring the incremental difference between the baseline and the future condition expected after implementation of the rule. The analysis should include direct costs as well as opportunity costs. Cost estimates must be monetized to the greatest extent possible. Where costs are not monetized, they must be listed and described.

(5) For costs that occur in the future, the agency shall determine the net present value of the costs by using a discount factor of seven percent (7%).

(b2) Content. – A fiscal note required by subsection (b1) of this section must contain the following:

(1) A description of the persons who would be affected by the proposed rule change.

(2) A description of the types of expenditures that persons affected by the proposed rule change would have to make to comply with the rule and an estimate of these expenditures.

(3) A description of the purpose and benefits of the proposed rule change.

(4) An explanation of how the estimate of expenditures was computed.

(5) A description of at least two alternatives to the proposed rule that were considered by the agency and the reason the alternatives were rejected. The alternatives may have been identified by the agency or by members of the public.

(c) Errors. – An erroneous fiscal note prepared in good faith does not affect the validity of a rule."

SECTION 3.(a) G.S. 150B-21.2(c) reads as rewritten:

"(c) Notice of Text. – A notice of the proposed text of a rule must include all of the following:

(1) The text of the proposed ~~rule.~~rule, unless the rule is a readoption without substantive changes to the existing rule proposed in accordance with G.S. 150B-21.3A.

(2) A short explanation of the reason for the proposed rule and a link to the agency's Web site containing the information required by G.S. 150B-19.1(c).

(3) A citation to the law that gives the agency the authority to adopt the rule.

(4) The proposed effective date of the rule.

(5) The date, time, and place of any public hearing scheduled on the rule.

(6) Instructions on how a person may demand a public hearing on a proposed rule if the notice does not schedule a public hearing on the proposed rule and subsection (e) of this section requires the agency to hold a public hearing on the proposed rule when requested to do so.

(7) The period of time during which and the person to whom written comments may be submitted on the proposed rule.

(8) If a fiscal note has been prepared for the rule, a statement that a copy of the fiscal note can be obtained from the agency.

(9) The procedure by which a person can object to a proposed rule and the requirements for subjecting a proposed rule to the legislative review process."

SECTION 3.(b) Part 2 of Article 2A of Chapter 150B of the General Statutes is amended by adding a new section to read:

"§ **150B-21.3A. Periodic review and expiration of existing rules.**

(a) Definitions. – For purposes of this section, the following definitions apply:

(1) Commission. – Means the Rules Review Commission.

(2) Committee. – Means the Joint Legislative Administrative Procedure Oversight Committee.

(3) Necessary with substantive public interest. – Means any rule for which the agency has received public comments within the past two years. A rule is also "necessary with substantive public interest" if the rule affects the property interest of the regulated public and the agency knows or suspects that any person may object to the rule.

(4) Necessary without substantive public interest. – Means a rule for which the agency has not received a public comment concerning the rule within the past two years. A "necessary without substantive public interest" rule includes a rule that merely identifies information that is readily available to the public, such as an address or a telephone number.

(5) Public comment. – Means written comments objecting to the rule, in whole or in part, received by an agency from any member of the public, including an association or other organization representing the regulated community or other members of the public.

(6) Unnecessary rule. – Means a rule that the agency determines to be obsolete, redundant, or otherwise not needed.

(b) Automatic Expiration. – Except as provided in subsection (d1) of this section, any rule for which the agency that adopted the rule has not conducted a review in accordance with this section shall expire on the date set in the schedule established by the Commission pursuant to subsection (d) of this section.

(c) Review Process. – Each agency subject to this Article shall conduct a review of the agency's existing rules at least once every 10 years in accordance with the following process:

(1) Step 1: The agency shall conduct an analysis of each existing rule and make an initial determination as to whether the rule is (i) necessary with substantive public interest, (ii) necessary without substantive public interest, or (iii) unnecessary. The agency shall then post the results of the initial determination on its Web site and invite the public to comment on the rules and the agency's initial determination. The agency shall also submit the results of the initial determination to the Office of Administrative Hearings for posting on its Web site. The agency shall accept public comment for no less than 60 days following the posting. The agency shall review the public comments and prepare a brief response addressing the merits of each comment. After completing this process, the agency shall submit a report to the Commission. The report shall include the following items:

a. The agency's initial determination.

b. All public comments received in response to the agency's initial determination.

c. The agency's response to the public comments.

(2) Step 2: The Commission shall review the reports received from the agencies pursuant to subdivision (1) of this subsection. If a public comment relates to a rule that the agency determined to be necessary and without substantive public interest or unnecessary, the Commission shall determine whether the public comment has merit and, if so, designate the rule as necessary with substantive public interest. For purposes of this subsection, a public comment has merit if it addresses the specific substance of the rule and relates to any of the standards for review by the Commission set forth in G.S. 150B-21.9(a). The Commission shall prepare a final determination report and submit the report to the Committee for consultation in accordance with subdivision (3) of this subsection. The report shall include the following items:

a. The agency's initial determination.

b. All public comments received in response to the agency's initial determination.

c. The agency's response to the public comments.

d. A summary of the Commission's determinations regarding public comments.

e. A determination that all rules that the agency determined to be necessary and without substantive public interest and for which no public comment was received or for which the Commission determined that the public comment was without merit be allowed to remain in effect without further action.

f. A determination that all rules that the agency determined to be unnecessary and for which no public comment was received or for which the Commission determined that the public comment was without merit shall expire on the first day of the month following the date the report becomes effective in accordance with this section.

g. A determination that all rules that the agency determined to be necessary with substantive public interest or that the Commission designated as necessary with public interest as provided in this subdivision shall be readopted as though the rules were new rules in accordance with this Article.

(3) Step 3: The final determination report shall not become effective until the agency has consulted with the Committee. The determinations contained in the report pursuant to sub-subdivisions e., f., and g. of subdivision (2) of this subsection shall become effective on the date the report is reviewed by the Committee. If the Committee does not hold a meeting to hear the consultation required by this subdivision within 60 days of receipt of the final determination report, the consultation requirement is deemed satisfied, and the determinations contained in the report become effective on the 61st day following the date the Committee received the report. If the Committee disagrees with a determination regarding a specific rule contained in the report, the Committee may recommend that the General Assembly direct the agency to conduct a review of the specific rule in accordance with this section in the next year following the consultation.

(d) Timetable. – The Commission shall establish a schedule for the review of existing rules in accordance with this section on a decennial basis by assigning each Title of the Administrative Code a date by which the review required by this section must be completed. In establishing the schedule, the Commission shall consider the scope and complexity of rules subject to this section and the resources required to conduct the review required by this section. The Commission shall have broad authority to modify the schedule and extend the time for review in appropriate circumstances. Except as provided in subsection (d1) of this section, if the agency fails to conduct the review by the date set by the Commission, the rules contained in that Title which have not been reviewed will expire. The Commission may exempt rules that have been adopted or amended within the previous 10 years from the review required by this section. However, any rule exempted on this basis must be reviewed in accordance with this section no more than 10 years following the last time the rule was amended.

(d1) Rules to Conform to or Implement Federal Law. – Rules adopted to conform to or implement federal law shall not expire as provided by this section. The Commission shall report annually to the Committee on any rules that do not expire pursuant to this subsection.

(e) Other Reviews. – Notwithstanding any provision of this section, an agency may subject a rule that it determines to be unnecessary to review under this section at any time by notifying the Commission that it wishes to be placed on the schedule for the current year. The Commission may also subject a rule to review under this section at any time by notifying the agency that the rule has been placed on the schedule for the current year."

SECTION 3.(c) G.S. 150B-19.2 is repealed.

SECTION 3.(d) If G.S. 150B-21.3A, as enacted by subsection (b) of this section, becomes law, the Rules Review Commission shall subject rules adopted by the Environmental Management Commission related to surface water quality and wetlands to review in the first year that the Rules Review Commission establishes for the review of existing rules in accordance with G.S. 150B-21.3A.

SECTION 4. The Joint Legislative Administrative Procedure Oversight Committee shall undertake a study of the exemptions from rule making contained in G.S. 150B-1(d) and elsewhere in the General Statutes. For each exemption, the Committee shall evaluate the continued need for the exemption and the potential consequences of repeal of the exemption. The Committee shall report to the 2014 Regular Session of the 2013 General Assembly on its findings and recommendations, including any legislative recommendations for the repeal of exemptions.

PART II. STATE AND LOCAL GOVERNMENT REGULATIONS

PROHIBIT DELAYED ENFORCEMENT OF LOCAL ORDINANCES AND PROHIBIT CERTAIN CONTRACT REQUIREMENTS BY LOCAL GOVERNMENTS

SECTION 5.(a) G.S. 153A-348 is amended by adding a new subsection to read:

"(d) When a use constituting a violation of a zoning or unified development ordinance is in existence prior to adoption of the zoning or unified development ordinance creating the violation, and that use is grandfathered and subsequently terminated for any reason, a county shall bring an enforcement action within 10 years of the date of the termination of the grandfathered status, unless the violation poses an imminent hazard to health or public safety."

SECTION 5.(b) G.S. 160A-364.1 is amended by adding a new subsection to read:

"(d) When a use constituting a violation of a zoning or unified development ordinance is in existence prior to adoption of the zoning or unified development ordinance creating the violation, and that use is grandfathered and subsequently terminated for any reason, a city shall bring an enforcement action within 10 years of the date of the termination of the grandfathered status, unless the violation poses an imminent hazard to health or public safety."

SECTION 5.(c) G.S. 153A-449 reads as rewritten:

"§ **153A-449. Contracts with private entities.**

A county may contract with and appropriate money to any person, association, or corporation, in order to carry out any public purpose that the county is authorized by law to engage in. A county may not require a private contractor under this section to abide by any restriction that the county could not impose on all employers in the county, such as paying minimum wage or providing paid sick leave to its employees, as a condition of bidding on a contract."

SECTION 5.(d) G.S. 160A-20.1 reads as rewritten:

"§ **160A-20.1. Contracts with private entities.**

A city may contract with and appropriate money to any person, association, or corporation, in order to carry out any public purpose that the city is authorized by law to engage in. A city may not require a private contractor under this section to abide by any restriction that the city could not impose on all employers in the city, such as paying minimum wage or providing paid sick leave to its employees, as a condition of bidding on a contract."

SECTION 5.(e) This section is effective when it becomes law and applies to contracts entered on or after that date.

EQUAL TREATMENT FOR FRATERNITIES AND SORORITIES BY LOCAL GOVERNMENT

SECTION 6.(a) G.S. 153A-340 is amended by adding a new subsection to read:

"(k) A zoning or unified development ordinance may not differentiate in terms of the regulations applicable to fraternities or sororities between those fraternities or sororities that are approved or recognized by a college or university and those that are not."

SECTION 6.(b) G.S. 160A-381 is amended by adding a new subsection to read:

"(g) A zoning or unified development ordinance may not differentiate in terms of the regulations applicable to fraternities or sororities between those fraternities or sororities that are approved or recognized by a college or university and those that are not."

SECTION 6.(c) Part 3 of Article 1 of Chapter 116 of the General Statutes is amended by adding a new section to read:

"**§ 116-40.11. Disciplinary proceedings; right to counsel for students and organizations.**

(a) Any student enrolled at a constituent institution who is accused of a violation of the disciplinary or conduct rules of the constituent institution shall have the right to be represented, at the student's expense, by a licensed attorney or nonattorney advocate who may fully participate during any disciplinary procedure or other procedure adopted and used by the constituent institution regarding the alleged violation. However, a student shall not have the right to be represented by a licensed attorney or nonattorney advocate in either of the following circumstances:

(1) If the constituent institution has implemented a "Student Honor Court" which is fully staffed by students to address such violations.

(2) For any allegation of "academic dishonesty" as defined by the constituent institution.

(b) Any student organization officially recognized by a constituent institution that is accused of a violation of the disciplinary or conduct rules of the constituent institution shall have the right to be represented, at the organization's expense, by a licensed attorney or nonattorney advocate who may fully participate during any disciplinary procedure or other procedure adopted and used by the constituent institution regarding the alleged violation. However, a student organization shall not have the right to be represented by a licensed attorney or nonattorney advocate if the constituent institution has implemented a "Student Honor Court" which is fully staffed by students to address such violations.

(c) Nothing in this section shall be construed to create a right to be represented at a disciplinary proceeding at public expense."

SECTION 6.(d) Each constituent institution shall track the number and type of disciplinary proceedings impacted by this section, as well as the number of cases in which a student or student organization is represented by an attorney or nonattorney advocate. The constituent institutions shall report their findings to the Board of Governors of The University of North Carolina, and the Board of Governors shall submit a combined report to the Joint Legislative Education Oversight Committee and the House and Senate Education Appropriations Subcommittees by May 1, 2014.

SECTION 6.(e) Subsection (c) of this section is effective when it becomes law and applies to all allegations of violations beginning on or after that date.

AMEND PRIVATE CLUB DEFINITION

SECTION 7. G.S. 130A-247 reads as rewritten:

"**§ 130A-247. Definitions.**

The following definitions shall apply throughout this Part:

…

(2) "Private club" means an organization that (i) maintains selective members, is operated by the membership, does not provide food or lodging for pay to anyone who is not a member or a member's guest, and is either incorporated as a nonprofit corporation in accordance with Chapter 55A of the General Statutes or is exempt from federal income tax under the Internal Revenue Code as defined in ~~G.S. 105-130.2(1).~~G.S. 105-130.2(1) or (ii) meets the definition of a private club set forth in G.S. 18B-1000(5).

…."

OUTDOOR ADVERTISING AMENDMENTS

SECTION 8.(a) G.S. 136-133.1 reads as rewritten:

"§ **136-133.1. Outdoor advertising vegetation cutting or removal.**

…

(a1) Notwithstanding any law to the contrary, in order to promote the outdoor advertiser's right to be clearly viewed as set forth in G.S. 136-127, the Department of Transportation, at the request of a selective vegetation removal permittee, may approve plans for the cutting, thinning, pruning, or removal of vegetation outside of the cut or removal zone defined in subsection (a) of this section along acceleration or deceleration ramps so long as the view to the outdoor advertising sign will be improved and the total aggregate area of cutting or removal does not exceed the maximum allowed in subsection (a) of this section.

…

(f) Tree branches within a highway right-of-way that encroach into the zone created by points A, ~~C, and D~~B, D, and E may be cut or pruned. Except as provided in subsection (g) of this section, no person, firm, or entity shall cut, trim, prune, or remove or otherwise cause to be cut, trimmed, pruned, or removed vegetation that is in front of, or adjacent to, outdoor advertising and within the limits of the highway right-of-way for the purpose of enhancing the visibility of outdoor advertising unless permitted to do so by the Department in accordance with this section, G.S. 136-93(b), 136-133.2, and 136-133.4.

…."

SECTION 8.(b) Article 11 of Chapter 136 of the General Statutes is amended by adding a new section to read:

"**§ 136-131.2. Modernization of outdoor advertising devices.**

No municipality, county, local or regional zoning authority, or other political subdivision shall, without the payment of just compensation as provided for in G.S. 136-131.1, regulate or prohibit the repair or reconstruction of any outdoor advertising for which there is in effect a valid permit issued by the Department of Transportation so long as the square footage of its advertising surface area is not increased. As used in this section, reconstruction includes the changing of an existing multipole outdoor advertising structure to a new monopole structure."

DISPOSITION OF DMH/DD/SAS RECORDS

SECTION 9. The Division of Mental Health, Developmental Disabilities, and Substance Abuse Services shall amend its Records Retention and Disposition Schedule Manual to provide that if a Medicaid service has been eliminated by the State, the provider must retain records for three years after the last date of the service, unless a longer period is required by federal law. At the termination of that time period, records may be destroyed or transferred to a State agency or contractor identified by the Department of Health and Human Services.

STUDY OCCUPATIONAL LICENSING BOARD AGENCY

SECTION 10.(a) The Joint Legislative Program Evaluation Oversight Committee shall include in the 2013-2014 Work Plan for the Program Evaluation Division of the General Assembly a study to evaluate the structure, organization, and operation of the various independent occupational licensing boards. For purposes of this act, the term "occupational licensing board" has the same meaning as defined in G.S. 93B-1. The Program Evaluation Division shall include the following within this study:

(1) Consideration of the feasibility of establishing a single State agency to oversee the administration of all or some of the occupational licensing boards.

(2) Whether greater efficiency and cost-effectiveness can be realized by combining the administrative functions of the boards while allowing the boards to continue performing the regulatory functions.

(3) Whether the total number of boards should be reduced by combining and/or eliminating some boards.

SECTION 10.(b) The Program Evaluation Division shall submit its findings and recommendations from Section 10(a) of this act to the Joint Legislative Program Evaluation Oversight Committee and the Joint Legislative Administrative Procedure Oversight Committee at a date to be determined by the Joint Legislative Program Evaluation Oversight Committee.

PROHIBIT TRANSPORTATION IMPACT MITIGATION ORDINANCES

SECTION 10.1.(a) Article 8 of Chapter 160A of the General Statutes is amended by adding a new section to read as follows:

"**§ 160A-204. Transportation impact mitigation ordinances prohibited.**

No city may enact or enforce an ordinance, rule, or regulation that requires an employer to assume financial, legal, or other responsibility for the mitigation of the impact of his or her employees' commute or transportation to or from the employer's workplace, which may result in the employer being subject to a fine, fee, or other monetary, legal, or negative consequences."

SECTION 10.1.(b) Article 6 of Chapter 153A of the General Statutes is amended by adding a new section to read as follows:

"**§ 153A-145.1. Transportation impact mitigation ordinances prohibited.**

No county may enact or enforce an ordinance, rule, or regulation that requires an employer to assume financial, legal, or other responsibility for the mitigation of the impact of his or her employees' commute or transportation to or from the employer's workplace, which may result in the employer being subject to a fine, fee, or other monetary, legal, or negative consequences."

TEMPORARY LIMITATION ON ENACTMENT OF ENVIRONMENTAL ORDINANCES BY CITIES AND COUNTIES; STUDY

SECTION 10.2(a) Notwithstanding any other provision of law and except as authorized by this section, a city or county may not enact an ordinance that regulates a field that is also regulated by a State or federal statute enforced by an environmental agency or that regulates a field that is also regulated by a rule adopted by an environmental agency. A city or county may enact an ordinance that regulates a field that is also regulated by a State or federal statute enforced by an environmental agency or that regulates a field that is also regulated by a rule adopted by an environmental agency if the ordinance is approved by a unanimous vote of the members present and voting.

SECTION 10.2(b) For purposes of this section, "an environmental agency" means any of the following:

(1) The Department of Environment and Natural Resources created pursuant to G.S. 143B-279.1.
(2) The Environmental Management Commission created pursuant to G.S. 143B-282.
(3) The Coastal Resources Commission established pursuant to G.S. 113A-104.
(4) The Marine Fisheries Commission created pursuant to G.S. 143B-289.51.
(5) The Wildlife Resources Commission created pursuant to G.S. 143-240.
(6) The Commission for Public Health created pursuant to G.S. 130A-29, when regulating pursuant to the authority granted by Articles 9, 10, 11, 19, 19A, and 19B of Chapter 130A of the General Statutes.
(7) The Sedimentation Control Commission created pursuant to G.S. 143B-298.
(8) The Mining and Energy Commission created pursuant to G.S. 143B-293.1.
(9) The Pesticide Board created pursuant to G.S. 143-436.

SECTION 10.2.(c) The Environmental Review Commission shall study the circumstances under which cities and counties should be authorized to enact ordinances (i) that regulate a field that is also regulated by a State or federal statute enforced by an environmental agency or that regulate a field that is also regulated by a rule adopted by an environmental agency and (ii) that are more stringent than the State or federal statute or State rule. The

Environmental Review Commission shall report its findings and recommendations to the 2014 Regular Session of the 2013 General Assembly.

SECTION 10.2.(d) This section is effective when it becomes law. Subsection (a) of this section applies to ordinances enacted on or after that date. Subsection (a) of this section expires October 1, 2014.

PART III. BUSINESS AND LABOR REGULATIONS

LET BED AND BREAKFASTS OFFER THREE MEALS/DAY

SECTION 11.(a) G.S. 130A-247 is amended by adding a new subdivision to read:

"(5a) "Bed and breakfast home" means a business in a private home of not more than eight guest rooms that offers bed and breakfast accommodations for a period of less than one week and that meets all of the following criteria:

a. Does not serve food or drink to the general public for pay.

b. Serves the breakfast meal, the lunch meal, the dinner meal, or a combination of all or some of these three meals, only to overnight guests of the home.

c. Includes the price of any meals served in the room rate.

d. Is the permanent residence of the owner or the manager of the business."

SECTION 11.(b) G.S. 130A-248(a2) reads as rewritten:

"(a2) For the protection of the public health, the Commission shall adopt rules governing the sanitation of ~~private homes offering bed and breakfast accommodations to eight or fewer persons per night,~~bed and breakfast homes, as defined in G.S. 130A-247, and rules governing the sanitation of bed and breakfast ~~inns~~ inns, as defined in G.S. 130A-247. In carrying out this function, the Commission shall adopt requirements that are the least restrictive so as to protect the public health and not unreasonably interfere with the operation of bed and breakfast homes and bed and breakfast inns."

SECTION 11.(c) This section becomes effective October 1, 2013.

PEO ACT AMENDMENTS

SECTION 11.1.(a) G.S. 58-89A-5(8) is repealed.

SECTION 11.1.(b) G.S. 58-89A-50 reads as rewritten:

"§ **58-89A-50. Surety bond; letter of credit; other deposits.**

(a) An applicant for licensure shall file with the Commissioner a surety ~~bond for the benefit of the Commissioner as follows:~~

~~(1) If the applicant was initially licensed prior to October 1, 2008, the bond, or other items as provided for in subsection (f) of this section, shall be in the amount of one hundred thousand dollars ($100,000).~~

~~(2) If the applicant was not initially licensed prior to October 1, 2008, the bond, or other items as provided for in subsection (f) of this section, shall be in an amount equal to five percent (5%) of the applicant's prior year's total North Carolina wages, benefits, workers compensation premiums, and unemployment compensation contributions, but not greater than five hundred thousand dollars ($500,000), or such greater amount as the Commissioner may require.~~

bond, or other items as set forth in subsection (f) of this section, in the amount of one hundred thousand dollars ($100,000) for the benefit of the Commissioner. An applicant whose current assets do not exceed current liabilities pursuant to G.S. 58-89A-60(b) shall file an additional surety bond or other items set forth in subsection (f) of this section equal to or in excess of current liabilities less current assets.

(b) The surety bond required by this section shall be in a form acceptable to the Commissioner, issued by an insurer authorized by the Commissioner to write surety business in

this State, and maintained in force while the license remains in effect or any obligations or liabilities of the applicant, licensee or PEO previously licensed by this State remain outstanding.

(c) The surety bond required by this section may be exchanged or replaced with another surety bond if (i) the surety bond applies to obligations and liabilities that arose during the period of the original surety bond, (ii) the surety bond meets the requirements of this section, and (iii) 90 days' advance written notice is provided to the Commissioner.

~~(d) A licensee shall not require a client company to contribute in any manner to the payment of the surety bond required by this section.~~

…."

SECTION 11.1.(c) G.S. 58-89A-60(b) reads as rewritten:

"(b) Every applicant shall file with the Commissioner ~~evidence of financial responsibility. Evidence of financial responsibility includes~~ an audited GAAP financial statement, prepared as of a date not more than 90 days before the date of application that demonstrates that the applicant or ~~licensee is not in a hazardous financial condition~~ licensee's current assets exceed current liabilities and attached to which is a separate document signed by the chief executive and the chief financial officer certifying that (i) each has reviewed the financial statement; (ii) based on each signatory's knowledge, the financial statement does not contain any untrue or misleading statement of material fact or omit a fact with respect to the period covered by the financial statement; and (iii) based on each signatory's knowledge, the financial statement fairly presents in all material respects the financial condition of the licensee as of, and for, the period presented in the financial statement.

Notwithstanding the requirements of this subsection, the Commissioner may, in the Commissioner's discretion, accept an audited GAAP financial statement that has been prepared more than 90 days before submission to the Commissioner if the Commissioner deems such acceptance appropriate. The Commissioner may, in the Commissioner's discretion, impose conditions upon such acceptance of financial statements prepared more than 90 days prior to submission.

The audited GAAP financial statement shall be prepared in accordance with generally accepted accounting principles and audited by an independent certified public accountant licensed to practice in the jurisdiction in which such accountant is located and shall be without qualification as to the going concern status of the PEO. A PEO group may submit combined or consolidated audited financial statements to meet the requirements of this section, except that a PEO that has not had sufficient operating history to have audited financial statements based upon at least 12 months of operating history must meet the financial capacity requirements of this subsection and present financial statements reviewed by a certified public accountant."

SECTION 11.1.(d) G.S. 58-89A-85 reads as rewritten:

"§ **58-89A-85. Supervision; rehabilitation; liquidation.**

If at any time the Commissioner determines, after notice and an opportunity for the licensee to be heard, that a licensee (i) has been or will be unable, in such a manner as may endanger the ability of the licensee, to fully perform its obligations pursuant to this Article or (ii) is ~~bankrupt or in a hazardous financial condition,~~ bankrupt, the Commissioner may either (i) commence a supervision proceeding pursuant to Article 30 of this Chapter or (ii) apply to the Superior Court of Wake County or to the federal bankruptcy court that has previously taken jurisdiction over the licensee, if applicable, for an order directing the Commissioner or authorizing the Commissioner to rehabilitate or to liquidate a licensee in accordance with Article 30 of this Chapter."

SECTION 11.1.(e) G.S. 58-89A-95 reads as rewritten:

"§ **58-89A-95. ~~Agreement; notice.~~Agreement.**

(a) A licensee shall establish the terms of a PEO agreement by a written contract between the licensee and the client company.

(b) The licensee shall give written notice of the agreement, by agreement or otherwise, as it affects assigned employees to each employee assigned to a client company work site. ~~This~~

~~written notice shall be given to each assigned employee not later than the first payday after the date on which that individual becomes an assigned employee.~~

~~(c) The licensee shall give each employee written notice when the employee ceases to be an employee of the licensee.~~"

SECTION 11.1.(f) G.S. 58-89A-100 reads as rewritten:

"§ **58-89A-100. Contract requirements.**

A contract between a licensee and a client company shall provide:

(1) ~~That the licensee reserves a right of direction and control over employees assigned to a client company's work sites. However, a~~ Unless otherwise expressly agreed by a professional employer organization and a client company in a PEO agreement, the client company ~~may retain such sufficient~~ retains the exclusive right of direction and control over the assigned employees as is necessary to conduct the client company's business and without which the client company would be unable to conduct its business, to discharge any fiduciary responsibility that it may have, or to comply with any applicable licensure, regulatory, or statutory requirement of the client ~~company.~~ company or an assigned employee. The PEO agreement shall provide that employment responsibilities not allocated to the licensee by the PEO agreement or this section remain with the client company.

(2) That the licensee assumes responsibility for the payment of wages to the assigned employees as agreed to in the PEO agreement.

(3) That the licensee assumes responsibility for the payment of payroll taxes and collection of taxes from payroll on assigned employees.

(4) ~~That the licensee reserves a right to hire, fire, and discipline the assigned employees.~~That the licensee shall have a right to hire, discipline, and terminate an assigned employee as may be necessary to fulfill the licensee's responsibilities under this Chapter and a PEO agreement. The client company shall have a right to hire, discipline, and terminate an assigned employee.

(5) That the licensee retains a right of direction and control over the adoption of employment policies and the management of workers' compensation claims, claim filings, and related procedures in accordance with applicable federal laws and the laws of this State.

(6) That responsibility to obtain workers' compensation coverage for assigned employees, from an entity authorized to do business in this State and otherwise in compliance with all applicable requirements, shall be specifically allocated in the PEO agreement to either the client company or the licensee. If the responsibility is allocated to the licensee under any such agreement, that agreement shall require that the licensee maintain and provide to the client company, at the termination of the agreement if requested by the client company, records regarding the loss experience related to workers' compensation insurance provided to assigned employees pursuant to the agreement."

SECTION 11.1.(g) G.S. 58-89A-145 reads as rewritten:

"§ **58-89A-145. Examinations.**

(a) The Commissioner may conduct an examination of a licensee as often as the Commissioner considers appropriate.

(b) An examination under this Article shall be conducted in accordance with the Examination Law of this Chapter, G.S. 58-2-131 through G.S. 58-2-134.

(c) In lieu of an examination of any foreign or alien person licensed under this Article, the Commissioner may, in the Commissioner's discretion, accept an examination report on the licensee prepared by the appropriate regulator for the licensee's state of domicile.

(d) When making an examination under this Article, the Commissioner may retain attorneys, appraisers, independent actuaries, independent certified public accountants, or other professionals and specialists as examiners, the reasonable cost of which ~~shall be borne by the licensee that is the subject of the examination.~~may only be recovered pursuant to G.S. 58-89A-65(d)."

SECTION 11.1.(h) G.S. 58-89A-155(a)(4) is repealed.

SECTION 11.1.(i) This section becomes effective October 1, 2013.

CHILD CARE PROVIDERS' CRIMINAL HISTORY CHECKS

SECTION 12. G.S. 110-90.2 is amended by adding a new subsection to read:

"(h) The check of the State and National Repositories for the criminal history of a person required to be conducted by this section and directed to the State Bureau of Investigation shall be completed within 15 business days of the receipt of the properly submitted request from the Department of Health and Human Services. If the check reveals that the child care provider has no criminal history as defined by subdivision (a)(3) of this section, the Department of Health and Human Services shall make a determination of the fitness of the provider pursuant to subsection (d) of this section within 15 calendar days of receipt of the results of the criminal history check. If the check reveals that the child care provider has a criminal history as defined by subdivision (a)(3) of this section, the Department of Health and Human Services shall make a determination of the fitness of the provider pursuant to subsection (d) of this section within 30 business days of receipt of the results of the criminal history check."

REGULATION OF DIGITAL DISPATCHING SERVICES

SECTION 12.1.(a) G.S. 160A-194 reads as rewritten:

"§ **160A-194. Regulating and licensing businesses, trades, etc.**

(a) A city may by ordinance, subject to the general law of the State, regulate and license occupations, businesses, trades, professions, and forms of amusement or entertainment and prohibit those that may be inimical to the public health, welfare, safety, order, or convenience. In licensing trades, occupations, and professions, the city may, consistent with the general law of the State, require applicants for licenses to be examined and charge a reasonable fee therefor. Nothing in this section shall impair the city's power to levy privilege license taxes on occupations, businesses, trades, professions, and other activities pursuant to G.S. 160A-211.

(b) Nothing in this section shall authorize a city to examine or license a person holding a license issued by an occupational licensing board of this State as to the profession or trade that he has been licensed to practice or pursue by the State.

(c) Nothing in this section shall authorize a city to regulate and license digital dispatching services for prearranged transportation services for hire."

SECTION 12.1.(b) G.S. 160A-304 is amended by adding a new subsection to read:

"(c) Nothing in this Chapter authorizes a city to adopt an ordinance doing any of the following:

(1) Requiring licensing or regulation of digital dispatching services for prearranged transportation services for hire connected with vehicles operated for hire in the city if the business providing the digital dispatching services does not own or operate the vehicles for hire in the city.

(2) Setting a minimum rate or minimum increment of time used to calculate a rate for prearranged transportation services for hire.

(3) Requiring an operator to use a particular formula or method to calculate rates charged.

(4) Setting a minimum waiting period between requesting prearranged transportation services and the provision of those transportation services when the prearranged transportation services are digitally dispatched.

(5) Requiring a final destination to be set at the time of requesting prearranged transportation services through digital dispatching services.

(6) Requiring or prohibiting taxi franchises or taxi operators from contracting with a person in the business of digital dispatching services for prearranged transportation services for hire."

SECTION 12.1.(c) G.S. 153A-134 reads as rewritten:

"§ **153A-134. Regulating and licensing businesses, trades, etc.**

(a) A county may by ordinance, subject to the general law of the State, regulate and license occupations, businesses, trades, professions, and forms of amusement or entertainment and prohibit those that may be inimical to the public health, welfare, safety, order, or convenience. In licensing trades, occupations, and professions, the county may, consistent with the general law of the State, require applicants for licenses to be examined and charge a reasonable fee therefor. This section does not authorize a county to examine or license a person holding a license issued by an occupational licensing board of this State as to the profession or trade that he has been licensed to practice or pursue by the State.

(b) This section does not impair the county's power to levy privilege license taxes on occupations, businesses, trades, professions, and other activities pursuant to G.S. 153A-152.

(c) Nothing in this section shall authorize a county to regulate and license digital dispatching services for prearranged transportation services for hire."

WC INSURANCE CANCELLATION/ELECTRONIC COMMUNICATIONS

SECTION 13.(a) G.S. 58-36-105(b) reads as rewritten:

"(b) Any cancellation permitted by subsection (a) of this section is not effective unless written notice of cancellation has been given ~~by registered or certified mail, return receipt requested,~~ to the insured not less than 15 days before the proposed effective date of cancellation. The notice ~~shall~~ may be given by registered or certified mail, return receipt requested, to the insured and any other person designated in the policy to receive notice of cancellation at their addresses shown in the policy or, if not indicated in the policy, at their last known addresses. The notice shall state the precise reason for cancellation. Whenever notice of intention to cancel is ~~required to be~~ given by registered or certified mail, no cancellation by the insurer shall be effective unless and until such method is employed and completed. Notice of cancellation, termination, or nonrenewal may also be given by any method permitted for service of process pursuant to Rule 4 of the North Carolina Rules of Civil Procedure. Failure to send this notice, as provided in this section, to any other person designated in the policy to receive notice of cancellation invalidates the cancellation only as to that other person's interest."

SECTION 13.(b) Article 2 of Chapter 58 of the General Statutes is amended by adding a new section to read:

"**§ 58-2-255. Electronic insurance communications and records.**

(a) Definitions. – As used in this section:

(1) "Communications" means notices, offers, disclosures, documents, forms, information, and correspondence required or permitted to be provided to a party in writing under the insurance laws of this State or that are otherwise provided by an insurer, including, but not limited to, notices pertaining to the cancellation, termination, or nonrenewal of insurance.

(2) "Delivered by electronic means" includes any of the following:

a. Delivery to an electronic mail address or an electronic account at which a party has consented to receive electronic communications.

b. Displaying information, or a link to information, as an essential step to completing the transaction to which such information relates.

c. Providing notice to a party at the electronic mail address or an electronic account at which the party has consented to receive notice of the posting of a communication on an electronic network or site.

(3) "Insurer" has the same meaning as in G.S. 58-1-5(3).

(4) "Party" means a recipient of any communications defined in this section. "Party" includes an applicant, policyholder, insured, claimant, member, provider, or beneficiary.

(b) When any insurance law of this State, except for cancellation, termination, or nonrenewal of workers' compensation policies pursuant to G.S. 58-36-105(b), requires a communication to be provided to a party in writing, signed by a party, provided by means of a specific delivery method, or retained by an insurer, those requirements are satisfied if the insurer complies with Article 40 of Chapter 66 of the General Statutes.

(c) Verification of communications delivered by electronic means shall constitute proof of mailing in civil and administrative proceedings and under the insurance laws of this State.

(d) Nothing in this section affects requirements related to the content or timing of any communication required under the insurance laws of this State.

(e) A recording of an oral communication between an insurer and a party that is reliably stored and reproduced by an insurer shall constitute an electronic communication or record. When a communication is required under the insurance laws of this State to be provided in writing, the communication provided in accordance with this subsection shall satisfy the requirement that the communication be in writing. When a communication is required under the insurance laws of this State to be signed, a recorded oral communication in which a party agrees to the terms stated in the oral communication shall satisfy the requirement."

SECTION 13.(c) G.S. 97-19 reads as rewritten:

"§ **97-19. Liability of principal contractors; certificate that subcontractor has complied with law; right to recover compensation of those who would have been liable; order of liability.**

Any principal contractor, intermediate contractor, or subcontractor who shall sublet any contract for the performance of any work without ~~requiring~~ obtaining from such subcontractor or obtaining from the Industrial Commission a certificate, issued by a workers' compensation insurance carrier, or a certificate of compliance issued by the Department of Insurance to a self-insured subcontractor, stating that such subcontractor has complied with G.S. 97-93 ~~hereof,~~for a specified term, shall be liable, irrespective of whether such subcontractor has regularly in service fewer than three employees in the same business within this State, to the same extent as such subcontractor would be if he were subject to the provisions of this Article for the payment of compensation and other benefits under this Article on account of the injury or death of any employee of such subcontractor due to an accident arising out of and in the course of the performance of the work covered by such subcontract. If the principal contractor, intermediate contractor or subcontractor shall obtain such certificate at ~~the~~ any time ~~of~~ before subletting such contract to the subcontractor, he shall not thereafter be held liable to any employee of such subcontractor for compensation or other benefits under this ~~Article.~~Article and within the term specified by the certificate.

Notwithstanding the provisions of this section, any principal contractor, intermediate contractor, or subcontractor who shall sublet any contract for the performance of work shall not be held liable to any employee of such subcontractor if either (i) the subcontractor has a workers' compensation insurance policy in compliance with G.S. 97-93 in effect on the date of injury regardless of whether the principal contractor, intermediate contractor, or subcontractor failed to timely obtain a certificate from the subcontractor; or (ii) the policy expired or was cancelled prior to the date of injury provided the principal contractor, intermediate contractor, or subcontractor obtained a certificate at any time before subletting such contract to the subcontractor and was unaware of the expiration or cancellation.

Any principal contractor, intermediate contractor, or subcontractor paying compensation or other benefits under this Article, under the foregoing provisions of this section, may recover the amount so paid from any person, persons, or corporation who independently of such provision, would have been liable for the payment thereof.

Every claim filed with the Industrial Commission under this section shall be instituted against all parties liable for payment, and said Commission, in its award, shall fix the order in which said parties shall be exhausted, beginning with the immediate employer.

The principal or owner may insure any or all of his contractors and their employees in a blanket policy, and when so insured such contractor's employees will be entitled to compensation benefits regardless of whether the relationship of employer and employee exists between the principal and the contractor."

SECTION 13.(d) This section is effective when it becomes law and applies to insurance policies and certificates of insurance in effect on or after that date.

VETERANS PREFERENCE FOR PRIVATE EMPLOYERS

SECTION 14. Article 3 of Chapter 95 of the General Statutes is amended by adding a new section to read:

"§ **95-28.4. Veterans preference.**

A private, nonpublic employer in the State may provide a preference to a veteran for employment. Spouses of honorably discharged veterans who have a service-connected permanent and total disability also may be preferred for employment. Granting of this preference is not a violation of any State or local equal employment opportunity law."

AGRICULTURAL RIGHT TO WORK

SECTION 15. G.S. 95-79 reads as rewritten:

"§ **95-79. Certain agreements declared illegal.**

(a) Any agreement or combination between any employer and any labor union or labor organization whereby persons not members of such union or organization shall be denied the right to work for said employer, or whereby such membership is made a condition of employment or continuation of employment by such employer, or whereby any such union or organization acquires an employment monopoly in any enterprise, is hereby declared to be against the public policy and an illegal combination or conspiracy in restraint of trade or commerce in the State of North Carolina.

(b) Any provision that directly or indirectly conditions the purchase of agricultural products or the terms of an agreement for the purchase of agricultural products upon an agricultural producer's status as a union or nonunion employer or entry into or refusal to enter into an agreement with a labor union or labor organization is invalid and unenforceable as against public policy in restraint of trade or commerce in the State of North Carolina. For purposes of this subsection, the term "agricultural producer" means any producer engaged in any service or activity included within the provisions of section 3(f) of the Fair Labor Standards Act of 1938, 29 U.S.C. § 203, or section 3121(g) of the Internal Revenue Code of 1986, 26 U.S.C. § 3121."

W/C/TAXI DRIVER/INDEPENDENT CONTRACTOR

SECTION 17.(a) Article 1 of Chapter 97 of the General Statutes is amended by adding a new section to read:

"§ **97-5.1. Presumption that taxicab drivers are independent contractors.**

(a) It shall be a rebuttable presumption under this Chapter that any person who operates, and who has an ownership or leasehold interest in, a passenger motor vehicle that is operated as a taxicab is an independent contractor for the purposes of this Chapter and not an employee as defined in G.S. 97-2. The presumption is not rebutted solely (i) because the operator is required to comply with rules and regulations imposed on taxicabs by the local governmental unit that licenses companies, taxicabs, or operators or (ii) because a taxicab accepts a trip request to be at a specific place at a specific time, but the presumption may be rebutted by application of the common law test for determining employment status.

(b) The following definitions apply in this section:

(1) Lease. – A contract under which the lessor provides a vehicle to a lessee for consideration.

(2) Leasehold. – Includes, but is not limited to, a lease for a shift or a longer period.

(3) Passenger motor vehicle that is operated as a taxicab. – Any vehicle that:

a. Has a passenger seating capacity that does not exceed seven persons; and

b. Is transporting persons, property, or both on a route that begins or ends in this State and either:

1. Carries passengers for hire when the destination and route traveled may be controlled by a passenger and the fare is calculated on the basis of any combination of an initial fee, distance traveled, or waiting time; or

2. Is in use under a contract between the operator and a third party to provide specific service to transport designated passengers or to provide errand services to locations selected by the third party."

SECTION 17.(b) This section is effective when it becomes law and applies to causes of action arising on or after that date.

PART IV. ENVIRONMENTAL AND PUBLIC HEALTH REGULATIONS

SCRAP TIRE DISPOSAL

SECTION 18. G.S. 130A-309.57 reads as rewritten:

"§ **130A-309.57. Scrap tire disposal program.**

(a) The owner or operator of any scrap tire collection site shall, within six months after October 1, 1989, provide the Department with information concerning the site's location, size, and the approximate number of scrap tires that are accumulated at the site and shall initiate steps to comply with subsection (b) of this section.

(b) On or after July 1, 1990:

(1) A person may not maintain a scrap tire collection site or a scrap tire disposal site unless the site is permitted.

(2) It is unlawful for any person to dispose of scrap tires in the State unless the scrap tires are disposed of at a scrap tire collection site or at a tire disposal site, or disposed of for processing at a scrap tire processing facility.

(c) The Commission shall adopt rules to carry out the provisions of this section. Such rules shall:

(1) Provide for the administration of scrap tire collector and collection center permits and scrap tire disposal site permits, which may not exceed two hundred fifty dollars ($250.00) annually.

(2) Set standards for scrap tire processing facilities and associated scrap tire sites, scrap tire collection centers, and scrap tire collectors.

(3) Authorize the final disposal of scrap tires at a permitted solid waste disposal facility provided the tires have been cut into sufficiently small parts to assure their proper disposal.

~~(4) Provide that permitted scrap tire collectors may not contract with a scrap tire processing facility unless the processing facility documents that it has access to a facility permitted to receive scrap tires.~~

(d) A permit is not required for:

(1) A tire retreading business where fewer than 1,000 scrap tires are kept on the business premises;

(2) A business that, in the ordinary course of business, removes tires from motor vehicles if fewer than 1,000 of these tires are kept on the business premises; or

(3) A retail tire-selling business which is serving as a scrap tire collection center if fewer than 1,000 scrap tires are kept on the business premises.

(e) The Department shall encourage the voluntary establishment of scrap tire collection centers at retail tire-selling businesses, scrap tire processing facilities, and solid waste disposal facilities, to be open to the public for the deposit of used and scrap tires. The Department may establish an incentives program for individuals to encourage them to return their used or scrap tires to a scrap tire collection center.

(f) Permitted scrap tire collectors may not contract with a scrap tire processing facility, unless the processing facility documents that it has access to a facility permitted to receive the scrap tires."

CARBON MONOXIDE DETECTORS

SECTION 19.(a) G.S. 143-138 reads as rewritten:

"§ **143-138. North Carolina State Building Code.**

…

(b2) Carbon Monoxide Detectors. – The ~~Code~~ Code (i) may contain provisions requiring the installation of either battery-operated or electrical carbon monoxide detectors in every dwelling unit having a fossil-fuel burning heater, appliance, or fireplace, and in any dwelling unit having an attached ~~garage.~~garage and (ii) shall contain provisions requiring the installation of electrical carbon monoxide detectors at a lodging establishment. Violations of this subsection and rules adopted pursuant to this subsection shall be punishable in accordance with subsection (h) of this section and G.S. 143-139. In particular, the rules shall provide:

(1) For dwelling units, carbon ~~Carbon~~ monoxide detectors shall be those listed by a nationally recognized testing laboratory that is OSHA-approved to test and certify to American National Standards Institute/Underwriters Laboratories Standards ANSI/UL2034 or ANSI/UL2075 and shall be installed in accordance with either the standard of the National Fire Protection Association or the minimum protection designated in the manufacturer's instructions, which the property owner shall retain or provide as proof of compliance. A carbon monoxide detector may be combined with smoke detectors if the combined detector does both of the following: (i) complies with ANSI/UL2034 or ANSI/UL2075 for carbon monoxide alarms and ANSI/UL217 for smoke detectors; and (ii) emits an alarm in a manner that clearly differentiates between detecting the presence of carbon monoxide and the presence of smoke.

(2) For lodging establishments, carbon monoxide detectors shall be installed in every enclosed space having a fossil fuel burning heater, appliance, or fireplace and in any enclosed space, including a sleeping room, that shares a common wall, floor, or ceiling with an enclosed space having a fossil fuel burning heater, appliance, or fireplace. Carbon monoxide detectors shall be (i) listed by a nationally recognized testing laboratory that is OSHA-approved to test and certify to American National Standards Institute/Underwriters Laboratories Standards ANSI/UL2034 or ANSI/UL2075, (ii) installed in accordance with either the standard of the National Fire Protection Association or the minimum protection designated in the manufacturer's instructions, which the lodging establishment shall retain or provide as proof of compliance, (iii) receive primary power from the building's wiring, where such wiring is served from a commercial source, and (iv) receive power from a battery when primary power is interrupted. A carbon monoxide detector may be combined with smoke detectors if the

combined detector complies with the requirements of this subdivision for carbon monoxide alarms and ANSI/UL217 for smoke detectors. For purposes of this subsection, "lodging establishment" means any hotel, motel, tourist home, or other establishment permitted under authority of G.S. 130A-248 to provide lodging accommodations for pay to the public.

…."

SECTION 19.(b) G.S. 130A-248 reads as rewritten:

"§ **130A-248. Regulation of food and lodging establishments.**

…

(b) No establishment shall commence or continue operation without a permit or transitional permit issued by the Department. The permit or transitional permit shall be issued to the owner or operator of the establishment and shall not be transferable. If the establishment is leased, the permit or transitional permit shall be issued to the lessee and shall not be transferable. If the location of an establishment changes, a new permit shall be obtained for the establishment. A permit shall be issued only when the establishment satisfies all of the requirements of the ~~rules.~~rules and the requirements of subsection (g) of this section. The Commission shall adopt rules establishing the requirements that must be met before a transitional permit may be issued, and the period for which a transitional permit may be issued. The Department may also impose conditions on the issuance of a permit or transitional permit in accordance with rules adopted by the Commission. A permit or transitional permit shall be immediately revoked in accordance with G.S. 130A-23(d) for failure of the establishment to maintain a minimum grade of C. A permit or transitional permit may otherwise be suspended or revoked in accordance with G.S. 130A-23.

…

(g) All hotels, motels, tourist homes, and other establishments that provide lodging for pay shall install either a battery-operated or electrical carbon monoxide detector in every enclosed space having a fossil fuel burning heater, appliance, or fireplace and in any enclosed space, including a sleeping room, that shares a common wall, floor, or ceiling with an enclosed space having a fossil fuel burning heater, appliance, or fireplace. Carbon monoxide detectors shall be listed by a nationally recognized testing laboratory that is OSHA-approved to test and certify to American National Standards Institute/Underwriters Laboratories Standards ANSI/UL2034 or ANSI/UL2075, and installed in accordance with either the standard of the National Fire Protection Association or the minimum protection designated in the manufacturer's instructions, which the establishment shall retain or provide as proof of compliance. A carbon monoxide detector may be combined with smoke detectors if the combined detector complies with the requirements of this subdivision for carbon monoxide alarms and ANSI/UL217 for smoke detectors."

SECTION 19.(c) G.S. 130A-248 reads as rewritten:

"§ **130A-248. Regulation of food and lodging establishments.**

…

(b) No establishment shall commence or continue operation without a permit or transitional permit issued by the Department. The permit or transitional permit shall be issued to the owner or operator of the establishment and shall not be transferable. If the establishment is leased, the permit or transitional permit shall be issued to the lessee and shall not be transferable. If the location of an establishment changes, a new permit shall be obtained for the establishment. A permit shall be issued only when the establishment satisfies all of the requirements of the ~~rules.~~rules and the requirements of subsection (g) of this section. The Commission shall adopt rules establishing the requirements that must be met before a transitional permit may be issued, and the period for which a transitional permit may be issued. The Department may also impose conditions on the issuance of a permit or transitional permit in accordance with rules adopted by the Commission. A permit or transitional permit shall be immediately revoked in accordance with G.S. 130A-23(d) for failure of the establishment to

maintain a minimum grade of C. A permit or transitional permit may otherwise be suspended or revoked in accordance with G.S. 130A-23.

…

(g) All hotels, motels, tourist homes, and other establishments that provide lodging for pay shall have carbon monoxide detectors installed in every enclosed space having a fossil fuel burning heater, appliance, or fireplace and in any enclosed space, including a sleeping room, that shares a common wall, floor, or ceiling with an enclosed space having a fossil fuel burning heater, appliance, or fireplace. Carbon monoxide detectors shall be (i) listed by a nationally recognized testing laboratory that is OSHA-approved to test and certify to American National Standards Institute/Underwriters Laboratories Standards ANSI/UL2034 or ANSI/UL2075, (ii) installed in accordance with either the standard of the National Fire Protection Association or the minimum protection designated in the manufacturer's instructions, which the establishment shall retain or provide as proof of compliance, (iii) receive primary power from the building's wiring, where such wiring is served from a commercial source, and (iv) receive power from a battery when primary power is interrupted. A carbon monoxide detector may be combined with smoke detectors if the combined detector complies with the requirements of this subdivision for carbon monoxide alarms and ANSI/UL217 for smoke detectors."

SECTION 19.(d) The Building Code Council, the Department of Health and Human Services, and the Commission for Public Health, shall jointly study the requirements for installation of carbon monoxide detectors in lodging establishments, enacted by subsections (a), (b), and (c) of this section, in order to determine whether the requirements are adequate to protect the health and safety of the traveling public. At a minimum, the Council, the Department, and the Commission shall study the requirements for placement of detectors and evaluate whether sufficient coverage will be provided to guests and occupants in all areas of an establishment. The Council, the Department, and the Commission shall report their findings and recommendations to the General Assembly no later than April 15, 2014.

SECTION 19.(e) This section is effective when it becomes law, except that (i) subsection (b) of this section becomes effective October 1, 2013, and expires October 1, 2014; and (ii) subsection (c) of this section becomes effective October 1, 2014.

LAGOON CLOSURE RULE

SECTION 20.(a) The definitions set out in G.S. 143-212, 15A NCAC 02T .0103 (Definitions) and 15A NCAC 02T .1302 (Definitions) apply to this section.

SECTION 20.(b) 15A NCAC 02T .1306 (Closure Requirements). – Until the effective date of the revised permanent rule that the Commission is required to adopt pursuant to Section 20(d) of this act, the Commission and the Department shall implement 15A NCAC 02T .1306 (Closure Requirements) as provided in Section 20(c) of this act.

SECTION 20.(c) Implementation. – Notwithstanding 15A NCAC 02T .1306 (Closure Requirements), any containment basin, such as a lagoon or a waste storage structure, permitted at a cattle facility under the Section 1300 Rules, shall continue to be subject to the conditions and requirements of the facility's permit until that permit is rescinded by the Division. Upon request of the permittee, the permit may be rescinded by the Division prior to closure of the containment basin if the average size of the confined cattle herd at the cattle facility, calculated on an annual basis during the three years prior to the request for rescission, is less than one hundred confined cattle. Upon permit rescission, all of the following requirements shall apply:

(1) The cattle facility shall be subject to the requirements of 15A NCAC 02T .1303 (Permitting By Regulation) and 15A NCAC 02T .0113 (Permitting By Regulation) until the containment area is closed in accordance with standards adopted by the NRCS.

(2) The farm owner shall maintain records of land application and weekly records of containment basin waste levels on forms provided by or approved by the Division.

(3) Closure shall include prenotification to the Division and, within 15 days of completion of closure, submittal of a closure form supplied by the Division or closure forms approved by the Division that provide the same information required by the forms supplied by the Division.

The Division shall have the authority to deny a request for permit rescission based on the factors set out in subsection (e) of 15A NCAC 02T .0113 (Permitting By Regulation).

SECTION 20.(d) Additional Rule-Making Authority. – The Commission shall adopt a rule to amend 15A NCAC 02T .1306 (Closure Requirements) consistent with Section 20(c) of this act. Notwithstanding G.S. 150B-19(4), the rule adopted by the Commission pursuant to this section shall be substantively identical to the provisions of Section 20(c) of this act. Rules adopted pursuant to this section are not subject to Part 3 of Article 2A of Chapter 150B of the General Statutes. Rules adopted pursuant to this section shall become effective as provided in G.S. 150B-21.3(b1) as though 10 or more written objections had been received as provided by G.S. 150B-21.3(b2).

SECTION 20.(e) Sunset. – Section 20(c) of this act expires on the date that rules adopted pursuant to Section 20(d) of this act become effective.

AMEND THE DEFINITION OF "NEW ANIMAL WASTE MANAGEMENT SYSTEM"

SECTION 21.(a) 15A NCAC 02T .1302 (Definitions). – Until the effective date of the revised permanent rule that the Environmental Management Commission is required to adopt pursuant to Section 21(c) of this act, the Commission and the Department of Environment and Natural Resources shall implement 15A NCAC 02T .1302 (Definitions) as provided in Section 21(b) of this act.

SECTION 21.(b) Implementation. – Notwithstanding 15A NCAC 02T .1302 (Definitions), "new animal waste management system" means animal waste management systems which are constructed and operated at a site where no feedlot existed previously, where a system serving a feedlot has been abandoned or unused for a period of four years or more and is then put back into service, or where a permit for a system has been rescinded, and is then reissued when the permittee confines animals in excess of the thresholds established in G.S. 143-215.10B.

SECTION 21.(c) Additional Rule-Making Authority. – The Environmental Management Commission shall adopt a rule to amend 15A NCAC 02T .1302 (Definitions) consistent with Section 21(b) of this act. Notwithstanding G.S. 150B-19(4), the rule adopted by the Commission pursuant to this section shall be substantively identical to the provisions of Section 21(b) of this act. Rules adopted pursuant to this section are not subject to Part 3 of Article 2A of Chapter 150B of the General Statutes. Rules adopted pursuant to this section shall become effective as provided in G.S. 150B-21.3(b1) as though 10 or more written objections had been received as provided by G.S. 150B-21.3(b2).

SECTION 21.(d) Sunset. – Section 21(b) of this act expires on the date that rules adopted pursuant to Section 21(c) of this act become effective.

RECLAIMED WATER IRRIGATION SETBACK RULE

SECTION 22.(a) The definitions set out in G.S. 143-212 and 15A NCAC 02U .0103 (Definitions) apply to this section.

SECTION 22.(b) 15A NCAC 02U .0701 (Setbacks). – Until the effective date of the revised permanent rule that the Commission is required to adopt pursuant to Section 22(d) of this act, the Commission and the Department shall implement 15A NCAC 02U .0701 (Setbacks) as provided in Section 22(c) of this act.

SECTION 22.(c) Implementation. – Notwithstanding 15A NCAC 02U .0701 (Setbacks), the rule shall be implemented as provided in this section.

(1) Setbacks in subsection (c) of the rule for surface waters not classified as SA shall not apply provided that the reclaimed water to be utilized contains no more than 10 mg/l of Total Nitrogen and no more than 2 mg/l of Total

Phosphorus. The elimination of setbacks to surface waters does not exempt any discharge of reclaimed water to waters of the State from meeting permit requirements established in 15A NCAC 02U .0101 (Purpose).

(2) Notwithstanding subsections (a) and (b) of the rule, no setback shall be required between final reclaimed water effluent storage facilities and property lines provided that the proposed final effluent storage facility was constructed prior to June 18, 2011.

(3) Setbacks between reclaimed water storage ponds and property lines or wells under separate ownership may be waived by the adjoining property owner. A copy of the signed waiver shall be provided to the Department.

(4) Setbacks between reclaimed water storage ponds and wells under the same ownership as the reclaimed water storage pond may be waived by the property owner.

SECTION 22.(d) Additional Rule-Making Authority. – The Environmental Management Commission shall adopt a rule to amend 15A NCAC 02U .0701 (Setbacks) consistent with Section 22(c) of this act. Notwithstanding G.S. 150B-19(4), the rule adopted by the Commission pursuant to this section shall be substantively identical to the provisions of Section 22(c) of this act. Rules adopted pursuant to this section are not subject to Part 3 of Article 2A of Chapter 150B of the General Statutes. Rules adopted pursuant to this section shall become effective as provided in G.S. 150B-21.3(b1) as though 10 or more written objections had been received as provided by G.S. 150B-21.3(b2).

SECTION 22.(e) Sunset. – Section 22(c) of this act expires on the date that rules adopted pursuant to Section 22(d) of this act become effective.

SMOKING BAN RULES

SECTION 23. No later than January 1, 2014, the Commission for Public Health shall amend and clarify its rules adopted pursuant to G.S. 130A-497 for the implementation of the prohibition on smoking in restaurants and bars. The rules shall ensure the consistent interpretation and enforcement of Part 1C of Article 23 of Chapter 130A of the General Statutes and shall specifically clarify the definition of enclosed areas for purposes of implementation of the Part. Rules adopted pursuant to this section (i) shall be exempt from the requirements of G.S. 150B-21.4, (ii) are not subject to Part 3 of Article 2A of Chapter 150B of the General Statutes, and (iii) shall become effective as provided in G.S. 150B-21.3(b1) as though 10 or more written objections had been received as provided by G.S. 150B-21.3(b2). No later than November 1, 2013, the Commission shall report to the Joint Legislative Oversight Committee on Health and Human Services on its progress in amending and clarifying the rules.

ERC WATER AND SEWER STUDY

SECTION 24.(a) The Environmental Review Commission shall study the statutory models for establishing, operating, and financing certain organizations that provide water and sewer services in the State. The Commission shall specifically consider the statutory models for the following:

(1) Sanitary Districts (Part 2 of Article 2 of Chapter 130A of the General Statutes).

(2) Water and Sewer Authorities (Article 1 of Chapter 162A of the General Statutes).

(3) Metropolitan Water Districts (Article 4 of Chapter 162A of the General Statutes).

(4) Metropolitan Sewerage Districts (Article 5 of Chapter 162A of the General Statutes).

(5) County Water and Sewer Districts (Article 6 of Chapter 162A of the General Statutes).

(6) Any other similar organizations that provide water or sewer service in the State.

SECTION 24.(b) The Commission shall determine whether, how, and to what extent the number of statutory models should be reduced and consolidated. In making these determinations, the Commission shall consider and address any impacts such reduction and consolidation would have on the ongoing operations and financing of existing organizations for the provision of water and sewer services.

SECTION 24.(c) The Commission shall report its findings and recommendations, if any, to the 2014 Regular Session of the 2013 General Assembly upon its convening.

PART V. AMEND ENVIRONMENTAL LAWS

REPEAL 2008 AND SUBSEQUENT MODEL YEAR HEAVY-DUTY DIESEL VEHICLE REQUIREMENTS

SECTION 25. The Environmental Management Commission shall repeal 15A NCAC 02D .1009 (Model Year 2008 and Subsequent Model Year Heavy-Duty Vehicle Requirements) on or before December 1, 2013. Until the effective date of the repeal of the rule required pursuant to this section, the Environmental Management Commission, the Department of Environment and Natural Resources, or any other political subdivision of the State shall not implement or enforce 15A NCAC 02D .1009 (Model Year 2008 and Subsequent Model Year Heavy-Duty Vehicle Requirements).

DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES TO STUDY THE CONTINUED NEED TO CONDUCT VEHICLE EMISSIONS INSPECTIONS

SECTION 26. The Department of Environment and Natural Resources shall conduct a study to examine whether all of the counties covered under the emissions testing and maintenance program pursuant to G.S. 143-215.107A are needed to meet and maintain the current and proposed federal ozone standards in North Carolina. The Department shall report its interim findings to the Environmental Review Commission on or before April 1, 2015, and shall submit its final report, including any findings and legislative recommendations, to the Environmental Review Commission on or before April 1, 2016.

PROVIDE THE ENVIRONMENTAL MANAGEMENT COMMISSION WITH FLEXIBILITY TO DETERMINE WHETHER RULES ARE NECESSARY FOR CONTROLLING THE EFFECTS OF COMPLEX SOURCES ON AIR QUALITY

SECTION 27. G.S. 143-215.109(a) reads as rewritten:

"(a) The Commission ~~shall~~ may by rule establish criteria for controlling the effects of complex sources on air quality. The rules shall set forth such basic minimum criteria or standards under which the Commission shall approve or disapprove any such construction or modification. The rules shall further provide for the submission of plans, specifications and such other information as may be necessary for the review and evaluation of proposed or modified complex sources."

AMEND THE RULES THAT PERTAIN TO OPEN BURNING FOR LAND CLEARING OR RIGHT-OF-WAY MAINTENANCE

SECTION 28.(a) 15A NCAC 02D .1903 (Open Burning Without an Air Quality Permit). – Until the effective date of the revised permanent rule that the Commission is required to adopt pursuant to Section 28(c) of this act, the Commission, the Department, and any other political subdivision of the State that implements 15A NCAC 02D .1903 (Open Burning Without an Air Quality Permit) shall implement the rule, as provided in Section 28(b) of this act.

SECTION 28.(b) Implementation. – Notwithstanding 15A NCAC 02D .1903(b)(2)(F) (Open Burning Without an Air Quality Permit), open burning for land clearing

or right-of-way maintenance is permissible without an air quality permit if materials are not carried off site or transported over public roads for open burning unless the materials are carried or transported to:

(1) Facilities permitted in accordance with 15A NCAC 02D .1904 (Air Curtain Burners) for the operation of an air curtain burner at a permanent site; or

(2) A location, where the material is burned not more than four times per year, that meets all of the following criteria:

a. At least 500 feet from any dwelling, group of dwellings, or commercial or institutional establishment, or other occupied structure not located on the property on which the burning is conducted.

b. There are no more than two piles, each 20 feet in diameter, being burned at one time.

c. The location is not a permitted solid waste management facility.

SECTION 28.(c) Additional Rule-Making Authority. – The Commission shall adopt a rule to amend 15A NCAC 02D .1903 (Open Burning Without an Air Quality Permit) consistent with Section 28(b) of this act. Notwithstanding G.S. 150B-19(4), the rule adopted by the Commission pursuant to this section shall be substantively identical to the provisions of Section 28(b) of this act. Rules adopted pursuant to this section are not subject to G.S. 150B-21.8 through G.S. 150B-21.14. Rules adopted pursuant to this section shall become effective as provided in G.S. 150B-21.3(b1) as though 10 or more written objections had been received as provided by G.S. 150B-21.3(b2).

SECTION 28.(d) Sunset. – Section 28(b) of this act expires on the date that rules adopted pursuant to Section 28(c) of this act become effective.

SECTION 28.(e) G.S. 130A-294(a)(4) is amended by adding a new sub-subdivision to read:

"d. Management of land clearing debris burned in accordance with 15A NCAC 02D .1903 shall not require a permit pursuant to this section."

CLARIFY THAT AN AIR QUALITY PERMIT SHALL BE ISSUED FOR A TERM OF EIGHT YEARS AND PROVIDE THAT A THIRD PARTY WHO IS DISSATISFIED WITH A DECISION OF THE ENVIRONMENTAL MANAGEMENT COMMISSION REGARDING AN AIR QUALITY PERMIT MAY FILE A CONTESTED CASE UNDER THE ADMINISTRATIVE PROCEDURE ACT WITHIN 30 DAYS

SECTION 29. G.S. 143-215.108 reads as rewritten:

"§ **143-215.108. Control of sources of air pollution; permits required.**

…

(d1) No Title V permit issued pursuant to this section shall be issued or renewed for a term exceeding five years. All other permits issued pursuant to this section shall be issued for a term ~~not to exceed~~of eight years.

(e) A permit ~~applicant or permittee~~applicant, permittee, or third party who is dissatisfied with a decision of the Commission may commence a contested case by filing a petition under G.S. 150B-23 within 30 days after the Commission notifies the applicant or permittee of its decision. If the permit ~~applicant or permittee~~applicant, permittee, or third party does not file a petition within the required time, the Commission's decision on the application is final and is not subject to review.

…."

AMEND CAMA MINOR PERMIT NOTICE REQUIREMENTS

SECTION 30. G.S. 113A-119 reads as rewritten:

"§ **113A-119. Permit applications generally.**

(a) Any person required to obtain a permit under this Part shall file with the Secretary and (in the case of a permit sought from a city or county) with the designated local official an application for a permit in accordance with the form and content designated by the Secretary

and approved by the Commission. The applicant must submit with the application a check or money order payable to the Department or the city or county, as the case may be, constituting a fee set by the Commission pursuant to G.S. 113A-119.1.

(b) Upon receipt of any application, a significant modification to an application for a major permit, or an application to modify substantially a previously issued major permit, the Secretary shall issue public notice of the proposed development (i) by mailing a copy of the application or modification, or a brief description thereof together with a statement indicating where a detailed copy of the proposed development may be inspected, to any citizen or group which has filed a request to be notified of the proposed development, and to any interested State agency; (ii) by posting or causing to be posted a notice at the location of the proposed development stating that an application, a modification of an application for a major permit, or an application to modify a previously issued major permit for development has been made, where the application or modification may be inspected, and the time period for comments; and (iii) with the exception of minor permit applications, by publishing notice of the application or modification at least once in one newspaper of general circulation in the county or counties wherein the development would be located at least 20 days before final action on a major permit ~~and at least seven days before final action on a permit under G.S. 113A-121~~ or before the beginning of the hearing on a permit under G.S. 113A-122. The notice shall set out that any comments on the development should be submitted to the Secretary by a specified date, not less than 15 days from the date of the newspaper publication of the notice or 15 days after mailing of the mailed notice, whichever is later. ~~Public notice under this subsection is mandatory, except for a proposed modification to an application for a minor permit or proposed modification of a previously issued minor permit that does not substantially alter the original project.~~

(c) Within the meaning of this Part, the "designated local official" is the official who has been designated by the local governing body to receive and consider permit applications under this Part."

CLARIFY LOCAL GOVERNMENT AUTHORITY UNDER THE SEDIMENTATION AND POLLUTION CONTROL ACT

SECTION 33. G.S. 113A-64 reads as rewritten:

"§ **113A-64. Penalties.**

(a) Civil Penalties. –

(1) Any person who violates any of the provisions of this Article or any ordinance, rule, or order adopted or issued pursuant to this Article by the Commission or by a local government, or who initiates or continues a land-disturbing activity for which an erosion and sedimentation control plan is required except in accordance with the terms, conditions, and provisions of an approved plan, is subject to a civil penalty. The maximum civil penalty for a violation is five thousand dollars ($5,000). A civil penalty may be assessed from the date of the violation. Each day of a continuing violation shall constitute a separate violation.

(2) The Secretary or a local government that administers an erosion and sedimentation control program approved under G.S. 113A-60 shall determine the amount of the civil penalty and shall notify the person who is assessed the civil penalty of the amount of the penalty and the reason for assessing the penalty. The notice of assessment shall be served by any means authorized under ~~G.S. 1A-1, Rule 4, and~~ G.S. 1A-1. A notice of assessment by the Secretary shall direct the violator to either pay the assessment or contest the assessment within 30 days by filing a petition for a contested case under Article 3 of Chapter 150B of the General Statutes. If a violator does not pay a civil penalty assessed by the Secretary within 30 days after it is due, the Department shall request the Attorney General to institute a civil

action to recover the amount of the assessment. A notice of assessment by a local government shall direct the violator to either pay the assessment or contest the assessment within 30 days by filing a petition for hearing with the local government as directed by procedures within the local ordinances or regulations adopted to establish and enforce the erosion and sedimentation control program. If a violator does not pay a civil penalty assessed by a local government within 30 days after it is due, the local government may institute a civil action to recover the amount of the assessment. The civil action may be brought in the superior court of any county where the violation occurred or the violator's residence or principal place of business is located. A civil action must be filed within three years of the date the assessment was due. An assessment that is not contested is due when the violator is served with a notice of assessment. An assessment that is contested is due at the conclusion of the administrative and judicial review of the assessment.

(3) In determining the amount of the penalty, the Secretary or a local government shall consider the degree and extent of harm caused by the violation, the cost of rectifying the damage, the amount of money the violator saved by noncompliance, whether the violation was committed willfully and the prior record of the violator in complying or failing to comply with this ~~Article.~~Article, or any ordinance, rule, or order adopted or issued pursuant to this Article by the Commission or by a local government.

(4) Repealed by Session Laws 1993 (Reg. Sess., 1994), c. 776, s. 11.

(5) The clear proceeds of civil penalties collected by the Department or other State agency or a local government under this subsection shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2. ~~Civil penalties collected by a local government under this subsection shall be credited to the general fund of the local government as nontax revenue.~~

(b) Criminal Penalties. – Any person who knowingly or willfully violates any provision of this Article or any ordinance, rule, regulation, or order duly adopted or issued by the Commission or a local government, or who knowingly or willfully initiates or continues a land-disturbing activity for which an erosion and sedimentation control plan is required, except in accordance with the terms, conditions, and provisions of an approved plan, shall be guilty of a Class 2 misdemeanor that may include a fine not to exceed five thousand dollars ($5,000)."

PROVIDE FOR LOW-FLOW DESIGN ALTERNATIVES FOR WASTEWATER SYSTEMS

SECTION 34.(a) 15A NCAC 18A .1949(b) (Sewage Flow Rates for Design Units). – Until the effective date of the revised permanent rule that the Commission is required to adopt pursuant to Section 34(c) of this act, the Commission, the Department, and any other political subdivision of the State shall implement 15A NCAC 18A .1949(b) (Sewage Flow Rates for Design Units) as provided in Section 34(b) of this act.

SECTION 34.(b) Implementation. – Notwithstanding the Daily Flow for Design rates listed in Table No. 1 of 15A NCAC 18A .1949(b) (Sewage Flow Rates for Design Units), a wastewater system shall be exempt from the Daily Flow for Design, and any other design flow standards that are established by the Department of Health and Human Services or the Commission for Public Health provided flow rates that are less than those listed in Table No. 1 of 15A NCAC 18A .1949(b) (Sewage Flow Rates for Design Units) can be achieved through engineering design that utilizes low-flow fixtures and low-flow technologies and the design is prepared, sealed, and signed by a professional engineer licensed pursuant to Chapter 89C of the General Statutes. The Department and Commission may establish lower limits on reduced flow rates as necessary to ensure wastewater system integrity and protect public health, safety, and welfare. Proposed daily design flows for wastewater systems that are calculated to be less than 3,000 total gallons per day shall not require State review pursuant to 15A NCAC 18A .1938(e).

SECTION 34.(c) Additional Rule-Making Authority. – The Commission shall adopt a rule to amend 15A NCAC 18A .1949(b) (Sewage Flow Rates for Design Units) consistent with Section 34(b) of this act. Notwithstanding G.S. 150B-19(4), the rule adopted by the Commission pursuant to this section shall be substantively identical to the provisions of Section 34(b) of this act. Rules adopted pursuant to this section are not subject to G.S. 150B-21.8 through G.S. 150B-21.14. Rules adopted pursuant to this section shall become effective as provided in G.S. 150B-21.3(b1) as though 10 or more written objections had been received as provided by G.S. 150B-21.3(b2).

SECTION 34.(d) Sunset. – Section 34(b) of this act expires on the date that rules adopted pursuant to Section 34(c) of this act become effective.

DIRECT THE COMMISSION FOR PUBLIC HEALTH TO ADOPT RULES TO PROVIDE FOR NOTICE OF KNOWN CONTAMINATION TO APPLICANTS WHO SEEK TO CONSTRUCT NEW PRIVATE DRINKING WATER WELLS AND TO DIRECT LOCAL HEALTH DEPARTMENTS TO EITHER ISSUE A PERMIT OR DENY AN APPLICATION FOR THE CONSTRUCTION, REPAIR, OR OPERATION OF A WELL WITHIN 30 DAYS OF RECEIPT OF AN APPLICATION

SECTION 35.(a) G.S. 87-97 reads as rewritten:

"§ **87-97. Permitting, inspection, and testing of private drinking water wells.**

(a) Mandatory Local Well Programs. – Each county, through the local health department that serves the county, shall implement a private drinking water well permitting, inspection, and testing program. Local health departments shall administer the program and enforce the minimum well construction, permitting, inspection, repair, and testing requirements set out in this Article and rules adopted pursuant to this Article. No person shall unduly delay or refuse to permit a well that can be constructed or repaired and operated in compliance with the requirements set out in this Article and rules adopted pursuant to this Article.

(b) Permit Required. – Except for those wells required to be permitted by the Environmental Management Commission pursuant to G.S. 87-88, no person shall:

(1) Construct or assist in the construction of a private drinking water well unless a construction permit has been obtained from the local health department.

(2) Repair or assist in the repair of a private drinking water well unless a repair permit has been obtained from the local health department, except that a permit shall not be required for the repair or replacement of a pump or tank.

(c) Permit Not Required for Maintenance or Pump Repair or Replacement. – A repair permit shall not be required for any private drinking water well maintenance work that does not involve breaking or opening the well seal. A repair permit shall not be required for any private drinking water well repair work that involves only the repair or replacement of a pump or tank.

(d) Well Site Evaluation. – The local health department shall conduct a field investigation to evaluate the site on which a private drinking water well is proposed to be located before issuing a permit pursuant to this section. The field investigation shall determine whether there is any abandoned well located on the site, and if so, the construction permit shall be conditioned upon the proper closure of all abandoned wells located on the site in accordance with the requirements of this Article and rules adopted pursuant to this Article. If a private drinking water well is proposed to be located on a site on which a wastewater system subject to the requirements of Article 11 of Chapter 130A of the General Statutes is located or proposed to be located, the application for a construction permit shall be accompanied by a plat or site plan, as defined in G.S. 130A-334.

(e) Issuance of Permit. – ~~The local health department shall issue a construction permit or repair permit if it determines that a private drinking water well can be constructed or repaired and operated in compliance with this Article and rules adopted pursuant to this Article.~~ Within 30 days of receipt of an application to construct or repair a well, a local health department shall make a determination whether the proposed private drinking water well can be constructed or repaired and operated in compliance with this Article and rules adopted pursuant

to this Article and shall issue a permit or denial accordingly. If a local health department fails to act within 30 days, the permit shall automatically be issued, and the local health department may challenge issuance of the permit as provided in Chapter 150B of the General Statutes. The local health department may impose any conditions on the issuance of a construction permit or repair permit that it determines to be necessary to ensure compliance with this Article and rules adopted pursuant to this Article. Notwithstanding any other provision of law, no permit for a well that is in compliance with this Article and the rules adopted pursuant to this Article shall be denied on the basis of a local government policy that discourages or prohibits the drilling of new wells.

(e1) Notice for Wells at Contamination Sites. – The Commission shall adopt rules governing permits issued for private drinking water wells for circumstances in which the local health department has determined that the proposed site for a private drinking water well is located within 1,000 feet of a known source of release of contamination. Rules adopted pursuant to this subsection shall provide for notice and information of the known source of release of contamination and any known risk of issuing a permit for the construction and use of a private drinking water well on such a site.

…."

SECTION 35.(b) This section is effective when it becomes law, and G.S. 87-97(e), as amended by subsection (a) of this section, applies to applications to construct or repair a private drinking water well that are received by a local health department on or after that date.

CLARIFY THOSE UNDERGROUND STORAGE TANKS THAT ARE NOT REQUIRED TO PROVIDE SECONDARY CONTAINMENT UNTIL JANUARY 1, 2020

SECTION 36. Section 11.6(a) of S.L. 2011-394 reads as rewritten:

"**SECTION 11.6.(a)** Notwithstanding 15A NCAC 02N .0304(a)(5) (Implementation Schedule for Performance Standards for New UST Systems and Upgrading Requirements for Existing UST Systems Located in Areas Defined in Rule .0301(d)), all UST systems installed after January 1, 1991, and prior to April 1, 2001, shall not be required to provide secondary containment until January 1, 2020."

TECHNICAL AND CONFORMING CHANGES TO PROTECTED SPECIES AND MARINE/WILDLIFE RESOURCES STATUTES

SECTION 37.(a) G.S. 113-129 reads as rewritten:

"§ **113-129. Definitions relating to resources.**

The following definitions and their cognates apply in the description of the various marine and estuarine and wildlife resources:

…

(7) Fish; Fishes. – All ~~marine mammals;~~finfish; all shellfish; and all ~~crustaceans; and all other fishes.~~crustaceans.

…."

SECTION 37.(b) G.S. 113-189 reads as rewritten:

"§ **113-189. Protection of sea ~~turtles and porpoises.~~turtles, marine mammals, migratory birds, and finfish.**

(a) It is unlawful to willfully take, harm, disturb or destroy any sea turtles protected under the federal Endangered Species Act of 1973 (Public Law 93-205), as it may be subsequently amended, including green, hawksbill, loggerhead, Kemp's ridley and leatherback turtles, or their nests or eggs.

(b) It shall be unlawful willfully to take, ~~harm~~ harm, disturb, or destroy ~~porpoises.~~marine mammals protected under the federal Marine Mammal Protection Act of 1972 (Public Law 92-522), as it may be subsequently amended.

(c) It shall be unlawful willfully to take, harm, disturb, or destroy migratory birds protected under the federal Migratory Bird Treaty Act of 1918 (16 U.S.C. §§ 703 through 712), as it may be subsequently amended, unless such action is permitted by regulations.

(d) It shall be unlawful willfully to take, harm, disturb, or destroy finfish protected under the federal Endangered Species Act of 1973 (Public Law 93-205), as it may be subsequently amended."

CLARIFYING AND CONFORMING CHANGES TO STATUTES PERTAINING TO THE MANAGEMENT OF SNAKES AND OTHER REPTILES

SECTION 38.(a) G.S. 14-417 reads as rewritten:

"§ **14-417. Regulation of ownership or use of venomous reptiles.**

(a) It shall be unlawful for any person to own, possess, use, transport, or traffic in any venomous reptile that is not housed in a sturdy and secure enclosure. Permanent enclosures shall be designed to be escape-proof, bite-proof, and have an operable lock. Transport containers shall be designed to be escape-proof and bite-proof.

(b) Each enclosure shall be clearly and visibly labeled "Venomous Reptile Inside" with scientific name, common name, appropriate ~~antivenom,~~antivenin, and owner's identifying information noted on the container. A written bite protocol that includes emergency contact information, local animal control office, the name and location of suitable ~~antivenom,~~antivenin, first aid procedures, and treatment guidelines, as well as an escape recovery plan must be within sight of permanent housing, and a copy must accompany the transport of any venomous reptile.

(c) In the event of an escape of a venomous reptile, the owner or possessor of the venomous reptile shall immediately notify local law enforcement."

SECTION 38.(b) G.S. 14-419 reads as rewritten:

"§ **14-419. Investigation of suspected violations; seizure and examination of reptiles; disposition of reptiles.**

(a) In any case in which any law-enforcement officer or animal control officer has probable cause to believe that any of the provisions of this Article have been or are about to be violated, it shall be the duty of the officer and the officer is authorized, empowered, and directed to immediately investigate the violation or impending violation and to consult with representatives of the North Carolina Museum of Natural Sciences or the North Carolina Zoological Park or a designated representative of either the Museum or Zoological Park to identify appropriate and safe methods to seize the reptile or reptiles involved, to seize the reptile or reptiles involved, and the officer is authorized and directed to deliver: (i) a reptile believed to be venomous to the North Carolina State Museum of Natural Sciences or to its designated representative for examination for the purpose of ascertaining whether the reptile is regulated under this Article; and, (ii) a reptile believed to be a large constricting snake or crocodilian to the North Carolina Zoological Park for the purpose of ascertaining whether the reptile is regulated under this Article. In any case in which a law enforcement officer or animal control officer determines that there is an immediate risk to public safety, the officer shall not be required to consult with representatives of the North Carolina Museum of Natural Sciences or the North Carolina Zoological Park as provided by this subsection.

(b) If the Museum or the Zoological Park or their designated representatives find that a seized reptile is a venomous reptile, large constricting snake, or crocodilian regulated under this Article, the Museum or the Zoological Park or their designated representative shall determine final disposition of the reptile in a manner consistent with the safety of the ~~public.~~public, which in the case of a venomous reptile for which antivenin is not readily available, may include euthanasia.

(c) If the Museum or the Zoological Park or their designated representatives find that the reptile is not a venomous reptile, large constricting snake, or crocodilian regulated under this Article, and either no criminal warrants or indictments are initiated in connection with the reptile within 10 days of initial seizure, or a court of law determines that the reptile is not being owned, possessed, used, transported, or trafficked in violation of this Article, then it shall be the duty of the law enforcement officer to return the reptile or reptiles to the person from whom they were seized within 15 days."

AMEND THE ADMINISTRATIVE PROCEDURE ACT TO PROVIDE THE WILDLIFE RESOURCES COMMISSION WITH TEMPORARY RULE-MAKING AUTHORITY FOR MANNER OF TAKE

SECTION 39. G.S. 150B-21.1 reads as rewritten:

"§ **150B-21.1. Procedure for adopting a temporary rule.**

(a) Adoption. – An agency may adopt a temporary rule when it finds that adherence to the notice and hearing requirements of G.S. 150B-21.2 would be contrary to the public interest and that the immediate adoption of the rule is required by one or more of the following:

…

(7) The need for the Wildlife Resources Commission to establish any of the following:

a. No wake zones.

b. Hunting or fishing ~~seasons.~~seasons, including provisions for manner of take or any other conditions required for the implementation of such season.

c. Hunting or fishing bag limits.

d. Management of public game lands as defined in G.S. 113-129(8a).

…."

PROHIBIT PUBLIC ENTITIES FROM PURCHASING OR ACQUIRING PROPERTY WITH KNOWN CONTAMINATION WITHOUT APPROVAL OF THE GOVERNOR AND COUNCIL OF STATE

SECTION 40.(a) Chapter 133 of the General Statutes is amended by adding a new Article to read:

"Article 4.

"Purchase of Contaminated Property by Public Entities.

"§ **133-40. Purchase of contaminated property by public entities.**

(a) For purposes of this Article, the term "public entity" means the State and the Community College System.

(b) No public entity, as defined in subsection (a) of this section, shall purchase or otherwise acquire an ownership interest in any real property with known contamination, as that term is defined in G.S. 130A-310.65(5), without approval of the Governor and the Council of State. A public entity seeking to purchase or otherwise acquire an ownership interest in such property shall petition the Governor and Council of State for approval of the transaction, with sufficient information to identify the property, the nature and extent of the contamination present, and a plan of paying for the project and for remediation of any contamination without the use of General Fund appropriations. The approval of such a transaction by the Governor and Council of State may be evidenced by a duly certified copy of excerpt of minutes of the meeting of the Governor and Council of State, attested by the private secretary to the Governor or the Governor, reciting such approval, affixed to the instrument of acquisition or transfer, and said certificate may be recorded as a part thereof, and the same shall be conclusive evidence of review and approval of the subject transaction by the Governor and Council of State. The Governor, acting with the approval of the Council of State, may delegate the review and approval of such transactions as the Governor deems advisable.

(c) This Article shall not apply to situations in which a public entity acquires ownership or control of real property involuntarily, including having obtained the property through bankruptcy, tax delinquency, abandonment, or other circumstances in which the public entity involuntarily acquires title by virtue of its function as a sovereign."

SECTION 40.(b) This section becomes effective September 1, 2013, and applies to a purchase or acquisition of interest in real property occurring on or after that date.

CLARIFY THAT NO BUILDING PERMIT IS REQUIRED FOR ROUTINE MAINTENANCE ON FUEL DISPENSERS

SECTION 41. G.S. 143-138 is amended by adding a new subsection to read:

"(b13) No building permit shall be required under the Code for routine maintenance on fuel dispensing pumps and other dispensing devices. For purposes of this subsection, "routine maintenance" includes repair or replacement of hoses, O-rings, nozzles, or emergency breakaways."

CLARIFY THE FEES THAT THE SECRETARY OF ENVIRONMENT AND NATURAL RESOURCES MAY ADOPT FOR THE NORTH CAROLINA AQUARIUMS

SECTION 42.(a) G.S. 143B-289.44 reads as rewritten:

"§ **143B-289.44. North Carolina Aquariums; fees; fund.**

(a) Fees. – The Secretary of Environment and Natural Resources may adopt a schedule of ~~uniform entrance~~ fees for the aquariums and piers operated by the North Carolina ~~Aquariums.~~Aquariums, including:

(1) Gate admission fees.

(2) Facility rental fees.

(3) Educational programs.

…."

SECTION 42.(b) This section is effective when it becomes law.

REPEAL THE MOUNTAIN RESOURCES PLANNING ACT

SECTION 43. Chapter 153B of the General Statutes is repealed.

PROVIDE AN EXEMPTION FROM LOCAL GOVERNMENT REQUIREMENTS REGARDING THE NUMBER OF ACRES FOR PROPERTY DEVELOPMENT FOR BROWNFIELDS DEVELOPMENTS

SECTION 44.(a) G.S. 153A-349.4 reads as rewritten:

"§ **153A-349.4. Developed property must contain certain number of acres; permissible durations of agreements.**

(a) A local government may enter into a development agreement with a developer for the development of property as provided in this Part, provided the property contains 25 acres or more of developable property (exclusive of wetlands, mandatory buffers, unbuildable slopes, and other portions of the property which may be precluded from development at the time of application). Development agreements shall be of a term specified in the agreement, provided they may not be for a term exceeding 20 years.

(b) Notwithstanding the acreage requirements of subsection (a) of this section, a local government may enter into a development agreement with a developer for the development of property as provided in this Part for developable property of any size (exclusive of wetlands, mandatory buffers, unbuildable slopes, and other portions of the property which may be precluded from development at the time of application), if the developable property that would be subject to the development agreement is subject to an executed brownfields agreement pursuant to Part 5 of Article 9 of Chapter 130A of the General Statutes. Development agreements shall be of a term specified in the agreement, provided they may not be for a term exceeding 20 years."

SECTION 44.(b) G.S. 160A-400.23 reads as rewritten:

"§ **160A-400.23. Developed property must contain certain number of acres; permissible durations of agreements.**

(a) A local government may enter into a development agreement with a developer for the development of property as provided in this Part, provided the property contains 25 acres or more of developable property (exclusive of wetlands, mandatory buffers, unbuildable slopes, and other portions of the property which may be precluded from development at the time of

application). Development agreements shall be of a term specified in the agreement, provided they may not be for a term exceeding 20 years.

(b) Notwithstanding the acreage requirements of subsection (a) of this section, a local government may enter into a development agreement with a developer for the development of property as provided in this Part for developable property of any size (exclusive of wetlands, mandatory buffers, unbuildable slopes, and other portions of the property which may be precluded from development at the time of application), if the developable property that would be subject to the development agreement is subject to an executed brownfields agreement pursuant to Part 5 of Article 9 of Chapter 130A of the General Statutes. Development agreements shall be of a term specified in the agreement, provided they may not be for a term exceeding 20 years."

DIRECT THE DEPARTMENT OF TRANSPORTATION TO ADOPT RULES FOR SELECTIVE PRUNING WITHIN HIGHWAY RIGHTS-OF-WAY

SECTION 45. The Department of Transportation shall adopt rules to authorize selective pruning within highway rights-of-way for vegetation that obstructs motorists' views of properties on which agritourism activities, as that term is defined in G.S. 99E-30, occur. The Department of Transportation is exempt from the provisions of G.S. 150B that require the preparation of fiscal notes for any rule proposed pursuant to this section.

CLARIFY REQUIREMENTS FOR COMPLIANCE BOUNDARIES WITH RESPECT TO GROUNDWATER QUALITY STANDARDS

SECTION 46.(a) G.S. 143-215.1 is amended by adding three new subsections to read:

"§ **143-215.1. Control of sources of water pollution; permits required.**

…

(i) Any person subject to the requirements of this section who is required to obtain an individual permit from the Commission for a disposal system under the authority of G.S. 143-215.1 or Chapter 130A of the General Statutes shall have a compliance boundary as may be established by rule or permit for various categories of disposal systems and beyond which groundwater quality standards may not be exceeded. The location of the compliance boundary shall be established at the property boundary, except as otherwise established by the Commission. Multiple contiguous properties under common ownership and permitted for use as a disposal system shall be treated as a single property with regard to determination of a compliance boundary under this subsection. Nothing in this subsection shall be interpreted to require a revision to an existing compliance boundary previously approved by rule or permit.

(j) When operation of a disposal system permitted under this section results in an exceedance of the groundwater quality standards adopted in accordance with G.S. 143-214.1, the Commission shall require that the exceedances within the compliance boundary be remedied through cleanup, recovery, containment, or other response only when any of the following conditions occur:

(1) A violation of any water quality standard in adjoining classified waters of the State occurs or can be reasonably predicted to occur considering hydrogeological conditions, modeling, or any other available evidence.

(2) An imminent hazard or threat to the environment, public health, or safety exists.

(3) A violation of any standard in groundwater occurring in the bedrock, including limestone aquifers in Coastal Plain sediments, unless it can be demonstrated that the violation will not adversely affect, or have the potential to adversely affect, a water supply well.

(k) Where operation of a disposal system permitted under this section results in exceedances of the groundwater quality standards at or beyond the compliance boundary

established under subsection (i) of this section, exceedances shall be remedied through cleanup, recovery, containment, or other response as directed by the Commission."

SECTION 46.(b) With respect to exceedances of groundwater quality standards within a compliance boundary and related remedy requirements, G.S. 143-215.1(j), as set forth in Section 46(a) of this act, shall apply in lieu of the restricted designation directives found in 15A NCAC 2L .0104(d) and (e) until the Department of Environment and Natural Resources has adopted revisions to those rules to comply with this act.

EXEMPT CERTAIN RADIO TOWERS FROM APPLICABILITY WITH THE MILITARY LANDS PROTECTION ACT OF 2013

SECTION 47. G.S. 143-151.74, as enacted by Section 1 of S.L. 2013-206, reads as rewritten:

"§ **143-151.74. Exemptions from applicability.**

(a) Wind energy facilities and wind energy facility expansions, as those terms are defined in Chapter 143 of the General Statutes, that are subject to the applicable permit requirements of that Chapter shall be exempt from obtaining the endorsement required by this Article.

(b) ~~Cellular~~ Cellular, radio, and television towers erected to temporarily replace ~~cellular~~ cellular, radio, and television towers that are damaged or destroyed due to a natural disaster shall be exempt from obtaining the endorsement required by this Article provided all of the following conditions are met:

(1) The height of the ~~cellular~~ cellular, radio, or television tower that is erected to temporarily replace the ~~cellular~~ cellular, radio, or television tower that is damaged or destroyed does not exceed the height of the original ~~cellular~~ cellular, radio, or television tower.

(2) A disaster has been declared pursuant to Chapter 166A of the General Statutes for the area in which the damaged or destroyed ~~cellular~~ cellular, radio, or television tower is located.

(3) The temporary ~~cellular~~ cellular, radio, or television tower shall only remain in place until the expiration of the declared disaster.

(c) The modification, replacement, removal, or addition of antennas on ~~cellular~~ cellular, radio, or television towers in an area surrounding a major military installation shall be exempt from obtaining the endorsement required by this Article provided the modification, replacement, removal, or addition does not increase the vertical height of the structure."

CLARIFY THAT EXTENDED-DURATION PERMITS FOR SANITARY LANDFILLS AND TRANSFER STATIONS AUTHORIZED BY S.L. 2012-187 ARE PERMITS FOR OPERATION AS WELL AS CONSTRUCTION

SECTION 48.(a) Section 15.1 of S.L. 2012-187 reads as rewritten:

"**SECTION 15.1.** No later than July 1, 2013, the Commission for Public Health shall adopt rules to allow applicants for sanitary landfills the option to (i) apply for a permit to construct and operate a five-year phase of landfill development and apply to amend the permit to construct and operate subsequent five-year phases of landfill development; or (ii) apply for a permit to construct and operate a 10-year phase of landfill development and apply to amend the permit to construct and operate subsequent 10-year phases of landfill development, with a limited review of the permit five years after issuance of the initial permit and five years after issuance of each amendment for subsequent phases of development. No later than July 1, 2013, the Commission shall also adopt rules to allow applicants for permits for transfer stations the option to (i) apply for a permit with a five-year duration to construct and operate a transfer station; or (ii) apply for a permit with a 10-year duration to construct and operate a transfer station, with a limited review of the permit five years after issuance of the initial permit and five years after issuance of any amendment to the permit. In developing these rules, the Department of Environment and Natural Resources shall examine the current fee schedule for

permits for sanitary landfills and transfer stations as set forth under G.S. 130A-295.8 and formulate recommendations for adjustments to the current fee schedule sufficient to address any additional demands associated with review of permits issued for 10-year phases of landfill development and the issuance permits with a duration of up to 10 years for transfer stations. The Department shall report its findings and recommendations, including any legislative proposals, to the Environmental Review Commission on or before December 1, 2012. The rules required by this section shall not become effective until the fee schedule set forth under G.S. 130A-295.8 is amended as necessary to address any additional demands associated with review of permits issued for 10-year phases of landfill development and the issuance of permits with a duration of up to 10 years to construct and operate transfer stations."

SECTION 48.(b) If Senate Bill 328, 2013 Regular Session, becomes law, then Section 48(a) of this act is repealed.

ADD A FACTOR FOR CONSIDERATION IN ASSESSING SOLID WASTE PENALTIES

SECTION 49. G.S. 130A-22 reads as rewritten:

"§ **130A-22. Administrative penalties.**

…

(d) In determining the amount of the penalty in subsections (a), (b) and (c), the Secretary and the Secretary of Environment and Natural Resources shall consider ~~the degree and extent of the harm caused by the violation and the cost of rectifying the damage.~~all of the following factors:

(1) Type of violation.
(2) Type of waste involved.
(3) Duration of the violation.
(4) Cause (whether resulting from a negligent, reckless, or intentional act or omission).
(5) Potential effect on public health and the environment.
(6) Effectiveness of responsive measures taken by the violator.
(7) Damage to private property.
(8) The degree and extent of harm caused by the violation.
(9) Cost of rectifying any damage.
(10) The amount of money the violator saved by noncompliance.
(11) The violator's previous record in complying or not complying with the provisions of Article 9 of this Chapter, Article 11 of this Chapter, or G.S. 130A-325, and any regulations adopted thereunder, as applicable to the violation in question.

…."

LIMIT LOCAL GOVERNMENT REGULATION OF STORAGE, RETENTION, OR USE OF NONHAZARDOUS RECYCLED MATERIALS

SECTION 50. G.S. 130A-309.09A is amended by adding a new subsection to read:

"(h) The storage, retention, and use of nonhazardous recyclable materials, including asphalt pavement, rap, or roofing shingles, shall be encouraged by units of local government. A unit of local government shall not impede the storage, retention, or use of nonhazardous recyclable materials in properly zoned storage facilities through the regulation of the height or setback of recyclable material stockpiles, except when such facilities are located on lots within 200 yards of residential districts."

AMEND THE DEFINITION OF "BUILT-UPON AREA" FOR PURPOSES OF IMPLEMENTING STORMWATER PROGRAMS

SECTION 51.(a) G.S. 143-214.7 is amended by adding a new subsection to read:

"(b2) For purposes of implementing stormwater programs, "built-upon area" means impervious surface and partially impervious surface to the extent that the partially impervious surface does not allow water to infiltrate through the surface and into the subsoil. "Built-upon area" does not include a wooden slatted deck, the water area of a swimming pool, or gravel."

SECTION 51.(b) Subdivision (7) of Section 2 of S.L. 2006-246 is repealed.

SECTION 51.(c) Subdivision (3) of subsection (a) of Section 2 of S.L. 2008-211 is repealed.

SECTION 51.(d) The Environmental Management Commission shall amend its rules to be consistent with the definition of "built-upon area" set out in subsection (b2) of G.S. 143-214.7, as enacted by Section 51(a) of this act.

SECTION 51.(e) The Environmental Review Commission shall study State stormwater programs, including how partially impervious surfaces are treated in the calculation of built-upon area under those programs. The Environmental Review Commission shall report its findings and recommendations to the 2014 Regular Session of the 2013 General Assembly.

SECTION 51.(f) This section is effective when it becomes law, and subsection (b2) of G.S. 143-214.7, as enacted by subsection (a) of this section, applies to projects for which permit applications are received on or after that date.

EXEMPT PONDS THAT ARE CONSTRUCTED AND USED FOR AGRICULTURAL PURPOSES FROM RIPARIAN BUFFER RULES

SECTION 52.(a) Except as required by federal law or in an imminent threat to public health or safety, (i) the temporary rules adopted July 22, 1997, January 22, 1998, April 22, 1998, and June 22, 1999, and the permanent rule adopted and effective August 1, 2000, as 15A NCAC 02B .0233 regarding the protection and maintenance of existing riparian buffers in the Neuse River Basin; (ii) the temporary rule adopted January 1, 2000, and the permanent rule adopted and effective August 1, 2000, as 15A NCAC 02B .0259 regarding the protection and maintenance of existing riparian buffers in the Tar-Pamlico River Basin; (iii) the permanent rule adopted and effective August 11, 2009, Session Law 2009-216, Session Law 2009-484, and the permanent rule, as amended, effective September 1, 2011, as 15A NCAC 02B .0267 regarding the protection and maintenance of existing riparian buffers in the Jordan Water Supply Watershed; (iv) the permanent rule adopted effective April 1, 1999, and the permanent rule, as amended, effective June 1, 2010, as 15A NCAC 02B .0250 regarding the protection and maintenance of existing riparian buffers in the Randleman Lake Water Supply Watershed; (v) the temporary rule effective June 30, 2001, and the permanent rule effective August 1, 2004, as 15A NCAC 02B .0243 regarding the protection and maintenance of existing riparian buffers in the Catawba River Basin; (vi) the permanent rule adopted and effective February 1, 2009, as 15A NCAC 02B .0605 and the permanent rule adopted and effective February 1, 2009, as 15A NCAC 02B .0607 regarding the protection and maintenance of existing riparian buffers in the Goose Creek Watershed (Yadkin Pee-Dee River Basin); and (vii) any similar rule adopted for the protection and maintenance of riparian buffers, collectively referred to as "Riparian Buffer Rules" for the purposes of this section, shall not apply to a freshwater pond to which Riparian Buffer Rules would otherwise apply if all of the following conditions are met:

(1) The property on which the pond is located is used for agriculture as that term is defined in G.S. 106-581.1.

(2) Except for the Riparian Buffer Rules and any similar rule adopted for the protection and maintenance of riparian buffers, the use of the property is in compliance with all other water quality and water quantity statutes and rules applicable to the property before the adoption of the Riparian Buffer Rules for the river basin or watershed in which the property is located.

(3) The pond is not a component of an animal waste management system as defined in G.S. 143-215.10B(3).

SECTION 52.(b) If the use of property on which a pond is located changes such that the use no longer meets the criteria in subdivision (1) of subsection (a) of this section, the

Riparian Buffer Rules for the river basin or watershed in which the property is located shall apply.

SECTION 52.(c) The Commission shall not adopt rules for the protection or maintenance of riparian buffers that apply to ponds provided the ponds are constructed or used for agriculture as that term is defined in G.S. 106-581.1.

SECTION 52.(d) Units of local government shall not adopt ordinances, resolutions, plans, or policies for the protection or maintenance of riparian buffers that apply to ponds provided the ponds are constructed or used for agriculture as that term is defined in G.S. 106-581.1.

SECTION 52.(e) The Environmental Management Commission shall adopt rules to amend the Neuse River Basin Riparian Buffer Rule, the Tar-Pamlico River Basin Riparian Buffer Rule, the Jordan Water Supply Riparian Buffer Rule, the Randleman Lake Water Supply Watershed Riparian Buffer Rule, the Catawba River Basin Riparian Buffer Rule, the Goose Creek Watershed (Yadkin Pee-Dee River Basin) Riparian Buffer Rule, and any other similar riparian buffer rules in accordance with subsections (a), (b), and (c) of this section. Notwithstanding G.S. 150B-19(4), the rule adopted by the Commission pursuant to this section shall be substantively identical to the provisions of subsections (a), (b), and (c) of this section. Rules adopted pursuant to this section are not subject to G.S. 150B-21.8 through G.S. 150B-21.14. Rules adopted pursuant to this section shall become effective as provided in G.S. 150B-21.3(b1) as though 10 or more written objections had been received as provided by G.S. 150B-21.3(b2).

SECTION 52.(f) This section is effective when it becomes law and applies to ponds used for agriculture that were either in existence on or constructed after July 22, 1997. Section 52(a) of this act expires on the date that rules adopted pursuant to Section 52(e) of this act become effective.

PROVIDE THAT A THIRD PARTY WHO IS DISSATISFIED WITH A DECISION OF THE ENVIRONMENTAL MANAGEMENT COMMISSION REGARDING A WATER QUALITY PERMIT MAY FILE A CONTESTED CASE UNDER THE ADMINISTRATIVE PROCEDURE ACT WITHIN 30 DAYS

SECTION 53. G.S. 143-215.1 reads as rewritten:

"§ **143-215.1. Control of sources of water pollution; permits required.**

…

(e) Administrative Review. – A permit ~~applicant or permittee~~ applicant, a permittee, or a third party who is dissatisfied with a decision of the Commission may commence a contested case by filing a petition under G.S. 150B-23 within 30 days after the Commission notifies the applicant or permittee of its decision. If the permit ~~applicant or permittee~~applicant, the permittee, or a third party does not file a petition within the required time, the Commission's decision is final and is not subject to review.

…."

REPEAL REQUIREMENTS FOR INCREASES IN VEHICULAR SURFACE AREAS

SECTION 54. Article 4A of Chapter 113A of the General Statutes is repealed.

AMEND DREDGE AND FILL PERMIT APPLICANT PROCEDURE FOR NOTICE TO ADJOINING PROPERTY OWNERS

SECTION 55. G.S. 113-229 reads as rewritten:

"§ **113-229. Permits to dredge or fill in or about estuarine waters or State-owned lakes.**

…

(d) An applicant for a permit, other than an emergency permit, shall ~~send a copy of his application to~~ notify the owner of each tract of riparian property that adjoins that of the applicant. ~~The copy shall be served~~ An applicant may satisfy the required notification of adjoining riparian property owners by either (i) obtaining from each adjoining riparian property

owner a signed statement that the adjoining riparian property owner has no objection to the proposed project or (ii) providing a copy of the applicant's permit application to each adjoining riparian property owner by certified ~~mail~~ mail. ~~or, if~~If the owner's address is unknown and cannot be ascertained with due diligence or if a diligent but unsuccessful effort has been made to serve the copy by certified mail, ~~by~~ publication in accordance with the rules of the ~~Commission.~~Commission shall serve to satisfy the notification requirement. An owner may file written objections to the permit with the Department for 30 days after ~~he~~the owner is served with a copy of the ~~application.~~application by certified mail. In the case of a special emergency dredge or fill permit the applicant must certify that ~~he~~the applicant took all reasonable steps to notify adjacent riparian owners of the application for a special emergency dredge and fill permit prior to submission of the application. Upon receipt of this certification, the Secretary shall issue or deny the permit within the time period specified in subsection (e) of this section, upon the express understanding from the applicant that ~~he~~ the applicant will be entirely liable and hold the State harmless for all damage to adjacent riparian landowners directly and proximately caused by the dredging or filling for which approval may be given.

…."

PROVIDE THAT CERTAIN WATER TREATMENT SYSTEMS WITH EXPIRED AUTHORIZATIONS MAY OBTAIN NEW AUTHORIZATIONS THAT ALLOW THE SYSTEMS TO WITHDRAW SURFACE WATER FROM THE SAME WATER BODY AT THE SAME RATE AS WAS APPROVED IN THE EXPIRED AUTHORIZATION

SECTION 56.(a) Public water systems with expired authorizations for water treatment plants that have been deactivated may obtain new water treatment plant authorizations that allow the system to withdraw surface water from the same water body and at the same rate as approved in the expired authorization, and such new authorizations shall not be required to prepare an environmental document pursuant to Article 1 of Chapter 113A of the General Statutes.

SECTION 56.(b) This section applies only to those public water systems for which the authorization for the water treatment plant expired within the last 10 calendar years of the effective date of this act.

COMBINE THE DIVISION OF WATER QUALITY AND THE DIVISION OF WATER RESOURCES TO CREATE A NEW DIVISION OF WATER RESOURCES IN THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES AND MAKE CONFORMING CHANGES

SECTION 57.(a) The Department of Environment and Natural Resources shall combine the Division of Water Quality and the Division of Water Resources to create a new Division of Water Resources.

SECTION 57.(b) G.S. 74-50(b3) reads as rewritten:

"(b3) When the Department receives an application for a new mining permit or for a modification of a mining permit to add land to the permitted area, the Department shall send a notice of the application to each of the following agencies with a request that each agency review and provide written comment on the application within 30 days of the date on which the request is made:

(1) Division of Air Quality, Department of Environment and Natural Resources.
(2) Division of Parks and Recreation, Department of Environment and Natural Resources.
~~(3) Division of Water Quality, Department of Environment and Natural Resources.~~
(4) Division of Water Resources, Department of Environment and Natural Resources.
(5) North Carolina Geological Survey, Division of Energy, Mineral, and Land Resources, Department of Environment and Natural Resources.

(6) Wildlife Resources Commission, Department of Environment and Natural Resources.
(7) Office of Archives and History, Department of Cultural Resources.
(8) United States Fish and Wildlife Service, United States Department of the Interior.
(9) Any other federal or State agency that the Department determines to be appropriate, including the Division of Coastal Management, Department of Environment and Natural Resources; the Division of Marine Fisheries, Department of Environment and Natural Resources; the Division of Waste Management, Department of Environment and Natural Resources; and the Department of Transportation."

SECTION 57.(c) G.S. 90A-47.3 reads as rewritten:

"§ **90A-47.3. Qualifications for certification; training; examination.**

(a) The Commission shall develop and administer a certification program for animal waste management system operators in charge that provides for receipt of applications, training and examination of applicants, and investigation of the qualifications of applicants.

(b) The Commission, in cooperation with the Division of Water ~~Quality~~ Resources of the Department of Environment and Natural Resources, and the Cooperative Extension Service, shall develop and administer a training program for animal waste management system operators in charge. An applicant for initial certification shall complete 10 hours of classroom instruction prior to taking the examination. In order to remain certified, an animal waste management system operator in charge shall complete six hours of approved additional training during each three-year period following initial certification. A certified animal waste management system operator in charge who fails to complete approved additional training within 30 days of the end of the three-year period shall take and pass the examination for certification in order to renew the certificate."

SECTION 57.(d) G.S. 106-805 reads as rewritten:

"§ **106-805. Written notice of swine farms.**

Any person who intends to construct a swine farm whose animal waste management system is subject to a permit under Part 1 or 1A of Article 21 of Chapter 143 of the General Statutes shall, after completing a site evaluation and before the farm site is modified, notify all adjoining property owners; all property owners who own property located across a public road, street, or highway from the swine farm; the county or counties in which the farm site is located; and the local health department or departments having jurisdiction over the farm site of that person's intent to construct the swine farm. This notice shall be by certified mail sent to the address on record at the property tax office in the county in which the land is located. Notice to a county shall be sent to the county manager or, if there is no county manager, to the chair of the board of county commissioners. Notice to a local health department shall be sent to the local health director. The written notice shall include all of the following:

(1) The name and address of the person intending to construct a swine farm.
(2) The type of swine farm and the design capacity of the animal waste management system.
(3) The name and address of the technical specialist preparing the waste management plan.
(4) The address of the local Soil and Water Conservation District office.
(5) Information informing the adjoining property owners and the property owners who own property located across a public road, street, or highway from the swine farm that they may submit written comments to the Division of Water ~~Quality,~~Resources, Department of Environment and Natural Resources."

SECTION 57.(e) G.S. 106-860(d) reads as rewritten:

"(d) Advisory Committee. – The Program shall be reviewed, prior to implementation, by the Community Conservation Assistance Program Advisory Committee. The Advisory

Committee shall meet quarterly to review the progress of the Program. The Advisory Committee shall consist of the following members:

(1) The Director of the Division of Soil and Water Conservation of the Department of Agriculture and Consumer Services or the Director's designee, who shall serve as the Chair of the Advisory Committee.
(2) The President of the North Carolina Association of Soil and Water Conservation Districts or the President's designee.
(3) The Director of the Cooperative Extension Service at North Carolina State University or the Director's designee.
(4) The Executive Director of the North Carolina Association of County Commissioners or the Executive Director's designee.
(5) The Executive Director of the North Carolina League of Municipalities or the Executive Director's designee.
(6) The State Conservationist of the Natural Resources Conservation Service of the United States Department of Agriculture or the State Conservationist's designee.
(7) The Executive Director of the Wildlife Resources Commission or the Executive Director's designee.
(8) The President of the North Carolina Conservation District Employees Association or the President's designee.
(9) The President of the North Carolina Association of Resource Conservation and Development Councils or the President's designee.
~~(10) The Director of the Division of Water Quality of the Department of Environment and Natural Resources or the Director's designee.~~
(11) The Director of the Division of Forest Resources of the Department of Agriculture and Consumer Services or the Director's designee.
(12) The Director of the Division of Energy, Mineral, and Land Resources of the Department of Environment and Natural Resources or the Director's designee.
(13) The Director of the Division of Coastal Management of the Department of Environment and Natural Resources or the Director's designee.
(14) The Director of the Division of Water Resources of the Department of Environment and Natural Resources or the Director's designee.
(15) The President of the Carolinas Land Improvement Contractors Association or the President's designee."

SECTION 57.(f) G.S. 113A-57 reads as rewritten:

"§ **113A-57. Mandatory standards for land-disturbing activity.**

No land-disturbing activity subject to this Article shall be undertaken except in accordance with the following mandatory requirements:

(1) No land-disturbing activity during periods of construction or improvement to land shall be permitted in proximity to a lake or natural watercourse unless a buffer zone is provided along the margin of the watercourse of sufficient width to confine visible siltation within the twenty-five percent (25%) of the buffer zone nearest the land-disturbing activity. Waters that have been classified as trout waters by the Environmental Management Commission shall have an undisturbed buffer zone 25 feet wide or of sufficient width to confine visible siltation within the twenty-five percent (25%) of the buffer zone nearest the land-disturbing activity, whichever is greater. Provided, however, that the Sedimentation Control Commission may approve plans which include land-disturbing activity along trout waters when the duration of said disturbance would be temporary and the extent of said disturbance would be minimal. This subdivision shall not apply to a land-disturbing

activity in connection with the construction of facilities to be located on, over, or under a lake or natural watercourse.

(2) The angle for graded slopes and fills shall be no greater than the angle that can be retained by vegetative cover or other adequate erosion-control devices or structures. In any event, slopes left exposed will, within 21 calendar days of completion of any phase of grading, be planted or otherwise provided with temporary or permanent ground cover, devices, or structures sufficient to restrain erosion.

(3) Whenever land-disturbing activity that will disturb more than one acre is undertaken on a tract, the person conducting the land-disturbing activity shall install erosion and sedimentation control devices and practices that are sufficient to retain the sediment generated by the land-disturbing activity within the boundaries of the tract during construction upon and development of the tract, and shall plant or otherwise provide a permanent ground cover sufficient to restrain erosion after completion of construction or development within a time period to be specified by rule of the Commission.

(4) No person shall initiate any land-disturbing activity that will disturb more than one acre on a tract unless, 30 or more days prior to initiating the activity, an erosion and sedimentation control plan for the activity is filed with the agency having jurisdiction and approved by the agency. An erosion and sedimentation control plan may be filed less than 30 days prior to initiation of a land-disturbing activity if the plan is submitted under an approved express permit program, and the land-disturbing activity may be initiated and conducted in accordance with the plan once the plan has been approved. The agency having jurisdiction shall forward to the Director of the Division of Water ~~Quality~~ Resources a copy of each erosion and sedimentation control plan for a land-disturbing activity that involves the utilization of ditches for the purpose of de-watering or lowering the water table of the tract.

(5) The land-disturbing activity shall be conducted in accordance with the approved erosion and sedimentation control plan."

SECTION 57.(g) G.S. 136-44.7D reads as rewritten:

"§ **136-44.7D. Bridge construction guidelines.**

A bridge crossing rivers and streams in watersheds shall be constructed to accommodate the hydraulics of a flood water level equal to the water level projected for a 100-year flood for the region in which the bridge is built. The bridge shall be built without regard for the riparian buffer zones as designated by the Department of Environment and Natural Resources, Division of Water ~~Quality.~~Resources. No Memorandums of Agreement may be made between Departments to bypass this construction mandate. No agency rules shall be enacted contrary to this section."

SECTION 57.(h) G.S. 143-214.7(c3) reads as rewritten:

"(c3) In accordance with the Federal Aviation Administration August 28, 2007, Advisory Circular No. 150/5200-33B (Hazardous Wildlife Attractants on or Near Airports), the Department shall not require the use of stormwater retention ponds, stormwater detention ponds, or any other stormwater control measure that promotes standing water in order to comply with this section at public airports that support commercial air carriers or general aviation services. Development projects located within five statute miles from the farthest edge of an airport air operations area, as that term is defined in 14 C.F.R. § 153.3 (July 2011 Edition), shall not be required to use stormwater retention ponds, stormwater detention ponds, or any other stormwater control measure that promotes standing water in order to comply with this section. Existing stormwater retention ponds, stormwater detention ponds, or any other stormwater control measure that promotes standing water in order to comply with this section located at public airports or that are within five statute miles from the farthest edge of an airport

operations area may be replaced with alternative measures included in the Division of Water ~~Quality's~~ Resources' Best Management Practice Manual chapter on airports. In order to be approved by the Department, alternative measures or management designs that are not expressly included in the Division of Water ~~Quality's~~ Resources' Best Management Practice Manual shall provide for equal or better stormwater control based on the pre- and post-development hydrograph. Any replacement of existing stormwater retention ponds, stormwater detention ponds, or any other stormwater control measure that promotes standing water shall be considered a minor modification to the State general stormwater permit."

SECTION 57.(i) G.S. 143-214.7A reads as rewritten:

"§ **143-214.7A. Stormwater control best management practices.**

(a) The Department of Environment and Natural Resources shall establish standard stormwater control best management practices and standard process water treatment processes or equivalent performance standards for composting operations that are required to be permitted by the Division of Water ~~Quality~~ Resources in the Department and the Division of Waste Management in the Department. These practices, processes, and standards shall be developed for the purpose of protecting water quality by controlling and containing stormwater that is associated with composting operations, by reducing the pollutant levels of process water from composting operations, and by reducing the opportunities for generation of such waters.

(b) Unless otherwise provided in this subsection, the Division of Water ~~Quality~~ Resources shall clarify that stormwater is water that does not contact anything considered a feedstock, intermediate product, or final product of composting operations. Unless otherwise provided in this subsection, the Division of Water ~~Quality~~ Resources shall clarify that wastewater is leachate and water that contacts feedstocks, intermediate products, or final product, of composting operations. The clarifications shall incorporate available scientifically valid information obtained from sampling and analyses of North Carolina composting facilities and from valid representative data from other states. In addition, the Division of Water ~~Quality~~ Resources shall establish threshold quantities of feedstocks, intermediate products, and final products above which water quality permitting will be required. A Type 1 solid waste compost facility shall be subject only to applicable State stormwater requirements and federal stormwater requirements established pursuant to 33 U.S.C. § 1342(p)(3)(B). A Type 1 solid waste compost facility shall not be required to obtain a National Pollutant Discharge Elimination System (NPDES) permit for discharge of process wastewater based solely on the discharge of stormwater that has come into contact with feedstock, intermediate product, or final product at the facility. For purposes of this section, "Type 1 solid waste compost facilities" are facilities that may receive yard and garden waste, silvicultural waste, untreated and unpainted wood waste, or any combination thereof.

(c) The Department shall establish revised water quality permitting procedures for the composting industry. The revised permitting procedures shall identify the various circumstances that determine which water quality permit is required for various composting activities. The Department shall determine whether selected low-risk subsets of the composting industry may be suitable for expedited or reduced water quality permitting procedures. The determination shall include consideration of the economic impact of regulatory decisions.

(d) In developing the practices, processes, and standards and the revised water quality permitting procedures required by this section, the Department shall review practices, processes, and standards and permitting procedures adopted by other states and similar federal programs.

(e) The Department shall form a Compost Operation Stakeholder Advisory Group composed of representatives from the North Carolina Chapter of the United States Composting Council, the North Carolina Association of County Commissioners, the North Carolina League of Municipalities, the North Carolina State Agricultural Extension Service, the North Carolina Chapter of the American Water Works Association-Water Environment Federation, the North Carolina Pumper Group, the North Carolina Chapter of the Solid Waste Association of North America, the North Carolina Septic Tank Association, and any individual or group commenting

to the Department on issues related to water quality at composting operations. The Compost Operation Stakeholder Advisory Group shall be convened periodically to provide input and assistance to the Department.

(f) The practices, processes, and standards and the revised permitting procedures shall address the site size of an operation, the nature of the feedstocks composted, the type of compost production method employed, the quantity and water quality of the stormwater or process water associated with composting facilities, the water quality of the receiving waters, as well as operation and maintenance requirements for the resulting standard stormwater control best management practices and standard process water treatment processes."

SECTION 57.(j) G.S. 143-214.10 reads as rewritten:

"§ **143-214.10. Ecosystem Enhancement Program: development and implementation of basinwide restoration plans.**

Develop Basinwide Restoration Plans. – The Department shall develop basinwide plans for wetlands and riparian area restoration with the goal of protecting and enhancing water quality, flood prevention, fisheries, wildlife habitat, and recreational opportunities within each of the 17 major river basins in the State. The Department shall develop and implement a basinwide restoration plan for each of the 17 river basins in the State in accordance with the basinwide schedule currently established by the Division of Water ~~Quality.~~Resources."

SECTION 57.(k) G.S. 143-214.25A, as amended by Section 22 of S.L. 2013-155, reads as rewritten:

"§ **143-214.25A. Riparian Buffer Protection Program: Surface Water Identification Training and Certification Program.**

(a) The Division of Water ~~Quality~~ Resources of the Department shall develop a program to train and certify individuals to determine the presence of surface waters that would require the application of rules adopted by the Commission for the protection of riparian buffers. The Division may train and certify employees of the Division as determined by the Director of the Division of Water ~~Quality;~~Resources; employees of units of local government to whom responsibility for the implementation and enforcement of the riparian buffer protection rules is delegated pursuant to G.S. 143-214.23; and Registered Foresters under Chapter 89B of the General Statutes who are employees of the North Carolina Forest Service of the Department of Agriculture and Consumer Services as determined by the Assistant Commissioner of the North Carolina Forest Service. The Director of the Division of Water ~~Quality~~ Resources may review the determinations made by individuals who are certified pursuant to this section, may override a determination made by an individual certified under this section, and, if the Director of the Division of Water ~~Quality~~ Resources determines that an individual is failing to make correct determinations, revoke the certification of that individual.

(b) The Division of Water ~~Quality~~ Resources shall develop standard forms for use in making and reporting determinations. Each individual who is certified to make determinations under this section shall prepare a written report of each determination and shall submit the report to the agency that employs the individual. Each agency shall maintain reports of determinations made by its employees, shall forward a copy of each report to the Director of the Division of Water ~~Quality,~~Resources, and shall maintain these reports and all other records related to determinations so that they will be readily accessible to the public.

(c) In implementing the Surface Water Identification Training and Certification Program established by this section, the Division of Water ~~Quality~~ Resources of the Department of Environment and Natural Resources shall give priority to training and certifying the most highly qualified and experienced personnel in each agency. The Division of Water ~~Quality~~ Resources shall evaluate the effectiveness of the Surface Water Identification Training and Certification Program and shall submit an annual report of its findings and recommendations, if any, to the Environmental Review Commission on or before October 1 of each year."

SECTION 57.(l) G.S. 143-215.9C reads as rewritten:

"§ **143-215.9C. Use of certain types of culverts allowed.**

(a) The Division of Water ~~Quality~~ Resources in the Department of Environment and Natural Resources shall allow the use of structures known as three-sided, open-bottom, or bottomless culverts. A culvert authorized under this section shall be designed, constructed, and installed so that it satisfies all of the following requirements:

(1) Adheres to professional engineering standards and sound engineering practices.

(2) To the extent practicable, minimizes the erosive velocity of water.

(3) Has an inside that is greater than or equal to 1.2 times the bankfull width of the spanned waterbody. For purposes of this subdivision, "bankfull width" means the width of the stream where over-bank flow begins during a flood event.

(b) The Division shall allow the use of culverts authorized under this section throughout the State and may not limit their use to locations where they must be tied into bedrock. Culverts authorized under this section may only be used on private property and may not be transferred to, or operated or maintained by, the Department of Transportation."

SECTION 57.(m) G.S. 143-215.10A reads as rewritten:

"§ **143-215.10A. Legislative findings and intent.**

The General Assembly finds that animal operations provide significant economic and other benefits to this State. The growth of animal operations in recent years has increased the importance of good animal waste management practices to protect water quality. It is critical that the State balance growth with prudent environmental safeguards. It is the intention of the State to promote a cooperative and coordinated approach to animal waste management among the agencies of the State with a primary emphasis on technical assistance to farmers. To this end, the General Assembly intends to establish a permitting program for animal waste management systems that will protect water quality and promote innovative systems and practices while minimizing the regulatory burden. Technical assistance will be provided by the Division of Soil and Water Conservation of the Department of Agriculture and Consumer Services. Inspection and enforcement will be provided by the Division of Water ~~Quality.~~Resources."

SECTION 57.(n) G.S. 143-215.10B reads as rewritten:

"§ **143-215.10B. Definitions.**

As used in this Part:

(1) "Animal operation" means any agricultural feedlot activity involving 250 or more swine, 100 or more confined cattle, 75 or more horses, 1,000 or more sheep, or 30,000 or more confined poultry with a liquid animal waste management system, or any agricultural feedlot activity with a liquid animal waste management system that discharges to the surface waters of the State. A public livestock market regulated under Article 35 of Chapter 106 of the General Statutes is an animal operation for purposes of this Part.

(2) "Animal waste" means livestock or poultry excreta or a mixture of excreta with feed, bedding, litter, or other materials from an animal operation.

(3) "Animal waste management system" means a combination of structures and nonstructural practices serving a feedlot that provide for the collection, treatment, storage, or land application of animal waste.

(4) "Division" means the Division of Water ~~Quality~~ Resources of the Department.

(5) "Feedlot" means a lot or building or combination of lots and buildings intended for the confined feeding, breeding, raising, or holding of animals and either specifically designed as a confinement area in which animal waste may accumulate or where the concentration of animals is such that an established vegetative cover cannot be maintained. A building or lot is not a feedlot unless animals are confined for 45 or more days, which may or may

not be consecutive, in a 12-month period. Pastures shall not be considered feedlots for purposes of this Part.

(6) "Technical specialist" means an individual designated by the Soil and Water Conservation Commission, pursuant to rules adopted by that Commission, to certify animal waste management plans."

SECTION 57.(o) G.S. 143-215.10M(a) reads as rewritten:

"(a) The Department shall report to the Environmental Review Commission and the Fiscal Research Division on or before 1 October of each year as required by this section. Each report shall include:

(1) The number of permits for animal waste management systems, itemized by type of animal subject to such permits, issued since the last report.

(2) The number of operations reviews of animal waste management systems that the Division of Soil and Water Conservation of the Department of Agriculture and Consumer Services has conducted since the last report.

(3) The number of operations reviews of animal waste management systems conducted by agencies other than the Division of Soil and Water Conservation of the Department of Agriculture and Consumer Services that have been conducted since the last report.

(4) The number of reinspections associated with operations reviews conducted by the Division of Soil and Water Conservation of the Department of Agriculture and Consumer Services since the last report.

(5) The number of reinspections associated with operations reviews conducted by agencies other than the Division of Soil and Water Conservation of the Department of Agriculture and Consumer Services since the last report.

(6) The number of compliance inspections of animal waste management systems that the Division of Water ~~Quality~~ Resources has conducted since the last report.

(7) The number of follow-up inspections associated with compliance inspections conducted by the Division of Water ~~Quality~~ Resources since the last report.

(8) The average length of time for each category of reviews and inspections under subdivisions (2) through (7) of this subsection.

(9) The number of violations found during each category of review and inspection under subdivisions (2) through (7) of this subsection, the status of enforcement actions taken and pending, and the penalties imposed, collected, and in the process of being negotiated for each such violation.

(10) Any other information that the Department determines to be appropriate or that is requested by the Environmental Review Commission or the Fiscal Research Division."

SECTION 57.(p) G.S. 143B-279.7(a) reads as rewritten:

"(a) The Department of Environment and Natural Resources shall coordinate an intradepartmental effort to develop scientific protocols to respond to significant fish kill events utilizing staff from the Division of Water ~~Quality,~~Resources, Division of Marine Fisheries, Department of Health and Human Services, Wildlife Resources Commission, the scientific community, and other agencies, as necessary. In developing these protocols, the Department of Environment and Natural Resources shall address the unpredictable nature of fish kills caused by both natural and man-made factors. The protocols shall contain written procedures to respond to significant fish kill events including:

(1) Developing a plan of action to evaluate the impact of fish kills on public health and the environment.

(2) Responding to fish kills within 24 hours.

(3) Investigating and collecting data relating to fish kill events.

(4) Summarizing and distributing fish kill information to participating agencies, scientists and other interested parties."

SECTION 57.(q) G.S. 159G-20(5) is repealed.

SECTION 57.(r) G.S. 159G-23 reads as rewritten:

"§ **159G-23. Common criteria for loan or grant from Wastewater Reserve or Drinking Water Reserve.**

The criteria in this section apply to a loan or grant from the Wastewater Reserve or the Drinking Water Reserve. The ~~Division of Water Quality and the~~ Division of Water Resources must ~~each~~ establish a system of assigning points to applications based on the following criteria:

…."

SECTION 57.(s) G.S. 159G-26(a) reads as rewritten:

"§ **159G-26. Annual reports on Water Infrastructure Fund.**

(a) Requirement. – The Department must publish a report each year on the accounts in the Water Infrastructure Fund that are administered by the ~~Division of Water Quality or the~~ Division of Water Resources. The report must be published by 1 November of each year and cover the preceding fiscal year. The Department must make the report available to the public and must give a copy of the report to the Environmental Review Commission and the Fiscal Research Division of the General Assembly."

SECTION 57.(t) G.S. 159G-30 reads as rewritten:

"§ **159G-30. Department's responsibility.**

The Department, through ~~the Division of Water Quality and~~ the Division of Water Resources, administers loans and grants made from the CWSRF, the DWSRF, the Wastewater Reserve, and the Drinking Water Reserve. ~~The Division of Water Quality administers loans and grants from the CWSRF and the Wastewater Reserve. The Division of Water Resources administers loans and grants from the DWSRF and the Drinking Water Reserve.~~"

SECTION 57.(u) G.S. 159G-37 reads as rewritten:

"§ **159G-37. Application to CWSRF, Wastewater Reserve, DWSRF, and Drinking Water Reserve.**

An application for a loan or grant from the ~~CWSRF or the Wastewater Reserve must be filed with the Division of Water Quality of the Department. An application for a loan or grant from the DWSRF or the Drinking Water Reserve must be filed with the~~ CWSRF, the Wastewater Reserve, the DWSRF, or the Drinking Water Reserve must be filed with the Division of Water Resources of the Department. An application must be submitted on a form prescribed by the Division and must contain the information required by the Division. An applicant must submit to the Division any additional information requested by the Division to enable the Division to make a determination on the application. An application that does not contain information required on the application or requested by the Division is incomplete and is not eligible for consideration. An applicant may submit an application in as many categories as it is eligible for consideration under this Article."

SECTION 57.(v) G.S. 159G-38 reads as rewritten:

"§ **159G-38. Environmental assessment and public hearing.**

(a) Required Information. – An application submitted under this Article for a loan or grant for a project must state whether the project requires an environmental assessment. If the application indicates that an environmental assessment is not required, it must identify the exclusion in the North Carolina Environmental Policy Act, Article 1 of Chapter 113A of the General Statutes, that applies to the project. If the application does not identify an exclusion in the North Carolina Environmental Policy Act, it must include an environmental assessment of the project's probable impacts on the environment.

(b) Division Review. – If, after reviewing an application, ~~the Division of Water Quality or~~ the Division of Water ~~Resources, as appropriate,~~Resources determines that a project requires an environmental assessment, the assessment must be submitted before the Division continues its review of the application. If, after reviewing an environmental assessment, the Division concludes that an environmental impact statement is required, the Division may not continue its review of the application until a final environmental impact statement has been completed and approved as provided in the North Carolina Environmental Policy Act.

(c) Hearing. – The ~~Division of Water Quality or the~~ Division of Water ~~Resources, as appropriate,~~ Resources may hold a public hearing on an application for a loan or grant under this Article if it determines that holding a hearing will serve the public interest. An individual who is a resident of any county in which a proposed project is located may submit a written request for a public hearing. The request must set forth each objection to the proposed project or other reason for requesting a hearing and must include the name and address of the individual making the request. The Division may consider all written objections to the proposed project, any statement submitted with the hearing request, and any significant adverse effects the proposed project may have on the environment. The Division's decision on whether to hold a hearing is conclusive. The Division must keep all written requests for a hearing on an application as part of the records pertaining to the application."

SECTION 57.(w) G.S. 159G-39(a) reads as rewritten:

"(a) Point Assignment. – The ~~Division of Water Quality or the~~ Division of Water ~~Resources, as appropriate,~~Resources must review all applications filed for a loan or grant under this Article for an application period. The Division must rank each application in accordance with the points assigned to the evaluation criteria. The Division must make a written determination of an application's rank and attach the determination to the application. The Division's determination of rank is conclusive."

SECTION 57.(x) Section 1.6 of S.L. 1998-221 reads as rewritten:

"Section 1.6. **Delegation of riparian buffer protection requirements to local governments. –** (a) The Commission may delegate responsibility for the implementation and enforcement of the State's riparian buffer protection requirements in the Neuse River Basin to units of local government that have the power to regulate land use. A delegation under this section shall not affect the jurisdiction of the Commission over State agencies and units of local government. Any unit of local government in the Neuse River Basin that has the power to regulate land use may request that responsibility for the implementation and enforcement of the State's riparian buffer protection requirements be delegated to the unit of local government. To this end, units of local government may adopt ordinances and regulations necessary to establish and enforce the State's riparian buffer protection requirements.

(b) Within 90 days after the Commission receives a complete application requesting delegation of responsibility for the implementation and enforcement of the State's riparian buffer protection requirement, the Commission shall review the application and notify the unit of local government that submitted the application whether the application has been approved, approved with modifications, or disapproved. The Commission shall not approve a delegation unless the Commission finds that local implementation and enforcement of the State's riparian buffer protection requirements will equal implementation and enforcement by the State.

(c) If the Commission determines that any unit of local government is failing to implement or enforce the State's riparian buffer protection requirements, the Commission shall notify the unit of local government in writing and shall specify the deficiencies in implementation and enforcement. If the local government has not corrected the deficiencies within 90 days after the unit of local government receives the notification, the Commission shall rescind delegation and shall implement and enforce the State's riparian buffer protection program. If the unit of local government indicates that it is willing and able to resume implementation and enforcement of the State's riparian buffer protection requirements, the unit of local government may reapply for delegation under this section.

(d) The Division of Water ~~Quality~~ Resources in the Department shall provide technical assistance to units of local government in the development, implementation, and enforcement of the State's riparian buffer protection requirements.

(e) The Commission may adopt rules to implement this section and may recommend any legislation it determines to be necessary or desirable to achieve the purposes of this section. Rules to implement this section shall not be codified as a part of 15A NCAC 2B.0233 but shall be set out as a separately numbered rule."

SECTION 57.(y) Section 2(c) of S.L. 2001-355 reads as rewritten:

"**SECTION 2.(c)** The Director of the Division of Water ~~Quality~~ Resources and the Director of the Division of Soil and Water Conservation of the Department of Environment and Natural Resources shall jointly appoint members described in subdivisions (1) through (4) of subsection (b) of this section. The Commissioner of Agriculture shall appoint the members described in subdivisions (5) and (6) of subsection (b) of this section. The Commissioner of Agriculture shall appoint the members described in subdivision (6) of subsection (b) of this section from persons nominated by nongovernmental organizations whose members produce or manage significant agricultural commodities in each county or watershed."

SECTION 57.(z) Section 2 of S.L. 2006-246 reads as rewritten:

"**SECTION 2.** Definitions. – The following definitions apply to this act and its implementation:

(1) The definitions set out in 40 Code of Federal Regulations § 122.2 (Definitions) and § 122.26(b) (Storm Water Discharges) (1 July 2003 Edition).

(2) The definitions set out in G.S. 143-212 and G.S. 143-213.

(3) The definitions set out in 15A NCAC 2H .0103 (Definitions of Terms).

(4) The definitions set out in 15A NCAC 2H .1002 (Definitions), except for the definitions of "Built-upon area", "Development", and "Redevelopment", which are defined below.

(5) "One-year, 24-hour storm" means a rainfall of an intensity expected to be equaled or exceeded, on average, once in 12 months and with a duration of 24 hours.

(6) "BMP" means Best Management Practice.

(7) "Built-upon area" means that portion of a project that is covered by impervious or partially impervious surface including, but not limited to, buildings; pavement and gravel areas such as roads, parking lots, and paths; and recreation facilities such as tennis courts. "Built-upon area" does not include a wooden slatted deck, the water area of a swimming pool, or pervious or partially pervious paving material to the extent that the paving material absorbs water or allows water to infiltrate through the paving material.

(8) "Development" means any land-disturbing activity that increases the amount of built-upon area or that otherwise decreases the infiltration of precipitation into the soil.

(9) "Division" means the Division of Water ~~Quality~~ Resources in the Department.

(10) "Planning jurisdiction" means the territorial jurisdiction within which a municipality exercises the powers authorized by Article 19 of Chapter 160A of the General Statutes, or a county may exercise the powers authorized by Article 18 of Chapter 153A of the General Statutes.

(11) "Public entity" means the United States; the State; a city, village, township, county, school district, public college or university, or single-purpose governmental agency; or any other governing body that is created by federal or State law.

(12) "Redevelopment" means any land-disturbing activity that does not result in a net increase in built-upon area and that provides greater or equal stormwater control than the previous development.

(13) "Regulated entity" means any public entity that must obtain a Phase II National Pollutant Discharge Elimination System (NPDES) permit for stormwater management for its municipal separate storm sewer system (MS4).

(14) "Sensitive receiving waters" means any of the following:

a. Waters that are classified as high quality, outstanding resource, shellfish, trout, or nutrient-sensitive waters in accordance with subsections (d) and (e) of 15A NCAC 2B .0101 (Procedures for Assignment of Water Quality Standards – General Procedures).
b. Waters that are occupied by or designated as critical habitat for aquatic animal species that are listed as threatened or endangered by the United States Fish and Wildlife Service or the National Marine Fisheries Service under the provisions of the Endangered Species Act of 1973 (Pub. L. No. 93-205; 87 Stat. 884; 16 U.S.C. §§ 1531, et seq.), as amended.
c. Waters for which the designated use, as described by the classification system set out in subsections (c), (d), and (e) of 15A NCAC 2B .0101 (Procedures for Assignment of Water Quality Standards – General Procedures), have been determined to be impaired in accordance with the requirements of subsection (d) of 33 U.S.C. § 1313.

(15) "Shellfish resource waters" means Class SA waters that contain an average concentration of 500 parts per million of natural chloride ion. Average concentration is determined by averaging the chloride concentrations of five water samples taken one-half mile downstream from the project site that are taken on separate days, within one hour of high tide, and not within 48 hours following a rain event. The chloride ion concentrations are to be determined by a State-certified laboratory.

(16) "Significant contributor of pollutants" means a municipal separate storm sewer system (MS4) or a discharge that contributes to the pollutant loading of a water body or that destabilizes the physical structure of a water body such that the contribution to pollutant loading or the destabilization may reasonably be expected to adversely affect the quality and uses of the water body. Uses of a water body shall be determined pursuant to 15A NCAC 2B .0211 through 15A NCAC 2B .0222 (Classifications and Water Quality Standards Applicable to Surface Waters and Wetlands of North Carolina) and 15A NCAC 2B .0300, et seq. (Assignment of Stream Classifications).

(17) "Total maximum daily load (TMDL) implementation plan" means a written, quantitative plan and analysis for attaining and maintaining water quality standards in all seasons for a specific water body and pollutant."

SECTION 57.(aa) S.L. 2008-211 reads as rewritten:

"**SECTION 1.(a)** Disapprove Rule. – Pursuant to G.S. 150B-21.3(b1), 15A NCAC 02H .1005 (Stormwater Requirements: Coastal Counties), as adopted by the Environmental Management Commission on 10 January 2008 and approved by the Rules Review Commission on 20 March 2008, is disapproved.

"**SECTION 1.(b)** Supersede Rule. – 15A NCAC 02H .1005 (Stormwater Requirements: Coastal Counties), effective 1 September 1995, is superseded by this act. References in the North Carolina Administrative Code to 15A NCAC 02H .1005 shall be deemed to refer to the equivalent provisions of this act.

"**SECTION 2.(a)** Definitions. – The following definitions apply to this act and its implementation:

(1) The definitions set out in 15A NCAC 02H .1002 (Definitions).
(2) The definitions set out in G.S. 143-212 and G.S. 143-213.
(3) "Built upon area" has the same meaning as in Session Law 2006-246 and means that portion of a project that is covered by impervious or partially impervious surface including, but not limited to, buildings; pavement and gravel areas such as roads, parking lots, and paths; and recreation facilities such as tennis courts. "Built upon area" does not include a wooden slatted

deck, the water area of a swimming pool, or pervious or partially pervious paving material to the extent that the paving material absorbs water or allows water to infiltrate through the paving material.

(4) "Permeable pavement" means paving material that absorbs water or allows water to infiltrate through the paving material. Permeable pavement materials include porous concrete, permeable interlocking concrete pavers, concrete grid pavers, porous asphalt, and any other material with similar characteristics. Compacted gravel shall not be considered permeable pavement.

(5) "Residential development activities" has the same meaning as in 15A NCAC 02B .0202(54).

(6) "Vegetative buffer" has the same meaning as in 15A NCAC 02H .1002(22) and means an area of natural or established vegetation directly adjacent to surface waters through which stormwater runoff flows in a diffuse manner to protect surface waters from degradation due to development activities.

(7) "Vegetative conveyance" means a permanent, designed waterway lined with vegetation that is used to convey stormwater runoff at a non-erosive velocity within or away from a developed area.

"**SECTION 2.(b)** Requirements for Certain Nonresidential and Residential Development in the Coastal Counties. – All nonresidential development activities that occur within the Coastal Counties that will add more than 10,000 square feet of built upon area or that require a Sedimentation and Erosion Control Plan, pursuant to G.S. 113A-57 or a Coastal Area Management Act (CAMA) Major Development Permit, pursuant to G.S. 113A-118 and all residential development activities within the Coastal Counties that require a Sedimentation and Erosion Control Plan, pursuant to G.S. 113A-57 or a Coastal Area Management Act (CAMA) Major Development Permit, pursuant to G.S. 113A-118 shall manage stormwater runoff as provided in this subsection. A development activity or project requires a Sedimentation and Erosion Control Plan if the activity or project disturbs one acre or more of land, including an activity or project that disturbs less than one acre of land that is part of a larger common plan of development. Whether an activity or project that disturbs less than one acre of land is part of a larger common plan of development shall be determined in a manner consistent with the memorandum referenced as "Guidance Interpreting Phase 2 Stormwater Requirements" from the Director of the Division of Water Quality of the Department of Environment and Natural Resources to Interested Parties dated 24 July 2006.

(1) Development Near Outstanding Resource Waters (ORW). – Development activities within the Coastal Counties and located within 575 feet of the mean high waterline of areas designated by the Commission as Outstanding Resource Waters (ORW) shall meet the requirements of 15A NCAC 02H .1007 (Stormwater Requirements: Outstanding Resource Waters) and shall be permitted as follows:

a. Low-Density Option. – Development shall be permitted pursuant to 15A NCAC 02H .1003(d)(1) if the development meets all of the following requirements:

1. The development has a built upon area of twelve percent (12%) or less. A development project with an overall density at or below the low-density threshold, but containing areas with a density greater than the overall project density, shall be considered low-density as long as the project meets or exceeds the requirements for low-density development and locates the higher density development in upland areas and away from surface waters and drainageways to the maximum extent practicable.

2. Stormwater runoff from the development is transported primarily by vegetated conveyances. As used in this sub-sub-subdivision, "conveyance system" shall not include a stormwater collection system. Stormwater runoff from built upon areas that is directed to flow through any wetlands shall flow into and through these wetlands at a non-erosive velocity.
3. The development contains a 50-foot-wide vegetative buffer for new development activities and a 30-foot-wide vegetative buffer for redevelopment activities. The width of a buffer is measured horizontally from the normal pool elevation of impounded structures, from the bank of each side of streams or rivers, and from the mean high waterline of tidal waters, perpendicular to the shoreline. The vegetative buffer may be cleared or graded, but must be planted with and maintained in grass or any other vegetative or plant material. The Division of Water ~~Quality~~ Resources may, on a case-by-case basis, grant a minor variance from the vegetative buffer requirements of this section pursuant to the procedures set out in 15A NCAC 02B .0233(9)(b). Vegetative buffers and filters required by this section and any other buffers or filters required by State water quality or coastal management rules or local government requirements may be met concurrently and may contain, in whole or in part, coastal, isolated, or 404 jurisdictional wetlands that are located landward of the normal waterline.

b. High-Density Option. – Development shall be permitted pursuant to 15A NCAC 02H .1003(d)(2) if the development meets all of the following requirements:
1. The development has a built upon area of greater than twelve percent (12%).
2. The development has no direct outlet channels or pipes to Class SA waters unless permitted in accordance with 15A NCAC 02H .0126. Stormwater runoff from built upon areas that is directed to flow through any wetlands shall flow into and through these wetlands at a non-erosive velocity.
3. The development utilizes control systems that are any combination of infiltration systems, bioretention systems, constructed stormwater wetlands, sand filters, rain barrels, cisterns, rain gardens or alternative low impact development stormwater management systems designed in accordance with 15A NCAC 02H .1008 to control and treat the runoff from all surfaces generated by one and one-half inches of rainfall, or the difference in the stormwater runoff from all surfaces from the predevelopment and postdevelopment conditions for a one-year, 24-hour storm, whichever is greater. Wet detention ponds may be used as a stormwater control system to meet the requirements of this sub-sub-subdivision, provided that the stormwater control system fully complies with the requirements of this sub-subdivision. If a wet detention pond is used within one-half mile of Class SA waters, installation of a stormwater best management practice in series with the wet detention pond shall be required to treat the discharge

from the wet detention pond. Secondary stormwater best management practices that are used in series with another stormwater best management practice do not require any minimum separation from the seasonal high water table. Alternatives as described in 15A NCAC 02H .1008(h) may also be approved if they meet the requirements of this sub-subdivision.

4. Stormwater runoff from the development that is in excess of the design volume must flow overland through a vegetative filter designed in accordance with 15A NCAC 02H .1008 with a minimum length of 50 feet measured from mean high water of Class SA waters.
5. The development contains a 50-foot-wide vegetative buffer for new development activities and a 30-foot-wide vegetative buffer for redevelopment activities. The width of a buffer is measured horizontally from the normal pool elevation of impounded structures, from the bank of each side of streams or rivers, and from the mean high waterline of tidal waters, perpendicular to the shoreline. The vegetative buffer may be cleared or graded, but must be planted with, and maintained in, grass or any other vegetative or plant material. Furthermore, stormwater control best management practices (BMPs), or stormwater control structures, with the exception of wet detention ponds, may be located within this vegetative buffer. The Division of Water ~~Quality~~ Resources may, on a case by case basis, grant a minor variance from the vegetative buffer requirements of this section pursuant to the procedures set out in 15A NCAC 02B .0233(9)(b). Vegetative buffers and filters required by this section and any other buffers or filters required by State water quality or coastal management rules or local government requirements may be met concurrently and may contain, in whole or in part, coastal, isolated, or 404 jurisdictional wetlands that are located landward of the normal waterline.

c. Stormwater Discharges Prohibited. – All development activities, including both low- and high-density projects, shall prohibit new points of stormwater discharge to Class SA waters or an increase in the volume of stormwater flow through conveyances or increase in capacity of conveyances of existing stormwater conveyance systems that drain to Class SA waters. Any modification or redesign of a stormwater conveyance system within the contributing drainage basin must not increase the net amount or rate of stormwater discharge through existing outfalls to Class SA waters. The following shall not be considered a direct point of stormwater discharge:
   1. Infiltration of the stormwater runoff from the design storm as described in sub-sub-subdivision 3. of sub-subdivision b. of subdivision (1) of this subsection.
   2. Diffuse flow of stormwater at a non-erosive velocity to a vegetated buffer or other natural area, that is capable of providing effective infiltration of the runoff from the design storm as described in sub-sub-subdivision 3. of sub-subdivision b. of subdivision (1) of this subsection. Notwithstanding the other requirements of this section, the

infiltration mandated in this sub-sub-subdivision does not require a minimum separation from the seasonal high-water table.

3. The discharge from a wet detention pond that is treated by a secondary stormwater best management practice, provided that both the wet detention pond and the secondary stormwater best management practice meet the requirements of this sub-subdivision.

d. Limitation on the Density of Development. – Development shall be limited to a built upon area of twenty-five percent (25%) or less.

(2) Development Near Class SA Waters. – Development activities within one-half mile of and draining to those waters classified by the Commission as Class SA waters or within one-half mile of waters classified by the Commission as Class SA waters and draining to unnamed freshwater tributaries to Class SA waters shall meet the requirements of sub-subdivisions a., b., and c. of subdivision (1) of this subsection. The extent of Class SA waters is limited to those waters that are determined to be at least an intermittent stream based on a site stream determination made in accordance with the procedures that are delineated in the Division of Water Quality's "Identification Methods for the Origin of Intermittent and Perennial Streams" prepared pursuant to Session Law 2001-404.

(3) Other Coastal Development. – Development activities within the Coastal Counties except those areas described in subdivisions (1) and (2) of this subsection shall meet all of the following requirements:

a. Low-Density Option: Development shall be permitted pursuant to 15A NCAC 02H .1003(d)(1) if the development meets all of the following requirements:

1. The development has a built upon area of twenty-four percent (24%) or less. A development project with an overall density at or below the low-density threshold, but containing areas with a density greater than the overall project density, shall be considered low density as long as the project meets or exceeds the requirements for low-density development and locates the higher density in upland areas and away from surface waters and drainageways to the maximum extent practicable.

2. Stormwater runoff from the development is transported primarily by vegetated conveyances. As used in this sub-sub-subdivision, "conveyance system" shall not include a stormwater collection system. Stormwater runoff from built upon areas that is directed to flow through any wetlands shall flow into and through these wetlands at a non-erosive velocity.

3. The development contains a 50-foot-wide vegetative buffer for new development activities and a 30-foot-wide vegetative buffer for redevelopment activities. The width of a buffer is measured horizontally from the normal pool elevation of impounded structures, from the bank of each side of streams or rivers, and from the mean high waterline of tidal waters, perpendicular to the shoreline. The vegetative buffer may be cleared or graded, but must be planted with, and maintained in, grass or any other vegetative or plant material. The Division of Water ~~Quality~~ Resources may, on a case-by-case

basis, grant a minor variance from the vegetative buffer requirements of this section pursuant to the procedures set out in 15A NCAC 02B .0233(9)(b). Vegetative buffers and filters required by this section and any other buffers or filters required by State water quality or coastal management rules or local government requirements may be met concurrently and may contain, in whole or in part, coastal, isolated, or 404 jurisdictional wetlands that are located landward of the normal waterline.

b. High-Density Option: Higher density developments shall be permitted pursuant to 15A NCAC 02H .1003(d)(2) if the development meets all of the following requirements:

1. The development has a built upon area of greater than twenty-four percent (24%).
2. The development uses control systems that are any combination of infiltration systems, wet detention ponds, bioretention systems, constructed stormwater wetlands, sand filters, rain barrels, cisterns, rain gardens or alternative stormwater management systems designed in accordance with 15A NCAC 02H .1008.
3. Control systems must be designed to store, control, and treat the stormwater runoff from all surfaces generated by one and one-half inch of rainfall.
4. Stormwater runoff from built upon areas that is directed to flow through any wetlands shall flow into and through these wetlands at a non-erosive velocity.
5. A 50-foot-wide vegetative buffer for new development activities and a 30-foot-wide vegetative buffer for redevelopment activities. The width of a buffer is measured horizontally from the normal pool elevation of impounded structures, from the bank of each side of streams or rivers, and from the mean high waterline of tidal waters, perpendicular to the shoreline. The vegetative buffer may be cleared or graded, but must be planted with, and maintained in, grass or any other vegetative or plant material. Furthermore, stormwater control best management practices (BMPs), or stormwater control structures, with the exception of wet detention ponds, may be located within this vegetative buffer. The Division of Water ~~Quality~~ Resources may, on a case by case basis, grant a minor variance from the vegetative buffer requirements of this section pursuant to the procedures set out in 15A NCAC 02B .0233(9)(b). Vegetative buffers and filters required by this section and any other buffers or filters required by State water quality or coastal management rules or local government requirements may be met concurrently and may contain, in whole or in part, coastal, isolated, or 404 jurisdictional wetlands that are located landward of the normal waterline.

(4) Requirements for Structural Stormwater Controls. – Structural stormwater controls required under this section shall meet all of the following requirements:

a. Remove an eighty-five percent (85%) average annual amount of Total Suspended Solids.

b. For detention ponds, draw down the treatment volume no faster than 48 hours, but no slower than 120 hours.

c. Discharge the storage volume at a rate equal to or less than the predevelopment discharge rate for the one-year, 24-hour storm.

d. Meet the General Engineering Design Criteria set forth in 15A NCAC 02H .1008(c).

e. For structural stormwater controls that are required under this section and that require separation from the seasonal high-water table, a minimum separation of two feet is required. Where a separation of two feet from the seasonal highwater table is not practicable, the Division of Water ~~Quality~~ Resources may grant relief from the separation requirement pursuant to the Alternative Design Criteria set out in 15A NCAC 02H .1008(h). No minimum separation from the seasonal highwater table is required for a secondary stormwater best management practice that is used in a series with another stormwater best management practice.

(5) Certain Wetlands Excluded From Density Calculation. – For the purposes of this section, areas defined as Coastal Wetlands under 15A NCAC 07H .0205, as measured landward from the normal high waterline, shall not be included in the overall project area to calculate impervious surface density. Wetlands that are not regulated as coastal wetlands pursuant to 15A NCAC 07H .0205 and that are located landward of the normal high waterline may be included in the overall project area to calculate impervious surface density.

"**SECTION 2.(c)** Requirements for Limited Residential Development in Coastal Counties. – For residential development activities within the 20 Coastal Counties that are located within one-half mile and draining to Class SA waters, that have a built upon area greater than twelve percent (12%), that do not require a stormwater management permit under subsection (b) of this section, and that will add more than 10,000 square feet of built upon area, a one-time, nonrenewable stormwater management permit shall be obtained. The permit shall require recorded deed restrictions or protective covenants to ensure that the plans and specifications approved in the permit are maintained. Under this permit, stormwater runoff shall be managed using any one or combination of the following practices:

(1) Install rain cisterns or rain barrels designed to collect all rooftop runoff from the first one and one-half inches of rain. Rain barrels and cisterns shall be installed in such a manner as to facilitate the reuse of the collected rain water on site and shall be installed in such a manner that any overflow from these devices is directed to a vegetated area in a diffuse flow. Construct all uncovered driveways, uncovered parking areas, uncovered walkways, and uncovered patios out of permeable pavement or other pervious materials.

(2) Direct rooftop runoff from the first one and one-half inches of rain to an appropriately sized and designed rain garden. Construct all uncovered driveways, uncovered parking areas, uncovered walkways, and uncovered patios out of permeable pavement or other pervious materials.

(3) Install any other stormwater best management practice that meets the requirements of 15A NCAC 02H .1008 to control and treat the stormwater runoff from all built upon areas of the site from the first one and one-half inches of rain.

"**SECTION 2.(d)** Exclusions. – The requirements of this section shall not apply to any of the following:

(1) Activities of the North Carolina Department of Transportation that are regulated in accordance with the provisions of the Department's National Pollutant Discharge Elimination System (NPDES) Stormwater Permit.

(2) Development activities that are conducted pursuant to and consistent with one of the following authorizations, or any timely renewal thereof, shall be regulated by those provisions and requirements of 15A NCAC 02H .1005 that were effective at the time of the original issuance of the following authorizations:

a. State Stormwater Permit issued under the provisions of 15A NCAC 02H .1005.

b. Stormwater Certification issued pursuant to 15A NCAC 02H .1000 prior to 1 December 1995.

c. A Coastal Area Management Act Major Permit.

d. 401 Certification that contains an approved Stormwater Management Plan.

e. A building permit pursuant to G.S. 153A-357 or G.S. 160A-417.

f. A site-specific development plan as defined by G.S. 153A-344.1(b)(5) and G.S. 160A-385.1(b)(5).

g. A phased development plan approved pursuant to G.S. 153A-344.1 or G.S. 160A-385.1 that shows:

1. For the initial or first phase of development, the type and intensity of use for a specific parcel or parcels, including at a minimum, the boundaries of the project and a subdivision plan that has been approved pursuant to G.S. 153A-330 through G.S. 153A-335 or G.S. 160A-371 through G.S. 160A-376.

2. For any subsequent phase of development, sufficient detail so that implementation of the requirements of this section to that phase of development would require a material change in that phase of the plan.

h. A vested right to the development pursuant to common law.

(3) Redevelopment activities that result in no net increase in built upon area and provide stormwater control equal to the previous development.

(4) Development activities for which a complete Stormwater Permit Application has been accepted by the Division of Water ~~Quality~~ Resources prior to the effective date of this act, shall be regulated by the provisions and requirements of 15A NCAC 02H .1005 that were effective at the time that this application was accepted as complete by the Division of Water ~~Quality.~~Resources. For purposes of this subsection, a Stormwater Permit Application is deemed accepted as complete by the Division of Water ~~Quality~~Resources when the application is assigned a permit number in the Division's Basinwide Information Management System.

(5) Development activities for which only a minor modification of a State Stormwater Permit is required shall be regulated by the provisions and requirements of 15A NCAC 02H .1005 that were effective at the time of the original issuance of the State Stormwater Permit. For purposes of this subsection, a minor modification of a State Stormwater Permit is defined as a modification that does not increase the net area of built upon area within the project site or does not increase the overall size of the stormwater controls that have been previously approved for that development activity.

(6) Municipalities designated as a National Pollutant Discharge Elimination System (NPDES) Phase 2 municipality located within the 20 Coastal Counties until such time as the NPDES Phase 2 Stormwater Permit expires and is subject to renewal. Upon renewal of the NPDES Phase 2 Stormwater Permits for municipalities located within the 20 Coastal Counties, the

Department shall review the permits to determine whether the permits should be amended to include the provisions of this section.

…."

SECTION 57.(bb) S.L. 2009-322 reads as rewritten:

"**SECTION 1.(a)** The Department of Environment and Natural Resources shall establish standard stormwater control best management practices and standard process water treatment processes or equivalent performance standards for composting operations that are required to be permitted by the Division of Water ~~Quality~~ Resources in the Department and the Division of Waste Management in the Department. These practices, processes, and standards shall be developed for the purpose of protecting water quality by controlling and containing stormwater that is associated with composting operations, by reducing the pollutant levels of process water from composting operations, and by reducing the opportunities for generation of such waters.

"**SECTION 1.(b)** The Division of Water ~~Quality~~ Resources shall clarify that stormwater is water that does not contact anything considered a feedstock, intermediate product, or final product of composting operations. The Division of Water ~~Quality~~ Resources shall clarify that wastewater is leachate and water that contacts feedstocks, intermediate products, or final product, of composting operations. The clarifications shall incorporate available scientifically valid information obtained from sampling and analyses of North Carolina composting facilities and from valid representative data from other states. In addition, the Division of Water ~~Quality~~ Resources shall establish threshold quantities of feedstocks, intermediate products, and final products above which water quality permitting will be required.

"**SECTION 1.(c)** The Department shall establish revised water quality permitting procedures for the composting industry. The revised permitting procedures shall identify the various circumstances that determine which water quality permit is required for various composting activities. The Department shall determine whether selected low-risk subsets of the composting industry may be suitable for expedited or reduced water quality permitting procedures. The determination shall include consideration of the economic impact of regulatory decisions.

"**SECTION 1.(d)** In developing the practices, processes, and standards and the revised water quality permitting procedures required by this section, the Department shall review practices, processes, and standards and permitting procedures adopted by other states and similar federal programs.

"**SECTION 1.(e)** The Department shall form a Compost Operation Stakeholder Advisory Group composed of representatives from the North Carolina Chapter of the United States Composting Council, the North Carolina Association of County Commissioners, the North Carolina League of Municipalities, the North Carolina State Agricultural Extension Service, the North Carolina Chapter of the American Water Works Association-Water Environment Federation, the North Carolina Pumper Group, the North Carolina Chapter of the Solid Waste Association of North America, the North Carolina Septic Tank Association, and any individual or group commenting to the Department on issues related to water quality at composting operations. The Compost Operation Stakeholder Advisory Group shall be convened periodically to provide input and assistance to the Department.

"**SECTION 1.(f)** The practices, processes, and standards and the revised permitting procedures shall address the site size of an operation, the nature of the feedstocks composted, the type of compost production method employed, the quantity and water quality of the stormwater or process water associated with composting facilities, the water quality of the receiving waters, as well as operation and maintenance requirements for the resulting standard stormwater control best management practices and standard process water treatment processes.

"**SECTION 2.** Not later than December 31, 2009, the Department shall report to the Environmental Review Commission on the progress of the implementation of the provisions of this act and any recommendations from the Compost Operation Stakeholder Advisory Group and other commenters. The Department shall periodically make other progress reports as the Commission may subsequently direct.

"**SECTION 3.(a)** For the period of time between the effective date of this act and phase-in provided by Section 3(d) of this act, permits for composting facilities shall be handled as follows:

(1) The Division of Water ~~Quality~~ Resources shall issue interim water quality permit extensions to all composting facilities applying for a water quality permit renewal until the revised final water quality permitting procedures are phased in, as provided in Section 3(d) of this act. The issuance of interim water quality permit extensions shall be contingent upon no significant changes to the existing quantities, feedstocks, and composting methods permitted by the Division of Waste Management. For any facility found to be causing or contributing to a violation of water quality standards, the Division of Water ~~Quality~~ Resources may subsequently determine that the facility is ineligible for continued coverage under an interim water quality permit extension.

(2) For facilities renewing permits issued by the Division of Waste Management prior to the phase-in provided in Section 3(d) of this act, but operating without the appropriate water quality permits, the Division of Water ~~Quality~~ Resources will work with those facilities on a case-by-case basis to establish appropriate permit coverage.

(3) New water quality permit applications filed after July 1, 2009, shall be handled on a case-by-case basis.

"**SECTION 3.(b)** Not later than January 1, 2010, the Department shall request comments and recommendations from the Compost Operation Stakeholder Advisory Group as to standard stormwater control best management practices, standard process water treatment processes, and performance standards and the elements of the revised water quality permitting procedures.

"**SECTION 3.(c)** Not later than January 1, 2011, the Department shall establish standard stormwater control best management practices and standard process water treatment processes or performance standards, including standard methods for the reduction in volume for both of these waters.

"**SECTION 3.(d)** Not later than January 1, 2011, the Department shall begin the phase-in of the revised water quality permitting procedures for the composting industry. Complete phase in of the revised water quality permitting procedures shall be accomplished not later than October 1, 2012.

"**SECTION 3.(e)** Water quality permits for the composting industry shall include a reopener clause that may be used to revise permit conditions to reflect the results of the stakeholder process.

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

SECTION 57.(cc) Section 4(b) of S.L. 2010-180 reads as rewritten:

"**SECTION 4.(b)** In implementing the Surface Water Identification Training and Certification Program established by G.S. 143-214.25A, as enacted by Section 4(a) of this act, the Division of Water ~~Quality~~ Resources of the Department of Environment and Natural Resources shall give priority to training and certifying the most highly qualified and experienced personnel in each agency. The Division of Water ~~Quality~~ Resources shall evaluate the effectiveness of the Surface Water Identification Training and Certification Program and shall submit an annual report of its findings and recommendations, if any, to the Environmental Review Commission on or before October 1 of each year. The Division of Water ~~Quality~~ Resources shall submit the first report required by this section on or before October 1, 2011."

SECTION 57.(dd) Section 4 of S.L. 2005-190, as amended by Section 31 of S.L. 2006-59 and Section 12 of S.L. 2010-180, reads as rewritten:

"**SECTION 4.** Other drinking water supply reservoirs. – The Environmental Management Commission shall not make any new or increased nutrient loading allocation to any person who is required to obtain a permit under G.S. 143-215 for an individual wastewater discharge directly or indirectly into any impaired drinking water supply reservoir for which the Division

of Water ~~Quality~~ Resources of the Department of Environment and Natural Resources has prepared or updated a calibrated nutrient response model since 1 July 2002 until permanent rules adopted by the Commission to implement the nutrient management strategy for that reservoir become effective. The Commission shall report its progress in developing and implementing nutrient management strategies for reservoirs to which this section applies to the Environmental Review Commission by 1 April of each year beginning 1 April 2006."

SECTION 57.(ee) Section 13.4(b) of S.L. 2011-145 reads as rewritten:

"**SECTION 13.4.(b)** During the 2011-2012 fiscal year and the 2012-2013 fiscal year, the Groundwater Investigation Unit of the Division of Water ~~Quality~~ Resources of the Department of Environment and Natural Resources shall bid to contract to perform well drilling services for any division within the Department of Environment and Natural Resources that needs to have wells drilled to monitor groundwater, as part of remediating a contaminated site, or as part of any other division or program responsibility, except for a particular instance when this would be impracticable. The provisions of Article 3 of Chapter 143 of the General Statutes apply to any contract entered into under this section."

SECTION 57.(ff) Section 21 of Session Law 2011-394 reads as rewritten:

"**SECTION 21.** In order to ensure the ongoing delivery of services by the nonpoint source pollution control programs of the Division of Forest Resources and the Division of Soil and Water Conservation, the Division of Water ~~Quality~~ Resources in the Department of Environment and Natural Resources shall transfer Clean Water Act (CWA) Section 319 Nonpoint Source Management Program Base Grant funds to the Division of Forest Resources and Division of Soil and Water Conservation, where consistent with the federal grant program requirements, in an amount that is no less than the average annual amount of funding received by each of those two Divisions over the two most-recent fiscal bienniums. In the event that the level of Section 319 base grant funds received by the Department of Environment and Natural Resources by the United States Environmental Protection Agency is increased or decreased in any funding cycle, the level of funding received by the Division of Forest Resources and the Division of Soil and Water Conservation shall be adjusted proportionally. Section 319 Nonpoint Source Management Program Competitive Grant funds shall consider water quality benefit and be distributed in a fair and equitable manner based on the grant requirements and the benefit. The Division of Water ~~Quality~~ Resources will establish a Workgroup of Nonpoint Source Agencies, including the Division of Forest Resources and the Division of Soil and Water Conservation, which will consider the competitive grant project proposals. The Workgroup will be given full input to the project funding decisions."

SECTION 57.(gg) G.S. 143-215.10F, as amended by S.L. 2013-131, reads as rewritten:

"§ **143-215.10F. Inspections.**

(a) Except as provided in subsection (b) of this section, the Division shall conduct inspections of all animal operations that are subject to a permit under G.S. 143-215.10C at least once a year to determine whether the system is causing a violation of water quality standards and whether the system is in compliance with its animal waste management plan or any other condition of the permit.

(b) As an alternative to the inspection program set forth in subsection (a) of this section, the Division of Soil and Water Conservation of the Department of Agriculture and Consumer Services shall conduct inspections of all animal operations that are subject to a permit under G.S. 143-215.10C at least once a year to determine whether the system is causing a violation of water quality standards and whether the system is in compliance with its animal waste management plan or any other condition of the permit. The alternative inspection program shall be located in up to four counties selected using the criteria set forth in Section 15.4(a) of S.L. 1997-443, as amended, as it existed prior to its expiration. The Department of Agriculture and Consumer Services shall establish procedures whereby resources within the local Soil and Water Conservation Districts serving the counties are used for quick response to complaints and reported problems previously referred only to the Division of Water ~~Quality.~~Resources."

DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES, ENVIRONMENTAL REVIEW COMMISSION, AND OTHERS TO STUDY REVIEW OF ENGINEERING WORK

SECTION 58.(a) The Department of Environment and Natural Resources, in conjunction with the Departments of Transportation and Health and Human Services, and local governments operating delegated permitting programs on behalf of the departments, shall study their internal processes for review of applications and plans submitted for approval. In particular, the departments, and local governments as applicable, shall examine: (i) standard processes for each environmental permit program with respect to evaluation of applications and plans submitted for approval, including the role professional engineers play in each permit program in terms of direct review of applications or plans, or supervisory responsibilities for review of applications and plans by other staff; (ii) mechanisms in place to ensure that staff who are not professional engineers are not engaged in the unauthorized practice of engineering; (iii) the standard scope of review within each permit program, including whether staff are reviewing applications or plans solely on the basis of the application or plan's ability to satisfy the requirements of the statute, rule, standard, or criterion against which the application or plan is being evaluated, or whether staff are requiring revisions that exceed statutory or rulemaking requirements when evaluating such permits or plans; (iv) opportunities to eliminate unnecessary or superfluous revisions that may have resulted in the past from review processes that exceeded requirements under law, and opportunities to otherwise streamline and improve the review process for applications and plans submitted for approval.

SECTION 58.(b) The Department of Environment and Natural Resources, in conjunction with the Departments of Transportation and Health and Human Services, and local governments operating delegated permitting programs on behalf of the departments, shall report their findings and recommendations to the Environmental Review Commission no later than January 1, 2014.

SECTION 58.(c) The Environmental Review Commission shall study the matter, with the assistance of the departments, applicable local governments, the North Carolina State Board of Examiners for Engineers and Surveyors, and the Professional Engineers of North Carolina, and report its findings and recommendations on the matter, including any legislative proposals, to the 2014 General Assembly upon its convening.

PART VI. SOLID WASTE REFORM PROVISIONS

MODIFICATION TO THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES' AUTHORITY TO ISSUE PERMITS FOR SOLID WASTE MANAGEMENT FACILITIES

SECTION 59.(a) G.S. 130A-294 reads as rewritten:

"§ **130A-294. Solid waste management program.**

(a) The Department is authorized and directed to engage in research, conduct investigations and surveys, make inspections and establish a statewide solid waste management program. In establishing a program, the Department shall have authority to:

…

(4) …

c. The Department shall deny an application for a permit for a solid waste management facility if the Department finds that:

…

9. The cumulative impact of the proposed facility, when considered in relation to other similar impacts of facilities located or proposed in the community, would have a disproportionate adverse impact on a minority or low-income community protected by Title VI of the federal Civil Rights

Act of 1964. This subdivision shall apply only to the extent required by federal law.

…."

MODIFICATIONS TO CERTAIN REQUIREMENTS GOVERNING SANITARY LANDFILLS INCLUDING: ENVIRONMENTAL IMPACT STUDIES, APPLICABLE BUFFERS, CLEANING AND INSPECTION OF LEACHATE COLLECTION LINES, ALTERNATIVE DAILY COVER, AND REQUIRED STUDIES FOR CERTAIN LANDFILL OWNERS AND OPERATORS

SECTION 59.1 G.S. 130A-295.6 reads as rewritten:

"§ **130A-295.6. Additional requirements for sanitary landfills.**

(a) The applicant for a proposed sanitary landfill shall contract with a qualified third party, approved by the Department, ~~Department shall~~to conduct a study of the environmental impacts of any proposed sanitary ~~landfill.~~ landfill, in conjunction with its application for a new permit as defined in sub-subdivisions a. through d. of subdivision (1) of subsection (b) of G.S. 130A-295.8. The study shall meet all of the requirements set forth in G.S. 113A-4 and rules adopted pursuant to G.S. 113A-4. If an environmental impact statement is required, the Department shall publish notice of the draft environmental impact statement and shall hold a public hearing in the county where the landfill will be located no sooner than 30 days following the public notice. The Department shall consider the study of environmental impacts and any mitigation measures proposed by the applicant in deciding whether to issue or deny a permit. An applicant for a permit for a sanitary landfill shall pay all costs incurred by the Department to comply with the public notice and public hearing requirements of this subsection.~~this subsection including the costs of any special studies that may be required.~~

…

(d) The Department shall not issue a permit to construct any disposal unit of a sanitary landfill if, at the earlier of (i) the acquisition by the applicant or permit holder of the land or of an option to purchase the land on which the waste disposal unit will be located, (ii) the application by the applicant or permit holder for a franchise agreement, or (iii) at the time of the application for a permit, any portion of the proposed waste disposal unit would be located within:

(1) Five miles of the outermost boundary of a National Wildlife Refuge.

(2) One mile of the outermost boundary of a State gameland owned, leased, or managed by the Wildlife Resources Commission pursuant to G.S. 113-306, prior to July 1, 2013, except as provided in subdivision (2a) of this subsection.

(2a) Five hundred feet of the outermost boundary of a State gameland owned, leased, or managed by the Wildlife Resources Commission pursuant to G.S. 113-306, prior to July 1, 2013, when all of the following conditions apply:

a. The waste disposal unit will only be permitted to accept construction and demolition debris waste.

b. The disposal unit is located within the primary corporate limits of a municipality located in a county with a population of less than 15,000.

c. All portions of the gameland within one mile of the disposal unit are separated from the disposal unit by a primary highway designated by the Federal Highway Administration as a U.S. Highway.

(3) Two miles of the outermost boundary of a component of the State Parks System.

…

(h) The following requirements apply to any sanitary landfill for which a liner is required:

(1) A geomembrane base liner system shall be tested for leaks and damage by methods approved by the Department that ensure that the entire liner is evaluated.

(2) A leachate collection system shall be designed to return the head of the liner to 30 centimeters or less within 72 hours. The design shall be based on the precipitation that would fall on an empty cell of the sanitary landfill as a result of a 25-year-24-hour storm event. The leachate collection system shall maintain a head of less than 30 centimeters at all times during leachate recirculation. The Department may require the operator to monitor the head of the liner to demonstrate that the head is being maintained in accordance with this subdivision and any applicable rules.

(3) All leachate collection lines shall be designed and constructed to permanently allow cleaning and remote camera inspection. Remote camera inspections of the leachate collection lines shall occur upon completion of the construction and at least once every five years. Cleaning of leachate collection lines found necessary for proper functioning and to address buildup of leachate over the liner shall occur. ~~All leachate collection lines shall be cleaned at least once a year, except that the Department may allow leachate collection lines to be cleaned once every two years if: (i) the facility has continuous flow monitoring; and (ii) the permit holder demonstrates to the Department that the leachate collection lines are clear and functional based on at least three consecutive annual cleanings. Remote camera inspections of the leachate collection lines shall occur upon completion of construction, at least once every five years thereafter, and following the clearing of blockages.~~

(4) Any pipes used to transmit leachate shall provide dual containment outside of the disposal unit. The bottom liner of a sanitary landfill shall be constructed without pipe penetrations.

(h1) With respect to requirements for daily cover at sanitary landfills, once the Department has approved use of an alternative method of daily cover for use at any sanitary landfill, that alternative method of daily cover shall be approved for use at all sanitary landfills located within the State.

(h2) Studies and research and development pertaining to alternative disposal techniques and waste-to-energy matters shall be conducted by certain sanitary landfills as follows:

(1) The owner or operator of any sanitary landfill permitted to receive more than 240,000 tons of waste per year shall research the development of alternative disposal technologies. In addition, the owner or operator shall allow access to nonproprietary information and provide site resources for individual research and development projects related to alternative disposal techniques for the purpose of studies that may be conducted by local community or State colleges and universities or other third-party developers or consultants. The owner or operator shall report on research and development activities conducted pursuant to this subdivision, and any results of these activities, to the Department annually on or before July 1.

(2) The owner or operator of any sanitary landfill permitted to receive more than 240,000 tons of waste per year shall perform a feasibility study of landfill gas-to-energy, or other waste-to-energy technology, to determine opportunities for production of renewable energy from landfills in order to promote economic development and job creation in the State. The owner or operator shall initiate the study when sufficient waste is in place at the landfill to produce gas, as determined by the United States Environmental Protection Agency's Landfill Gas Emissions Model (LandGEM), and may consult and coordinate with other entities to facilitate conduct of the study,

including local and State government agencies, economic development organizations, consultants, and third-party developers. The study shall specifically examine opportunities for returning a portion of the benefits derived from energy produced from the landfill to the jurisdiction within which the landfill is located in the form of direct supply of energy to the local government and its citizens, or through revenue sharing with the local government from sale of the energy, with revenues owing to the local government credited to a fund specifically designated for economic development within the jurisdiction. The owner or operator shall report on its activities associated with the study, and any results of the study, to the Department annually on or before July 1.

…."

AMEND THE RULE GOVERNING COLLECTION AND TRANSPORT OF SOLID WASTE TO REQUIRE THAT CONTAINERS BE "LEAK-RESISTANT" RATHER THAN "LEAK-PROOF," AND AMEND A STATUTE THAT REQUIRES VEHICLES TO BE CONSTRUCTED AND LOADED TO PREVENT LEAKAGE

SECTION 59.2(a) Definitions. – "Collection and Transport Rule" means 15A NCAC 13B .0105 (Collection and Transportation of Solid Waste) for purposes of this section and its implementation.

SECTION 59.2(b) Collection and Transport Rule. – Until the effective date of the revised permanent rule that the Commission for Public Health is required to adopt pursuant to Section 59.2(d) of this act, the Commission and the Department of Environment and Natural Resources shall implement the Collection and Transport Rule, as provided in Section 59.2(c) of this act.

SECTION 59.2(c) Implementation. – Notwithstanding any provision of the Collection and Transport Rule, the Commission shall not require vehicles or containers used for the collection and transportation of solid waste to be leak-proof; however, they may require that these containers be designed and maintained to be leak-resistant in accordance with industry standards.

SECTION 59.2(d) Additional Rule-Making Authority. – The Commission shall adopt a rule to replace the Collection and Transport Rule. Notwithstanding G.S. 150B-19(4), the rule adopted by the Commission pursuant to this section shall be substantively identical to the provisions of Section 59.2(c) of this act. Rules adopted pursuant to this section are not subject to G.S. 150B-21.9 through G.S. 150B-21.14. The rule adopted pursuant to this section shall become effective, as provided in G.S. 150B-21.3(b1), as though 10 or more written objections had been received, as provided by G.S. 150B-21.3(b2).

SECTION 59.2(e) Effective Date. – Section 59.2(c) of this act expires when permanent rules to replace Section 59.2(c) of this act have become effective, as provided by Section 59.2(d) of this act.

SECTION 59.2(f) G.S. 20-116(g)(1) reads as rewritten:

"§ **20-116. Size of vehicles and loads.**

…

(g) (1) No vehicle shall be driven or moved on any highway unless the vehicle is constructed and loaded to prevent any of its load from falling, blowing, dropping, sifting, leaking, or otherwise escaping therefrom, and the vehicle shall not contain any holes, cracks, or openings through which any of its load may escape. However, sand may be dropped for the purpose of securing traction, or water or other substance may be sprinkled, dumped, or spread on a roadway in cleaning or maintaining the roadway. For purposes of this subsection, ~~load~~ the terms "load" and "leaking" ~~does~~ do not include water accumulated from precipitation."

AMEND THE DEFINITION OF "LEACHATE" TO EXCLUDE LIQUID ADHERING TO TIRES OF VEHICLES LEAVING SANITARY LANDFILLS AND TRANSFER STATIONS

SECTION 59.3 G.S. 130A-290 is amended by adding a new subdivision to read:

"(16a) "Leachate" means a liquid that has passed through or emerged from solid waste and contains soluble, suspended, or miscible materials removed from such waste. The term "leachate" does not include liquid adhering to tires of vehicles leaving a sanitary landfill and transfer stations."

AUTHORIZE: (1) CITIES AND COUNTIES THAT ACCEPT SOLID WASTE FROM OTHER LOCAL GOVERNMENTS TO LEVY A SURCHARGE ON FEES FOR USE OF THEIR DISPOSAL FACILITIES, AND (2) APPROPRIATIONS FROM A UTILITY OR PUBLIC SERVICE ENTERPRISE FUND USED FOR OPERATION OF A LANDFILL TO THE JURISDICTION'S GENERAL FUND IN CERTAIN CIRCUMSTANCES

SECTION 59.4.(a) G.S. 153A-292(b) reads as rewritten:

"(b) The board of county commissioners may impose a fee for the collection of solid waste. The fee may not exceed the costs of collection.

The board of county commissioners may impose a fee for the use of a disposal facility provided by the county. ~~The~~ Except as provided in this subsection, the fee for use may not exceed the cost of operating the ~~facility and may be imposed only on those who use the~~ facility. The fee may exceed those costs if the county enters into a contract with another local government located within the State to accept the other local government's solid waste and the county by ordinance levies a surcharge on the fee. The fee authorized by this paragraph may only be used to cover the costs of operating the facility. The surcharge authorized by this paragraph may be used for any purpose for which the county may appropriate funds. A fee under this paragraph may be imposed only on those who use the facility. The fee for use may vary based on the amount, characteristics, and form of recyclable materials present in solid waste brought to the facility for disposal. A county may not impose a fee for the use of a disposal facility on a city located in the county or a contractor or resident of the city unless the fee is based on a schedule that applies uniformly throughout the county.

The board of county commissioners may impose a fee for the availability of a disposal facility provided by the county. A fee for availability may not exceed the cost of providing the facility and may be imposed on all improved property in the county that benefits from the availability of the facility. A county may not impose an availability fee on property whose solid waste is collected by a county, a city, or a private contractor for a fee if the fee imposed by a county, a city, or a private contractor for the collection of solid waste includes a charge for the availability and use of a disposal facility provided by the county. Property served by a private contractor who disposes of solid waste collected from the property in a disposal facility provided by a private contractor that provides the same services as those provided by the county disposal facility is not considered to benefit from a disposal facility provided by the county and is not subject to a fee imposed by the county for the availability of a disposal facility provided by the county. To the extent that the services provided by the county disposal facility differ from the services provided by the disposal facility provided by a private contractor in the same county, the county may charge an availability fee to cover the costs of the additional services provided by the county disposal facility.

In determining the costs of providing and operating a disposal facility, a county may consider solid waste management costs incidental to a county's handling and disposal of solid waste at its disposal facility, including the costs of the methods of solid waste management specified in G.S. 130A-309.04(a) of the Solid Waste Management Act of 1989. A fee for the availability or use of a disposal facility may be based on the combined costs of the different disposal facilities provided by the county."

SECTION 59.4.(b) G.S. 159-13(b)(14) reads as rewritten:

"(b) The following directions and limitations shall bind the governing board in adopting the budget ordinance:

…

(14) No appropriation may be made from a utility or public service enterprise fund to any other fund than the appropriate debt service fund unless the total of all other appropriations in the fund equal or exceed the amount that will be required during the fiscal year, as shown by the budget ordinance, to meet operating expenses, capital outlay, and debt service on outstanding utility or enterprise bonds or notes. A county may, upon a finding that a fund balance in a utility or public service enterprise fund used for operation of a landfill exceeds the requirements for funding the operation of that fund, including closure and post-closure expenditures, transfer excess funds accruing due to imposition of a surcharge imposed on another local government located within the State for use of the disposal facility, as authorized by G.S. 153A-292(b), to support the other services supported by the county's general fund."

SECTION 59.4.(c) G.S. 160A-314.1 reads as rewritten:

"§ **160A-314.1. Availability fees for solid waste disposal facilities; collection of any solid waste fees.**

(a) A city may impose a fee for the collection of solid waste. The fee may not exceed the costs of collection.

A city may impose a fee for the use of a disposal facility provided by the city. Except as provided in this subsection, the fee for use may not exceed the cost of operating the facility. The fee may exceed those costs if the city enters into a contract with another local government located within the State to accept the other local government's solid waste and the city by ordinance levies a surcharge on the fee. The fee authorized by this paragraph may only be used to cover the costs of operating the facility. The surcharge authorized by this paragraph may be used for any purpose for which the city may appropriate funds. A fee under this paragraph may be imposed only on those who use the facility. The fee for use may vary based on the amount, characteristics, and form of recyclable materials present in solid waste brought to the facility for disposal.

(a1) In addition to a fee that a city may impose for collecting solid waste or for using a disposal facility, a city may impose a fee for the availability of a disposal facility provided by the city. A fee for availability may not exceed the cost of providing the facility and may be imposed on all improved property in the city that benefits from the availability of the facility. A city may not impose an availability fee on property whose solid waste is collected by a county, a city, or a private contractor for a fee if the fee imposed by a county, a city, or a private contractor for the collection of solid waste includes a charge for the availability and use of a disposal facility provided by the city. Property served by a private contractor who disposes of solid waste collected from the property in a disposal facility provided by a private contractor that provides the same services as those provided by the city disposal facility is not considered to benefit from a disposal facility provided by the city and is not subject to a fee imposed by the city for the availability of a disposal facility provided by the city. To the extent that the services provided by the city disposal facility differ from the services provided by the disposal facility provided by a private contractor in the same city, the city may charge an availability fee to cover the costs of the additional services provided by the city disposal facility.

In determining the costs of providing and operating a disposal facility, a city may consider solid waste management costs incidental to a city's handling and disposal of solid waste at its disposal facility. A fee for the availability or use of a disposal facility may be based on the combined costs of the different disposal facilities provided by the city.

(b) A city may adopt an ordinance providing that any fee imposed under subsection (a) or under G.S. 160A-314 for collecting or disposing of solid waste may be billed with property taxes, may be payable in the same manner as property taxes, and, in the case of nonpayment,

may be collected in any manner by which delinquent personal or real property taxes can be collected. If an ordinance states that delinquent fees can be collected in the same manner as delinquent real property taxes, the fees are a lien on the real property described on the bill that includes the fee."

SECTION 59.4(d) G.S. 160A-314(a2) reads as rewritten:

"§ **160A-314. Authority to fix and enforce rates.**

…

(a2) A fee for the use of a disposal facility provided by the city may vary based on the amount, characteristics, and form of recyclable materials present in solid waste brought to the facility for disposal. This section does not prohibit a city from providing aid to low-income persons to pay all or part of the cost of solid waste management services for those persons. A city may, upon a finding that a fund balance in a utility or public service enterprise fund used for operation of a landfill exceeds the requirements for funding the operation of that fund, including closure and post-closure expenditures, transfer excess funds accruing due to imposition of a surcharge imposed on another local government located within the State for use of the disposal facility, as authorized by G.S. 160A-314.1, to be used to support the other services supported by the city's general fund.

…."

SECTION 59.4.(e) G.S. 130A-294(b1) is amended by adding a new subdivision to read:

"(2b) A local government may elect to include as part of a franchise agreement a surcharge on waste disposed of in its jurisdiction by other local governments located within the State. Funds collected by a local government pursuant to such a surcharge may be used to support any services supported by the local government's general fund"

SECTION 59.4.(f) This section becomes effective August 1, 2013, and Section 59.4(e) is applicable to franchise agreements executed on or after that date.

PART VII. INDUSTRIAL COMMISSION

SECTION 60.(a) G.S. 97-78(b) reads as rewritten:

"(b) The Commission may appoint an administrator whose duties shall be prescribed by the ~~Commission, and who shall be subject to the State Personnel System.~~Commission. The Commission may appoint an executive secretary whose duties shall be prescribed by the Commission, ~~and who shall be subject to the State Personnel System~~ and who, upon entering upon his duties, shall give bond in such sum as may be fixed by the Commission. The Commission may also employ such clerical or other assistance as it may deem necessary, and fix the compensation of its staff, except that the salaries of the administrator and the executive secretary shall be fixed by subsection (b1) of this section. The compensation of Commission staff shall be in keeping with the compensation paid to the persons employed to do similar work in other State departments."

SECTION 60.(b) G.S. 97-79(b) reads as rewritten:

"(b) The Commission may appoint deputies who shall have the same power as members of the Commission pursuant to G.S. 97-80 and the same power to take evidence, and enter orders, opinions, and awards based thereon as is possessed by the members of the Commission. ~~The deputies shall be subject to the State Personnel System.~~Deputies appointed pursuant to this subsection shall not be considered hearing officers within the meaning of G.S. 126-5(d)(7)."

SECTION 60.(c) This act becomes effective July 1, 2015.

PART VIII. SEVERABILITY CLAUSE AND EFFECTIVE DATE

SECTION 61.(a) If any section or provision of this act is declared unconstitutional or invalid by the courts, it does not affect the validity of this act as a whole or any part other than the part so declared to be unconstitutional or invalid.

SECTION 61.(b) Except as otherwise provided, this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 26th day of July, 2013.

Became law upon approval of the Governor at 10:53 a.m. on the 23rd day of August, 2013.

Session Law 2013-414 **H.B. 14**

AN ACT TO MAKE TECHNICAL, CLARIFYING, AND ADMINISTRATIVE CHANGES TO THE REVENUE LAWS AND RELATED STATUTES, AS RECOMMENDED BY THE REVENUE LAWS STUDY COMMITTEE.

The General Assembly of North Carolina enacts:

REVENUE LAWS RECOMMENDATIONS

SECTION 1.(a) G.S. 105-116(b) reads as rewritten:

"(b) ~~Report~~ Return and Payment. – The tax imposed by this section is payable quarterly or monthly as specified in this subsection. A return is due quarterly.

A water company or public sewerage company must pay tax quarterly when filing a return. An electric power company must pay tax in accordance with the schedule and requirements that apply to payments of sales and use tax under G.S. 105-164.16 and must file a return quarterly.

A quarterly return covers a calendar quarter and is due by the last day of the month that follows the quarter covered by the return. A taxpayer must submit a return on a form provided by the Secretary. The return must include the taxpayer's gross receipts from all property it owned or operated during the reporting period in connection with its business taxed under this section. A taxpayer must report its gross receipts on an accrual basis. A return must contain the following information:

(1) The taxpayer's gross receipts for the reporting period from business inside and outside this State, stated separately.

(2) The taxpayer's gross receipts from commodities or services described in subsection (a) that are sold to a vendee subject to the tax levied by this section or to a joint agency established under Chapter 159B of the General Statutes or a city having an ownership share in a project established under that Chapter.

(3) The amount of and price paid by the taxpayer for commodities or services described in subsection (a) that are purchased from others engaged in business in this State and the name of each vendor.

(4) For an electric power company the entity's gross receipts from the sale within each city of the commodities and services described in subsection (a)."

SECTION 1.(b) G.S. 105-120.2 reads as rewritten:

"§ **105-120.2. Franchise or privilege tax on holding companies.**

(a) Every corporation, domestic and foreign, incorporated or, by an act, domesticated under the laws of this State or doing business in this State ~~which,~~ that, at the close of its taxable ~~year~~ year, is a holding company as defined in subsection (c) of this section, shall, pursuant to the provisions of ~~G.S. 105-122:~~G.S. 105-122, do all of the following:

(1) ~~Make a report and statement, and~~File a return.

(2) Determine the total amount of its issued and outstanding capital stock, surplus and undivided ~~profits, and~~profits.

(3) Apportion such outstanding capital stock, surplus and undivided profits to this State.

(b) (1) Every corporation taxed under this section shall annually pay to the Secretary of Revenue, at the time the ~~report and statement are~~ return is due, a franchise or privilege ~~tax, which is hereby levied,~~ tax at the rate of one dollar

and fifty cents ($1.50) per one thousand dollars ($1,000) of the amount determined under subsection (a) of this section, but in no case shall the tax be more than seventy-five thousand dollars ($75,000) nor less than thirty-five dollars ($35.00).

(2) Notwithstanding the provisions of subdivision (1) of this subsection, if the tax produced pursuant to application of this paragraph (2) exceeds the tax produced pursuant to application of subdivision (1), then the tax ~~shall be~~ is levied at the rate of one dollar and fifty cents ($1.50) per one thousand dollars ($1,000) on the greater of the ~~amounts of~~following:

a. Fifty-five percent (55%) of the appraised value as determined for ad valorem taxation of all the real and tangible personal property in this State of each such corporation plus the total appraised value of intangible property returned for taxation of intangible personal property as computed under ~~G.S. 105-122(d); or~~G.S. 105-122(d).

b. The total actual investment in tangible property in this State of such corporation as computed under G.S. 105-122(d).

…."

SECTION 1.(c) G.S. 105-122 reads as rewritten:

"§ **105-122. Franchise or privilege tax on domestic and foreign corporations.**

…

(d) After determining the proportion of its total capital stock, surplus and undivided profits as set out in subsection ~~(c)~~(c1) of this section, which amount shall not be less than fifty-five percent (55%) of the appraised value as determined for ad valorem taxation of all the real and tangible personal property in this State of each corporation nor less than its total actual investment in tangible property in this State, every corporation taxed under this section shall annually pay to the Secretary of Revenue, at the time the ~~report and statement are~~ return is due, a franchise or privilege tax at the rate of one dollar and fifty cents ($1.50) per one thousand dollars ($1,000) of the total amount of capital stock, surplus and undivided profits as provided in this section. The tax imposed in this section shall not be less than thirty-five dollars ($35.00) and ~~shall be~~ is for the privilege of carrying on, doing business, and/or the continuance of articles of incorporation or domestication of each corporation in this State. Appraised value of tangible property including real estate is the ad valorem valuation for the calendar year next preceding the due date of the franchise tax return. The term "total actual investment in tangible property" as used in this section means the total original purchase price or consideration to the reporting taxpayer of its tangible properties, including real estate, in this State plus additions and improvements thereto less reserve for depreciation as permitted for income tax purposes, and also less any indebtedness incurred and existing by virtue of the purchase of any real estate and any permanent improvements made thereon. In computing "total actual investment in tangible personal property" ~~there shall also be deducted~~ a corporation may deduct reserves for the entire cost of any air-cleaning device or sewage or waste treatment plant, including waste lagoons, and pollution abatement equipment purchased or constructed and installed which reduces the amount of air or water pollution resulting from the emission of air contaminants or the discharge of sewage and industrial wastes or other polluting materials or substances into the outdoor atmosphere or into streams, lakes, or rivers, upon condition that the corporation claiming this deduction shall furnish to the Secretary a certificate from the Department of Environment and Natural Resources or from a local air pollution control program for air-cleaning devices located in an area where the Environmental Management Commission has certified a local air pollution control program pursuant to G.S. 143-215.112 certifying that said Department or local air pollution control program has found as a fact that the air-cleaning device, waste treatment plant or pollution abatement equipment purchased or constructed and installed as above described has actually been constructed and installed and that the device, plant or equipment complies with the requirements of the Environmental Management Commission or local air pollution control program with respect to the devices, plants or

equipment, that the device, plant or equipment is being effectively operated in accordance with the terms and conditions set forth in the permit, certificate of approval, or other document of approval issued by the Environmental Management Commission or local air pollution control program and that the primary purpose is to reduce air or water pollution resulting from the emission of air contaminants or the discharge of sewage and waste and not merely incidental to other purposes and functions. The cost of constructing facilities of any private or public utility built for the purpose of providing sewer service to residential and outlying areas is treated as deductible for the purposes of this section; the deductible liability allowed by this section ~~shall apply~~ applies only with respect to pollution abatement plants or equipment constructed or installed on or after January 1, 1955.

…

(f) The ~~report, statement~~ return and tax required by this section ~~shall be~~ are in addition to all other reports required or taxes levied and assessed in this State.

…."

SECTION 1.(d) G.S. 105-127(a) reads as rewritten:

"(a) Every corporation, domestic or foreign, that is required to file a return with the Secretary ~~from which a report is required by law to be made to the Secretary of Revenue,~~ shall, unless otherwise provided, pay annually ~~to said Secretary annually~~ the franchise tax as required by G.S. 105-122."

SECTION 1.(e) G.S. 105-134.2(b) reads as rewritten:

"(b) In lieu of the tax imposed by subsection (a) of this section, there is imposed for each taxable year upon the North Carolina taxable income of every individual a tax determined under tables, applicable to the taxable year, which may be prescribed by the Secretary. The amounts of the tax determined under the tables shall be computed on the basis of the rates prescribed by subsection (a) of this section. This subsection does not apply to an individual ~~making~~ filing a return under section 443(a)(1) of the Code for a period of less than 12 months on account of a change in the individual's annual accounting period, or to an estate or trust. The tax imposed by this subsection shall be treated as the tax imposed by subsection (a) of this section."

SECTION 1.(f) G.S. 105-164.19 reads as rewritten:

"§ **105-164.19. Extension of time for making returns and payment.**

The Secretary for good cause may extend the time for ~~making~~ filing any return under the provisions of this Article and may grant ~~such~~ additional time within which to ~~make such~~ file the return as he may deem ~~proper~~ proper, but the time for filing any ~~such~~ return shall not be extended for more than 30 days after the regular due date of ~~such~~ the return. If the time for filing a return ~~be~~ is extended, interest accrues at the rate established pursuant to G.S. 105-241.21 from the time the return was due to be filed to the date of payment.~~payment shall be added and paid.~~"

SECTION 1.(g) G.S. 105-164.30 reads as rewritten:

"§ **105-164.30. Secretary or agent may examine books, etc.**

For the purpose of enforcing the collection of the tax levied by this Article, the Secretary or his duly authorized agent is ~~hereby specifically~~ authorized ~~and empowered~~ to examine at all reasonable hours during the day the books, papers, records, documents or other data of all retailers or wholesale merchants bearing upon the correctness of any return or for the purpose of ~~making~~ filing a return where none has been made as required by this Article, and may require the attendance of any person and take his testimony with respect to any such matter, with power to administer oaths to such person or persons. If any person summoned as a witness ~~shall fail~~ fails to obey any summons to appear before the Secretary or his authorized agent, or ~~shall refuse~~ refuses to testify or answer any material question or to produce any book, record, paper, or other data when required to do so, ~~such~~ the Secretary or his authorized agent shall report the failure or refusal ~~shall be reported~~ to the Attorney General or the district solicitor, who shall thereupon institute proceedings in the superior court of the county where ~~such~~ the witness resides to compel obedience to any summons of the Secretary or his authorized agent.

Officers who serve summonses or subpoenas, and witnesses attending, shall receive like compensation as officers and witnesses in the superior courts, to be paid from the proper appropriation for the administration of this Article.

In the event any retailer or wholesale merchant ~~shall fail or refuse~~ fails or refuses to permit ~~examination of~~ the Secretary or his authorized agent to examine his books, papers, accounts, records, documents or other ~~data by the Secretary or his authorized agents as aforesaid,~~ data, the Secretary ~~shall have the power to proceed by citing said~~ may require the retailer or wholesale merchant to show cause before the superior court of the county in which said taxpayer resides or has its principal place of business as to why ~~such~~ the books, records, papers, or documents should not be examined and ~~said~~ the superior court shall have jurisdiction to enter an order requiring the production of all necessary books, records, papers, or documents and to punish for contempt any person who violates the order.~~of such order any person violating the same.~~"

SECTION 1.(h) G.S. 105-236(a)(9) reads as rewritten:

"(9) Willful Failure to File Return, Supply Information, or Pay Tax. – Any person required to pay any tax, to ~~make~~ file a return, to keep any records, or to supply any information, who willfully fails to pay the tax, ~~make~~ file the return, keep the records, or supply the information, at the time or times required by law, or rules issued pursuant thereto, ~~shall,~~ is, in addition to other penalties provided by law, ~~be~~ guilty of a Class 1 misdemeanor. Notwithstanding any other provision of law, no prosecution for a violation brought under this subdivision ~~shall be~~ is barred before the expiration of six years after the date of the violation."

SECTION 1.(i) G.S. 105-258(a) reads as rewritten:

"(a) Secretary May Examine Data and Summon Persons. – The Secretary of ~~Revenue,~~Revenue is authorized to do any of the following for the purpose of ascertaining the correctness of any return, ~~making~~ filing a return where none has been ~~made,~~ filed, or determining the liability of any person for a tax, or collecting any tax:~~such tax, shall have the power~~

(1) ~~to examine,~~ Examine, personally, or by an agent designated by him, any books, papers, records, or other data ~~which~~ that may be relevant or material to ~~such inquiry, and the Secretary may~~ the inquiry.

(2) ~~summon~~ Summon any of the following persons to appear at a time and place named in the summons, to produce such books, papers, records, or other data, and to give such testimony under oath as may be relevant or material to the inquiry:

a. ~~the~~ Any person liable for the tax or required to perform the act, or any officer or employee of such ~~person, or any~~ person.

b. Any person having possession, custody, care or control of books of account containing entries relevant or material to the income and expenditures of the person liable for the tax or required to perform the act, or any other person having knowledge in the premises.~~premises, to appear before the Secretary, or his agent, at a time and place named in the summons, and to produce such books, papers, records or other data, and to give such testimony under oath as may be relevant or material to such inquiry, and the Secretary or his agent may~~

(3) ~~administer~~ Administer oaths to ~~such person or persons.~~ the persons listed in this subsection.

(4) ~~If any person so summoned refuses to obey such summons or to give testimony when summoned, the Secretary may apply~~ Apply to the Superior Court of Wake County for an order requiring ~~such person or persons to comply with the summons of the Secretary, and the failure~~any person who

refuses to obey the summons or to give testimony when summoned. Failure to comply with ~~such~~ the court order shall be punished as for contempt."

SECTION 1.(j) G.S. 105-263(b) reads as rewritten:

"(b) Extension. – The Secretary may extend the time in which a person must file a ~~report or~~ return with the Secretary. To obtain an extension of time for filing a ~~report or~~ return, a person must comply with any application requirement set by the Secretary. An extension of time for filing a franchise tax return or an income tax return does not extend the time for paying the tax due or the time when a penalty attaches for failure to pay the tax. An extension of time for filing ~~a report or~~ any return other than a franchise tax return or an income tax return extends the time for paying the tax due and the time when a penalty attaches for failure to pay the tax. When an extension of time for filing a ~~report or~~ return extends the time for paying the tax expected to be due with the ~~report or~~ return, interest, at the rate established pursuant to G.S. 105-241.21, accrues on the tax due from the original due date of the ~~report or~~ return to the date the tax is paid."

SECTION 2.(a) G.S. 105-122(c1) reads as rewritten:

"(c1) Apportionment. – A corporation that is doing business in this State and in one or more other states must apportion its capital stock, surplus, and undivided profits to this State. A corporation must use the apportionment method set out in subdivision (1) of this subsection unless the Department has authorized it to use a different method under subdivision (2) of this subsection. The portion of a corporation's capital stock, surplus, and undivided profits determined by applying the appropriate apportionment method is considered the amount of capital stock, surplus, and undivided profits the corporation uses in its business in this State.

…

(2) Alternative. – A corporation that believes the statutory apportionment method set out in subdivision (1) of this subsection subjects a greater portion of its capital stock, surplus, and undivided profits to tax under this section than is attributable to its business in this State may make a written request to the Secretary for permission to use an alternative method. The request must set out the reasons for the corporation's belief and propose an alternative method. The corporation has the burden of establishing by clear, cogent, and convincing proof that the statutory apportionment method subjects a greater portion of the corporation's capital stock, surplus, and undivided profits to tax under this section than is attributable to its business in this State and that the proposed alternative method is a better method of determining the amount of the corporation's capital stock, surplus, and undivided profits attributable to the corporation's business in this State.

The Secretary must issue a written decision on a corporation's request for an alternative apportionment method. If the decision grants the request, it must describe the alternative method the corporation is authorized to use and state the tax years to which the alternative method applies. A decision may apply to no more than three tax ~~years, unless the provisions of subdivision (3) of this subsection applies.~~ years. A corporation may renew a request to use an alternative apportionment method by following the procedure in this subdivision. A decision of the Secretary on a request for an alternative apportionment method is final and is not subject to administrative or judicial review. A corporation authorized to use an alternative method may apportion its capital stock, surplus, and undivided profits in accordance with the alternative method or the statutory method."

SECTION 2.(b) G.S. 105-130.4(t1) reads as rewritten:

"(t1) Alternative Apportionment Method. – A corporation that believes the statutory apportionment method that otherwise applies to it under this section subjects a greater portion of its income to tax than is attributable to its business in this State may make a written request

to the Secretary for permission to use an alternative method. The request must set out the reasons for the corporation's belief and propose an alternative method.

The statutory apportionment method that otherwise applies to a corporation under this section is presumed to be the best method of determining the portion of the corporation's income that is attributable to its business in this State. A corporation has the burden of establishing by clear, cogent, and convincing proof that the proposed alternative method is a better method of determining the amount of the corporation's income attributable to the corporation's business in this State.

The Secretary must issue a written decision on a corporation's request for an alternative apportionment method. If the decision grants the request, it must describe the alternative method the corporation is authorized to use and state the tax years to which the alternative method applies. A decision may apply to no more than three tax ~~years, unless the provisions of subsection (t2) of this section apply.~~ years. A corporation may renew a request to use an alternative apportionment method by following the procedure in this subsection. A decision of the Secretary on a request for an alternative apportionment method is final and is not subject to administrative or judicial review. A corporation authorized to use an alternative method may apportion its income in accordance with the alternative method or the statutory method. A corporation may not use an alternative apportionment method except upon written order of the Secretary, and any return in which any alternative apportionment method, other than the method prescribed by statute, is used without permission of the Secretary is not a lawful return."

SECTION 3. G.S. 105-163.41(c) reads as rewritten:

"(c) The period of the underpayment ~~shall run~~ runs from the date the installment was required to be paid to the earlier of:

(1) The 15th day of the ~~3rd~~ fourth month following the close of the taxable year, or

(2) With respect to any portion of the underpayment, the date on which the portion is paid. An installment payment of estimated tax ~~shall be~~ is considered a payment of any previous underpayment only to the extent the payment exceeds the amount of the installment determined under subdivision (1) of subsection (b) for that installment date."

SECTION 4. G.S. 105-129.84(c) reads as rewritten:

"(c) Carryforward. – Unless a longer carryforward period applies, any unused portion of a credit allowed under G.S. 105-129.87 or G.S. 105-129.88 may be carried forward for the succeeding five years, and any unused portion of a credit allowed under G.S. 105-129.89 may be carried forward for the succeeding 15 years. If the Secretary of Commerce makes a written determination that the taxpayer is expected to purchase or lease, and place in service in connection with an eligible business within a two-year period, at least one hundred fifty million dollars ($150,000,000) worth of business and real property, any unused portion of a credit under this Article with respect to the establishment that satisfies that condition may be carried forward for the succeeding 20 years. If the taxpayer does not make the required level of investment, the taxpayer shall apply the ~~five-year~~ standard carryforward period rather than the 20-year carryforward period."

SECTION 5.(a) G.S. 105-134.6 reads as rewritten:

"§ **105-134.6. Modifications to adjusted gross income.**

…

(b) Other Deductions. – In calculating North Carolina taxable income, a taxpayer may deduct any of the following items to the extent those items are included in the taxpayer's adjusted gross income.

…

(17b) An amount equal to twenty percent (20%) of the amount added ~~to federal taxable income as accelerated depreciation~~ under subdivision (c)(8b) of this section. For the amount added to taxable income in the 2010 taxable year,

the deduction allowed by this subdivision applies to the first five taxable years beginning on or after January 1, 2011. For the amount added to taxable income in the 2011 taxable year, the deduction allowed by this subdivision applies to the first five taxable years beginning on or after January 1, 2012. For the amount added to ~~taxable~~ adjusted gross income in the 2012 taxable year, the deduction allowed by this subdivision applies to the first five taxable years beginning on or after January 1, 2013.

…

(d) Other Adjustments. – In calculating North Carolina taxable income, a taxpayer must make the following adjustments to adjusted gross income.

(1) The amount of inheritance or estate tax attributable to an item of income in respect of a decedent required to be included in gross income under the Code, adjusted as provided in G.S. 105-134.5, 105-134.6, and ~~105-134.7,~~105-134.6A, may be deducted in the year the item of income is included. The amount of inheritance or estate tax attributable to an item of income in respect of a decedent is (i) the amount by which the inheritance or estate tax paid under Article 1 or 1A of this Chapter on property transferred to a beneficiary by a decedent exceeds the amount of the tax that would have been payable by the beneficiary if the item of income in respect of a decedent had not been included in the property transferred to the beneficiary by the decedent, (ii) multiplied by a fraction, the numerator of which is the amount required to be included in gross income for the taxable year under the Code, adjusted as provided in G.S. 105-134.5, 105-134.6, and ~~105-134.7,~~ 105-134.6A, and the denominator of which is the total amount of income in respect of a decedent transferred to the beneficiary by the decedent. For an estate or trust, the deduction allowed by this subdivision shall be computed by excluding from the gross income of the estate or trust the portion, if any, of the items of income in respect of a decedent that are properly paid, credited, or to be distributed to the beneficiaries during the taxable year.

The Secretary may provide to a beneficiary of an item of income in respect of a decedent any information contained on an inheritance or estate tax return that the beneficiary needs to compute the deduction allowed by this subdivision.

…

(3) The taxpayer shall add to ~~taxable~~ adjusted gross income the amount of any recovery during the taxable year not included in ~~taxable~~ adjusted gross income, to the extent the taxpayer's deduction of the recovered amount in a prior taxable year reduced the taxpayer's tax imposed by this Part but, due to differences between the Code and this Part, did not reduce the amount of the taxpayer's tax imposed by the Code. The taxpayer may deduct from ~~taxable~~ adjusted gross income the amount of any recovery during the taxable year included in ~~taxable~~ adjusted gross income under section 111 of the Code, to the extent the taxpayer's deduction of the recovered amount in a prior taxable year reduced the taxpayer's tax imposed by the Code but, due to differences between the Code and this Part, did not reduce the amount of the taxpayer's tax imposed by this Part.

(4) A taxpayer may deduct from ~~taxable~~ adjusted gross income the amount, not to exceed two thousand five hundred dollars ($2,500), contributed to an account in the Parental Savings Trust Fund of the State Education Assistance Authority established pursuant to G.S. 116-209.25. In the case of a married couple filing a joint return, the maximum dollar amount of the deduction is five thousand dollars ($5,000).

(5) The taxpayer shall add to ~~taxable~~ adjusted gross income the amount deducted ~~from taxable income~~ in a prior taxable year under subdivision (4) of this subsection to the extent this amount was withdrawn from the Parental Savings Trust Fund of the State Education Assistance Authority established pursuant to G.S. 116-209.25 and not used to pay for the qualified higher education expenses of the designated beneficiary, unless the withdrawal was made without penalty under section 529 of the Code due to the death or permanent disability of the designated beneficiary.

(6) A taxpayer who is an eligible firefighter or an eligible rescue squad worker may deduct from ~~taxable~~ adjusted gross income the sum of two hundred fifty dollars ($250.00). In the case of a married couple filing a joint return, each spouse may qualify separately for the deduction allowed under this subdivision. In order to claim the deduction allowed under this subdivision, the taxpayer must submit with the tax return any documentation required by the Secretary. An individual may not claim a deduction as both an eligible firefighter and as an eligible rescue squad worker in a single taxable year. The following definitions apply in this subdivision:

a. Eligible firefighter. – An unpaid member of a volunteer fire department who attended at least 36 hours of fire department drills and meetings during the taxable year.

b. Eligible rescue squad worker. – An unpaid member of a volunteer rescue or emergency medical services squad who attended at least 36 hours of rescue squad training and meetings during the taxable year.

…."

SECTION 5.(b) G.S. 105-151(a) reads as rewritten:

"(a) An individual who is a resident of this State is allowed a credit against the taxes imposed by this Part for income taxes imposed by and paid to another state or country on income taxed under this Part, subject to the following conditions:

…

(2) The fraction of the gross income, as calculated under the Code and adjusted as provided in G.S. 105-134.6 and ~~G.S. 105-134.7,~~ G.S. 105-134.6A, that is subject to income tax in another state or country shall be ascertained, and the North Carolina net income tax before credit under this section shall be multiplied by that fraction. The credit allowed is either the product thus calculated or the income tax actually paid the other state or country, whichever is smaller.

…."

SECTION 5.(c) G.S. 105-151.11(c) reads as rewritten:

"(c) Limitations. – A nonresident or part-year resident who claims the credit allowed by this section shall reduce the amount of the credit by multiplying it by the fraction calculated under G.S. 105-134.5(b) or (c), as appropriate. No credit shall be allowed under this section for amounts deducted ~~from gross income~~ in calculating North Carolina taxable ~~income under the Code.~~ income. The credit allowed by this section may not exceed the amount of tax imposed by this Part for the taxable year reduced by the sum of all credits allowable, except for payments of tax made by or on behalf of the taxpayer."

SECTION 5.(d) G.S. 105-151.30(e) reads as rewritten:

"(e) No Double Benefit. – A taxpayer who claims a credit under this section must add back to ~~taxable~~ adjusted gross income any amount deducted under G.S. 105-134.6(a2)~~the Code~~ for the donation of the oyster shells."

SECTION 5.(e) G.S. 105-152 reads as rewritten:

"§ **105-152. Income tax returns.**

…

(c) Information Required With Return. – The income tax return shall show the ~~taxable~~ adjusted gross income and adjustments required by this Part and any other information the Secretary requires. The Secretary may require some or all individuals required to file an income tax return to attach to the return a copy of their federal income tax return for the taxable year. The Secretary may require a taxpayer to provide the Department with copies of any other return the taxpayer has filed with the Internal Revenue Service and to verify any information in the return.

(d) Secretary May Require Additional Information. – When the Secretary has reason to believe that any taxpayer conducts a trade or business in a way that directly or indirectly distorts the taxpayer's ~~taxable~~ adjusted gross income or North Carolina taxable income, the Secretary may require any additional information for the proper computation of the taxpayer's ~~taxable~~ adjusted gross income and North Carolina taxable income. In computing the taxpayer's ~~taxable~~ adjusted gross income and North Carolina taxable income, the Secretary shall consider the fair profit that would normally arise from the conduct of the trade or business.

…."

SECTION 5.(f) G.S. 105-160.1 reads as rewritten:

"§ **105-160.1. Definitions.**

The definitions provided in Part 2 of this Article shall apply in this Part except where the context clearly indicates a different meaning. In addition, as used in this Part, "taxable income" is defined in sections 641 through 692 of the Code."

SECTION 5.(g) G.S. 105-160.2 reads as rewritten:

"§ **105-160.2. Imposition of tax.**

The tax imposed by this Part ~~shall apply~~ applies to the taxable income of estates and trusts as determined under the provisions of the Code except as otherwise provided in this Part. The taxable income of an estate or trust ~~shall be~~ is the same as taxable income for such an estate or trust under the provisions of the Code, adjusted as provided in G.S. 105-134.6 and ~~G.S. 105-134.7,~~ G.S. 105-134.6A, except that the adjustments provided in G.S. 105-134.6 and ~~G.S. 105-134.7 shall be~~ G.S. 105-134.6A are apportioned between the estate or trust and the beneficiaries based on the distributions made during the taxable year. The tax ~~shall be~~ is computed on the amount of the taxable income of the estate or trust that is for the benefit of a resident of this State, or for the benefit of a nonresident to the extent that the income (i) is derived from North Carolina sources and is attributable to the ownership of any interest in real or tangible personal property in this State or (ii) is derived from a business, trade, profession, or occupation carried on in this State. For purposes of the preceding sentence, taxable income and gross income ~~shall be~~ is computed subject to the adjustments provided in G.S. 105-134.6 and ~~G.S. 105-134.7.~~ G.S. 105-134.6A. The tax on the amount computed above ~~shall be~~ is at the rates levied in G.S. 105-134.2(a)(3). The fiduciary responsible for administering the estate or trust shall pay the~~The~~ tax computed under the provisions of this ~~Part shall be paid by the fiduciary responsible for administering the estate or trust.~~Part."

SECTION 6.(a) The first sentence of G.S. 105-134.7(a)(3) is recodified as G.S. 105-134.6(c)(20).

SECTION 6.(b) G.S. 105-134.7(a)(6) is recodified as G.S. 105-134.6(c)(21) and reads as rewritten:

"(21) A loss or deduction that was incurred or paid and deducted from State taxable income in a taxable year beginning before January 1, 1989, and is carried forward and deducted in a taxable year beginning on or after January 1, 1989, under the ~~Code shall be added to taxable income.~~Code."

SECTION 6.(c) The second sentence of G.S. 105-134.7(a)(3) is recodified as G.S. 105-134.6(b)(24).

SECTION 6.(d) G.S. 105-134.7(a)(7) is recodified as G.S. 105-134.6(d)(11).

SECTION 6.(e) G.S. 105-134.7(b) is recodified as G.S. 105-134.6(d)(12).

SECTION 6.(f) The remainder of G.S. 105-134.7 is repealed.

SECTION 7. G.S. 105-151.18 reads as rewritten:

"§ **105-151.18. Credit for the disabled.**

(a) Disabled Taxpayer. – A taxpayer who (i) is retired on disability, (ii) at the time of retirement, was permanently and totally disabled, and (iii) claims a federal income tax credit under section 22 of the Code for the taxable year, is allowed as a credit against the tax imposed by this Part an amount equal to one-third of the amount of the federal income tax credit for which the taxpayer is eligible under section 22 of the Code.

(b) Disabled Dependent. – If a dependent or spouse for whom a taxpayer is allowed an exemption under the Code is permanently and totally disabled, the taxpayer is allowed a credit against the tax imposed by this Part. In order to claim the credit allowed by this subsection, the taxpayer must attach to the tax return on which the credit is claimed a statement from a physician or local health department certifying that the dependent or spouse for whom the credit is claimed is permanently and totally disabled, as defined in this section. The amount of the credit allowed ~~shall be~~ is determined as follows: For a taxpayer whose North Carolina adjusted gross income does not exceed the appropriate income amount provided in the table below, based on the taxpayer's filing status, the credit allowed is the appropriate initial credit provided in the table below. For a taxpayer whose North Carolina adjusted gross income does exceed the appropriate income amount, the credit allowed is the appropriate initial credit reduced by four dollars ($4.00) for every one thousand dollars ($1,000) by which the taxpayer's North Carolina adjusted gross income exceeds the appropriate income amount.

Filing Status	**Initial Credit**	**Income Amount**
Head of Household	$64.00	$16,000
Surviving Spouse or Joint Return	$80.00	$20,000
Single	$48.00	$12,000
Married Filing Separately	$40.00	$10,000

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

(1) North Carolina ~~Adjusted Gross Income.~~adjusted gross income. – Adjusted gross income, as determined under the Code, adjusted as provided in G.S. 105-134.6 and ~~G.S. 105-134.7.~~G.S. 105-134.6A.

(2) Permanently and ~~Totally Disabled.~~ totally disabled. – Unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment that can be expected to result in death or that has lasted or can be expected to last for a continuous period of not less than 12 months. For the purpose of this section, a minor is permanently and totally disabled if the impact of the impairment on the minor's ability to function is equivalent in severity to that which would make an adult unable to engage in any substantial gainful activity.

(d) Limitations. – A nonresident or part-year resident who claims the credit allowed by this section shall reduce the amount of the credit by multiplying it by the fraction calculated under G.S. 105-134.5(b) or (c), as appropriate. The credit allowed under this section may not exceed the amount of tax imposed by this Part for the taxable year reduced by the sum of all credits allowable, except payments of tax made by or on behalf of the taxpayer."

SECTION 8. G.S. 105-164.3 reads as rewritten:

"§ **105-164.3. Definitions.**

The following definitions apply in this Article:

…

(37b) School instructional material. – Written material commonly used by a student in a course of study as a reference and to learn the subject being taught. The following is an all-inclusive list:

a. Reference books.

b. Reference maps and globes.

c. Textbooks.
d. Workbooks.~~Defined in the Streamlined Agreement.~~

…

(44) Storage. – The keeping or retention in this State for any purpose, except sale in the regular course of business, of tangible personal property or digital property purchased from a retailer. The term does not include a purchaser's storage of tangible personal property or digital property in any of the following circumstances:

a. When the purchaser is able to document that at the time the purchaser acquires the property the property is designated for the purchaser's use outside the State and the purchaser subsequently takes it outside the State and uses it solely outside the State.
b. When the purchaser acquires the property to process, fabricate, manufacture, or otherwise incorporate it into or attach it to other property for the purchaser's use outside the State and, after incorporating or attaching the purchased property, the purchaser subsequently takes the other property outside the State and uses it solely outside the State.

…

(45a) Streamlined Agreement. – The Streamlined Sales and Use Tax Agreement as amended as of ~~December 19, 2011.~~May 24, 2012.

…."

SECTION 9. G.S. 105-164.4(a)(3) reads as rewritten:

"(3) A tax at the general rate applies to the gross receipts derived from the rental of an accommodation. The tax does not apply to (i) a private residence or cottage that is rented for fewer than 15 days in a calendar year; (ii) an accommodation rented to the same person for a period of 90 or more continuous days; or (iii) an accommodation arranged or provided to a person by a school, camp, or similar entity where a tuition or fee is charged to the person for enrollment in the school, camp, or similar entity.

Gross receipts derived from the rental of an accommodation include the sales price of the rental of the accommodation. The sales price of the rental of an accommodation is determined as if the rental were a rental of tangible personal property. The sales price of the rental of an accommodation marketed by a facilitator includes charges designated as facilitation fees and any other charges necessary to complete the rental.

A person who provides an accommodation that is offered for rent is considered a retailer under this Article. A facilitator must report to the retailer with whom it has a contract the sales price a consumer pays to the facilitator for an accommodation rental marketed by the facilitator. A retailer must notify a facilitator when an accommodation rental marketed by the facilitator is completed ~~and, within three business days of receiving the notice,~~ and the facilitator must send the retailer the portion of the sales price the facilitator owes the retailer and the tax due on the sales ~~price.~~ price no later than 10 days after the end of each calendar month. A facilitator that does not send the retailer the tax due on the sales price is liable for the amount of tax the facilitator fails to send. A facilitator is not liable for tax sent to a retailer but not remitted by the retailer to the Secretary. Tax payments received by a retailer from a facilitator are held in trust by the retailer for remittance to the Secretary. A retailer that receives a tax payment from a facilitator must remit the amount received to the Secretary. A retailer is not liable for tax due but not received from a facilitator. The requirements

imposed by this subdivision on a retailer and a facilitator are considered terms of the contract between the retailer and the facilitator.

A person who, by written contract, agrees to be the rental agent for the provider of an accommodation is considered a retailer under this Article and is liable for the tax imposed by this subdivision. The liability of a rental agent for the tax imposed by this subdivision relieves the provider of the accommodation from liability. A rental agent includes a real estate broker, as defined in G.S. 93A-2.

The following definitions apply in this subdivision:

a. Accommodation. – A hotel room, a motel room, a residence, a cottage, or a similar lodging facility for occupancy by an individual.

b. Facilitator. – A person who is not a rental agent and who contracts with a provider of an accommodation to market the accommodation and to accept payment from the consumer for the accommodation."

SECTION 10. G.S. 105-164.6(c) reads as rewritten:

"(c) Credit. – A credit is allowed against the tax imposed by this section for the following:

(1) The amount of sales or use tax paid on the item to this ~~State.~~ State, provided the tax is stated and charged separately on the invoice or other document of the retailer given to the purchaser at the time of the sale, except as otherwise provided in G.S. 105-164.7, or provided the retailer remitted the tax subsequent to the sale and the purchaser obtains such documentation. Payment of sales or use tax to this State on an item by a retailer extinguishes the liability of a purchaser for the tax imposed under this section.

(2) The amount of sales or use tax due and paid on the item to another state. If the amount of tax paid to the other state is less than the amount of tax imposed by this section, the difference is payable to this State. The credit allowed by this subdivision does not apply to tax paid to a state that does not grant a similar credit for sales or use taxes paid in North Carolina."

SECTION 11.(a) G.S. 105-164.13 reads as rewritten:

"§ **105-164.13. Retail sales and use tax.**

The sale at retail and the use, storage, or consumption in this State of the following tangible personal property, digital property, and services are specifically exempted from the tax imposed by this Article:

…

(26) Food and prepared food sold not for profit by public or private school cafeterias within school buildings during the regular school day.

(26a) Food and prepared food sold not for profit by a public school cafeteria to a child care center that participates in the Child and Adult Care Food Program of the Department of Health and Human Services.

(27) ~~Meals~~ Prepared food and food ~~products~~ served to students in dining rooms regularly operated by State or private educational institutions or student organizations thereof.

…

(31a) Food and prepared food sold by a church or religious organization not operated for profit when the proceeds of the sales are actually used for religious activities.

…

(33a) Tangible personal property sold by a retailer to a purchaser ~~within or without~~inside or outside this State, when the property is delivered by the retailer in this State to a common carrier or to the United States Postal Service for delivery to the purchaser or the purchaser's designees outside this State and the purchaser does not subsequently use the property in this State.

This exemption includes printed material sold by a retailer to a purchaser inside or outside this State when the printed material is delivered directly to a mailing house, to a common carrier, or to the United States Postal Service for delivery to a mailing house in this State that will preaddress and presort the material and deliver it to a common carrier or to the United States Postal Service for delivery to recipients outside this State designated by the purchaser.

…

(43a) Computer software that meets any of the following descriptions:

a. It is ~~designed~~ purchased to run on an enterprise server operating system. The exemption includes a purchase or license of computer software for high-volume, simultaneous use on multiple computers that is housed or maintained on an enterprise server or end users' computers. The exemption includes software designed to run a computer system, an operating program, or application software.

b. It is sold to a person who operates a datacenter and is used within the datacenter.

c. It is sold to a person who provides cable service, telecommunications service, or video programming and is used to provide ancillary service, cable service, Internet access service, telecommunications service, or video programming.

…

(57) Fuel and electricity sold to a manufacturer for use in connection with the operation of a manufacturing facility. The exemption does not apply to electricity used at a facility at which the primary activity is not manufacturing.

…."

SECTION 11.(b) G.S. 105-164.13A reads as rewritten:

"§ **105-164.13A. Service charges on food, beverages, or ~~meals.~~prepared food.**

When a service charge is imposed on food, beverages, or ~~meals,~~ prepared food, so much of the service charge that does not exceed twenty percent (20%) of the sales price is considered a tip and is specifically exempted from the tax imposed by this Article if it meets both of the following conditions:

(1) Is separately stated in the price list, menu, or written proposal and also in the invoice or bill.

(2) Is turned over to the personnel directly involved in the service of the food, beverages, or ~~meals,~~ prepared food, in accordance with G.S. 95-25.6."

SECTION 12. G.S. 105-164.14(b) reads as rewritten:

"(b) Nonprofit Entities and Hospital Drugs. – A nonprofit entity is allowed a semiannual refund of sales and use taxes paid by it under this Article on direct purchases of tangible personal property and services, other than electricity, telecommunications service, and ancillary service, for use in carrying on the work of the nonprofit entity. Sales and use tax liability indirectly incurred by a nonprofit entity through reimbursement to an authorized person of the entity for the purchase of tangible personal property and services, other than electricity, telecommunications service, and ancillary service, for use in carrying on the work of the nonprofit entity is considered a direct purchase by the entity. Sales and use tax liability indirectly incurred by a nonprofit entity on building materials, supplies, fixtures, and equipment that become a part of or annexed to any building or structure that is owned or leased by the nonprofit entity and is being erected, altered, or repaired for use by the nonprofit entity for carrying on its nonprofit activities is considered a sales or use tax liability incurred on direct purchases by the nonprofit entity. A request for a refund must be in writing and must include any information and documentation required by the Secretary. A request for a refund for the

first six months of a calendar year is due the following October 15; a request for a refund for the second six months of a calendar year is due the following April 15.

The refunds allowed under this subsection do not apply to an entity that is owned and controlled by the United States or to an entity that is owned or controlled by the State and is not listed in this subsection. A hospital that is not listed in this subsection is allowed a semiannual refund of sales and use taxes paid by it on ~~medicines and~~ over-the-counter drugs purchased for use in carrying out its work. The following nonprofit entities are allowed a refund under this subsection:

(1) Hospitals not operated for profit, including hospitals and medical accommodations operated by an authority or other public hospital described in Article 2 of Chapter 131E of the General Statutes.

(2) An organization that is exempt from income tax under section 501(c)(3) of the Code, other than an organization that is properly classified in any of the following major group areas of the National Taxonomy of Exempt Entities:
   a. Community Improvement and Capacity Building.
   b. Public and Societal Benefit.
   c. Mutual and Membership Benefit.

(2a) An organization that is exempt from income tax under the Code and is one of the following:
   a. A volunteer fire department.
   b. A volunteer emergency medical services squad.

(2b) An organization that is a single member LLC that is disregarded for income tax purposes and satisfies all of the following conditions:
   a. The owner of the LLC is an organization that is exempt from income tax under section 501(c)(3) of the Code.
   b. The LLC is a nonprofit entity that would be eligible for an exemption under 501(c)(3) of the Code if it were not disregarded for income tax purposes.
   c. The LLC is not an organization that would be properly classified in any of the major group areas of the National Taxonomy of Exempt Entities listed in subdivision (2) of this subsection."

SECTION 13. G.S. 105-164.27A reads as rewritten:

"§ **105-164.27A. Direct pay permit.**

(a) General. – A general direct pay permit authorizes its holder to purchase any tangible personal property, digital property, or service without paying tax to the seller and authorizes the seller to not collect any tax on a sale to the permit holder. A person who purchases an item under a direct pay permit issued under this subsection is liable for use tax due on the purchase. The tax is payable when the property is placed in use or the service is received. A direct pay permit issued under this subsection does not apply to taxes imposed under G.S. 105-164.4 on ~~electricity.~~sales of electricity or the gross receipts derived from rentals of accommodations.

A person who purchases an item for storage, use, or consumption in this State whose tax status cannot be determined at the time of the purchase because of one of the reasons listed below may apply to the Secretary for a general direct pay permit:

(1) The place of business where the item will be stored, used, or consumed is not known at the time of the purchase and a different tax consequence applies depending on where the item is used.

(2) The manner in which the item will be stored, used, or consumed is not known at the time of the purchase and one or more of the potential uses is taxable but others are not taxable.

(a1) Direct Mail. – A person who purchases direct mail may apply to the Secretary for a direct pay permit for the purchase of direct mail. A direct pay permit issued for direct mail does not apply to any purchase other than the purchase of direct mail. A person who purchases direct

mail under a direct pay permit must file a return and pay the tax due monthly or quarterly to the Secretary.

…."

SECTION 14. G.S. 105-164.35 is repealed.

SECTION 15. G.S. 105-164.42L reads as rewritten:

"§ **105-164.42L. ~~Databases on taxing jurisdictions.~~Liability relief for erroneous information or insufficient notice by Department.**

(a) The Secretary may develop databases that provide information on the boundaries of taxing jurisdictions and the tax rates applicable to those taxing jurisdictions. A person who relies on the information provided in these databases is not liable for underpayments of tax attributable to erroneous information provided by the Secretary in those databases.

(b) The Secretary may develop a taxability matrix that provides information on the taxability of certain items. A person who relies on the information provided in the taxability matrix is not liable for underpayments of tax attributable to erroneous information provided by the Secretary in the taxability matrix.

(c) A retailer is not liable for an underpayment of tax attributable to a rate change when the State fails to provide for at least 30 days between the enactment of the rate change and the effective date of the rate change if the conditions of this subsection are satisfied. However, if the State establishes the retailer fraudulently failed to collect tax at the new rate or solicited customers based on the immediately preceding effective rate, this liability relief does not apply. Both of the following conditions must be satisfied for liability relief:

(1) The retailer collected tax at the immediately preceding rate.

(2) The retailer's failure to collect at the newly effective rate does not extend beyond 30 days after the date of enactment of the new rate or the effective date applicable under G.S. 105-164.15A."

SECTION 16. G.S. 105-187.52(b) reads as rewritten:

"(b) Credit. – A credit is allowed against the tax imposed by this Article for the amount of a sales or use tax, privilege or excise tax, or substantially equivalent tax due and paid to another ~~state.~~ state or for the amount of sales and use tax paid to this State. The credit allowed by this subsection does not apply to tax paid to another state that does not grant a similar credit for the privilege tax paid in North Carolina."

SECTION 17. G.S. 105-236.1(a) reads as rewritten:

"(a) General. – The Secretary may appoint employees of the Unauthorized Substances Tax Section of the Tax Enforcement Division to serve as revenue law enforcement officers having the responsibility and subject-matter jurisdiction to enforce the excise tax on unauthorized substances imposed by Article 2D of this Chapter.

The Secretary may appoint up to 11 employees of the Motor Fuels ~~Tax~~ Investigations Section of the Tax Enforcement Division to serve as revenue law enforcement officers having the responsibility and subject-matter jurisdiction to enforce the taxes on motor fuels imposed by Articles 36B, 36C, and 36D of this Chapter and by Chapter 119 of the General Statutes.

The Secretary may appoint employees of the Criminal Investigations Section of the Tax Enforcement Division to serve as revenue law enforcement officers having the responsibility and subject-matter jurisdiction to enforce the following tax violations and criminal offenses:

(1) The felony and misdemeanor tax violations in G.S. 105-236.

(2) The misdemeanor tax violations in G.S. 105-449.117 and G.S. 105-449.120.

(3) The following criminal offenses when they involve a tax imposed under Chapter 105 of the General Statutes:

a. G.S. 14-91 (Embezzlement of State Property).

b. G.S. 14-92 (Embezzlement of Funds).

c. G.S. 14-100 (Obtaining Property By False Pretenses).

c1. G.S. 14-113.20 (Identity Theft).

c2. G.S. 14-133.20A (Trafficking in Stolen Identities).

d. G.S. 14-119 (Forgery).

e. G.S. 14-120 (Uttering Forged Paper).

f. G.S. 14-401.18 (Sale of Certain Packages of Cigarettes)."

SECTION 18.(a) G.S. 105-256(a)(9) is repealed.

SECTION 18.(b) This section is effective when it becomes law and applies to cases filed on or after January 1, 2012.

SECTION 19. G.S. 105-259(b) reads as rewritten:

"(b) Disclosure Prohibited. – An officer, an employee, or an agent of the State who has access to tax information in the course of service to or employment by the State may not disclose the information to any other person except as provided in this subsection. Standards used or to be used for the selection of returns for examination and data used or to be used for determining the standards may not be disclosed for any purpose. All other tax information may be disclosed only if the disclosure is made for one of the following purposes:

…

(15a) To furnish to ~~the head of~~ the appropriate ~~State or~~ local, State, or federal law enforcement ~~agency~~ agency, including a prosecutorial agency, information concerning the commission of an offense under the jurisdiction of that agency ~~discovered by~~ when the Department ~~during~~ has initiated a criminal investigation of the taxpayer.

…

(25) To provide public access to a database containing the names and registration numbers of retailers who are registered to collect sales and use taxes under Article 5 of this Chapter.

…

(29) To provide to the Economic Investment Committee established pursuant to ~~G.S. 143B-437.48~~ G.S. 143B-437.54 information necessary to implement ~~Part 2F of Article 10 of Chapter 143B of the General Statutes.~~economic development programs under the responsibility of the Committee.

…."

SECTION 20. Section 6A.3(d) of S.L. 2012-142 reads as rewritten:

"**SECTION 6A.3.(d)** Funding. – Of funds generated from increased revenues or cost savings as compared to the baselines established by subdivision (1) of subsection (c) of this section, in the General Fund, the Highway Fund, and that State portion of the Unauthorized Substance Tax collections of the Special Revenue Fund, the sum of up to a total of sixteen million dollars ($16,000,000) may be ~~used~~ authorized by the Office of State Budget and Management to make purchases related to the implementation of the additional public-private arrangement authorized by this section, including payment for services from non-State entities."

SECTION 21. G.S. 105-113.112 reads as rewritten:

"§ **105-113.112. Confidentiality of information.**

(a) Information obtained by the Department in the course of administering the tax imposed by this Article, including information on whether the Department has issued a revenue stamp to a person, is confidential tax information and is subject to the ~~following restrictions on disclosure:~~

~~(1) G.S. 105-259 prohibits the disclosure of the information, except in the limited circumstances provided in that statute.~~

~~(2) The information~~ provisions of G.S. 105-259.

(b) Information obtained by the Department from the taxpayer in the course of administering the tax imposed by this Article, including information on whether the Department has issued a revenue stamp to a person, may not be used as evidence, as defined in G.S. 15A-971, by a prosecutor in a criminal prosecution of the taxpayer for an offense ~~other than an offense under this Article or under Article 9 of this Chapter.~~ related to the manufacturing, possession, transportation, distribution, or sale of the unauthorized substance. Under this prohibition, no officer, employee, or agent of the Department may testify about

~~the~~this information in a criminal prosecution of the taxpayer for an offense related to the manufacturing, possession, transportation, distribution, or sale of the unauthorized substance.~~other than an offense under this Article or under Article 9 of this Chapter.~~ This ~~subdivision~~ subsection implements the protections against double jeopardy and self-incrimination set out in Amendment V of the United States Constitution and the restrictions in it apply regardless of whether information may be disclosed under G.S. 105-259. ~~This subdivision does not apply to information obtained from a source other than an employee, officer, or agent of the Department. This subdivision does not prohibit testimony by an officer, employee, or agent of the Department concerning an offense committed against that individual in the course of administering this Article.~~ An officer, employee, or agent of the Department who provides evidence or testifies in violation of this subdivision is guilty of a Class 1 misdemeanor."

SECTION 22.(a) G.S. 105-113.4A reads as rewritten:

"§ **105-113.4A. Licenses.**

(a) General. – To obtain a license required by this Article, an applicant must ~~apply to~~ file an application with the Secretary on a form provided by the Secretary and pay the tax due for the license. An application must include the applicant's name, address, federal employer identification number, and any other information required by the Secretary. A license is not transferable or assignable and must be displayed at the place of business for which it is issued.

(b) Requirements. – An applicant for a license must meet the following requirements:

(1) If the applicant is a corporation, the applicant must either be incorporated in this State or be authorized to transact business in this State.

(2) If the applicant for a license is a limited liability company, the applicant must either be organized in this State or be authorized to transact business in this State.

(3) If the applicant for a license is a limited partnership, the applicant must either be formed in this State or be authorized to transact business in this State.

(4) If the applicant for a license is an individual or a general partnership, the applicant must designate an agent for service of process and give the agent's name and address.

(c) Denial. – The Secretary may investigate an applicant for a license required under this Article to determine if the information the applicant submits with the application is accurate and if the applicant is eligible to be licensed under this Article. The Secretary may refuse to issue a license to an applicant that has done any of the following:

(1) Submitted false or misleading information on its application.

(2) Had a license issued under this Article cancelled by the Secretary for cause.

(3) Had a tobacco products license or registration issued by another state cancelled for cause.

(4) Been convicted of fraud or misrepresentation.

(5) Been convicted of any other offense that indicates the applicant may not comply with this Article if issued a license.

(6) Failed to remit payment for a tax debt under this Chapter. The term "tax debt" has the same meaning as defined in G.S. 105-243.1.

(7) Failed to file a return due under this Chapter.

~~(b)~~(d) Refund. – A refund of a license tax is allowed only when the tax was collected or paid in error. No refund is allowed when a license holder surrenders a license or the Secretary revokes a license.

~~(c)~~(e) Duplicate or Amended License. – Upon application to the Secretary, a license holder may obtain without charge ~~one of the following:~~a duplicate or amended license as provided in this subsection. A duplicate or amended license must state that it is a duplicate or amended license, as appropriate.

(1) A duplicate license, if the license holder establishes that the original license has been lost, destroyed, or defaced.

(2) An amended license, if the license holder establishes that the location of the place of business for which the license was issued has changed.

~~A duplicate or amended license shall state that it is a duplicate or amended license, as appropriate.~~

(f) Information on License. – The Secretary must include the following information on each license required by this Article:

(1) The legal name of the license holder.

(2) The name under which the license holder conducts business.

(3) The physical address of the place of business of the license holder.

(4) The account number assigned to the license by the Department.

(g) Records. – The Secretary must keep a record of the following:

(1) Applicants for a license under this Article.

(2) Persons to whom a license has been issued under this Article.

(3) Persons that hold a current license issued under this Article, by license category.

(h) Lists. – The Secretary must provide the list required under subsection (g) of this section upon request of a manufacturer that is a license holder under this Article. The list must state the name, account number, and business address of each license holder on the list."

SECTION 22.(b) G.S. 105-113.4B reads as rewritten:

"§ **105-113.4B. Reasons why the Secretary can cancel a license.**

(a) Reasons. – The Secretary may cancel a license issued under this Article upon the written request of the license holder. The Secretary may summarily cancel the license of a license holder when the Secretary finds that the license holder is incurring liability for the tax imposed under this Article after failing to pay a tax when due under this Article. In addition, the Secretary may cancel the license of a license holder that commits one or more of the following acts after holding a hearing on whether the license should be cancelled:

(1) ~~A violation of this Article.~~Fails to obtain a license required by this Article.

(2) Willfully fails to file a return required by this Article.

(3) Willfully fails to pay a tax when due under this Article.

(4) Makes a false statement in an application or return required under this Article.

(5) Fails to keep records as required by this Article.

(6) Refuses to allow the Secretary or a representative of the Secretary to examine the person's books, accounts, and records concerning tobacco product.

(7) Fails to disclose the correct amount of tobacco product taxable in this State.

(8) Fails to file a replacement bond or an additional bond if required by the Secretary under this Article.

~~(2)~~(9) ~~A violation of~~ Violates G.S. 14-401.18.

(b) Procedure. – The Secretary must send a person whose license is summarily cancelled a notice of the cancellation and must give the person an opportunity to have a hearing on the cancellation within 10 days after the cancellation. The Secretary must give a person whose license may be cancelled after a hearing at least 10 days' written notice of the date, time, and place of the hearing. A notice of a summary license cancellation and a notice of hearing must be sent by registered mail to the last known address of the license holder.

(c) Release of Bond. – When the Secretary cancels a license and the license holder has paid all taxes and penalties due under this Article, the Secretary must take one of the following actions concerning a bond or an irrevocable letter of credit filed by the license holder:

(1) Return an irrevocable letter of credit to the license holder.

(2) Return a bond to the license holder or notify the person liable on the bond and the license holder that the person is released from liability on the bond."

SECTION 22.(c) G.S. 105-113.13 reads as rewritten:

"§ **105-113.13. Secretary may ~~investigate applicant for distributor's license and~~ require a ~~bond.~~bond or irrevocable letter of credit.**

~~(a) Investigation. The Secretary may investigate an applicant for a distributor's license to determine if the information the applicant submits with the application is accurate and if the applicant is eligible to be licensed as a distributor. The Secretary may decline to issue a distributor's license to an applicant when the Secretary has reasonable cause to believe any of the following:~~

~~(1) That the applicant has willfully withheld information requested by the Secretary for the purpose of determining the applicant's eligibility for the license.~~

~~(2) That information submitted with the application is false or misleading.~~

~~(3) That the application is not made in good faith.~~

~~(b) Bond.~~ The Secretary may require a distributor to furnish a bond in an amount that adequately protects the State from loss if the distributor fails to pay taxes due under this Part. A bond shall be conditioned on compliance with this Part, shall be payable to the State, and shall be in the form required by the Secretary. The Secretary shall set the bond amount based on the anticipated tax liability of the distributor. The Secretary shall periodically review the sufficiency of bonds required of the distributor and shall increase the amount of a required bond if the bond amount no longer covers the anticipated tax liability of the distributor. The Secretary shall decrease the amount of a required bond if the Secretary finds that a lower bond amount will protect the State adequately from loss. For purposes of this section, a bond may also include an irrevocable letter of credit."

SECTION 22.(d) This section becomes effective September 1, 2013.

SECTION 23.(a) G.S. 105-164.3 reads as rewritten:

"§ **105-164.3. Definitions.**

The following definitions apply in this Article:

(1) Advertising and promotional direct mail. – Printed material that meets the definition of "direct mail" and the primary purpose of which is to attract public attention to a product, person, business, or organization, or to attempt to sell, popularize, or secure financial support for a product, person, business, or organization. As used in this subdivision, "product" means tangible personal property, digital property, or a service.

~~(1)~~(1a) Analytical services. – Testing laboratories that are included in national industry 541380 of NAICS or medical laboratories that are included in national industry 621511 of NAICS.

~~(1a)~~(1b) Ancillary service. – A service associated with or incidental to the provision of a telecommunications service. The term includes detailed communications billing, directory assistance, vertical service, and voice mail service. A vertical service is a service, such as call forwarding, caller ID, three-way calling, and conference bridging, that allows a customer to identify a caller or manage multiple calls and call connections.

~~(1b)~~(1c) through ~~(1d)~~(1e) Reserved for future codification purposes.

~~(1e)~~(1f) Audio work. – A series of musical, spoken, or other sounds, including a ringtone.

~~(1f)~~(1g) Reserved for future codification purposes.

~~(1g)~~(1h) Audiovisual work. – A series of related images and any sounds accompanying the images that impart an impression of motion when shown in succession.

~~(1h)~~(1i) Reserved for future codification purposes.

~~(1i)~~(1j) Bundled transaction. – A retail sale of two or more distinct and identifiable products, at least one of which is taxable and one of which is exempt, for one nonitemized price. Products are not sold for one nonitemized price if an

invoice or another sales document made available to the purchaser separately identifies the price of each product. A bundled transaction does not include the retail sale of any of the following:

a. A product and any packaging item that accompanies the product and is exempt under G.S. 105-164.13(23).
b. A sale of two or more products whose combined price varies, or is negotiable, depending on the products the purchaser selects.
c. A sale of a product accompanied by a transfer of another product with no additional consideration.
d. A product and the delivery or installation of the product.
e. A product and any service necessary to complete the sale.

~~(1j)~~(1k) Reserved for future codification purposes.

~~(1k)~~(1l) Business. – An activity a person engages in or causes another to engage in with the object of gain, profit, benefit, or advantage, either direct or indirect. The term does not include an occasional and isolated sale or transaction by a person who does not claim to be engaged in business.

~~(1l)~~(1m) Reserved for future codification purposes.

~~(1m)~~(1n) Cable service. – The one-way transmission to subscribers of video programming or other programming service and any subscriber interaction required to select or use the service.

...

(25a) Other direct mail. – Any direct mail that is not advertising and promotional mail regardless of whether advertising and promotional direct mail is included in the same mailing.

~~(25a)~~(25b) Over-the-counter drug. – A drug that contains a label that identifies the product as a drug as required by 21 C.F.R. § 201.66. The label includes either of the following:

a. A "Drug Facts" panel.
b. A statement of its active ingredients with a list of those ingredients contained in the compound, substance, or preparation.

…."

SECTION 23.(b) G.S. 105-164.4B(d) reads as rewritten:

"(d) Exceptions. – This section does not apply to the following:

(1) Telecommunications services. – Telecommunications services are sourced in accordance with G.S. 105-164.4C.

(2) Direct mail. – Direct mail~~that meets one of the following descriptions is sourced to the location where the property is delivered, and direct mail that does not meet one of these descriptions is sourced to the location from which the direct mail was shipped:~~

~~a. Direct mail purchased pursuant to a direct pay permit.~~
~~b. When the purchaser provides the seller with information to show the jurisdictions to which the direct mail is to be delivered.~~

is sourced in accordance with G.S. 105-164.4E.

(3) Florist wire sale. – A florist wire sale is sourced to the business location of the florist that takes an order for the sale. A "florist wire sale" is a sale in which a retail florist takes a customer's order and transmits the order to another retail florist to be filled and delivered."

SECTION 23.(c) Article 5 of Chapter 105 of the General Statutes is amended by adding the following new section to read:

"**§ 105-164.4E. Direct Mail.**

(a) Advertising and Promotional Direct Mail. – The following sourcing principles apply to advertising and promotional direct mail.

(1) To the location where the direct mail is delivered if it is purchased pursuant to a direct pay permit issued under G.S. 105-164.27A(a1), or if it is purchased with an exemption certificate claiming direct mail and bearing the direct mail permit number issued under G.S. 105-164.27A(a1).

(2) To the location where the direct mail is delivered if the purchaser provides the seller with information to show the jurisdictions to which the direct mail is to be delivered.

(3) To the location from which the direct mail was shipped if subdivision (1) or (2) of this subsection does not apply.

(b) Other Direct Mail. – The following sourcing principles apply to other direct mail:

(1) To the location indicated by an address for the purchaser that is available from the business records of the seller that are maintained in the ordinary course of the seller's business when use of this address does not constitute bad faith.

(2) To the jurisdictions where the direct mail is delivered if it is purchased pursuant to a direct pay permit issued under G.S. 105-164.27A(a1), or if it is purchased with an exemption certificate claiming direct mail and bearing the direct mail permit number issued under G.S. 105-164.27A(a1).

(c) Relief From Liability. – In the absence of bad faith, a seller is relieved of:

(1) All obligations to collect, pay, or remit any tax on any direct mail transaction where the purchaser issues a direct pay permit issued under G.S. 105-164.27A(a1), or if it is purchased with an exemption certificate claiming direct mail and bearing the direct mail permit number issued under G.S. 105-164.27A(a1).

(2) Further obligation to collect any additional tax on the sale of advertising and promotional direct mail where the seller sourced the sale according to delivery information provided by the purchaser."

ADDITIONAL CHANGES

SECTION 30. G.S. 62A-54(a) reads as rewritten:

"(a) Retail Collection. – A seller of prepaid wireless telecommunications service shall collect the 911 service charge for prepaid wireless telecommunications service from the consumer on each retail transaction occurring in this State. The 911 service charge for prepaid wireless telecommunications service is in addition to the sales tax imposed on the sale or recharge of prepaid telephone calling service under ~~G.S. 105-164.4(4d)~~G.S. 105-164.4(a)(4d). The amount of the 911 service charge for prepaid wireless telecommunications service must be separately stated on an invoice, receipt, or other reasonable notification provided to the consumer by the seller at the time of the retail transaction. For purposes of this Article, a retail transaction is occurring in this State if the sale is sourced to this State under G.S. 105-164.4B(a)."

SECTION 31. G.S. 66-255 reads as rewritten:

"§ **66-255. Specialty market or operator of an event registration list.**

A specialty market operator or operator of an event where space is provided to a vendor must maintain a daily registration list of all specialty market or other vendors selling or offering goods for sale at the specialty ~~market.~~ market or other event. The registration list must clearly and legibly show each ~~specialty market~~ vendor's name, permanent address, and certificate of registration number. The specialty market operator or other event operator must require each ~~specialty market~~ vendor to exhibit a valid certificate of registration for visual inspection by the specialty market operator or other event operator at the time of registration, and must require each ~~specialty market~~ vendor to keep the certificate of registration conspicuously and prominently displayed, so as to be visible for inspection by patrons of the ~~specialty market~~vendor at the places or locations at which the goods are offered for sale. Each daily registration list maintained pursuant to this section must be retained by the specialty market

operator or other event operator for no less than two years and must at any time be made available upon request to any law enforcement ~~officer.~~officer or the Secretary of Revenue or the Secretary's duly authorized agent. For purposes of the registration list, the exemptions in G.S. 66-256 do not apply."

SECTION 32. G.S. 105-129.16H is amended by adding a new subsection to read:

"(d) Sunset. – This section is repealed as of the date that G.S. 105-129.16A is repealed. The repeal applies to donations made for renewable energy property placed in service on or after the date the section is repealed."

SECTION 33. G.S. 105-129.26(c) reads as rewritten:

"(c) Forfeiture. – If the owner of a ~~large or~~ major recycling facility fails to make the required minimum investment or create the required number of new jobs within the period certified by the Secretary of Commerce under this section, the recycling facility no longer qualifies for the applicable recycling facility tax benefits provided in this Article and in Article 5 of this Chapter and forfeits all tax benefits previously received under those Articles. Forfeiture does not occur, however, if the failure was due to events beyond the owner's control. Upon forfeiture of tax benefits previously received, the owner is liable under Part 1 of Article 4 of this Chapter for a tax equal to the amount of all past taxes under Articles 3, 4, and 5 previously avoided as a result of the tax benefits received plus interest at the rate established in G.S. 105-241.21, computed from the date the taxes would have been due if the tax benefits had not been received. The tax and interest are due 30 days after the date of the forfeiture. An owner that fails to pay the tax and interest is subject to the penalties provided in G.S. 105-236."

SECTION 34.(a) G.S. 105-130.5, as amended by S.L. 2013-10, reads as rewritten:

"§ **105-130.5. Adjustments to federal taxable income in determining State net income.**

(a) The following additions to federal taxable income shall be made in determining State net income:

…

~~(15) For taxable years 2002-2005, the applicable percentage of the amount allowed as a special accelerated depreciation deduction under section 168(k) or section 1400L of the Code, as set out in the table below. In addition, a taxpayer who was allowed a special accelerated depreciation deduction under section 168(k) or section 1400L of the Code in a taxable year beginning before January 1, 2002, and whose North Carolina taxable income in that earlier year reflected that accelerated depreciation deduction must add to federal taxable income in the taxpayer's first taxable year beginning on or after January 1, 2002, an amount equal to the amount of the deduction allowed in the earlier taxable year. These adjustments do not result in a difference in basis of the affected assets for State and federal income tax purposes. The applicable percentage is as follows:~~

~~Taxable Year~~	~~Percentage~~
~~2002~~	~~100%~~
~~2003~~	~~70%~~
~~2004~~	~~70%~~
~~2005~~	~~0%~~

~~(15a) The applicable percentage of the amount allowed as a special accelerated depreciation deduction under section 168(k) or 168(n) of the Code for property placed in service after December 31, 2007, but before January 1, 2010. The applicable percentage under this subdivision is eighty-five percent (85%).~~

~~In addition, a taxpayer who was allowed a special accelerated depreciation deduction in taxable year 2007 or 2008 for property placed in service during that year, and whose North Carolina taxable income for that year reflected that accelerated depreciation deduction must make the~~

~~adjustments set out below. These adjustments do not result in a difference in basis of the affected assets for State and federal income tax purposes.~~

~~a. A taxpayer must add to federal taxable income in the taxpayer's 2008 taxable year an amount equal to the applicable percentage of the accelerated depreciation deduction reflected in the taxpayer's 2007 North Carolina taxable income.~~

~~b. A taxpayer must add to federal taxable income in the taxpayer's 2009 taxable year an amount equal to the applicable percentage of the accelerated depreciation deduction reflected in the taxpayer's 2008 North Carolina taxable income.~~

~~(15b) For taxable years 2010 through 2013, eighty-five percent (85%) of the amount allowed as a special accelerated depreciation deduction under section 168(k) or 168(n) of the Code for property placed in service during the taxable year. In addition, for taxable year 2010, a taxpayer who placed property in service during the 2009 taxable year and whose North Carolina taxable income for the 2009 taxable year reflected a special accelerated depreciation deduction allowed for the property under section 168(k) of the Code must add eighty-five percent (85%) of the amount of the special accelerated depreciation deduction. These adjustments do not result in a difference in basis of the affected assets for State and federal income tax purposes.~~

…

~~(23) For taxable years 2010 and 2011, eighty-five percent (85%) of the amount by which the taxpayer's expense deduction under section 179 of the Code for property placed in service in taxable year 2010 or 2011 exceeds the amount that would have been allowed for the respective taxable year under section 179 of the Code as of May 1, 2010. For purposes of this subdivision, the definition of section 179 property has the same meaning as under section 179 of the Code as of January 1, 2011. These adjustments do not result in a difference in basis of the affected assets for State and federal income tax purposes.~~

~~(23a) For taxable years 2012 and 2013, eighty-five percent (85%) of the amount by which the taxpayer's expense deduction under section 179 of the Code for property placed in service in taxable year 2012 or 2013 exceeds the amount that would have been allowed for the respective taxable year under section 179 of the Code as of May 1, 2010. For purposes of this subdivision, the definition of section 179 property has the same meaning as under section 179 of the Code as of January 2, 2013. These adjustments do not result in a difference in basis of the affected assets for State and federal income tax purposes.~~

(24) The amount required to be added under G.S. 105-130.5B when the State decouples from federal accelerated depreciation and expensing.

(b) The following deductions from federal taxable income shall be made in determining State net income:

…

~~(21) In each of the taxpayer's first five taxable years beginning on or after January 1, 2005, an amount equal to twenty percent (20%) of the amount added to taxable income in a previous year as accelerated depreciation under subdivision (a)(15) of this section.~~

~~(21a) An amount equal to twenty percent (20%) of the amount added to federal taxable income as accelerated depreciation under subdivision (a)(15a) of this section. For a taxpayer who made the addition for accelerated depreciation in the 2008 taxable year, the deduction allowed by this subdivision applies to~~

~~the first five taxable years beginning on or after January 1, 2009. For a taxpayer who made the addition for accelerated depreciation in the 2009 taxable year, the deduction allowed by this subdivision applies to the first five taxable years beginning on or after January 1, 2010.~~

~~(21b) An amount equal to twenty percent (20%) of the amount added to federal taxable income as accelerated depreciation under subdivision (a)(15b) of this section. For the amount added to taxable income in the 2010 taxable year, the deduction allowed by this subdivision applies to the first five taxable years beginning on or after January 1, 2011. For the amount added to taxable income in the 2011 taxable year, the deduction allowed by this subdivision applies to the first five taxable years beginning on or after January 1, 2012. For the amount added to taxable income in the 2012 taxable year, the deduction allowed by this subdivision applies to the first five taxable years beginning on or after January 1, 2013. For the amount added to taxable income in the 2013 taxable year, the deduction allowed by this subdivision applies to the first five taxable years beginning on or after January 1, 2014.~~

…

~~(26) An amount equal to twenty percent (20%) of the amount added to federal taxable income under subdivision (a)(23) of this section. For the amount added to taxable income in the 2010 taxable year, the deduction allowed by this subdivision applies to the first five taxable years beginning on or after January 1, 2011. For the amount added to taxable income in the 2011 taxable year, the deduction allowed by this subdivision applies to the first five taxable years beginning on or after January 1, 2012.~~

~~(26a) An amount equal to twenty percent (20%) of the amount added to federal taxable income under subdivision (a)(23a) of this section. For the amount added to taxable income in the 2012 taxable year, the deduction allowed by this subdivision applies to the first five taxable years beginning on or after January 1, 2013. For the amount added to taxable income in the 2013 taxable year, the deduction allowed by this subdivision applies to the first five taxable years beginning on or after January 1, 2014.~~

(27) The amount allowed as a deduction under G.S. 105-130.5B as a result of an add-back for federal accelerated depreciation and expensing.

…."

SECTION 34.(b) Part 1 of Article 4 of Chapter 105 of the General Statutes is amended by adding a new section to read:

"**§ 105-130.5B. Adjustments when State decouples from federal accelerated depreciation and expensing.**

(a) Special Accelerated Depreciation. – A taxpayer who takes a special accelerated depreciation deduction for property under section 168(k) or 168(n) of the Code must add to the taxpayer's federal taxable income eighty-five percent (85%) of the amount taken for that year under those Code provisions. A taxpayer is allowed to deduct twenty percent (20%) of the add-back in each of the first five taxable years following the year the taxpayer is required to include the add-back in income.

(b) 2009 Depreciation Exception. – A taxpayer who placed property in service during the 2009 taxable year and whose North Carolina taxable income for the 2009 taxable year reflected a special accelerated depreciation deduction allowed for the property under section 168(k) of the Code must add eighty-five percent (85%) of the amount of the special accelerated depreciation deduction to its federal taxable income for the 2010 taxable year. A taxpayer is allowed to deduct this add-back under subsection (a) of this section as if it were for property placed in service in 2010.

(c) Section 179 Expense. – For purposes of this subdivision, the definition of section 179 property has the same meaning as under section 179 of the Code as of January 2, 2013. A

taxpayer who places section 179 property in service during a taxable year listed in the table below must add to the taxpayer's federal taxable income eighty-five percent (85%) of the amount by which the taxpayer's expense deduction under section 179 of the Code exceeds the dollar and investment limitation listed in the table below for the taxable year.

A taxpayer is allowed to deduct twenty percent (20%) of the add-back in each of the first five taxable years following the year the taxpayer is required to include the add-back in income.

Taxable Year of 85% Add-Back	**Dollar Limitation**	**Investment Limitation**
2010	$250,000	$800,000
2011	$250,000	$800,000
2012	$250,000	$800,000
2013	$25,000	$125,000

(d) Asset Basis. – The adjustments made in this section do not result in a difference in basis of the affected assets for State and federal income tax purposes, except as modified in subsection (e) of this section.

(e) Bonus Asset Basis. – In the event of an actual or deemed transfer of an asset occurring on or after January 1, 2013, wherein the tax basis of the asset carries over from the transferor to the transferee for federal income tax purposes, the transferee must add any remaining deductions allowed under subsection (a) of this section to the basis of the transferred asset and depreciate the adjusted basis over any remaining life of the asset. Notwithstanding the provisions of subsection (a) of this section, the transferor is not allowed any remaining future bonus depreciation deductions associated with the transferred asset.

(f) Prior Transactions. – For any transaction meeting the requirements of subsection (e) of this section prior to January 1, 2013, the transferor and transferee can make an election to make the basis adjustment allowed in that subsection on the transferee's 2013 tax return, to the extent that the transferor has not taken the bonus depreciation deduction on a prior return and provided that the transferor certifies in writing to the transferee that the transferor will not take any remaining deductions allowed under subsection (a) of this section for tax years beginning on or after January 1, 2013, for depreciation associated with the transferred asset."

SECTION 34.(c) G.S. 105-134.6, as amended by S.L. 2013-10, reads as rewritten:

"§ **105-134.6. Modifications to adjusted gross income.**

…

(b) Other Deductions. – In calculating North Carolina taxable income, a taxpayer may deduct any of the following items to the extent those items are included in the taxpayer's adjusted gross income.

…

~~(17) In each of the taxpayer's first five taxable years beginning on or after January 1, 2005, an amount equal to twenty percent (20%) of the amount added to taxable income in a previous year as accelerated depreciation under subdivision (c)(8) of this section.~~

~~(17a) An amount equal to twenty percent (20%) of the amount added to federal taxable income as accelerated depreciation under subdivision (c)(8a) of this section. For a taxpayer who made the addition for accelerated depreciation in the 2008 taxable year, the deduction allowed by this subdivision applies to the first five taxable years beginning on or after January 1, 2009. For a taxpayer who made the addition for accelerated depreciation in the 2009 taxable year, the deduction allowed by this subdivision applies to the first five taxable years beginning on or after January 1, 2010.~~

~~(17b) An amount equal to twenty percent (20%) of the amount added to federal taxable income as accelerated depreciation under subdivision (c)(8b) of this section. For the amount added to adjusted gross income in the 2010 taxable year, the deduction allowed by this subdivision applies to the first five taxable years beginning on or after January 1, 2011. For the amount added to~~

~~taxable income in the 2011 taxable year, the deduction allowed by this subdivision applies to the first five taxable years beginning on or after January 1, 2012. For the amount added to taxable income in the 2012 taxable year, the deduction allowed by this subdivision applies to the first five taxable years beginning on or after January 1, 2013.For the amount added to adjusted gross income in the 2013 taxable year, the deduction allowed by this subdivision applies to the first five taxable years beginning on or after January 1, 2014.~~

…

~~(21) An amount equal to twenty percent (20%) of the amount added to federal taxable income under subdivision (c)(15) of this section. For the amount added to taxable income in the 2010 taxable year, the deduction allowed by this subdivision applies to the first five taxable years beginning on or after January 1, 2011. For the amount added to taxable income in the 2011 taxable year, the deduction allowed by this subdivision applies to the first five taxable years beginning on or after January 1, 2012.~~

~~(21a) An amount equal to twenty percent (20%) of the amount added to adjusted gross income under subdivision (c)(15a) of this section. For the amount added to adjusted gross income in the 2012 taxable year, the deduction allowed by this subdivision applies to the first five taxable years beginning on or after January 1, 2013. For the amount added to adjusted gross income in the 2013 taxable year, the deduction allowed by this subdivision applies to the first five taxable years beginning on or after January 1, 2014.~~

…

(23) The amount allowed as a deduction under G.S. 105-134.6A as a result of an add-back for federal accelerated depreciation and expensing.

(c) Additions. – In calculating North Carolina taxable income, a taxpayer must add any of the following items to the extent those items are not included in the taxpayer's adjusted gross income. For a taxpayer who deducts the itemized deductions amount under subsection (a2) of this section, the taxpayer must add any of the following items to the extent those items are included in the itemized deductions amount.

…

~~(8) For taxable years 2002-2005, the applicable percentage of the amount allowed as a special accelerated depreciation deduction under section 168(k) or section 1400L of the Code, as set out in the table below. In addition, a taxpayer who was allowed a special accelerated depreciation deduction under section 168(k) or section 1400L of the Code in a taxable year beginning before January 1, 2002, and whose North Carolina taxable income in that earlier year reflected that accelerated depreciation deduction must add to federal taxable income in the taxpayer's first taxable year beginning on or after January 1, 2002, an amount equal to the amount of the deduction allowed in the earlier taxable year. These adjustments do not result in a difference in basis of the affected assets for State and federal income tax purposes. The applicable percentage is as follows:~~

~~**Taxable Year**~~	~~**Percentage**~~
~~2002~~	~~100%~~
~~2003~~	~~70%~~
~~2004~~	~~70%~~
~~2005~~	~~0%~~

~~(8a) The applicable percentage of the amount allowed as a special accelerated depreciation deduction under section 168(k) or 168(n) of the Code for property placed in service after December 31, 2007, but before January 1,~~

~~2010. The applicable percentage under this subdivision is eighty-five percent (85%).~~

~~In addition, a taxpayer who was allowed a special accelerated depreciation deduction in taxable year 2007 or 2008 for property placed in service during that year, and whose North Carolina taxable income for that year reflected that accelerated depreciation deduction must make the adjustments set out below. These adjustments do not result in a difference in basis of the affected assets for State and federal income tax purposes.~~

~~a. A taxpayer must add to federal taxable income in the taxpayer's 2008 taxable year an amount equal to the applicable percentage of the accelerated depreciation deduction reflected in the taxpayer's 2007 North Carolina taxable income.~~

~~b. A taxpayer must add to federal taxable income in the taxpayer's 2009 taxable year an amount equal to the applicable percentage of the accelerated depreciation deduction reflected in the taxpayer's 2008 North Carolina taxable income.~~

~~(8b) For taxable years 2010 through 2013, eighty-five percent (85%) of the amount allowed as a special accelerated depreciation deduction under section 168(k) or 168(n) of the Code for property placed in service during the taxable year. In addition, for taxable year 2010, a taxpayer who placed property in service during the 2009 taxable year and whose North Carolina taxable income for the 2009 taxable year reflected a special accelerated depreciation deduction allowed for the property under section 168(k) of the Code must add eighty-five percent (85%) of the amount of the special accelerated depreciation deduction. These adjustments do not result in a difference in basis of the affected assets for State and federal income tax purposes.~~

…

~~(15) For taxable years 2010 and 2011, eighty-five percent (85%) of the amount by which the taxpayer's expense deduction under section 179 of the Code for property placed in service in taxable year 2010 or 2011 exceeds the amount that would have been allowed for the respective taxable year under section 179 of the Code as of May 1, 2010. For purposes of this subdivision, the definition of section 179 property has the same meaning as under section 179 of the Code as of January 1, 2011. These adjustments do not result in a difference in basis of the affected assets for State and federal income tax purposes.~~(15a) ~~For taxable years 2012 and 2013, eighty-five percent (85%) of the amount by which the taxpayer's expense deduction under section 179 of the Code for property placed in service in taxable year 2012 or 2013 exceeds the amount that would have been allowed for the respective taxable year under section 179 of the Code as of May 1, 2010. For purposes of this subdivision, the definition of section 179 property has the same meaning as under section 179 of the Code as of January 2, 2013. These adjustments do not result in a difference in basis of the affected assets for State and federal income tax purposes.~~

~~(15a) For taxable years 2012 and 2013, eighty-five percent (85%) of the amount by which the taxpayer's expense deduction under section 179 of the Code for property placed in service in taxable year 2012 or 2013 exceeds the amount that would have been allowed for the respective taxable year under section 179 of the Code as of May 1, 2010. For purposes of this subdivision, the definition of section 179 property has the same meaning as under section 179 of the Code as of January 2, 2013. These adjustments do not result in a~~

~~difference in basis of the affected assets for State and federal income tax purposes.~~

(22) The amount required to be added under G.S. 105-134.6A when the State decouples from federal accelerated depreciation and expensing.

…."

SECTION 34.(d) Part 2 of Article 4 of Chapter 105 of the General Statutes is amended by adding a new section to read:

"**§ 105-134.6A. Adjustments when State decouples from federal accelerated depreciation and expensing.**

(a) Special Accelerated Depreciation. – A taxpayer who takes a special accelerated depreciation deduction for that property under section 168(k) or 168(n) of the Code must add to the taxpayer's federal taxable income or adjusted gross income, as appropriate, eighty-five percent (85%) of the amount taken for that year under those Code provisions. For taxable years before 2012, the taxpayer must add the amount to the taxpayer's federal taxable income. For taxable year 2012 and after, the taxpayer must add the amount to the taxpayer's adjusted gross income. A taxpayer is allowed to deduct twenty percent (20%) of the add-back in each of the first five taxable years following the year the taxpayer is required to include the add-back in income.

(b) 2009 Depreciation Exception. – A taxpayer who placed property in service during the 2009 taxable year and whose North Carolina taxable income for the 2009 taxable year reflected a special accelerated depreciation deduction allowed for the property under section 168(k) of the Code must add eighty-five percent (85%) of the amount of the special accelerated depreciation deduction to its federal taxable income for the 2010 taxable year. A taxpayer is allowed to deduct this add-back under subsection (a) of this section as if it were for property placed in service in 2010.

(c) Section 179 Expense. – For purposes of this subdivision, the definition of section 179 property has the same meaning as under section 179 of the Code as of January 2, 2013. A taxpayer who places section 179 property in service during a taxable year listed in the table below must add to the taxpayer's federal taxable income or adjusted gross income, as appropriate, eighty-five percent (85%) of the amount by which the taxpayer's expense deduction under section 179 of the Code exceeds the dollar and investment limitation listed in the table below for that taxable year. For taxable years before 2012, the taxpayer must add the amount to the taxpayer's federal taxable income. For taxable year 2012 and after, the taxpayer must add the amount to the taxpayer's adjusted gross income.

A taxpayer is allowed to deduct twenty percent (20%) of the add-back in each of the first five taxable years following the year the taxpayer is required to include the add-back in income.

Taxable Year of 85% Add-Back	**Dollar Limitation**	**Investment Limitation**
2010	$250,000	$800,000
2011	$250,000	$800,000
2012	$250,000	$800,000
2013	$25,000	$125,000

(d) Asset Basis. – The adjustments made in this section do not result in a difference in basis of the affected assets for State and federal income tax purposes, except as modified in subsection (e) of this section.

(e) Bonus Asset Basis. – In the event of an actual or deemed transfer of an asset occurring on or after January 1, 2013, wherein the tax basis of the asset carries over from the transferor to the transferee for federal income tax purposes, the transferee must add any remaining deductions allowed under subsection (a) of this section to the basis of the transferred asset and depreciate the adjusted basis over any remaining life of the asset. Notwithstanding the provisions of subsection (a) of this section, the transferor and any owner in a transferor are not allowed any remaining future bonus depreciation deductions associated with the transferred asset. This subsection applies only to the extent that each transferor or owner in a transferor

that added bonus depreciation to its federal taxable income or adjusted gross income associated with the transferred asset certifies in writing to the transferee, that the transferor or owner in a transferor will not take any remaining future bonus depreciation deduction associated with the transferred asset.

(f) Prior Transactions. – For any transaction meeting the requirements of subsection (e) of this section prior to January 1, 2013, the transferor and transferee can make an election to make the basis adjustment allowed in that subsection on the transferee's 2013 tax return, to the extent that the transferor and any owner in a transferor has not taken the bonus depreciation deduction on a prior return and provided that the transferor is not allowed any remaining future bonus depreciation deductions associated with the transferred asset and each transferor or owner in a transferor certifies in writing to the transferee that the transferor or owner in a transferor will not take any remaining deductions allowed under subsection (a) of this section for tax years beginning on or after January 1, 2013, for depreciation associated with the transferred asset. The amount of the basis adjustment under this subsection is limited to the total remaining future bonus depreciation deductions forfeited by the transferor and any owner in the transferor at the time of the transfer.

(g) Tax Basis. – For transactions described in subsection (e) or (f) of this section, adjusted gross income must be increased or decreased to account for any difference in the amount of depreciation, amortization, or gains or losses applicable to property that has been depreciated or amortized by use of a different basis or rate for State income tax purposes than used for federal income tax purposes prior to the effective date of this section.

(h) Definitions. – For purposes of this section, a "transferor" is an individual, partnership, S Corporation, limited liability company, or an estate or trust that does not fully distribute income to its beneficiaries, and an "owner in a transferor" is a partner, shareholder, member, or beneficiary subject to tax under Part 2 or 3 of Article 4 of this Chapter, of a transferor."

SECTION 35.(a) G.S. 105-134.6(d)(23), as enacted by S.L. 2013-10, reads as rewritten:

"~~(23)~~(10) For taxable year 2013, the taxpayer who elects to itemize deductions under G.S. 105-134.6(a2) may deduct the amount that would have been allowed as a charitable deduction under section 170 of the Code had the taxpayer not elected to take the income exclusion under 408(d)(8) of the Code. However, this deduction is not subject to the charitable contribution limitation and carryover provisions under section 170 of the Code, but it is subject to the overall limitation on itemized deductions under section 68 of the Code."

SECTION 35.(b) This section is effective for taxable years beginning on or after January 1, 2013.

SECTION 36. G.S. 105-130.6A(a) reads as rewritten:

"(a) Definitions. – The ~~provisions of G.S. 105-130.6~~ definitions in G.S. 105-130.2 govern the determination of whether a corporation is a subsidiary or an affiliate of another corporation. In addition, the following definitions apply in this section:

(1) Affiliated group. – A group that includes a corporation, all other corporations that are affiliates or subsidiaries of that corporation, and all other corporations that are affiliates or subsidiaries of another corporation in the group.

(2) Bank holding company. – A holding company with an affiliate that is subject to the privilege tax on banks levied in G.S. 105-102.3.

(3) Dividends. – Dividends received that are not taxed under this Part.

(4) Electric power holding company. – A holding company with an affiliate or a subsidiary that is subject to the franchise tax on electric power companies levied in G.S. 105-116.

(5) Expense adjustment. – The adjustment required by G.S. 105-130.5(c)(3) for expenses related to dividends not taxed under this Part.

(6) Holding company. – Defined in G.S. 105-120.2."

SECTION 37.(a) G.S. 105-151.26 reads as rewritten:

"§ **105-151.26. Credit for charitable contributions by nonitemizers.**

A taxpayer who elects the standard deduction under G.S. 105-134.6(a2) is allowed as a credit against the tax imposed by this Part an amount equal to seven percent (7%) of the taxpayer's excess charitable contributions. The taxpayer's excess charitable contributions are the amount by which the taxpayer's charitable contributions for the taxable year that would have been deductible under section 170 of the Code if the taxpayer had not elected the standard deduction exceed two percent (2%) of the taxpayer's adjusted gross income. For tax year 2013, the taxpayer's excess charitable contributions also include the amount by which the taxpayer's charitable contributions for the taxable year would have been deductible under section 170 of the Code had the taxpayer not elected to take the income exclusion under section 408(d)(8) of the Code that exceed two percent (2%) of the taxpayer's adjusted gross income. For purposes of computing this tax credit, charitable contributions are not subject to the charitable contribution limitation and carryover provisions under section 170 of the Code.

No credit shall be allowed under this section for contributions for which a credit was claimed under G.S. 105-151.12 or G.S. 105-151.14. A nonresident or part-year resident who claims the credit allowed by this section shall reduce the amount of the credit by multiplying it by the fraction calculated under G.S. 105-134.5(b) or (c), as appropriate. The credit allowed under this section may not exceed the amount of tax imposed by this Part for the taxable year reduced by the sum of all credits allowed, except payments of tax made by or on behalf of the taxpayer."

SECTION 37.(b) This section is effective for taxable years beginning on or after January 1, 2013.

S**ECTION 38.** G.S. 105-159 reads as rewritten:

"§ **105-159. Federal corrections.**

If a taxpayer's ~~federal taxable income~~ adjusted gross income or federal tax credit that affects the amount of State tax payable is corrected or otherwise determined by the federal government, the taxpayer must, within six months after being notified of the correction or final determination by the federal government, file an income tax return with the Secretary reflecting the corrected or determined ~~taxable income.~~ adjusted gross income or federal tax credit that affects the amount of State tax payable. The Secretary must propose an assessment for any additional tax due from the taxpayer as provided in Article 9 of this Chapter. The Secretary must refund any overpayment of tax as provided in Article 9 of this Chapter. A taxpayer who fails to comply with this section is subject to the penalties in G.S. 105-236 and forfeits the right to any refund due by reason of the determination."

SECTION 39.(a) G.S. 105-163.3(d) reads as rewritten:

"(d) Annual Statement; Report to Secretary. – A payer required to deduct and withhold from a contractor's compensation under this section shall furnish to the contractor duplicate copies of a written statement showing the following:

(1) The payer's name, address, and taxpayer identification number.

(2) The contractor's name, address, and taxpayer identification number.

(3) The total amount of compensation paid during the calendar year.

(4) The total amount deducted and withheld under this section during the calendar year.

This statement is due by January 31 following the calendar year. If the personal services for which the payer is paying are completed before the end of the calendar year and the contractor requests the statement, the statement is due within 45 days after the payer's last payment of compensation to the contractor. The Secretary may require the payer to include additional information on the statement.

Each payer shall file with the Secretary an annual report that compiles the information contained in each of the payer's statements to contractors and any other information required by the ~~Secretary.~~ Secretary in the manner required by the Secretary. This report is due on the date prescribed by the Secretary and is in lieu of the information report required by G.S. 105-154."

SECTION 39.(b) G.S. 105-163.6(a) reads as rewritten:

"(a) General. – A return is due quarterly or monthly as specified in this section. A return shall be filed with the Secretary ~~on a form prepared~~ in the manner required by the Secretary, shall report any payments of withheld taxes made during the period covered by the return, and shall contain any other information required by the Secretary.

Withheld taxes are payable quarterly, monthly, or semiweekly, as specified in this section. If the Secretary finds that collection of the amount of taxes this Article requires an employer to withhold is in jeopardy, the Secretary may require the employer to file a return or pay withheld taxes at a time other than that specified in this section."

SECTION 40. G.S. 105-164.4(a)(6b) reads as rewritten:

"(6b) The general rate applies to the sales price of digital property that is sold at retail and that is listed in this subdivision, is delivered or accessed electronically, is not considered tangible personal property, and would be taxable under this Article if sold in a tangible medium. The tax applies regardless of whether the purchaser of the item has a right to use it permanently or to use it without making continued payments. The tax does not apply to a service that is taxed under another subdivision of this subsection or to an information service. The following property is subject to tax under this subdivision:

a. An audio work.
b. An audiovisual work.
c. A book, a magazine, a newspaper, a newsletter, a report, or another publication.
d. A photograph or a greeting card."

SECTION 41. G.S. 105-164.4C(a2) reads as rewritten:

"(a2) Sourcing Exceptions. – The following telecommunications services and products are sourced in accordance with the principles set out in this subsection:

(1) Mobile. – Mobile telecommunications service is sourced to the place of primary use, unless the service is prepaid wireless calling service or is air-to-ground radiotelephone service. Air-to-ground radiotelephone service is a postpaid calling service that is offered by an aircraft common carrier to passengers on its aircraft and enables a telephone call to be made from the aircraft. The sourcing principle in this subdivision applies to a service or product provided as an adjunct to mobile telecommunications service if the charge for the service or product is included within the term "charges for mobile telecommunications services" under the federal Mobile Telecommunications Sourcing Act.

(2) Prepaid. – Prepaid telephone calling service is sourced in accordance with G.S. 105-164.4B.

(3) Private. – Private telecommunications service is sourced in accordance with subsection (e) of this section.

...."

SECTION 42.(a) G.S. 105-164.14(c)(24) reads as rewritten:

"(c) Certain Governmental Entities. – A governmental entity listed in this subsection is allowed an annual refund of sales and use taxes paid by it under this Article on direct purchases of tangible personal property and services, other than electricity, telecommunications service, and ancillary service. Sales and use tax liability indirectly incurred by a governmental entity on building materials, supplies, fixtures, and equipment that become a part of or annexed to any building or structure that is owned or leased by the governmental entity and is being erected,

altered, or repaired for use by the governmental entity is considered a sales or use tax liability incurred on direct purchases by the governmental entity for the purpose of this subsection. A request for a refund must be in writing and must include any information and documentation required by the Secretary. A request for a refund is due within six months after the end of the governmental entity's fiscal year.

This subsection applies only to the following governmental entities:

…

(24) A public library created pursuant to an act of the General ~~Assembly.~~Assembly or established pursuant to G.S. 153A-270."

SECTION 42.(b) This section becomes effective January 1, 2013, and applies to purchases occurring on or after that date.

S**ECTION 43.(a)** G.S. 105-164.28 reads as rewritten:

"§ **105-164.28. Certificate of exemption.**

(a) ~~Seller's Responsibility. – A seller who accepts a certificate of exemption from a purchaser has the burden of proving that the sale was not a retail sale unless all of the following conditions are met:~~Relief From Liability. – Except as provided in subsection (b) of this section, a seller is not liable for the tax otherwise applicable if the Secretary determines that a purchaser improperly claimed an exemption, or if the seller within 90 days of the sale meets the following requirements:

(1) For a sale made in person, the seller obtains a certificate of exemption or a blanket certificate of exemption from a purchaser with which the seller has a recurring business relationship. If the purchaser provides a paper certificate, the certificate must be ~~is~~ signed by the purchaser and ~~states~~ state the purchaser's name, address, certificate of registration number, reason for exemption, and type of business. For purposes of this subdivision, a certificate received by fax is a paper certificate. If the purchaser does not provide a paper certificate, the seller must obtain and maintain the same information required had a certificate been provided by the purchaser.

~~(2) For a sale made in person, the item sold is the type of item typically sold by the type of business stated on the certificate.~~

(3) For a sale made over the Internet or by other remote means, the seller obtains the purchaser's name, address, certificate of registration number, reason for exemption, and type of business and maintains this information in a retrievable format in its records. If a certificate of exemption is provided electronically for a remote sale, the requirements of subdivision (1) of this subsection apply except the electronic certificate is not required to be signed by the purchaser.

(4) In the case of drop shipment sales, a third-party vendor obtains a certificate of exemption provided by its customer or any other acceptable information evidencing qualification for a resale exemption, regardless of whether the customer is registered to collect and remit sales and use tax in the State.

(b) Substantiation Request. – If the Secretary determines that a certificate of exemption or the required data elements obtained by the seller are incomplete, the Secretary may request substantiation from the seller. A seller is not required to verify that a certificate of registration number provided by a purchaser is correct. If a seller does one of the following within 120 days after a request for substantiation by the Secretary, the seller is not liable for the tax otherwise applicable:

(1) Obtains a fully completed certificate of exemption from the purchaser provided in good faith. The certificate is provided in good faith if it claims an exemption that meets all of the following conditions:

a. It was statutorily available in this State on the date of the transaction.

b. It could be applicable to the item being purchased.

c. It is reasonable for the purchaser's type of business.

(2) Obtains other information to establish the transaction was not subject to tax.

(c) Fraud. – The relief from liability under this section does not apply to a seller who does any of the following:

(1) Fraudulently fails to collect tax.

(2) Solicits purchasers to participate in the unlawful claim of an exemption.

(3) Accepts an exemption certificate when the purchaser claims an entity-based exemption when the subject of the transaction sought to be covered by the exemption certificate is received by the purchaser at a location operated by the seller, and the claimed exemption is not available in this State.

(4) Had knowledge or had reason to know at the time information was provided relating to the exemption claimed that the information was materially false.

(5) Knowingly participated in activity intended to purposefully evade tax properly due on the transaction.

(d) Purchaser's Liability. – A purchaser who does not resell an item purchased under a certificate of exemption is liable for any tax subsequently determined to be due on the sale.

(e) Renewal of Information. – The Secretary may not require a seller to renew a blanket certificate of exemption or to update exemption certificate information or data elements when there is a recurring business relationship between the buyer and seller. For purposes of this section, a recurring business relationship exists when a period of no more than 12 months elapse between sales transactions."

SECTION 43.(b) G.S. 105-164.28A reads as rewritten:

"§ **105-164.28A. Other exemption certificates.**

(a) Authorization. – The Secretary may require a person who purchases an item that is exempt from tax or is subject to a preferential rate of tax depending on the status of the purchaser or the intended use of the item to obtain an exemption certificate from the Department to receive the exemption or preferential rate. An exemption certificate authorizes a retailer to sell an item to the holder of the certificate and either collect tax at a preferential rate or not collect tax on the sale, as appropriate. A person who purchases an item under an exemption certificate is liable for any tax due on the sale if the Department determines that the person is not eligible for the ~~certificate or the item was not used as intended.~~certificate. The liability is relieved when the seller obtains the purchaser's name, address, type of business, reason for exemption, and exemption number in lieu of obtaining an exemption certificate.

(b) Scope. – This section does not apply to a direct pay permit or a certificate of ~~resale.~~exemption. G.S. 105-164.27A addresses a direct pay permit, and G.S. 105-164.28 addresses a certificate of ~~resale.~~exemption.

(c) Administration. – This section shall be administered in accordance with G.S. 105-164.28."

SECTION 44. G.S. 105-164.42I(b) reads as rewritten:

"(b) Contract. – The Secretary may ~~contract~~ contract or authorize in writing the Streamlined Sales Tax Governing Board to contract on behalf of the Secretary with a certified service provider for the collection and remittance of sales and use taxes. A certified service provider must file with the Secretary or the Streamlined Sales Tax Governing Board a bond or an irrevocable letter of credit in the amount set by the Secretary. A bond or irrevocable letter of credit must be conditioned upon compliance with the contract, be payable to the ~~State,~~ State or the Streamlined Sales Tax Governing Board, and be in the form required by the Secretary. The amount a certified service provider charges under the contract is a cost of collecting the tax and is payable from the amount collected."

SECTION 45. G.S. 105-164.44I(a) reads as rewritten:

"(a) Distribution. – The Secretary must distribute to the counties and cities part of the taxes imposed by G.S. 105-164.4(a)(4c) on telecommunications service and G.S. 105-164.4(a)(6) on video programming service. The Secretary must make the distribution within 75 days after the end of each calendar quarter. The amount the Secretary must distribute is the sum of the revenue listed in this subsection. ~~The~~ From this amount, the Secretary must

~~distribute two million dollars ($2,000,000) of this amount in accordance with~~ first make the distribution required by subsection (b) of this section and then distribute the remainder in accordance with subsections (c) and (d) of this section. The revenue to be distributed under this section consists of the following:

(1) The amount specified in G.S. 105-164.44F(a)(2).

(2) Twenty three and six tenths percent (23.6%) of the net proceeds of the taxes collected during the quarter on video programming, other than on direct-to-home satellite service.

(3) Thirty-seven and one tenths percent (37.1%) of the net proceeds of the taxes collected during the quarter on direct-to-home satellite service."

SECTION 46. G.S. 105-187.51B reads as rewritten:

"§ **105-187.51B. Tax imposed on certain recyclers, research and development companies, industrial machinery refurbishing companies, and companies located at ports facilities.**

(a) Tax. – A privilege tax is imposed on the following:

(1) A major recycling facility that purchases any of the following tangible personal property for use in connection with the facility:

a. Cranes, structural steel crane support systems, and foundations related to the cranes and support systems.

b. Port and dock facilities.

c. Rail equipment.

d. Material handling equipment.

(2) A company primarily engaged at the establishment in research and development ~~company~~ activities in the physical, engineering, and life sciences ~~that is~~ included in industry 54171 of NAICS and that purchases equipment or an attachment or repair part for equipment that meets all of the following requirements:

a. Is capitalized by the company for tax purposes under the Code.

b. Is used by the company at the establishment in the research and development of tangible personal property.

c. Would be considered mill machinery or mill machinery parts or accessories under G.S. 105-187.51 if it were purchased by a manufacturing industry or plant and used in the research and development of tangible personal property manufactured by the industry or plant.

(3) A company primarily engaged at the establishment in software publishing ~~company~~ activities ~~that is~~ included in ~~the~~ industry group 5112 of NAICS and that purchases equipment or an attachment or repair part for equipment that meets all of the following requirements:

a. Is capitalized by the company for tax purposes under the Code.

b. Is used by the company at the establishment in the research and development of tangible personal property.

c. Would be considered mill machinery under G.S. 105-187.51 if it were purchased by a manufacturing industry or plant and used in the research and development of tangible personal property manufactured by the industry or plant.

(4) ~~An~~ A company primarily engaged at the establishment in industrial machinery refurbishing ~~company~~ activities ~~that is~~ included in industry group 811310 of NAICS and that purchases equipment or an attachment or repair part for equipment that meets all of the following requirements:

a. Is capitalized by the company for tax purposes under the Code.

b. Is used by the company at the establishment in repairing or refurbishing tangible personal property.

c. Would be considered mill machinery under G.S. 105-187.51 if it were purchased by a manufacturing industry or plant and used by the industry or plant to manufacture tangible personal property.

(5) A company located at a ports facility for waterborne commerce that purchases specialized equipment to be used at the facility to unload or process bulk cargo to make it suitable for delivery to and use by manufacturing facilities.

(b) Rate. – The tax is one percent (1%) of the sales price of the equipment or other tangible personal property. The maximum tax is eighty dollars ($80.00) per article."

SECTION 47.(a) G.S. 105-241.6(b) reads as rewritten:

"(b) Exceptions. – The exceptions to the general statute of limitations for obtaining a refund of an overpayment are as follows:

(1) Federal Determination. – If a taxpayer files a return reflecting a federal determination and the return is filed within the time required by this Subchapter, the period for requesting a refund is one year after the return reflecting the federal determination is filed or three years after the original return was filed or due to be filed, whichever is later.

(2) Waiver. – A taxpayer's waiver of the statute of limitations for making a proposed assessment extends the period in which the taxpayer can obtain a refund to the end of the period extended by the waiver.

(3) Worthless Debts or Securities. – Section 6511(d)(1) of the Code applies to an overpayment of the tax levied in Part 2 or 3 of Article 4 of this Chapter to the extent the overpayment is attributable to either of the following:

a. The deductibility by the taxpayer under section 166 of the Code of a debt that becomes worthless, or under section 165(g) of the Code of a loss from a security that becomes worthless.

b. The effect of the deductibility of a debt or loss described in subpart a. of this subdivision on the application of a carryover to the taxpayer.

(4) Capital Loss and Net Operating Loss Carrybacks. – Section 6511(d)(2) of the Code applies to an overpayment of the tax levied in Part 2 or 3 of Article 4 of this Chapter to the extent the overpayment is attributable to a capital loss carryback under section 1212(c) of the Code or to a net operating loss carryback under section 172 of the Code.

(5) Contingent Event. – If a taxpayer is subject to a contingent event and files notice with the Secretary, the period to request a refund of an overpayment is six months after the contingent event concludes.

a. For purposes of this subdivision, "contingent event" means litigation or a State tax audit initiated prior to the expiration of the statute of limitations under subsection (a) of this section, the pendency of which prevents the taxpayer from possessing the information necessary to file an accurate and definite request for a refund of an overpayment under this Chapter.

b. For purposes of this subdivision, "notice to the Secretary" means written notice filed with the Secretary prior to expiration of the statute of limitations under subsection (a) of this section for a return or payment in which a contingent event prevents a taxpayer from filing a definite request for a refund of an overpayment. The notice must identify and describe the contingent event, identify the type of tax, list the return or payment affected by the contingent event, and state in clear terms the basis for and an estimated amount of the overpayment.

c. A taxpayer who contends that an event or condition other than litigation or a State tax audit has occurred that prevents the taxpayer

from filing an accurate and definite request for a refund of an overpayment within the period under subsection (a) of this section may submit a written request to the Secretary seeking an extension of the statute of limitations allowed under this subdivision. The request must establish by clear, convincing proof that the event or condition is beyond the taxpayer's control and that it prevents the taxpayer's timely filing of an accurate and definite request for a refund of an overpayment. The request must be filed within the period under subsection (a) of this section. The Secretary's decision on the request is final and is not subject to administrative or judicial review."

SECTION 47.(b) G.S. 105-241.7(b) reads as rewritten:

"(b) Initiated by Taxpayer. – A taxpayer may request a refund of an overpayment made by the taxpayer by taking one of the ~~following~~ actions listed in this subsection within the statute of limitations for obtaining a ~~refund:~~refund. A taxpayer may not request a refund of an overpayment based on a contingent event as defined in G.S. 105-241.6(b)(5) until the event is finalized and an accurate and definite request for refund of an overpayment may be determined. The actions are:

(1) Filing an amended return reflecting an overpayment due the taxpayer.

(2) Filing a claim for refund. The claim must identify the taxpayer, the type and amount of tax overpaid, the filing period to which the overpayment applies, and the basis for the claim. The taxpayer's statement of the basis of the claim does not limit the taxpayer from changing the basis."

SECTION 47.(c) This section becomes effective January 1, 2014, and applies to a request for a refund of an overpayment of tax filed on or after that date.

SECTION 48. G.S. 105-262.1(d) reads as rewritten:

"(d) Adoption. – The Secretary may adopt a rule under this section by using the procedure for adoption of a temporary rule set forth in G.S. 150B-21.1(a3). The Secretary must provide electronic notification of the adoption of a rule to persons on the mailing list maintained in accordance with G.S. 150B-21.2(d) and any other interested parties, including those originally given notice of the rule making and those who provided comment on the rule. If the Secretary receives written comment objecting to the rule and requesting review by the Commission, the rule must be reviewed in accordance with subsections (e) through (i) of this section. A person may object to the rule and request review by the Commission at any point ~~prior to the adoption~~ following the agency's adoption of the rule and by 5:00 P.M. on the third business day following electronic notification from the Secretary of the adoption of a rule. If the Secretary receives no written comment objecting to the rule and requesting review by the Commission, the Secretary must deliver the rule to the Codifier of Rules. The Codifier of Rules must enter the rule into the North Carolina Administrative Code upon receipt of the rule."

SECTION 49.(a) G.S. 105-468 reads as rewritten:

"§ **105-468. Scope of use tax.**

The use tax authorized by this Article is a tax at the rate of one percent (1%) of the cost price of each item or article of tangible personal property that is not sold in the taxing county but is used, consumed, or stored for use or consumption in the taxing county. The tax applies to the same items that are subject to tax under G.S. 105-467. The collection and administration of this tax shall be in accordance with Article 5 of Chapter 105 of the General Statutes.

~~Every retailer who is engaged in business in this State and in the taxing county and is required to collect the use tax levied by G.S. 105-164.6 shall collect the one percent (1%) use tax when the property is to be used, consumed, or stored in the taxing county. The use tax contemplated by this section shall be levied against the purchaser, and the purchaser's liability for the use tax shall be extinguished only upon payment of the use tax to the retailer, where the retailer is required to collect the tax, or to the Secretary, where the retailer is not required to collect the tax.~~

Where a local sales or use tax was due and has been paid with respect to tangible personal property by the purchaser in another taxing county within the State, or where a local sales or use tax was due and has been paid in a taxing jurisdiction outside the State where the purpose of the tax is similar in purpose and intent to the tax which may be imposed pursuant to this Article, the tax paid may be credited against the tax imposed under this section by a taxing county upon the same property. If the amount of sales or use tax so paid is less than the amount of the use tax due the taxing county under this section, the purchaser shall pay to the Secretary an amount equal to the difference between the amount so paid in the other taxing county or jurisdiction and the amount due in the taxing county. The Secretary may require such proof of payment in another taxing county or jurisdiction as is deemed to be necessary. The use tax levied under this Article is not subject to credit for payment of any State sales or use tax not imposed for the benefit and use of counties and municipalities. No credit shall be given under this section for sales or use taxes paid in a taxing jurisdiction outside this State if that taxing jurisdiction does not grant similar credit for sales taxes paid under this Article."

SECTION 49.(b) G.S. 105-467(c) reads as rewritten:

"(c) Sourcing. – ~~The local sales tax authorized to be imposed and levied under this Article applies to taxable transactions by retailers whose place of business is located within the taxing county.~~ The sourcing principles in G.S. 105-164.4B apply in determining whether the local sales tax applies to a transaction."

S**ECTION 50.** G.S. 105-561(d) reads as rewritten:

"(d) Special Tax District. – If a regional transportation authority created under Article 27 of Chapter 160A of the General Statutes or a regional public transportation authority created under Article 26 of Chapter 160A of the General Statutes has not levied the tax under this section or has levied the tax at a rate of less than eight dollars ($8.00), it may create a special district that consists of the entire area of one or more counties within its territorial jurisdiction and may levy on behalf of the special district the tax authorized in this section. The rate of tax levied within the special district may not, when combined with the rate levied within the entire territorial jurisdiction of the authority; exceed eight dollars ($8.00). The regional transportation authority may not levy or increase a tax within the special district unless the board of commissioners of each county in the special district has adopted a resolution approving the levy or increase.

A special district created pursuant to this subsection is a body corporate and politic and has the power to carry out the purposes of this subsection. The board of trustees of the regional transportation authority created under Article 27 of Chapter 160A of the General Statutes or a regional public transportation authority created under Article 26 of Chapter 160A of the General Statutes shall serve, ex officio, as the governing body of a special district it creates pursuant to this subsection. The proceeds of a tax levied under this subsection may be used only for the benefit of the special district and only for the purposes provided in G.S. 105-564. Except as provided in this subsection, a tax levied under this subsection is governed by the provisions of this Article."

SECTION 51. Section 27A.2(f) of S.L. 2009-451 reads as rewritten:

"**SECTION 27A.2.(f)** Subsections (a) and (e) of this section are effective when they become law. The remainder of this section becomes effective October 1, 2009. Subsection (b) applies to sales made on or after October 1, 2009, and subsections (c) and (d) apply to distributions for months beginning on or after October 1, 2009. Subsections (b) through (d) of this section expire July 1, 2011. The general State rate of tax in effect on or after July 1, 2011, applies to gross receipts received on or after July 1, 2011, pursuant to a lease or rental agreement entered into during the period September 1, 2009, through June 30, 2011, for a definite, stipulated period of time. This section does not affect the rights or liabilities of the State, a taxpayer, or another person arising under a statute amended or repealed by this section before the effective date of its amendment or repeal; nor does it affect the right to any refund or credit of a tax that accrued under the amended or repealed statute before the effective date of its amendment or repeal."

SECTION 52. Section 8 of S.L. 2011-122 reads as rewritten:

"**SECTION 8.** Notwithstanding G.S. 62A-60(c), as enacted by Section 5 of this act, the Department of Revenue may retain the cost of collection not to exceed seven hundred thousand dollars ($700,000) of the 911 service charges for prepaid wireless telecommunications service ~~remitted to it~~ from collections by sellers of the charge for the first 12 calendar months beginning on or after July 1, 2013. The cost of collection that the Department may retain under this section includes costs incurred prior to July 1, 2013."

SECTION 53.(a) The Department of Revenue allocates and distributes to cities and counties the local sales and use taxes under Subchapter VIII of Chapter 105 of the General Statutes and a portion of various State taxes under Chapter 105 of the General Statutes, such as the excise tax on beer and wine, the franchise tax on electric power companies, the sales tax on video programming and telecommunications, and the excise tax on piped natural gas. If the Department is unable to accurately identify and calculate the amount of tax proceeds allocable and distributable to a county or city for any one or more of these taxes for one or more of the distributional periods because of implementation issues with the Tax Information Management System (TIMS), the Department must allocate and distribute to a county and city an amount for that period that is equal to the average of the applicable tax proceeds allocated and distributed to it for the same distributional period in the preceding three fiscal years.

SECTION 53.(b) This section is effective when it becomes law and expires on July 1, 2015.

SECTION 54.(a) G.S. 105-164.14(b)(2a) reads as rewritten:

"(b) Nonprofit Entities and Hospital Drugs. – A nonprofit entity is allowed a semiannual refund of sales and use taxes paid by it under this Article on direct purchases of tangible personal property and services, other than electricity, telecommunications service, and ancillary service, for use in carrying on the work of the nonprofit entity. Sales and use tax liability indirectly incurred by a nonprofit entity on building materials, supplies, fixtures, and equipment that become a part of or annexed to any building or structure that is owned or leased by the nonprofit entity and is being erected, altered, or repaired for use by the nonprofit entity for carrying on its nonprofit activities is considered a sales or use tax liability incurred on direct purchases by the nonprofit entity. A request for a refund must be in writing and must include any information and documentation required by the Secretary. A request for a refund for the first six months of a calendar year is due the following October 15; a request for a refund for the second six months of a calendar year is due the following April 15.

The refunds allowed under this subsection do not apply to an entity that is owned and controlled by the United States or to an entity that is owned or controlled by the State and is not listed in this subsection. A hospital that is not listed in this subsection is allowed a semiannual refund of sales and use taxes paid by it on medicines and drugs purchased for use in carrying out its work. The following nonprofit entities are allowed a refund under this subsection:

…

(2a) Volunteer fire departments and volunteer emergency medical services squads that are ~~An organization that is exempt from income tax under the Code and is~~ one or more of the following:

a. ~~A volunteer fire department.~~Exempt from income tax under the Code.

b. ~~A volunteer emergency medical services squad.~~Financially accountable to a city as defined in G.S. 160A-1, a county, or a group of cities and counties.

…."

SECTION 54.(b) This section becomes effective July 1, 2013, and applies to purchases occurring on or after that date.

SECTION 55. G.S. 105-134.5 reads as rewritten:

"§ **105-134.5. North Carolina taxable income defined.**

(a) Residents. – For an individual who is a resident of this State, the term "North Carolina taxable income" means the taxpayer's adjusted gross income as modified in ~~G.S. 105-134.6.~~G.S. 105-134.6 and G.S. 105-134.6A.

(b) Nonresidents. – For a nonresident individual, the term "North Carolina taxable income" means the taxpayer's adjusted gross income as modified in ~~G.S. 105-134.6,~~ G.S. 105-134.6 and G.S. 105-134.6A multiplied by a fraction the denominator of which is the taxpayer's gross income as modified in ~~G.S. 105-134.6,~~ G.S. 105-134.6 and G.S. 105-134.6A, and the numerator of which is the amount of that gross income, as modified, that is derived from North Carolina sources and is attributable to the ownership of any interest in real or tangible personal property in this State, is derived from a business, trade, profession, or occupation carried on in this State, or is derived from gambling activities in this State.

(c) Part-year Residents. – If an individual was a resident of this State for only part of the taxable year, having moved into or removed from the State during the year, the term "North Carolina taxable income" has the same meaning as in subsection (b) of this section except that the numerator includes gross income, as modified under ~~G.S. 105-134.6,~~ G.S. 105-134.6 and G.S. 105-134.6A, derived from all sources during the period the individual was a resident.

…."

SECTION 56.(a) G.S. 105-242.2(b) reads as rewritten:

"(b) Responsible Person. – Each responsible person in a business entity is personally and individually liable for ~~all~~ the principal amount of ~~the~~ taxes that are owed by the business entity and are listed in this subsection. If a business entity does not pay ~~a tax~~ the amount it owes after the ~~tax~~ amount becomes collectible under G.S. 105-241.22, the Secretary may enforce the responsible person's liability for the ~~tax~~ amount by sending the responsible person a notice of proposed assessment in accordance with G.S. 105-241.9. ~~The taxes for which a responsible person may be held personally and individually liable are:~~This subsection applies to the following:

(1) All sales and use taxes collected by the business entity upon its taxable transactions.

(2) All sales and use taxes due upon taxable transactions of the business entity but upon which it failed to collect the tax, but only if the person knew, or in the exercise of reasonable care should have known, that the tax was not being collected.

(3) All taxes due from the business entity pursuant to the provisions of Articles 36C and 36D of Subchapter V of this Chapter and all taxes payable under those Articles by it to a supplier for remittance to this State or another state.

(4) All income taxes required to be withheld from the wages of employees of the business entity."

SECTION 56.(b) This section is effective when it becomes law and applies to assessments proposed on or after that date.

SECTION 57.(a) G.S. 20-79.4 reads as rewritten:

"§ **20-79.4. Special registration plates.**

…

(b) Types. – The Division shall issue the following types of special registration plates:

…

() North Carolina Paddle Festival. – Issuable to the registered owner of a motor vehicle in accordance with G.S. 20-81.12. The plate may bear a phrase and logo representing the North Carolina Paddle Festival.

…."

SECTION 57.(b) G.S. 20-79.7(a) reads as rewritten:

"(a) Fees. – Upon request, the Division shall provide and issue free of charge a single Legion of Valor, 100% Disabled Veteran, and Ex-Prisoner of War registration plate to a recipient of a Legion of Valor award, a 100% disabled veteran, and an ex-prisoner of war each

year. The preceding special registration plates are subject to the regular motor vehicle registration fees in G.S. 20-88, if the registered weight of the vehicle is greater than 6,000 pounds. All other special registration plates are subject to the regular motor vehicle registration fee in G.S. 20-87 or G.S. 20-88 plus an additional fee in the following amount:

Special Plate	Additional Fee Amount
American Red Cross	$30.00
Animal Lovers	$30.00
Arthritis Foundation	$30.00
ARTS NC	$30.00
Back Country Horsemen of NC	$30.00
Boy Scouts of America	$30.00
Brenner Children's Hospital	$30.00
Carolina Raptor Center	$30.00
Carolinas Credit Union Foundation	$30.00
Carolinas Golf Association	$30.00
Coastal Conservation Association	$30.00
Coastal Land Trust	$30.00
Crystal Coast	$30.00
Daniel Stowe Botanical Garden	$30.00
El Pueblo	$30.00
Farmland Preservation	$30.00
First in Forestry	$30.00
Girl Scouts	$30.00
Greensboro Symphony Guild	$30.00
Historical Attraction	$30.00
Home Care and Hospice	$30.00
Home of American Golf	$30.00
HOMES4NC	$30.00
Hospice Care	$30.00
In God We Trust	$30.00
Maggie Valley Trout Festival	$30.00
Morgan Horse Club	$30.00
Mountains-to-Sea Trail	$30.00
NC Civil War	$30.00
NC Coastal Federation	$30.00
NC Veterinary Medical Association	$30.00
National Kidney Foundation	$30.00
North Carolina 4-H Development Fund	$30.00
North Carolina Emergency Management Association	$30.00
North Carolina Green Industry Council	$30.00
North Carolina Libraries	$30.00
North Carolina Paddle Festival	$30.00
Outer Banks Preservation Association	$30.00
Pamlico-Tar River Foundation	$30.00
P.E.O. Sisterhood	$30.00
Personalized	$30.00
Retired Legislator	$30.00
Ronald McDonald House	$30.00
Share the Road	$30.00
S.T.A.R.	$30.00
State Attraction	$30.00
Stock Car Racing Theme	$30.00
Support NC Education	$30.00

Support Our Troops	$30.00
Sustainable Fisheries	$30.00
Toastmasters Club	$30.00
Topsail Island Shoreline Protection	$30.00
Travel and Tourism	$30.00
AIDS Awareness	$25.00
Buffalo Soldiers	$25.00
Choose Life	$25.00
Collegiate Insignia	$25.00
First in Turf	$25.00
Goodness Grows	$25.00
High School Insignia	$25.00
Kids First	$25.00
National Multiple Sclerosis Society	$25.00
National Wild Turkey Federation	$25.00
NC Agribusiness	$25.00
NC Children's Promise	$25.00
Nurses	$25.00
Olympic Games	$25.00
Rocky Mountain Elk Foundation	$25.00
Special Olympics	$25.00
Support Soccer	$25.00
Surveyor Plate	$25.00
The V Foundation for Cancer Research Division	$25.00
University Health Systems of Eastern Carolina	$25.00
Alpha Phi Alpha Fraternity	$20.00
ALS Association, Jim "Catfish" Hunter Chapter	$20.00
ARC of North Carolina	$20.00
Audubon North Carolina	$20.00
Autism Society of North Carolina	$20.00
Battle of Kings Mountain	$20.00
Be Active NC	$20.00
Brain Injury Awareness	$20.00
Breast Cancer Earlier Detection	$20.00
Buddy Pelletier Surfing Foundation	$20.00
Concerned Bikers Association/ABATE of North Carolina	$20.00
Daughters of the American Revolution	$20.00
Donate Life	$20.00
Ducks Unlimited	$20.00
Greyhound Friends of North Carolina	$20.00
Guilford Battleground Company	$20.00
Harley Owners' Group	$20.00
Jaycees	$20.00
Juvenile Diabetes Research Foundation	$20.00
Kappa Alpha Order	$20.00
Litter Prevention	$20.00
March of Dimes	$20.00
Native American	$20.00
NC Fisheries Association	$20.00
NC Horse Council	$20.00
NC Mining	$20.00
NC Tennis Foundation	$20.00

NC Trout Unlimited	$20.00
NC Victim Assistance	$20.00
NC Wildlife Federation	$20.00
NC Wildlife Habitat Foundation	$20.00
NC Youth Soccer Association	$20.00
North Carolina Master Gardener	$20.00
Omega Psi Phi Fraternity	$20.00
Phi Beta Sigma Fraternity	$20.00
Piedmont Airlines	$20.00
Prince Hall Mason	$20.00
Save the Sea Turtles	$20.00
Scenic Rivers	$20.00
School Technology	$20.00
SCUBA	$20.00
Soil and Water Conservation	$20.00
Special Forces Association	$20.00
Support Public Schools	$20.00
US Equine Rescue League	$20.00
USO of NC	$20.00
Wildlife Resources	$20.00
Zeta Phi Beta Sorority	$20.00
Carolina Regional Volleyball Association	$15.00
Carolina's Aviation Museum	$15.00
Leukemia & Lymphoma Society	$15.00
Lung Cancer Research	$15.00
NC Beekeepers	$15.00
Shag Dancing	$15.00
Active Member of the National Guard	None
100% Disabled Veteran	None
Ex-Prisoner of War	None
Gold Star Lapel Button	None
Legion of Valor	None
Purple Heart Recipient	None
All Other Special Plates	$10.00."

SECTION 57.(c) G.S. 20-79.7(b) reads as rewritten:

"(b) Distribution of Fees. – The Special Registration Plate Account and the Collegiate and Cultural Attraction Plate Account are established within the Highway Fund. The Division must credit the additional fee imposed for the special registration plates listed in subsection (a) of this section among the Special Registration Plate Account (SRPA), the Collegiate and Cultural Attraction Plate Account (CCAPA), the Natural Heritage Trust Fund (NHTF), which is established under G.S. 113-77.7, and the Parks and Recreation Trust Fund, which is established under G.S. 113-44.15, as follows:

Special Plate	SRPA	CCAPA	NHTF	PRTF
AIDS Awareness	$10	$15	0	0
Alpha Phi Alpha Fraternity	$10	$10	0	0
ALS Association, Jim "Catfish" Hunter Chapter	$10	$10	0	0
American Red Cross	$10	$20	0	0
Animal Lovers	$10	$20	0	0
ARC of North Carolina	$10	$10	0	0
Arthritis Foundation	$10	$20	0	0
ARTS NC	$10	$20	0	0
Audubon North Carolina	$10	$10	0	0

Autism Society of North Carolina	$10	$10	0	0
Back Country Horsemen of NC	$10	$20	0	0
Battle of Kings Mountain	$10	$10	0	0
Be Active NC	$10	$10	0	0
Boy Scouts of America	$10	$20	0	0
Brain Injury Awareness	$10	$10	0	0
Breast Cancer Earlier Detection	$10	$10	0	0
Brenner Children's Hospital	$10	$20	0	0
Buddy Pelletier Surfing Foundation	$10	$10	0	0
Buffalo Soldiers	$10	$15	0	0
Carolina Raptor Center	$10	$20	0	0
Carolina Regional Volleyball Association	$10	$5	0	0
Carolina's Aviation Museum	$10	$5	0	0
Carolinas Credit Union Foundation	$10	$20	0	0
Carolinas Golf Association	$10	$20	0	0
Choose Life	$10	$15	0	0
Coastal Conservation Association	$10	$20	0	0
Coastal Land Trust	$10	$20	0	0
Concerned Bikers Association/ ABATE of North Carolina	$10	$10	0	0
Crystal Coast	$10	$20	0	0
Daniel Stowe Botanical Gardens	$10	$20	0	0
Daughters of the American Revolution	$10	$10	0	0
Donate Life	$10	$10	0	0
Ducks Unlimited	$10	$10	0	0
El Pueblo	$10	$20	0	0
Farmland Preservation	$10	$20	0	0
First in Forestry	$10	$10	$10	0
First in Turf	$10	$15	0	0
Girl Scouts	$10	$20	0	0
Goodness Grows	$10	$15	0	0
Greensboro Symphony Guild	$10	$20	0	0
Greyhound Friends of North Carolina	$10	$10	0	0
Guilford Battleground Company	$10	$10	0	0
Harley Owners' Group	$10	$10	0	0
High School Insignia	$10	$15	0	0
Historical Attraction	$10	$20	0	0
Home Care and Hospice	$10	$20	0	0
Home of American Golf	$10	$20	0	0
HOMES4NC	$10	$20	0	0
Hospice Care	$10	$20	0	0
In God We Trust	$10	$20	0	0
In-State Collegiate Insignia	$10	$15	0	0
Jaycees	$10	$10	0	0

Juvenile Diabetes Research Foundation	$10	$10	0	0
Kappa Alpha Order	$10	$10	0	0
Kids First	$10	$15	0	0
Leukemia & Lymphoma Society	$10	$5	0	0
Litter Prevention	$10	$10	0	0
Lung Cancer Research	$10	$5	0	0
Maggie Valley Trout Festival	$10	$20	0	0
March of Dimes	$10	$10	0	0
Morgan Horse Club	$10	$20	0	0
Mountains-to-Sea Trail	$10	$20	0	0
National Kidney Foundation	$10	$20	0	0
National Multiple Sclerosis Society	$10	$15	0	0
National Wild Turkey Federation	$10	$15	0	0
Native American	$10	$10	0	0
NC Agribusiness	$10	$15	0	0
NC Beekeepers	$10	$5	0	0
NC Children's Promise	$10	$15	0	0
NC Civil War	$10	$20	0	0
NC Coastal Federation	$10	$20	0	0
NC 4-H Development Fund	$10	$20	0	0
NC Fisheries Association	$10	$10	0	0
NC Horse Council	$10	$10	0	0
NC Mining	$10	$10	0	0
NC Tennis Foundation	$10	$10	0	0
NC Trout Unlimited	$10	$10	0	0
NC Veterinary Medical Association	$10	$20	0	0
NC Victim Assistance	$10	$10	0	0
NC Wildlife Federation	$10	$10	0	0
NC Wildlife Habitat Foundation	$10	$10	0	0
NC Youth Soccer Association	$10	$10	0	0
North Carolina Emergency Management Association	$10	$20	0	0
North Carolina Green Industry Council	$10	$20	0	0
North Carolina Libraries	$10	$20	0	0
North Carolina Master Gardener	$10	$10	0	0
North Carolina Paddle Festival	$10	$20	0	0
Nurses	$10	$15	0	0
Olympic Games	$10	$15	0	0
Omega Psi Phi Fraternity	$10	$10	0	0
Out-of-state Collegiate Insignia	$10	0	$15	0
Outer Banks Preservation Association	$10	$20	0	0
Pamlico-Tar River Foundation	$10	$20	0	0

P.E.O. Sisterhood	$10	$20	0	0
Personalized	$10	0	$15	$5
Phi Beta Sigma Fraternity	$10	$10	0	0
Piedmont Airlines	$10	$10	0	0
Prince Hall Mason	$10	$10	0	0
Retired Legislator	$10	$20	0	0
Rocky Mountain Elk Foundation	$10	$15	0	0
Ronald McDonald House	$10	$20	0	0
Save the Sea Turtles	$10	$10	0	0
Scenic Rivers	$10	$10	0	0
School Technology	$10	$10	0	0
SCUBA	$10	$10	0	0
Shag Dancing	$10	$5	0	0
Share the Road	$10	$20	0	0
Soil and Water Conservation	$10	$10	0	0
Special Forces Association	$10	$10	0	0
Special Olympics	$10	$15	0	0
S.T.A.R.	$10	$20	0	0
State Attraction	$10	$20	0	0
Stock Car Racing Theme	$10	$20	0	0
Support NC Education	$10	$20	0	0
Support Our Troops	$10	$20	0	0
Support Public Schools	$10	$10	0	0
Support Soccer	$10	$15	0	0
Surveyor Plate	$10	$15	0	0
Sustainable Fisheries	$10	$20	0	0
The V Foundation for Cancer Research	$10	$15	0	0
Toastmasters Club	$10	$20	0	0
Topsail Island Shoreline Protection	$10	$20	0	0
Travel and Tourism	$10	$20	0	0
University Health Systems of Eastern Carolina	$10	$15	0	0
US Equine Rescue League	$10	$10	0	0
USO of NC	$10	$10	0	0
Wildlife Resources	$10	$10	0	0
Zeta Phi Beta Sorority	$10	$10	0	0
All other Special Plates	$10	0	0	0."

SECTION 57.(d) G.S. 20-81.12 is amended by adding the following new subsection to read:

"(b148) The Division must receive 300 or more applications for a North Carolina Paddle Festival plate before the plate may be developed. The Division shall transfer quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of North Carolina Paddle Festival plates to the Friends of the Hammocks and Bear Island, Inc."

SECTION 57.(e) The Revisor of Statutes is authorized to alphabetize, number, and renumber the special registration plates listed in G.S. 20-81.12(b2) to ensure that all the special registration plates are listed in alphabetical order and numbered accordingly.

SECTION 58.(a) If House Bill 998, 2013 Regular Session, becomes law, then G.S. 105-153.6, as enacted by House Bill 998, reads as rewritten:

"§ **105-153.6. Adjustments when State decouples from federal accelerated depreciation and expensing.**

…

(d) Asset Basis. – The adjustments made in this section do not result in a difference in basis of the affected assets for State and federal income tax ~~purposes.~~purposes, except as modified in subsection (e) of this section.

(e) Bonus Asset Basis. – In the event of an actual or deemed transfer of an asset occurring on or after January 1, 2013, wherein the tax basis of the asset carries over from the transferor to the transferee for federal income tax purposes, the transferee must add any remaining deductions allowed under subsection (a) of this section to the basis of the transferred asset and depreciate the adjusted basis over any remaining life of the asset. Notwithstanding the provisions of subsection (a) of this section, the transferor and any owner in a transferor are not allowed any remaining future bonus depreciation deductions associated with the transferred asset. This subsection applies only to the extent that each transferor or owner in a transferor that added bonus depreciation to its federal taxable income or adjusted gross income associated with the transferred asset certifies in writing to the transferee, that the transferor or owner in a transferor will not take any remaining future bonus depreciation deduction associated with the transferred asset.

(f) Prior Transactions. – For any transaction meeting the requirements of subsection (e) of this section prior to January 1, 2013, the transferor and transferee can make an election to make the basis adjustment allowed in that subsection on the transferee's 2013 tax return, to the extent that the transferor and any owner in a transferor has not taken the bonus depreciation deduction on a prior return and provided that the transferor is not allowed any remaining future bonus depreciation deductions associated with the transferred asset and each transferor or owner in a transferor certifies in writing to the transferee that the transferor or owner in a transferor will not take any remaining deductions allowed under subsection (a) of this section for tax years beginning on or after January 1, 2013, for depreciation associated with the transferred asset. The amount of the basis adjustment under this subsection is limited to the total remaining future bonus depreciation deductions forfeited by the transferor and any owner in the transferor at the time of the transfer.

(g) Tax Basis. – For transactions described in subsection (e) or (f) of this section, adjusted gross income must be increased or decreased to account for any difference in the amount of depreciation, amortization, or gains or losses applicable to property that has been depreciated or amortized by use of a different basis or rate for State income tax purposes than used for federal income tax purposes prior to the effective date of this section.

(h) Definitions. – For purposes of this section, a "transferor" is an individual, partnership, S Corporation, limited liability company, or an estate or trust that does not fully distribute income to its beneficiaries, and an "owner in a transferor" is a partner, shareholder, member, or beneficiary subject to tax under Part 2 or 3 of Article 4 of this Chapter of a transferor."

SECTION 58.(b) If House Bill 998, 2013 Regular Session, becomes law, G.S. 105-134.6A, 113A-256(g), and 160A-211(a) are repealed.

SECTION 58.(c) If House Bill 998, 2013 Regular Session, becomes law, G.S. 105-153.3(12), as enacted by that act, reads as rewritten:

"§ **105-153.3. Definitions.**

The following definitions apply in this Part:

…

(9) Limited liability company. – Either a domestic limited liability company organized under ~~Chapter 57C~~ Chapter 57D of the General Statutes or a foreign limited liability company authorized by that Chapter to transact business in this State that is classified for federal income tax purposes as a partnership. As applied to a limited liability company that is a partnership

under this Part, the term "partner" means a member of the limited liability company.

…

(12) North Carolina taxable income. – Defined in ~~G.S. 105-153.5.~~ G.S. 105-153.4."

SECTION 58.(d) If House Bill 998, 2013 Regular Session, becomes law, then G.S. 160A-211(a) reads as rewritten:

"§ **160A-211. Privilege license taxes.**

(a) Authority. – Except as otherwise provided by law, a city shall have power to levy privilege license taxes on all trades, occupations, professions, businesses, and franchises carried on within the city. A city may levy privilege license taxes on the businesses that were formerly taxed by the State under the following sections of Article 2 of Chapter 105 of the General Statutes only to the extent the sections authorized cities to tax the businesses before the sections were repealed:

G.S. 105-36	Amusements – Manufacturing, selling, leasing, or distributing moving picture films.
G.S. 105-36.1	Amusements – Outdoor theatres.
G.S. 105-37	Amusements – Moving pictures – Admission.
G.S. 105-37.1	Amusements – Live entertainment and ticket resales
G.S. 105-42	Private detectives and investigators.
G.S. 105-45	Collecting agencies.
G.S. 105-46	Undertakers and retail dealers in coffins.
G.S. 105-50	Pawnbrokers.
G.S. 105-51.1	Alarm systems.
G.S. 105-53	Peddlers, itinerant merchants, and specialty market operators.
G.S. 105-54	Contractors and construction companies.
G.S. 105-55	Installing elevators and automatic sprinkler systems.
G.S. 105-61	Hotels, motels, tourist courts and tourist homes.
G.S. 105-62	Restaurants.
G.S. 105-65	Music machines.
G.S. 105-65.1	Merchandising dispensers and weighing machines.
G.S. 105-66.1	Electronic video games.
G.S. 105-74	Pressing clubs, dry cleaning plants, and hat blockers.
G.S. 105-77	Tobacco warehouses.
G.S. 105-80	Firearms dealers and dealers in other weapons.
G.S. 105-85	Laundries.
G.S. 105-86	Outdoor advertising.
G.S. 105-89	Automobiles, wholesale supply dealers, and service stations.
G.S. 105-89.1	Motorcycle dealers.
G.S. 105-90	Emigrant and employment agents.
G.S. 105-91	Plumbers, heating contractors, and electricians.
G.S. 105-97	Manufacturers of ice cream.
G.S. 105-98	Branch or chain stores.
G.S. 105-99	Wholesale distributors of motor fuels.
G.S. 105-102.1	Certain cooperative associations.
G.S. 105-102.5	General business license."

SECTION 58.(e) If House Bill 998 becomes law, then G.S. 105-164.13, as amended by this act, reads as rewritten:

"§ **105-164.13. Retail sales and use tax.**

The sale at retail and the use, storage, or consumption in this State of the following tangible personal property, digital property, and services are specifically exempted from the tax imposed by this Article:

…

(60) Admission charges to any of the following entertainment activities:

a. An event that is held at an elementary or secondary school and is sponsored by the school.

b. A commercial agricultural fair that meets the requirements of G.S. 106-520.1, as determined by the Commissioner of Agriculture.

c. A festival or other recreational or entertainment activity that lasts no more than seven consecutive days and is sponsored by a nonprofit entity that is exempt from tax under Article 4 of this Chapter and uses the entire proceeds of the activity exclusively for the entity's nonprofit purposes. This exemption applies to the first two activities sponsored by the entity during a calendar year.

d. A youth athletic contest sponsored by a nonprofit entity that is exempt from tax under Article 4 of this Chapter. For the purpose of this subdivision, a youth athletic contest is a contest in which each participating athlete is less than 20 years of age at the time of enrollment.

e. A State attraction. A State attraction is a physical place supported with State funds that offers cultural, educational, historical, or recreational opportunities. The term "State funds" has the same meaning as defined in G.S. 143C-1-1.

(61) A service contract for tangible personal property that is provided for any of the following:

a. An item exempt from tax under this Article, other than an item exempt from tax under G.S. 105-164.13(32).

b. A transmission, distribution, or other network asset contained on utility-owned land, right-of-way, or easement.

c. An item purchased by a professional motorsports racing team for which the team may receive a sales tax refund under G.S. 105-164.14A(5)."

SECTION 58.(f) This section becomes effective January 1, 2014, and applies to taxable years that begin on or after that date and to purchases made on or after that date."

OCCUPANCY TAX TECHNICAL CHANGES

SECTION 60.(a) Section 17 of Chapter 908 of the 1983 Session Laws, as amended by Section 1 of S.L. 2001-162, reads as rewritten:

"Sec. 17. Authorization and Scope. (a) The Board of Commissioners of Buncombe County may levy a room occupancy and tourism development tax of up to two percent (2%) of the gross receipts derived from the rental of accommodations within the county that are subject to sales tax imposed by the State under G.S. 105-164.4(a)(3). ~~This tax does not apply to gross receipts derived by the following entities from accommodations furnished by them:~~

~~(1) religious organizations;~~

~~(2) educational organizations;~~

~~(3) any business that offers to rent fewer than five units; and~~

~~(4) summer camps.~~"

SECTION 60.(b) Section 25 of Chapter 908 of the 1983 Session Laws, as amended by Section 1 of S.L. 2009-157, reads as rewritten:

"Sec. 25. Occupancy Tax. – Authorization and Scope. – The Board of Commissioners of Forsyth County may levy a room occupancy and tourism development tax of two percent (2%)

of the gross receipts derived from the rental of any room, lodging, or similar accommodation furnished by any hotel, motel, inn, tourist camp, or other similar place within the county that is subject to sales tax imposed by the State under G.S. 105-164.4(a)(3). This tax is in addition to any State or local sales tax. ~~This tax does not apply to accommodations furnished by any of the following:~~

~~(1) Religious organizations.~~

~~(2) Educational organizations.~~

~~(3) Any business that offers to rent fewer than five units.~~

~~(4) Summer camps.~~"

SECTION 60.(c) Section 3 of Chapter 980 of the 1983 Session Laws, as amended by Section 2 of S.L. 1995-721, is repealed.

SECTION 60.(d) Section 3 of Chapter 988 of the 1983 Session Laws is repealed.

SECTION 60.(e) Section 3 of Chapter 857 of the 1985 Session Laws is repealed.

SECTION 60.(f) Section 2 of S.L. 2007-112, as amended by Section 40 of S.L. 2007-484, reads as rewritten:

"**SECTION 2.** Occupancy Tax. – (a) Authorization and Scope. – The Carteret County Board of Commissioners may levy a room occupancy and tourism development tax of five percent (5%) of the gross receipts derived from the rental of any room, lodging, or similar accommodation furnished by any hotel, motel, inn, tourist camp, condominium, cottage, ~~campground,~~ rental agency, or other similar place within the county that is subject to sales tax imposed by the State under G.S. 105-164.4(a)(3). This tax is in addition to any State or local sales tax. ~~This tax does not apply to accommodations furnished by the following:~~

~~(1) Religious organizations.~~

~~(2) Educational organizations.~~

~~(3) Any business that offers to rent fewer than five units.~~

~~(4) Summer camps.~~

~~(5) Charitable, benevolent, and other nonprofit organizations.~~"

SECTION 60.(g) Section 1 of Chapter 80 of the 1991 Session Laws, as amended by Section 1 of S.L. 2006-127, reads as rewritten:

"**Section 1.** Occupancy Tax. – (a) Authorization and Scope. – The Martin County Board of Commissioners may levy a room occupancy tax of up to three percent (3%) of the gross receipts derived from the rental of any room, lodging, or similar accommodation furnished by a hotel, motel, inn, tourist camp, or similar place within the county that is subject to sales tax imposed by the State under G.S. 105-164.4(a)(3). This tax is in addition to any State or local sales tax. ~~This tax does not apply to accommodations furnished by nonprofit charitable, educational, or religious organizations, when furnished in furtherance of their nonprofit purpose, by summer camps, or by businesses that offer to rent no more than five units.~~

…."

SECTION 60.(h) Section 1 of Chapter 102 of the 1997 Session Laws, as amended by Section 1 of S.L. 2005-118, reads as rewritten:

"Section 1. (b) Authorization and scope. The Madison County Board of Commissioners may levy a room occupancy tax of up to three percent (3%) of the gross receipts derived from the rental of any room, lodging, or accommodation furnished by a hotel, motel, inn, tourist camp, or similar place within the county that is subject to sales tax imposed by the State under G.S. 105-164.4(a)(3). This tax is in addition to any State or local sales tax. ~~This tax does not apply to accommodations furnished by nonprofit charitable, educational, or religious organizations or to a business that offers to rent fewer than five units.~~

…."

SECTION 60.(i) Section 1 of Chapter 821 of the 1991 Session Laws, as amended by S.L. 2001-305, reads as rewritten:

"**Section 1.** Occupancy tax. (a) Authorization and scope. The Washington County Board of Commissioners may levy a room occupancy tax of three percent (3%) of the gross receipts derived from the rental of any room, lodging, or accommodation furnished by a hotel, motel,

inn, tourist camp, or similar place within the county that is subject to sales tax imposed by the State under G.S. 105-164.4(a)(3). This tax is in addition to any State or local sales tax. ~~This tax does not apply to accommodations furnished by:~~

~~(1) Nonprofit charitable, educational, or religious organizations.~~

~~(2) A business that offers to rent fewer than five units.~~

~~(3) Summer camps.~~

…."

SECTION 60.(j) Section 1 of Chapter 969 of the 1987 Session Laws, as amended by Section 13.1 of S.L. 2001-439, reads as rewritten:

"Section 1. Levy of Tax. – (a) The Board of Commissioners of Richmond County may by resolution levy a room occupancy and tourism development tax of three percent (3%) of the gross receipts derived from the rental of any room, lodging, or similar accommodation furnished by any hotel, motel, inn, tourist camp or other similar place within the county now subject to the three percent (3%) sales tax imposed by the State under G.S. 105-164.4(a)(3). This tax is in addition to any local sales tax. ~~This tax does not apply to gross receipts derived by the following entities from accommodations furnished by them:~~

~~(1) Religious organizations;~~

~~(2) Educational organizations;~~

~~(3) Any business that offers to rent fewer than five units; and~~

~~(4) Summer camps.~~

…."

SECTION 60.(k) Section 1 of Chapter 158 of the 1991 Session Laws, as amended by Section 1 of S.L. 2001-365, reads as rewritten:

"**Section 1.** Occupancy Tax.

(a) Authorization and scope. – The Washington City Council may levy a room occupancy tax of three percent (3%) of the gross receipts derived from the rental of any room, lodging, or similar accommodation furnished by a hotel, motel, inn, tourist camp, or similar place within the city that is subject to sales tax imposed by the State under G.S. 105-164.4(a)(3). This tax is in addition to any State or local sales tax. ~~This tax does not apply to accommodations furnished by nonprofit charitable, educational, or religious organizations, by summer camps, or by businesses that offer to rent no more than five units.~~

…."

SECTION 60.(l) Section 4 of Chapter 605 of the 1991 Session Laws is repealed.

SECTION 60.(m) Section 1 of Chapter 561 of the 1987 Session Laws reads as rewritten:

"Section 1. Occupancy Tax. (a) Authorization and scope. The Lenoir County Board of Commissioners may by resolution, after not less than ten days' public notice and after a public hearing held pursuant thereto, levy a room occupancy tax of three percent (3%) of the gross receipts derived from the rental of any room, lodging, or similar accommodation furnished by a hotel, motel, inn, tourist camp, or similar place within the county that is subject to sales tax imposed by the State under G.S. 105-164.4(3). This tax is in addition to any State or local sales tax. ~~This tax does not apply to accommodations furnished by nonprofit charitable, educational, or religious organizations, by summer camps, or by businesses that offer to rent no more than five units.~~

…."

SECTION 60.(n) Section 3 of Chapter 647 of the 1987 Session Laws is repealed.

SECTION 60.(o) Section 1 of Chapter 950 of the 1987 Session Laws reads as rewritten:

"Section 1. Occupancy tax. (a) Authorization and scope. The Alamance County Board of Commissioners may by resolution, after not less than 10 days' public notice and after a public hearing held pursuant thereto, levy a room occupancy tax of three percent (3%) of the gross receipts derived from the rental of any room, lodging, or similar accommodation furnished by a hotel, motel, inn, or similar place within the county that is subject to sales tax imposed by the

State under G.S. 105-164.4(3). This tax is in addition to any State or local sales tax. ~~This tax does not apply to gross receipts derived by the following entities from accommodations furnished by them:~~

~~(1) Nonprofit charitable organizations;~~
~~(2) religious organizations;~~
~~(3) educational organizations; and~~
~~(4) any business that offers to rent fewer than five units~~.

…."

SECTION 60.(p) Section 3 of Chapter 22 of the 1991 Session Laws is repealed.

SECTION 60.(q) Section 1 of Chapter 162 of the 1991 Session Laws, as amended by Section 1 of S.L. 2004-106 and Section 1 of S.L. 2011-170, reads as rewritten:

"**Section 1.** Occupancy tax. (a) Authorization and Scope. – The Alleghany County Board of Commissioners may levy a room occupancy tax of three percent (3%) of the gross receipts derived from the rental of any room, lodging, or accommodation furnished by a hotel, motel, inn, tourist camp, or similar place within the county that is subject to sales tax imposed by the State under G.S. 105-164.4(a)(3). This tax is in addition to any State or local sales tax. ~~This tax does not apply to accommodations furnished by a summer camp for minors, or by a nonprofit charitable, educational, or religious organization.~~

…."

SECTION 60.(r) Section 1 of Chapter 648 of the 1993 Session Laws reads as rewritten:

"Section 1. Occupancy Tax. (a) Authorization and scope. The Kinston City Council may by resolution, after not less than 10 days' public notice and after a public hearing held pursuant thereto, levy a room occupancy tax of three percent (3%) of the gross receipts derived from the rental of any room, lodging, or similar accommodation furnished by a hotel, motel, inn, tourist camp, or similar place within the city that is subject to sales tax imposed by the State under G.S. 105-164.4(a)(3). This tax is in addition to any State or local sales tax. ~~This tax does not apply to accommodations furnished by nonprofit charitable, educational, or religious organizations, by summer camps, or by businesses that offer to rent no more than five units.~~

…."

SECTION 60.(s) Section 1 of Chapter 209 of the 1987 Session Laws, as amended by Chapter 155 of the 1991 Session Laws, S.L. 1999-155, and S.L. 2004-95, reads as rewritten:

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

…."

SECTION 60.(t) Section 1(a) of Chapter 449 of the 1985 Session Laws, as amended by Chapter 826 of the 1985 Session Laws, Chapters 177 and 906 of the 1991 Session Laws, and Part VII of S.L. 2001-439, reads as rewritten:

"Section 1. Occupancy Tax. (a) Authorization and Scope. The Dare County Board of Commissioners may levy a room occupancy tax of three percent (3%) of the gross receipts derived from the rental of ~~the following in Dare County:~~

~~(1) Any~~ any room, lodging, or similar accommodation within the county that is subject to sales tax under ~~G.S. 105-164.4(a)(3); and~~
~~(2) A campsite.~~G.S. 105-164.4(a)(3).

~~This tax does not apply to accommodations furnished by nonprofit charitable, educational, or religious organizations when furnished in furtherance of their nonprofit purpose.~~ This tax is in addition to any State or local sales tax."

TAX & TAG TOGETHER MOTOR VEHICLE PROPERTY TAX CHANGES

SECTION 70.(a) Section 22(d) of S.L. 2007-527, as amended by Section 66 of S.L. 2008-134 and Section 22(b) of S.L. 2010-95, reads as rewritten:

"**SECTION 22.(d)** Subsection (c) of this section becomes effective ~~July 1, 2013, or when the Division of Motor Vehicles of the Department of Transportation and the Department of Revenue certify that the integrated computer system for registration renewal and property tax collection for motor vehicles is in operation, whichever occurs first.~~ July 1, 2013. The remainder of this section is effective when it becomes law."

SECTION 70.(b) Section 24(c) of S.L. 2009-445, as amended by Section 22(c) of S.L. 2010-95, reads as rewritten:

"**SECTION 24.(c)** G.S. 105-330.9 and G.S. 105-330.11, as amended in subsection (a) of this section, are effective when this act becomes law. Subsection (b) of this section and the remainder of subsection (a) of this section become effective July 1, 2013, and apply to combined tax and registration notices issued on or after that ~~date, or when the Division of Motor Vehicles and the Department of Revenue certify that the integrated computer system or registration renewal and property tax collection for motor vehicles is in operation, whichever occurs first.~~ date. Counties may continue to collect property taxes on motor vehicles for taxable years beginning on or before September 1, 2013, under the provisions of Article 22A of Chapter 105 of the General Statutes as those statutes are in effect on June 30, 2013. The remainder of this section is effective when it becomes law."

SECTION 70.(c) Section 8 of S.L. 2007-471, as amended by Section 25(a) of S.L. 2009-445, and Section 22(d) of 2010-95, reads as rewritten:

"**SECTION 8.** Unless otherwise stated, this act becomes effective July 1, 2013, and applies to combined tax and registration notices issued on or after that ~~date, or when the Division of Motor Vehicles and the Department of Revenue certify that the integrated computer system for registration renewal and property tax collection for motor vehicles is in operation, whichever occurs first.~~date. Counties may continue to collect property taxes on motor vehicles for taxable years beginning on or before September 1, 2013, under the provisions of Article 22A of Chapter 105 of the General Statutes as those statutes are in effect on June 30, 2013."

SECTION 70.(d) Section 13 of S.L. 2005-294, as amended by Section 31.5 of S.L. 2006-259, Section 22(b) of S.L. 2007-257, Section 65 of S.L. 2008-134, and Section 3.6 of S.L. 2012-79, reads as rewritten:

"**SECTION 13.** Sections 4 and 8 of this act become effective January 1, 2006. Sections 1, 2, 3, 5, 6, 7, 10 and 11 of this act become effective July 1, 2013, ~~or when the Division of Motor Vehicles of the Department of Transportation and the Department of Revenue certify that the integrated computer system for registration renewal and property tax collection for motor vehicles is in operation, whichever occurs first.~~ and apply to combined tax and registration notices issued on or after that date. Counties may continue to collect property taxes on motor vehicles for taxable years beginning on or before September 1, 2013, under the provisions of Article 22A of Chapter 105 of the General Statutes as those statutes are in effect on June 30, 2013. Sections 12 and 13 of this act are effective when they become law. Nothing in this act shall require the General Assembly to appropriate funds to implement it for the biennium ending June 30, 2007."

SECTION 70.(e) This section is effective when it becomes law.

SECTION 71.(a) Effective June 26, 2012, Sections 3.2, 3.3, and 3.4 of S.L. 2012-79 are repealed.

SECTION 71.(b) Effective July 1, 2013, G.S. 105-330.2, as amended by Section 2 of S.L. 2005-294 and Section 24(a) of S.L. 2009-445, reads as rewritten:

"§ **105-330.2. Appraisal, ownership, and situs.**

…

(b1) Valuation Appeal. – The owner of a classified motor vehicle may appeal the appraised value ~~or taxability~~ of the vehicle by filing a request for appeal with the assessor within 30 days of the date taxes are due on the vehicle under G.S. 105-330.4. An owner who

appeals the appraised value ~~or taxability~~ of a classified motor vehicle must pay the tax on the vehicle when due, subject to a full or partial refund if the appeal is decided in the owner's favor.

The combined tax and registration notice or tax receipt for a classified motor vehicle must explain the right to appeal the appraised value ~~and taxability~~ of the vehicle. A lessee of a vehicle that is required by the terms of the lease to pay the tax on the vehicle is considered the owner of the vehicle for purposes of filing an appeal under this subsection. Appeals filed under this subsection shall proceed in the manner provided in G.S. 105-312(d).

(b2) Exemption or Exclusion Appeal. – The owner of a classified motor vehicle may appeal the vehicle's eligibility for an exemption or exclusion by filing a request for appeal with the assessor within 30 days of the assessor's initial decision on the exemption or exclusion application filed by the owner pursuant to G.S. 105-330.3(b). Appeals filed under this subsection shall proceed in the manner provided in G.S. 105-312(d).

…."

SECTION 71.(c) Effective July 1, 2013, G.S. 105-330.3, as amended by Section 24(a) of S.L. 2009-445, reads as rewritten:

"§ **105-330.3. Listing requirements for classified motor vehicles; application for exempt status.**

…

(a1) Unregistered Vehicles. – The owner of an unregistered classified motor vehicle must list the vehicle for taxes by filing an abstract with the assessor of the county in which the vehicle is located on or before January 31 following the date the owner acquired the unregistered vehicle or, in the case of a registration that is not renewed, January 31 following the date the registration expires, and on or before January 31 of each succeeding year that the vehicle is unregistered. If a classified motor vehicle required to be listed pursuant to this subsection is registered ~~during the calendar~~before the end of the fiscal year ~~in~~ for which it was ~~listed, the vehicle is taxed for the fiscal year that opens in the calendar year of listing as an unregistered vehicle.~~required to be listed, the following applies:

(1) The vehicle is taxed as a registered vehicle, and the tax assessed pursuant to this subsection for the fiscal year in which the vehicle was required to be listed shall be released and/or refunded.

(2) For any months for which the vehicle was not taxed between the date the registration expired and the start of the current registered vehicle tax year, the vehicle is taxed as an unregistered vehicle as follows:

a. The value of the motor vehicle is determined as of January 1 of the year in which the registration of the motor vehicle expires.

b. In computing the taxes, the assessor must use the tax rates and any additional motor vehicle taxes of the various taxing units in effect on the date the taxes are computed.

c. The tax on the motor vehicle is the product of a fraction and the number of months for which the vehicle was not taxed between the date the registration expires and the start of the current registered vehicle tax year. The numerator of the fraction is the product of the appraised value of the motor vehicle and the tax rate of the various taxing units. The denominator of the fraction is 12.

d. The taxes are due on the first day of the second month following the month the notice was prepared.

e. Interest accrues on unpaid taxes for these unregistered classified motor vehicles at the rate of five percent (5%) for the remainder of the month following the month the taxes are due. Interest accrues at the rate of three-fourths percent (3/4%) for each following month until the taxes are paid, unless the notice is prepared after the date the taxes are due. In that circumstance, the interest accrues beginning the

second month following the date of the notice until the taxes are paid.

(3) A vehicle required to be listed pursuant to this subsection that is not listed by January 31 and is not registered before the end of the fiscal year for which it was required to be listed is subject to discovery pursuant to ~~G.S. 105-312, unless the vehicle has been taxed as a registered vehicle for the current year.~~G.S. 105-312.

(b) Exemption or Exclusion. – The owner of a classified motor vehicle who claims an exemption or exclusion from tax under this Subchapter has the burden of establishing that the vehicle is entitled to the exemption or exclusion. The owner may establish prima facie entitlement to exemption or exclusion of the classified motor vehicle by filing an application for exempt status with the ~~assessor.~~assessor within 30 days of the date taxes on the vehicle are due. When an approved application is on file, the assessor must omit from the tax records the classified motor vehicles described in the application. An application is not required for vehicles qualifying for the exemptions or exclusions listed in G.S. 105-282.1(a)(1). The remaining provisions of G.S. 105-282.1 do not apply to classified motor vehicles.

…."

SECTION 71.(d) Effective July 1, 2013, G.S. 105-330.4, as amended by Sections 4 and 5 of S.L. 2005-294 and Section 24(a) of S.L. 2009-445, reads as rewritten:

"§ **105-330.4. Due date, interest, and enforcement remedies.**

(a) Due Date. – The registration of a classified motor vehicle may not be issued unless a temporary registration plate is issued for the motor vehicle under G.S. 20-79.1A or the taxes for the motor vehicle's tax year that begins after the issuance of the registration are paid upon registration. A registration of a classified motor vehicle may not be renewed unless the taxes ~~that are due have been paid.~~ for the motor vehicle's tax year that begins after the registration expires are paid upon registration. If the registration of a classified motor vehicle is renewed earlier than the date the taxes are due, the taxes must be paid as if they were due. Taxes on a classified motor vehicle are due as follows:

(1) For an unregistered classified motor vehicle, the taxes are due on September 1 following the date by which the vehicle was required to be listed.

(2) For a registered classified motor vehicle that is registered under the staggered system, the taxes are due each year on the date the owner applies for a new registration or the fifteenth day of the month following the month in which the registration renewal sticker expires pursuant to G.S. 20-66(g).

(3) For a registered classified motor vehicle that is registered under the annual system, taxes are due on the date the owner applies for a new registration or 45 days after the registration expires.

(4) For a registered classified motor vehicle that has a temporary registration plate issued under G.S. 20-79.1 or a limited registration plate issued under G.S. 20-79.1A, the taxes are due on the last day of the second month following the date the owner applied for the plate.

…

(b) Interest. – Interest accrues on unpaid taxes and unpaid registration fees for registered classified motor vehicles at the rate of five percent (5%) for the remainder of the month ~~following the month~~ the taxes are due under subsection (a) of this section. Interest does not accrue for the first month following the due date. Interest accrues at the rate of three-fourths percent (3/4%) beginning the second month following the due date and for each following month until the taxes and fees are ~~paid, unless the notice required by G.S. 105-330.5 is prepared after the date the taxes and fees are due. In that circumstance, the interest accrues beginning the second month following the date of the notice until the taxes and fees are paid.~~ paid. Subject to the provisions of G.S. 105-395.1, interest accrues on delinquent taxes on unregistered classified motor vehicles as provided in G.S. 105-360(a) and the discounts allowed in G.S. 105-360(a) apply to the payment of the taxes.

(c) Remedies. – The enforcement remedies in this Subchapter apply to unpaid taxes on an unregistered classified motor ~~vehicle. The enforcement remedies in this Subchapter do not apply~~ vehicle and to unpaid taxes on a registered classified motor ~~vehicle.~~vehicle for which the tax year begins before October 1, 2013.

(d) Payments. – Tax payments submitted by mail are deemed to be received as of the date shown on the postmark affixed by the United States Postal Service. If no date is shown on the postmark or if the postmark is not affixed by the United States Postal Service, the tax payment is deemed to be received when the payment is received ~~in the office of the tax collector.~~by the collecting authority. In any dispute arising under this subsection, the burden of proof is on the taxpayer to show that the payment was timely made."

SECTION 72. Effective July 1, 2013, G.S. 105-330.1(b), as amended by Section 24(a) of S.L. 2009-445, reads as rewritten:

"(b) Exceptions. – The following motor vehicles are not classified under subsection (a) of this section:

(1) Motor vehicles exempt from registration pursuant to G.S. 20-51.
(2) Manufactured homes, mobile classrooms, and mobile offices.
(3) Semitrailers or trailers registered on a multiyear basis.
(4) Motor vehicles owned or leased by a public service company and appraised under G.S. 105-335.
(5) Repealed by Session Laws 2000, c. 140, s. 75(a), effective July 1, 2000.
(6) Motor vehicles registered under the International Registration Plan.
(7) Motor vehicles issued permanent registration plates under G.S. 20-84.
(8) Self-propelled property-carrying vehicles issued three-month registration plates at the farmer rate under G.S. 20-88.
(9) Motor vehicles owned by participants in the Address Confidentiality Program authorized under Chapter 15C of the General Statutes."

EFFECTIVE DATE

SECTION 80. Sections 5, 6, and 7 of this act are effective for taxable years beginning on or after January 1, 2012. Except as otherwise provided, the remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 24th day of July, 2013.

Became law upon approval of the Governor at 10:54 a.m. on the 23rd day of August, 2013.

Session Law 2013-415 **H.B. 15**

AN ACT TO (1) FACILITATE THE USE OF VEHICLES EXCLUSIVELY FOR LAW ENFORCEMENT, FIREFIGHTING, OR OTHER EMERGENCY RESPONSE PURPOSES BY THE DIVISION OF PARKS AND RECREATION OF THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES AND THE NORTH CAROLINA FOREST SERVICE OF THE DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES AND (2) DIRECT THE DEPARTMENT OF PUBLIC SAFETY TO STUDY METHODS OF ALLOWING PRISONERS TO CONTRIBUTE TO CLEANUP AND MITIGATION EFFORTS IN CONNECTION WITH STATES OF EMERGENCY DECLARED IN THIS STATE.

The General Assembly of North Carolina enacts:

SECTION 1.(a) G.S. 20-125(b) reads as rewritten:

"(b) Every vehicle owned ~~and~~ or operated by a police department or by the Department of Public Safety including the State Highway Patrol or by the Wildlife Resources Commission or the Division of Marine ~~Fisheries~~ Fisheries, or by the Division of Parks and Recreation of the Department of Environment and Natural Resources, or by the North Carolina Forest Service of

the Department of Agriculture and Consumer Services, and used exclusively for law ~~enforcement~~ enforcement, firefighting, or other emergency response purposes, or by the Division of Emergency Management, or by a fire department, either municipal or rural, or by a fire patrol, whether such fire department or patrol be a paid organization or a voluntary association, vehicles used by an organ procurement organization or agency for the recovery and transportation of human tissues and organs for transplantation, and every ambulance or emergency medical service emergency support vehicle used for answering emergency calls, shall be equipped with special lights, bells, sirens, horns or exhaust whistles of a type approved by the Commissioner of Motor Vehicles.

The operators of all such vehicles so equipped are hereby authorized to use such equipment at all times while engaged in the performance of their duties and services, both within their respective corporate limits and beyond.

In addition to the use of special equipment authorized and required by this subsection, the chief and assistant chiefs of any police department or of any fire department, whether the same be municipal or rural, paid or voluntary, county fire marshals, assistant fire marshals, transplant coordinators, and emergency management coordinators, are hereby authorized to use such special equipment on privately owned vehicles operated by them while actually engaged in the performance of their official or semiofficial duties or services either within or beyond their respective corporate limits.

And vehicles driven by law enforcement officers of the North Carolina Division of Motor Vehicles shall be equipped with a bell, siren, or exhaust whistle of a type approved by the Commissioner, and all vehicles owned and operated by the State Bureau of Investigation for the use of its agents and officers in the performance of their official duties may be equipped with special lights, bells, sirens, horns or exhaust whistles of a type approved by the Commissioner of Motor Vehicles.

Every vehicle used or operated for law enforcement purposes by the sheriff or any salaried deputy sheriff or salaried rural policeman of any county, whether owned by the county or not, may be, but is not required to be, equipped with special lights, bells, sirens, horns or exhaust whistles of a type approved by the Commissioner of Motor Vehicles. Such special equipment shall not be operated or activated by any person except by a law enforcement officer while actively engaged in performing law enforcement duties.

In addition to the use of special equipment authorized and required by this subsection, the chief and assistant chiefs of each emergency rescue squad which is recognized or sponsored by any municipality or civil preparedness agency, are hereby authorized to use such special equipment on privately owned vehicles operated by them while actually engaged in their official or semiofficial duties or services either within or beyond the corporate limits of the municipality which recognizes or sponsors such organization."

SECTION 1.(b) G.S. 20-130.1 reads as rewritten:

"§ **20-130.1. Use of red or blue lights on vehicles prohibited; exceptions.**

(a) It is unlawful for any person to install or activate or operate a red light in or on any vehicle in this State. As used in this subsection, unless the context requires otherwise, "red light" means an operable red light not sealed in the manufacturer's original package which: (i) is designed for use by an emergency vehicle or is similar in appearance to a red light designed for use by an emergency vehicle; and (ii) can be operated by use of the vehicle's battery, vehicle's electrical system, or a dry cell battery. As used in this subsection, the term "red light" shall also mean any forward facing red light installed on a vehicle after initial manufacture of the vehicle.

(b) The provisions of subsection (a) of this section do not apply to the following:

(1) A police ~~car;~~vehicle.

(2) A highway patrol ~~car;~~vehicle.

(3) A vehicle owned by the Wildlife Resources Commission and operated exclusively for ~~law enforcement purposes;~~law enforcement, firefighting, or other emergency response purposes.

(4) An ~~ambulance;~~ambulance.
(5) A vehicle used by an organ procurement organization or agency for the recovery and transportation of blood, human tissues, or organs for ~~transplantation;~~transplantation.
(6) A fire-fighting ~~vehicle;~~vehicle.
(7) A school ~~bus;~~bus.
(8) A vehicle operated by any member of a municipal or rural fire department in the performance of his duties, regardless of whether members of that fire department are paid or ~~voluntary;~~voluntary.
(9) A vehicle of a voluntary lifesaving organization (including the private vehicles of the members of such an organization) that has been officially approved by the local police authorities and which is manned or operated by members of that organization while answering an official ~~call;~~call.
(10) A vehicle operated by medical doctors or anesthetists in ~~emergencies;~~emergencies.
(11) A motor vehicle used in law enforcement by the sheriff, or any salaried rural policeman in any county, regardless of whether or not the county owns the ~~vehicle;~~vehicle.
(11a) A vehicle operated by the State Fire Marshal or his representatives in the performance of their duties, whether or not the State owns the ~~vehicle;~~vehicle.
(12) A vehicle operated by any county fire marshal, assistant fire marshal, or emergency management coordinator in the performance of his duties, regardless of whether or not the county owns the ~~vehicle;~~vehicle.
(13) A light required by the Federal Highway ~~Administration;~~Administration.
(14) A vehicle operated by a transplant coordinator who is an employee of an organ procurement organization or agency when the transplant coordinator is responding to a call to recover or transport human tissues or organs for ~~transplantation;~~transplantation.
(15) A vehicle operated by an emergency medical service as an emergency support ~~vehicle;~~vehicle.
(16) A State emergency management ~~vehicle; and~~vehicle.
(17) An Incident Management Assistance Patrol vehicle operated by the Department of Transportation, when using rear-facing red lights while stopped for the purpose of providing assistance or incident management.
(18) A vehicle operated by the Division of Marine Fisheries or the Division of Parks and Recreation of the Department of Environment and Natural Resources that is used for law enforcement, firefighting, or other emergency response purpose.
(19) A vehicle operated by the North Carolina Forest Service of the Department of Agriculture and Consumer Services that is used for law enforcement, firefighting, or other emergency response purpose.
(20) A vehicle operated by official members or Teams of REACT International, Inc., that is used to provide additional manpower authorized by law enforcement, firefighting, or other emergency response entities.

…."

SECTION 1.(c) G.S. 20-145 reads as rewritten:

"§ **20-145. When speed limit not applicable.**

The speed limitations set forth in this Article shall not apply to vehicles when operated with due regard for safety under the direction of the police in the chase or apprehension of violators of the law or of persons charged with or suspected of any such violation, nor to fire department or fire patrol vehicles when traveling in response to a fire alarm, nor to public or private ambulances and rescue squad emergency service vehicles when traveling in emergencies, nor

to vehicles operated by county fire marshals and civil preparedness coordinators when traveling in the performances of their ~~duties.~~duties, nor to any of the following when either operated by a law enforcement officer in the chase or apprehension of violators of the law or of persons charged with or suspected of any such violation, when traveling in response to a fire alarm, or for other emergency response purposes: (i) a vehicle operated by the Division of Marine Fisheries or the Division of Parks and Recreation of the Department of Environment and Natural Resources or (ii) a vehicle operated by the North Carolina Forest Service of the Department of Agriculture and Consumer Services. This exemption shall not, however, protect the driver of any such vehicle from the consequence of a reckless disregard of the safety of others."

SECTION 1.(d) G.S. 20-156(b) reads as rewritten:

"(b) The driver of a vehicle upon the highway shall yield the right-of-way to police and fire department vehicles and public and private ambulances, vehicles used by an organ procurement organization or agency for the recovery or transportation of human tissues and organs for transplantation or a vehicle operated by a transplant coordinator who is an employee of an organ procurement organization or agency when the transplant coordinator is responding to a call to recover or transport human tissues or organs for transplantation, and to rescue squad emergency service vehicles and vehicles operated by county fire marshals and civil preparedness ~~coordinators~~ coordinators, and to a vehicle operated by the Division of Marine Fisheries or the Division of Parks and Recreation of the Department of Environment and Natural Resources when used for law enforcement, firefighting, or other emergency response purpose, and to a vehicle operated by the North Carolina Forest Service of the Department of Agriculture and Consumer Services when used for a law enforcement, firefighting, or other emergency response purpose, when the operators of said vehicles are giving a warning signal by appropriate light and by bell, siren or exhaust whistle audible under normal conditions from a distance not less than 1,000 feet. When appropriate warning signals are being given, as provided in this subsection, an emergency vehicle may proceed through an intersection or other place when the emergency vehicle is facing a stop sign, a yield sign, or a traffic light which is emitting a flashing strobe signal or a beam of steady or flashing red light. This provision shall not operate to relieve the driver of a police or fire department ~~vehicle~~ vehicle, or a vehicle owned or operated by the Department of Environment and Natural Resources, or the Department of Agriculture and Consumer Services, or public or private ambulance or vehicles used by an organ procurement organization or agency for the recovery or transportation of human tissues and organs for transplantation or a vehicle operated by a transplant coordinator who is an employee of an organ procurement organization or agency when the transplant coordinator is responding to a call to recover or transport human tissues or organs for transplantation, or rescue squad emergency service vehicle or county fire marshals or civil preparedness coordinators from the duty to drive with due regard for the safety of all persons using the highway, nor shall it protect the driver of any such vehicle or county fire marshal or civil preparedness coordinator from the consequence of any arbitrary exercise of such right-of-way."

SECTION 1.(e) G.S. 20-157(a) reads as rewritten:

"(a) Upon the approach of any law enforcement or fire department vehicle or public or private ambulance or rescue squad emergency service ~~vehicle~~ vehicle, or a vehicle operated by the Division of Marine Fisheries, or the Division of Parks and Recreation of the Department of Environment and Natural Resources, or the North Carolina Forest Service of the Department of Agriculture and Consumer Services when traveling in response to a fire alarm or other emergency response purpose, giving warning signal by appropriate light and by audible bell, siren or exhaust whistle, audible under normal conditions from a distance not less than 1000 feet, the driver of every other vehicle shall immediately drive the same to a position as near as possible and parallel to the right-hand edge or curb, clear of any intersection of streets or highways, and shall stop and remain in such position unless otherwise directed by a law enforcement or traffic officer until the law enforcement or fire department ~~vehicle~~ vehicle, or

the vehicle operated by the Division of Marine Fisheries, or the Division of Parks and Recreation of the Department of Environment and Natural Resources, or the North Carolina Forest Service of the Department of Agriculture and Consumer Services, or the public or private ambulance or rescue squad emergency service vehicle shall have passed. Provided, however, this subsection shall not apply to vehicles traveling in the opposite direction of the vehicles herein enumerated when traveling on a four-lane limited access highway with a median divider dividing the highway for vehicles traveling in opposite directions, and provided further that the violation of this subsection shall be negligence per se. Violation of this subsection is a Class 2 misdemeanor."

SECTION 2. The Department of Public Safety shall study methods of allowing prisoners to contribute to cleanup and mitigation efforts in connection with states of emergency declared in this State. No later than October 1, 2013, the Department shall report its findings and recommendations to the Joint Legislative Emergency Management Oversight Committee and to the Joint Legislative Oversight Committee on Justice and Public Safety. The report shall include at least the following:

(1) A list of the type and number of prisoners incarcerated by the Department of Public Safety that might be available to respond to emergencies in this State.

(2) Options for methods of deploying prisoners to respond to, and assist with, cleanup and mitigation efforts in connection with states of emergency based on the type and location of an emergency.

(3) A statement of the resources that would be required to implement these options and an estimate of the cost of each option.

(4) Identification of any legal, practical, or financial obstacles that would need to be addressed before prisoners could be deployed in this manner.

SECTION 3. Section 1 of this act becomes effective October 1, 2013. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 23rd day of July, 2013.

Became law upon approval of the Governor at 10:54 a.m. on the 23rd day of August, 2013.

Session Law 2013-416 **H.B. 522**

AN ACT TO PROTECT RIGHTS AND PRIVILEGES GRANTED UNDER THE UNITED STATES AND NORTH CAROLINA CONSTITUTIONS IN THE APPLICATION OF FOREIGN LAW.

The General Assembly of North Carolina enacts:

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

"Article 7A.

"Application of Foreign Law.

"**§ 1-87.2. Definitions.**

The following definitions apply in this Article:

(1) Fundamental constitutional right. – A fundamental right of a natural person guaranteed by the United States Constitution or the North Carolina Constitution.

(2) Foreign law. – A law, rule, resolution, legal code, legal system, or any component of a legal system established and used or applied in a foreign venue or forum.

(3) Foreign venue or forum. – A venue or forum operating under the authority of a government other than any of the following:

a. The United States.

b. A state, district, commonwealth, territory, or insular possession of the United States.

c. Any other government with regard to which the decision in this State as to whether to recognize a judgment of that government's courts is initially subject to determination under the Full Faith and Credit Clause of the United States Constitution.

"**§ 1-87.3. Public policy**.

In recognition that the United States Constitution and the Constitution of North Carolina constitute the supreme law of this State, the General Assembly hereby declares it to be the public policy of this State to protect its citizens from the application of foreign law that would result in the violation of a fundamental constitutional right of a natural person. The public policies expressed in this section shall apply only to actual or foreseeable violations of a fundamental constitutional right resulting from the application of the foreign law.

"**§ 1-87.4. Nonapplication of foreign law that would violate fundamental constitutional rights.**

A court, administrative agency, arbitrator, mediator, or other entity or person acting under the authority of State law shall not apply a foreign law in any legal proceeding involving, or recognize a foreign judgment involving, a claim for absolute divorce, divorce from bed and board, child custody, child support, alimony, or equitable distribution if doing so would violate a fundamental constitutional right of one or more natural persons who are parties to the proceeding.

"**§ 1-87.5. Interpretation of contracts providing for choice of foreign law.**

(a) In the interpretation or enforcement by a court, administrative agency, arbitrator, mediator, or other entity or person acting under the authority of State law of any contract or other agreement that provides for the choice of a foreign law to govern its interpretation or the resolution of any claim or dispute, the court or administrative agency shall preserve the fundamental constitutional rights of natural persons who are parties to the contract or other agreement.

(b) If enforcement of any provision in a contract or other agreement for the choice of foreign law would result in a violation of a fundamental constitutional right of one or more of the natural persons who are parties to the contract or other agreement, the agreement or contract shall be modified or amended to the extent necessary to preserve the fundamental constitutional rights of the natural persons.

"**§ 1-87.6. Interpretation of contracts providing for choice of foreign venue or forum.**

If the enforcement of any provision in a contract or other agreement providing for a choice of a foreign venue or forum would result in a violation of a fundamental constitutional right of one or more of the natural persons who are parties to the contract or other agreement, that provision shall be modified or amended to the extent necessary to preserve the fundamental constitutional rights of the natural persons.

"**§ 1-87.7. Motions to transfer proceedings to a foreign venue or forum.**

If a natural person subject to personal jurisdiction in this State seeks to maintain a litigation proceeding, arbitration proceeding, or other similarly binding proceeding in this State, and if a court of this State finds that granting a motion by another party to the proceeding to transfer the proceeding to a foreign venue or forum would likely lead to the violation of a fundamental constitutional right of the natural person who is the nonmovant in the foreign forum with respect to the matter in dispute, the motion shall be denied.

"**§ 1-87.8. Contracts not capable of modification to preserve fundamental constitutional rights void.**

Any provision in a contract or other agreement incapable of being modified or amended pursuant to this Article in order to preserve the fundamental constitutional rights of the natural persons who are parties to the contract or agreement shall be null and void.

"**§ 1-87.9. Strict construction of waivers of constitutional rights.**

Nothing in this Article shall be interpreted to limit the right of natural persons voluntarily to restrict or limit their own constitutional rights by contract or specific waiver consistent with constitutional principles; however, any ambiguity in the language of any such contract or other waiver shall be strictly construed in favor of preserving the constitutional rights of natural persons in this State.

"**§ 1-87.10. Application.**

The provisions in this act shall apply only to proceedings or matters under Chapter 50 and Chapter 50A of the General Statutes."

SECTION 2. This act becomes effective September 1, 2013, and applies to agreements and contracts entered into on or after that date.

In the General Assembly read three times and ratified this the 25th day of July, 2013.

Became law on the date it was ratified.

Session Law 2013-417 **H.B. 392**

AN ACT REQUIRING A COUNTY DEPARTMENT OF SOCIAL SERVICES (DSS) TO VERIFY WHETHER AN APPLICANT FOR OR RECIPIENT OF TEMPORARY ASSISTANCE FOR NEEDY FAMILIES (TANF) BENEFITS OR FOOD AND NUTRITION SERVICES (FNS) BENEFITS IS A FLEEING FELON OR A PROBATION OR PAROLE VIOLATOR, TO DIRECT INTERAGENCY COOPERATION AND INFORMATION SHARING IN ORDER TO VERIFY THE ELIGIBILITY STATUS OF AN APPLICANT OR RECIPIENT, TO DENY TANF OR FNS BENEFITS TO AN APPLICANT OR RECIPIENT WHO IS A FLEEING FELON OR A PROBATION OR PAROLE VIOLATOR, AND TO REQUIRE DRUG SCREENING AND TESTING FOR CERTAIN APPLICANTS AND RECIPIENTS OF WORK FIRST PROGRAM ASSISTANCE.

Whereas, federal law, specifically 42 U.S.C. § 601, et seq., requires that states receiving funds under certain federal grant programs shall not use any part of the grant to provide assistance to any individual who is (i) fleeing to avoid prosecution, custody, or confinement after conviction under the laws of the place from which the individual flees, for a crime or an attempt to commit a crime, which is a felony under the laws of the place from which the individual flees, or (ii) violating a condition of probation or parole imposed under federal or state law; and

Whereas, states receiving these federal grant funds are authorized under federal law to establish safeguards against the use or disclosure of information about applicants or recipients for assistance under the state program funded under federal law; and

Whereas, federal law expressly authorizes the state agency administering the program to furnish a federal, state, or local law enforcement officer, upon the request of the officer, with the current address of any recipient if the officer furnishes the agency with the name of the applicant or recipient under specified circumstances; and

Whereas, conducting a criminal background check on applicants for or recipients of public assistance benefits is necessary in order to ensure compliance with federal laws prohibiting a fleeing felon or probation or parole violator from receiving public assistance benefits; and

Whereas, the apprehension of individuals by law enforcement may be necessary to protect and safeguard the public; and

Whereas, state agencies administering the program may have or receive information that is necessary for a law enforcement agency to conduct the official duties of the agency, and the location or apprehension of the applicant or recipient is within a law enforcement agency's official duties; Now, therefore,

The General Assembly of North Carolina enacts:

PART I. SHARE ARREST WARRANT STATUS OF APPLICANTS FOR PUBLIC ASSISTANCE

SECTION 1. Part 1 of Article 2 of Chapter 108A of the General Statutes is amended by adding the following new section to read:

"**§ 108A-26.1. Information sharing of outstanding arrest warrant of applicant for or recipient of program assistance.**

(a) A county department of social services shall notify an applicant for program assistance under Part 2 or Part 5 of this Article that release of confidential information from the applicant's records may not be protected if there exists an outstanding warrant for arrest against the applicant. A county department of social services shall notify a recipient under a program of public assistance under Part 2 or Part 5 of this Article at the time of renewal of the recipient's application for such program assistance that release of confidential information from the recipient's records may not be protected if there exists an outstanding warrant for arrest against the recipient.

(b) Notwithstanding G.S. 108A-80, and to the extent otherwise allowed by federal and State law, a county department of social services shall ensure that the criminal history of an applicant, or of a recipient at the time of benefits renewal, is checked in a manner and to the extent necessary to verify whether an applicant for or recipient of program assistance under Part 2 or Part 5 of this Article is (i) fleeing to avoid prosecution, custody, or confinement after conviction under the laws of the place from which the individual flees, for a crime or an attempt to commit a crime, which is a felony under the laws of the place from which the individual flees, or (ii) violating a condition of probation or parole imposed under federal or State law.

(1) A criminal history check utilizing currently accessible databases shall be conducted by the county department of social services, subject to G.S. 114-19.34 and to the extent permitted by allocated county and State resources.

(2) Nothing in this section requires fingerprints to be taken of every applicant for or recipient of a program of public assistance.

(3) Counties are not required to allocate funds to comply with this section but are authorized to make such allocations on a voluntary basis.

(c) Nothing in this section shall be construed to authorize the disclosure of any information otherwise protected by State or federal law or regulation.

(d) This section applies to applicants for or recipients of program assistance under Part 2 or Part 5 of this Article only.

(e) The Social Services Commission shall adopt any rules necessary to implement this section, including rules addressing the sharing of confidential information between county departments of social services and law enforcement agencies.

(f) The Secretary of the Department of Health and Human Services shall promote cooperation among State and local agencies to perform the functions described in this section. The Department of Health and Human Services shall cooperate and collaborate with the Office of the State Controller, the Administrative Office of the Courts, the Department of Justice, the State Bureau of Investigation, and the Department of Public Safety to develop protocols to implement this section.

(g) Annually on April 1, each county department of social services shall report to the Department of Health and Human Services on the number of individuals who are denied benefits under this section during the preceding calendar year.

(h) Annually on May 1, the Department of Health and Human Services shall report to the Joint Legislative Oversight Committee on Health and Human Services of the General Assembly on the number of individuals who are denied assistance under this section. The report shall include a breakdown by county."

SECTION 2. Part 1 of Article 2 of Chapter 108A of the General Statutes is amended by adding the following new section to read:

"**§ 108A-26.2. Fleeing felon or parole or probation violator; eligibility for program assistance; federal approval; review by department.**

(a) Subject to subsection (b) of this section, a department of social services shall not grant public assistance under Part 2 or Part 5 of Article 2 of Chapter 108A of the General Statutes if the department receives information described in G.S. 108A-26.1 that the applicant for or recipient of program assistance is subject to arrest under an outstanding warrant arising from a charge of violating conditions of parole or probation or from a felony charge against that applicant or recipient in any jurisdiction. This section does not affect the eligibility for assistance of other members of the applicant's or recipient's household. An applicant or recipient described in this section is eligible for program assistance if all other eligibility criteria of the law are met when the applicant or recipient is no longer subject to arrest under an outstanding warrant as described in this section.

(b) If federal approval is required in order to prevent the loss of federal reimbursement as a result of the application of this section to an applicant for or recipient of program assistance, the Department of Health and Human Services shall promptly take any action necessary to obtain federal approval."

SECTION 3. Part 2 of Article 4 of Chapter 114 of the General Statutes is amended by adding the following new section to read:

"**§ 114-19.34. Criminal record checks of applicants and recipients of programs of public assistance.**

(a) Upon receipt of a request from a county department of social services pursuant to G.S. 108A-26.1, the Department of Justice shall, to the extent allowed by federal law, provide to the county department of social services the criminal history from the State or National Repositories of Criminal Histories of an applicant for, or recipient of, program assistance under Part 2 or Part 5 of Article 2 of Chapter 108A of the General Statutes.

(b) The county department of social services shall provide to the Department of Justice, along with the request, any information required by the Department of Justice and a form signed by the individual to be checked consenting to the check of the criminal record and to the use of any necessary identifying information required by the State or National Repositories. The county department of social services shall keep all information pursuant to this section confidential and privileged, except as provided in G.S. 108A-26.1.

(c) The Department of Justice may charge a reasonable fee only for conducting the checks of the criminal history records authorized by this section."

PART II. DRUG SCREENING AND TESTING FOR WORK FIRST PROGRAM ASSISTANCE

SECTION 4. G.S. 108A-29.1 reads as rewritten:

"§ **108A-29.1. ~~Substance abuse treatment required; drug~~ Drug screening and testing for Work First Program applicants and recipients.**

(a) ~~Each applicant or current recipient of Work First Program benefits, determined by a Qualified Professional in Substance Abuse (QPSA) or by a physician certified by the American Society of Addiction Medicine (ASAM) to be addicted to alcohol or drugs and to be in need of professional substance abuse treatment services shall be required, as part of the person's MRA and as a condition to receiving Work First Program benefits, to participate satisfactorily in an individualized plan of treatment in an appropriate treatment program. As a mandatory program component of participation in an addiction treatment program, each applicant or current recipient shall be required to submit to an approved, reliable, and professionally administered regimen of testing for presence of alcohol or drugs, without advance notice, during and after participation, in accordance with the addiction treatment program's individualized plan of treatment, follow-up, and continuing care services for the applicant or current recipient.~~The Department shall require a drug test to screen each applicant for or recipient of Work First

Program assistance whom the Department reasonably suspects is engaged in the illegal use of controlled substances. The Department shall provide notice of drug testing to each applicant or recipient. The notice shall advise the applicant or recipient that drug screening, and testing if there is reasonable suspicion that an individual is engaged in the illegal use of controlled substances, will be conducted as a condition of receiving Work First Program assistance, and that the results of the drug tests will remain confidential and will not be released to law enforcement. Dependent children under the age of 18 are exempt from the requirements of this section. The Department shall require the following:

(1) That for two-parent households, both parents comply with the requirements of this section.

(2) That any teen parent who is emancipated pursuant to Article 35 of Chapter 7B of the General Statutes complies with the requirements of this section.

(3) That each applicant or recipient be advised before drug testing that he or she may inform the agent administering the test of any prescription or over-the-counter medication he or she is taking.

(4) That each applicant or recipient being tested signs a written acknowledgement that he or she has received and understood the notice and advice provided under this subsection.

(5) That each applicant or recipient who fails a drug test understands that he or she has the right to take one or more additional tests at his or her own expense.

(6) That each applicant or recipient who fails a drug test be provided with information regarding substance abuse, substance abuse counseling, and substance abuse treatment options, including a list of substance abuse treatment programs that may be available to the individual.

(b) ~~An applicant or current recipient who fails to comply with any requirement imposed pursuant to this section shall not be eligible for benefits or shall be subject to the termination of benefits, but shall be considered to be receiving benefits for purposes of determining eligibility for medical assistance.~~An applicant or recipient who tests positive for controlled substances as a result of a drug test required under this section is ineligible to receive Work First Program assistance for one year from the date of the positive drug test except as provided in subsections (b1) and (b2) of this section. The individual may reapply after one year. However, if the individual has any subsequent positive drug tests, the individual shall be ineligible for benefits for three years from the date of the subsequent positive drug test unless the individual reapplies pursuant to subsection (b1) or (b2) of this section.

(b1) An applicant or recipient deemed ineligible under subsection (b) of this section may reapply for Work First Program assistance after the expiration of 30 days from the date of the positive drug test if the individual can document either the successful completion of or the current satisfactory participation in a substance abuse treatment program offered by a provider under subsection (e) of this section and licensed by the Department. The applicant or recipient who reapplies for Work First Program assistance after successful completion of a substance abuse program shall pass a drug test. The cost of any drug testing and substance abuse program provided under this subsection shall be the responsibility of the individual being tested and receiving treatment. An applicant or recipient who reapplies for Work First Program assistance pursuant to this subsection may reapply one time only.

(b2) An applicant or recipient deemed ineligible under subsection (b) of this section may reapply for Work First Program assistance after the expiration of 30 days from the date of the positive drug test if a qualified professional in substance abuse or a physician certified by the American Society of Addiction Medicine determines a substance abuse program is not appropriate for the individual and that individual has passed a subsequent drug test. The cost of any drug testing provided under this subsection shall be the responsibility of the individual being tested. An applicant or recipient who reapplies for Work First Program assistance pursuant to this subsection may reapply one time only.

(c) The children of any applicant or current recipient shall remain eligible for benefits, and these benefits shall be paid to a protective payee pursuant to G.S. 108A-38.

(d) ~~An applicant or current recipient shall not be regarded as failing to comply with the requirements of this section if an appropriate drug or alcohol treatment program is unavailable.~~The Social Services Commission shall adopt rules pertaining to the testing of applicants and recipients under this section. The Social Services Commission shall adopt rules pertaining to the successful completion of, or the satisfactory participation in, a substance abuse treatment program under subsection (b1) of this section, including rules regarding timely reporting of completion of or participation in the substance abuse treatment programs.

(e) Area mental health authorities organized pursuant to Article 4 of Chapter 122C of the General Statutes shall be responsible for administering the provisions of this section.

~~(f) The requirements of this section may be waived or modified as necessary in the case of individual applicants or recipients to the degree necessary to comply with Medicaid eligibility provisions.~~

(g) For the purposes of this section, reasonable suspicion that an applicant for, or recipient of, Work First Program assistance is engaged in the illegal use of controlled substances may be established only by utilizing the following methods:

(1) A criminal record check conducted under G.S. 114-19.34 that discloses a conviction, arrest, or outstanding warrant relating to illegal controlled substances within the three years prior to the date the criminal record check is conducted.

(2) A determination by a qualified professional in substance abuse or a physician certified by the American Society of Addiction Medicine that an individual is addicted to illegal controlled substances.

(3) A screening tool relating to the abuse of illegal controlled substances that yields a result indicating that the applicant or recipient may be engaged in the illegal use of controlled substances.

(4) Other screening methods, as determined by the Social Services Commission under subsection (d) of this section.

(h) Child only cases shall be exempt from the requirements of this section."

SECTION 5. The Social Services Commission shall adopt rules implementing this act. The Social Services Commission may issue temporary rules, in addition to its permanent rule-making authority, to enforce this act. Rules for the implementation of Section 4 of this act shall be adopted no later than February 1, 2014.

SECTION 6. The Department of Health and Human Services shall report to the General Assembly no later than April 1, 2014, on the implementation of Section 4 of this act.

PART III. EFFECTIVE DATE AND SEVERABILITY

SECTION 7. If any provision of this act or its application is held invalid, the invalidity does not affect other provisions or applications of this act that can be given effect without the invalid provisions or application, and to this end the provisions of this act are severable.

SECTION 8. Section 4 of this act becomes effective August 1, 2014. The remainder of this act becomes effective October 1, 2013.

In the General Assembly read three times and ratified this the 26th day of July, 2013. Became law notwithstanding the objections of the Governor at 9:17 a.m. this 4th day of September, 2013.

Session Law 2013-418 **H.B. 786**

AN ACT TO REQUIRE THE DEPARTMENT OF PUBLIC SAFETY TO STUDY MEASURES FOR ADDRESSING THE PROBLEM OF ILLEGAL IMMIGRATION IN THIS STATE; AND TO CLARIFY WHICH EMPLOYERS ARE SUBJECT TO THE STATE'S E-VERIFY LAWS.

Whereas, the North Carolina General Assembly recognizes that the issue of immigration is the responsibility of the federal government; and

Whereas, the federal government has failed to address the need for enforcement of existing immigration laws or to act decisively to correct, amend, and reform existing immigration procedures and policies; and

Whereas, federal courts have consistently upheld the authority of the federal government to restrict the efforts of states to uphold and enforce federal immigration laws in order to protect their citizens and their economies; and

Whereas, the federal government has endowed illegally present aliens with certain entitlements to be provided by the various states via unfunded mandates; and

Whereas, those unfunded mandates and the failure to address illegal immigration places an unwarranted strain on our State's law enforcement agencies, educational institutions, and social safety nets and undermines our trust in the rule of law; and

Whereas, the General Assembly of North Carolina recognizes its responsibility to protect and defend the citizens and the economy of the State of North Carolina; and

Whereas, North Carolina recognizes that the greatness of this State is the result of appreciating, incorporating, and welcoming the vast diversity of immigrants who lawfully assimilate into the culture and fabric that is North Carolina; and

Whereas, we do now encourage the North Carolina congressional delegation to exert the strongest effort possible to enact appropriate federal legislation to secure our nation's borders, uphold existing immigration laws, and reform the procedures and policies regarding the immigration process in order to facilitate an even and orderly process for those wishing to immigrate to our country; and

Whereas, we encourage the President to work in a dedicated and cooperative fashion with Congress to restore dignity and transparency to the immigration process; and

Whereas, the wealth, beauty, and strength of North Carolina rests not only with her natural attributes of mountains, beaches, and abundant resources but in the character of her people and their ability to address problems and challenges before them with an objective resolve tempered with a sense of fairness and consideration for all people; Now, therefore,

The General Assembly of North Carolina enacts:

SECTION 1.(a) The Department of Public Safety, in conjunction with the agencies and industries described in subsection (b) of this section, shall study the potential impact on public safety, the State economy, and illegal immigration to this State of adopting any or all of the following measures:

(1) Increasing the penalties for crimes related to the possession, manufacture, or sale of false drivers licenses and other identification documents.

(2) Creating a rebuttable presumption against the pretrial release of undocumented aliens who commit serious crimes.

(3) Requiring a secured appearance bond as a condition of pretrial release for undocumented aliens who have committed serious crimes.

(4) Requiring undocumented alien prisoners to reimburse the State for the cost of their incarceration after conviction of a crime.

(5) Establishing standards of reasonable suspicion to guide law enforcement officers in conducting immigration status checks when conducting a lawful stop, detention, or arrest.

(6) Prohibiting the use of consular documents from being considered a valid means of establishing a person's identity by a justice, judge, clerk, magistrate, law enforcement officer, or other State official.

(7) Implementing a process for undocumented aliens to obtain a temporary driving privilege. This portion of the study shall:

a. Examine the impact that such a process would have on highway safety, insurance rates, and claims for accidents that occur at the hands of the uninsured.

b. Estimate the number of individuals who would seek to obtain a temporary driving privilege through such a process.

c. Determine whether there are adequate insurance products available to insure individuals who obtain the temporary driving privilege.

d. Examine any other matters that the Division of Motor Vehicles deems relevant.

(8) Adopting measures that have been adopted in other States to combat the problem of illegal immigration.

SECTION 1.(b) In conducting the study required by this section, the Department of Public Safety shall consult with the Department of Insurance, the Division of Motor Vehicles, the Department of Commerce, representatives of the service and agricultural industries, representatives of the immigrant community, and any other agencies, institutions, or individuals that the Department deems appropriate.

SECTION 1.(c) The study shall examine the potential impact of the measures described in subsection (a) of this section:

(1) On the State economy.

(2) On the community of lawful immigrants in this State.

(3) On the provision of social services.

(4) On tax collection.

(5) On law enforcement.

(6) In light of the impact of similar measures enacted in other states on these areas.

(7) In light of their relation to the uncertainty that all businesses, including the high-tech, agriculture, hospitality, and other service sectors endure under our current federal system. The Department of Commerce shall be the lead coordinating agency for purposes of this subdivision.

SECTION 1.(d) The Department of Public Safety shall report its findings and recommendations to the Chairs of the Joint Legislative Oversight Committee on Justice and Public Safety no later than March 1, 2014. The Department of Public Safety may use funds available to contract for services related to this study.

SECTION 2.(a) G.S. 153A-449 reads as rewritten:

"§ **153A-449. Contracts with private ~~entities.~~entities; contractors must use E-Verify.**

(a) Authority. – A county may contract with and appropriate money to any person, association, or corporation, in order to carry out any public purpose that the county is authorized by law to engage in.

(b) Contractors Must Use E-Verify. – No county may enter into a contract unless the contractor and the contractor's subcontractors comply with the requirements of Article 2 of Chapter 64 of the General Statutes."

SECTION 2.(b) G.S. 160A-20.1 reads as rewritten:

"§ **160A-20.1. Contracts with private ~~entities.~~entities; contractors must use E-Verify.**

(a) Authority. – A city may contract with and appropriate money to any person, association, or corporation, in order to carry out any public purpose that the city is authorized by law to engage in.

(b) Contractors Must Use E-Verify. – No city may enter into a contract unless the contractor and the contractor's subcontractors comply with the requirements of Article 2 of Chapter 64 of the General Statutes."

SECTION 2.(c) G.S. 143-129 is amended by adding a new subsection to read:

"(j) No contract subject to this section may be awarded by any board or governing body of the State, institution of State government, or any political subdivision of the State unless the contractor and the contractor's subcontractors comply with the requirements of Article 2 of Chapter 64 of the General Statutes."

SECTION 2.(d) Article 3 of Chapter 143 of the General Statutes is amended by adding a new section to read:

"**§ 143-48.5. Contractors must use E-Verify.**

No contract subject to the provisions of this Article may be entered into unless the contractor and the contractor's subcontractors comply with the requirements of Article 2 of Chapter 64 of the General Statutes."

SECTION 2.(e) G.S. 147-33.95 is amended by adding a new subsection to read:

"(g) No contract subject to the provisions of this Part may be entered into unless the contractor and the contractor's subcontractors comply with the requirements of Article 2 of Chapter 64 of the General Statutes."

SECTION 2.(f) G.S. 64-25(3) reads as rewritten:

"**§ 64-25. Definitions.**

The following definitions apply in this Article:

…

(3) Employee. – Any individual who provides services or labor for an employer in this State for wages or other remuneration. The term does not include an individual whose term of employment is less than nine months in a calendar year.

…."

SECTION 2.(g) G.S. 64-26(c) is repealed.

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

In the General Assembly read three times and ratified this the 26th day of July, 2013. Became law notwithstanding the objections of the Governor at 9:20 a.m. this 4th day of September, 2013.

VETOES
OF
GOVERNOR PAT McCRORY

G.S. 120-34(a) provides that "In any case where the Governor has returned a bill to the General Assembly with objections, those objections shall be printed verbatim in the Session Laws, regardless of whether or not the bill became law notwithstanding the objections."

Bill Number	Title of Bill
HOUSE BILL 392	AN ACT REQUIRING A COUNTY DEPARTMENT OF SOCIAL SERVICES (DSS) TO VERIFY WHETHER AN APPLICANT FOR OR RECIPIENT OF TEMPORARY ASSISTANCE FOR NEEDY FAMILIES (TANF) BENEFITS OR FOOD AND NUTRITION SERVICES (FNS) BENEFITS IS A FLEEING FELON OR A PROBATION OR PAROLE VIOLATOR, TO DIRECT INTERAGENCY COOPERATION AND INFORMATION SHARING IN ORDER TO VERIFY THE ELIGIBILITY STATUS OF AN APPLICANT OR RECIPIENT, TO DENY TANF OR FNS BENEFITS TO AN APPLICANT OR RECIPIENT WHO IS A FLEEING FELON OR A PROBATION OR PAROLE VIOLATOR, AND TO REQUIRE DRUG SCREENING AND TESTING FOR CERTAIN APPLICANTS AND RECIPIENTS OF WORK FIRST PROGRAM ASSISTANCE.
HOUSE BILL 786	AN ACT TO REQUIRE THE DEPARTMENT OF PUBLIC SAFETY TO STUDY MEASURES FOR ADDRESSING THE PROBLEM OF ILLEGAL IMMIGRATION IN THIS STATE; AND TO CLARIFY WHICH EMPLOYERS ARE SUBJECT TO THE STATE'S E-VERIFY LAWS.

STATE OF NORTH CAROLINA
OFFICE OF THE GOVERNOR

PAT MCCRORY
GOVERNOR

August 15, 2013

GOVERNOR'S OBJECTIONS AND VETO MESSAGE

House Bill 392: *"An act requiring a County Department of Social Services (DSS) to verify whether an applicant for or recipient of Temporary Assistance for Needy Families (TANF) benefits or Food and Nutrition Services (FNS) benefits is a fleeing felon or a probation or parole violator, to direct interagency cooperation and information sharing in order to verify the eligibility status of an applicant or recipient, to deny TANF or FNS benefits to an applicant or recipient who is a fleeing felon or a probation or parole violator, and to require drug screening and testing for certain applicants and recipients of work first program assistance."*

It is critical that funding for public benefits be protected from abuses by felons and those fleeing prosecution. The criminal background requirements make sense in House Bill 392. Therefore under my existing executive authority, I am directing the Department of Health and Human Services and our state Chief Information Officer to develop a plan and recommendations to ensure that fugitive felons and probation or parole violators do not receive these public benefits and that law enforcement has access to the most up to date information.

This Administration believes that there are better ways to fight addiction and prevent criminal drug abuse. However, this is not the best way forward and I must veto this bill because of my concerns about the implementation of the drug testing provisions, which were not thoroughly analyzed prior to passing this legislation.

Additional veto reasons include:

- The changes that would be required are not funded in this bill or the 2013-15 budget.
- The bill is a step backward for DHHS in its efforts to assist people in combating substance abuse. The Department currently screens all adult applicants for substance abuse issues and, as appropriate, facilitates a treatment plan with which the applicant must comply prior to receiving benefits.
- I am concerned that the means for establishing reasonable suspicion, as outlined in the bill, are not sufficient to mandate a drug test under the Fourth Amendment.
- The punitive mandates of this bill go too far in restricting future access to benefits that could have a negative impact on children and families.
- *Similar efforts* in other states have proven costly for taxpayers and did little to help fight drug addiction.
- There are potential obstacles to consistent application across 100 counties.

I continue to recommend further study on this issue.

Pat McCrory
Governor of the State of North Carolina

RECEIVED FROM GOVERNOR
8-15-13
1:00pm mp

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STATE OF NORTH CAROLINA
OFFICE OF THE GOVERNOR

PAT MCCRORY
GOVERNOR

August 15, 2013

GOVERNOR'S OBJECTIONS AND VETO MESSAGE

House Bill 786: *"An act to require the Department of Public Safety to study measures for addressing the problem of illegal immigration in this state; and to clarify which employers are subject to the state's E-Verify laws."*

I am vetoing House Bill 786 because I promised to protect and find jobs for North Carolinians. This bill has been thinly disguised as a measure to help our farming community when in fact it applies to a broad spectrum of other businesses in both urban and rural areas. There is a loophole that would allow businesses to exempt a higher percentage of employees from proving they are legal U.S. citizens or residents.

This legislation increases the seasonal employee 90-day exemption to nearly nine months in a calendar year, and will put our legal residents at a disadvantage in the job market. We must do everything we can to help protect jobs for North Carolinians first and foremost.

This legislation needs further study, as I recommended months ago. However, the bill did not provide funding for a study.

North Carolina has the fifth highest unemployment in the country, and now is not the time to put our citizens at a disadvantage to find jobs. I have remained focused on job growth in North Carolina, and I will continue to do so in the future.

Therefore, I veto the bill.

Pat McCrory
Governor of the State of North Carolina

RECEIVED FROM GOVERNOR
8-15-13
1:00pm mp

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RESOLUTIONS

OF THE

STATE OF NORTH CAROLINA

REGULAR SESSION 2013

Resolution 2013-1 **S.J.R. 2**

A JOINT RESOLUTION ADJOURNING THE 2013 REGULAR SESSION OF THE GENERAL ASSEMBLY TO A DATE CERTAIN, AS PROVIDED BY LAW.

Whereas, G.S. 120-11.1 provides for the 2013 Regular Session of the General Assembly to convene at 9:00 a.m. on January 9, 2013, and on that day meet solely to elect officers, adopt rules, and otherwise organize the session and provides that, when they adjourn that day, they stand adjourned until 12:00 noon on Wednesday, January 30, 2013; Now, therefore,

Be it resolved by the Senate, the House of Representatives concurring:

SECTION 1. When the Senate and the House of Representatives adjourn on Wednesday, January 9, 2013, they stand adjourned to reconvene on Wednesday, January 30, 2013, at 12:00 noon.

SECTION 2. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 9th day of January, 2013.

Resolution 2013-2 **H.J.R. 64**

A JOINT RESOLUTION HONORING THE FIFTIETH ANNIVERSARY OF THE STATE LEGISLATIVE BUILDING.

Whereas, the State Legislative Building was completed in January 1963, making 2013 the 50th anniversary of the building's opening; and

Whereas, by the late 1950s, facilities in the State Capitol, which had been used for sessions of the General Assembly since 1840, were increasingly becoming insufficient to accommodate the members of the General Assembly and their staff; and

Whereas, in 1959, the General Assembly appropriated funds for a new building to accommodate the legislature, and enacted legislation establishing the State Legislative Building Commission (Commission); and

Whereas, the Commission consisted of the following members: Archie K. Davis and Robert F. Morgan (vice-chair), who were appointed by Lieutenant Governor Luther E. Barnhardt, President of the Senate; Byrd I. Satterfield and Thomas J. White (chair), who were appointed by Addison Hewlett, Speaker of the House of Representatives; and A. E. Finley, Edwin Gill, and Oliver R. Rowe, who were appointed by Governor Luther Hodges; and

Whereas, among its many duties, the Commission was charged with acquiring a site suitable for a State Legislative Building; employing architects to prepare the plans for the building; entering into contracts to purchase real property, materials, and furnishings related to the building; and providing general supervision of construction of the new building; and

Whereas, the Commission selected architect Edward Durell Stone of New York and associate architects John S. Holloway and Ralph B. Reeves, Jr., of Raleigh to design the new building; and

Whereas, Edward Durell Stone, an Arkansas native, is widely considered to have been one of the most prominent 20th century American architects, having designed numerous college, museum, and corporate buildings across the United States; and

Whereas, Edward Durell Stone was an internationally recognized advocate for modern design, having designed prominent public buildings in Canada, Mexico, Panama, India, Pakistan, Lebanon, Croatia, and Belgium; and

Whereas, in 1961, the General Assembly provided additional funding to furnish and equip the building, bringing the total appropriation for the new building to $5.5 million; and

Whereas, the State Legislative Building rises from a broad 340-foot wide podium of North Carolina granite with a marble-faced building proper encompassed by a colonnade of square columns reaching from the podium to the main roof of the second floor; and

Whereas, the main entrance to the State Legislative Building has a 28-foot diameter terrazzo mosaic of the great seal of the State of North Carolina; and

Whereas, the State Legislative Building houses the chambers of the Senate and the House of Representatives, members' offices, Principal Clerks' offices, committee rooms, and spaces for other essential functions of the General Assembly; and

Whereas, North Carolina was the first state to construct a building to house the legislature; and

Whereas, the General Assembly convened its first session in the State Legislative Building on February 6, 1963; and

Whereas, the State Legislative Building is today considered to be one of Edward Durell Stone's most important works, along with such notable buildings as the Kennedy Center and the National Geographic Building in Washington, DC, and the Museum of Modern Art and the General Motors Building in New York City; and

Whereas, the State Legislative Building has been an important institution for the General Assembly and the citizens of this State for 50 years; Now, therefore,

Be it resolved by the House of Representatives, the Senate concurring:

SECTION 1. The General Assembly honors the memory of the late Edward Durell Stone as well as the many others who helped to conceive, design, construct, and build the State Legislative Building.

SECTION 2. The General Assembly expresses appreciation to the 1959 General Assembly for the actions it took to ensure that the General Assembly had the appropriate funds and resources to build the State Legislative Building, which has been a significant symbol of State government for the past 50 years.

SECTION 3. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 7th day of February, 2013.

Resolution 2013-3 **S.J.R. 47**

A JOINT RESOLUTION INFORMING HIS EXCELLENCY, GOVERNOR PAT MCCRORY, THAT THE GENERAL ASSEMBLY IS ORGANIZED AND READY TO PROCEED WITH PUBLIC BUSINESS AND INVITING THE GOVERNOR TO ADDRESS A JOINT SESSION OF THE SENATE AND HOUSE OF REPRESENTATIVES.

Be it resolved by the Senate, the House of Representatives concurring:

SECTION 1. A committee of six senators appointed by the President Pro Tempore of the Senate and six representatives appointed by the Speaker of the House of Representatives shall notify His Excellency, Governor Pat McCrory, that the General Assembly is organized and is ready to proceed with public business and to invite him to address a joint session of the Senate and House of Representatives in the Hall of the House of Representatives at 7:00 P.M. on February 18, 2013.

SECTION 2. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 13th day of February, 2013.

Resolution 2013-4 **H.J.R. 20**

A JOINT RESOLUTION PROVIDING FOR A JOINT SESSION OF THE GENERAL ASSEMBLY TO ACT ON A JOINT RESOLUTION PROVIDING FOR CONFIRMATION OF THE APPOINTMENTS BY THE GOVERNOR OF NEW MEMBERS TO THE STATE BOARD OF EDUCATION.

Whereas, under the provisions of the Constitution of North Carolina and G.S. 115C-10, appointments by the Governor to membership on the State Board of Education are subject to confirmation by the General Assembly in joint session; and

Whereas, vacancies have occurred on the State Board of Education; and

Whereas, the Governor has transmitted to the presiding officers of the Senate and the House of Representatives the names of his appointees to fill the terms of membership on the State Board of Education, which expire March 31, 2019; Now, therefore,

Be it resolved by the House of Representatives, the Senate concurring:

SECTION 1. Upon the call of the Speaker of the House of Representatives and the President Pro Tempore of the Senate, the General Assembly shall meet in joint session to act on a joint resolution providing for confirmation of the appointments by the Governor of new members to the State Board of Education.

SECTION 2. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 27th day of February, 2013.

Resolution 2013-5 **H.J.R. 36**

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF JOE H. HEGE, JR., FORMER MEMBER OF THE GENERAL ASSEMBLY.

Whereas, Joe H. Hege, Jr. was born in Lexington, North Carolina, on January 28, 1926, to Joe H. Hege, Sr. and Ellen J. Hilliard Hege; and

Whereas, Joe H. Hege, Jr. graduated from Pilot High School in 1943, and received a police administration certificate from the Institute of Government at the University of North Carolina at Chapel Hill. He furthered his education at Oklahoma University in 1975; and

Whereas, Joe H. Hege, Jr. served in the United States Army from 1944 to 1946 and was awarded the European-African-Middle East Service Medal with two Bronze Stars, the Good Conduct Medal, the World War II Victory Medal, and the Army Occupation Medal; and

Whereas, Joe H. Hege, Jr. was a devoted member of the Pilgrim Reformed United Church of Christ in Lexington, where he served as president, treasurer, and chair of the Audit Committee, as chair of the Cemetery Committee, and as an elder, deacon, and Sunday school teacher; and

Whereas, Joe H. Hege, Jr.'s career included serving as a Veterans Service Officer for Davidson County from 1948 to 1950, as Vice-President of Siceloff Manufacturing Company, and as realtor for National Realty; and

Whereas, Joe H. Hege, Jr. was the Assistant Director of Services for the Blind in Governor Jim Holshouser's administration from 1973 to 1977; and

Whereas, Joe H. Hege, Jr. served 18 years as a member of the House of Representatives during the 1967, 1969, 1971, 1973, 1981, 1985, 1987, 1989, and 1991 sessions of the General Assembly; and

Whereas, during his tenure in the General Assembly, Representative Hege served as Minority Whip during the 1969 Session and served on numerous committees, including Appropriations, Commerce, Economic Growth, Education, Election Laws, Ethics, Finance, Legislative and Local Redistricting, Local and Regional Government I, and Public Utilities; and

Whereas, Joe H. Hege, Jr. served as Sheriff of Davidson County from 1969 to 1970; and

Whereas, Joe H. Hege, Jr. was a member of several civic, fraternal, and professional organizations, including the Lexington Board of Realtors, Amvets, Veterans of Foreign Wars, Aircraft Owners and Pilots Association, Kiwanis, Lions International, and American Legion; and

Whereas, Joe H. Hege, Jr. died on February 14, 2011, at the age of 85; and

Whereas, Joe H. Hege, Jr. is survived by his wife, Jane Owen Hege; three children, Joe III, Karen, and Edwin; five grandchildren; and one great-grandson; Now, therefore,

Be it resolved by the House of Representatives, the Senate concurring:

SECTION 1. The General Assembly honors the memory of former Representative Joe H. Hege, Jr. and expresses the appreciation of this State and its citizens for the service he rendered to his community, this State, and our nation.

SECTION 2. The General Assembly extends its sympathy to the family of Joe H. Hege, Jr. for the loss of a beloved family member.

SECTION 3. The Secretary of State shall transmit a certified copy of this resolution to the family of Joe H. Hege, Jr.

SECTION 4. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 27th day of February, 2013.

Resolution 2013-6 **H.J.R. 138**

A JOINT RESOLUTION SETTING THE DATE FOR THE HOUSE OF REPRESENTATIVES AND THE SENATE TO ELECT MEMBERS TO THE STATE BOARD OF COMMUNITY COLLEGES.

Be it resolved by the House of Representatives, the Senate concurring:

SECTION 1. Pursuant to G.S. 115D-2.1(b)(4)f., the House of Representatives and the Senate shall elect members to the State Board of Community Colleges during the regular sessions of the two chambers to be held on Thursday, March 28, 2013. At that time, the House of Representatives shall elect one member to the State Board for a term of six years beginning July 1, 2013. The Senate also shall elect one member to the State Board for a term of six years beginning July 1, 2013.

SECTION 2. Each chamber shall follow the procedure set out in G.S. 115D-2.1 for the nomination and election of members to the State Board.

SECTION 3. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 4th day of March, 2013.

Resolution 2013-7 **S.J.R. 133**

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF DR. JOY JOSEPH JOHNSON, FRED D. ALEXANDER, RICHARD C. ERWIN, JOHN W. WINTERS, SR., DR. ALFREDA JOHNSON WEBB, JEANNE HOPKINS LUCAS, AND OTHER PIONEER AFRICAN AMERICAN MEMBERS OF THE GENERAL ASSEMBLY, IN OBSERVANCE OF AFRICAN AMERICAN HISTORY MONTH.

Whereas, since 1976, February has been recognized as African American History Month across the United States; and

Whereas, African American History Month evolved from "Negro History Week," which was established in 1926 by Dr. Carter G. Woodson, a Harvard-educated African American author and scholar, who wanted to bring national attention to the contributions African Americans have made to this country; and

Whereas, African American History Month seeks to emphasize that African American History is American History; and

Whereas, African American History Month serves as a time to reflect upon past sacrifices and accomplishments of African Americans and to contemplate future goals, including correcting the disparities that exist between African Americans and other races; and

Whereas, the first African Americans began serving in the North Carolina General Assembly in 1868 and included: Senators Henry Eppes of Halifax County, Abraham H. Galloway of New Hanover County, and John Adams Hyman of Warren County, and Representatives Wilson Carey of Caswell County, William W. Cawthorne of Warren County, Henry C. Cherry of Edgecombe County, A. A. Crawford of Granville County, Richard Faulkner of Warren County, W. T. J. Hayes of Halifax County, Ivey Hudgins of Halifax County, John Sinclair Leary of Cumberland County, Cuffie Mayo of Granville County, Benjamin W. Morris of Craven County, George Washington Price, Jr. of New Hanover County, John Thomas Reynolds of Northampton County, Parker D. Robbins of Bertie County, A. W. Stevens of Craven County, Isham S. Sweat of Cumberland County, Thomas A. Sykes of Pasquotank County, and John Hendrick Williamson of Franklin County; and

Whereas, in 1883, one of the largest groups of African Americans since mid-Reconstruction served in the General Assembly, which included three senators and 16 representatives. These legislators were some of the most educated members serving at that time, some of whom had college educations and advanced degrees. They were elected in part as a result of the continued influence of African Americans in North Carolina's Republican Party, which for a period until the late 1800s had been predominantly African American; and

Whereas, from 1868 to 1900, no fewer than 111 African Americans were elected to the North Carolina General Assembly, but between 1900 through 1968, no African Americans were elected as a result of racial segregation enforced by "Jim Crow" laws and impediments to voting for African Americans such as the use of literacy tests and poll taxes; and

Whereas, with the passage of and enforcement of the Voting Rights Act in 1965, African Americans were again elected to the General Assembly, beginning with the 1968 election of Henry E. Frye of Guilford County to the House of Representatives; and

Whereas, by 1975, six African Americans were serving in the General Assembly, including Senators Fred D. Alexander of Mecklenburg County and John W. Winters, Sr. of Wake County, and Representatives Richard C. Erwin of Forsyth County, Henry E. Frye of Guilford County, Dr. Joy Joseph Johnson of Robeson County, and H. M. "Mickey" Michaux, Jr. of Durham County; and

Whereas, Dr. Alfreda Johnson Webb of Guilford County was the first African American female appointed to the House of Representatives to fill an unexpired term in 1971 but never actively served in the General Assembly; and

Whereas, the first African American women to actively serve in the General Assembly were Annie Brown Kennedy of Forsyth County, who was appointed to the House of Representatives to fill an unexpired term in 1979, and Jeanne Hopkins Lucas of Durham County, who was appointed to the Senate to fill an unexpired term in 1993; and

Whereas, Pearl Burris-Floyd of Gaston County was elected as the first African American female Republican to the General Assembly, serving in the House of Representatives in 2009; and

Whereas, Daniel Blue, Jr. of Wake County was elected by his peers as the first African American Speaker of the House of Representatives in 1991, William L. Wainwright of Craven County was elected by his peers as the first African American Speaker Pro Tempore of the House of Representatives in 2007, Milton "Toby" Fitch, Jr. of Wilson County was chosen by his peers as the first African American Majority Leader, and Larry D. Hall of Durham County was chosen by his peers as the first African American Democratic Minority Leader in 2013; and

Whereas, it appears from historical records that Israel Abbott of Craven County was chosen as assistant doorkeeper of the House of Representatives in 1868, suggesting that African Americans served on the Sergeant-at-Arms staff as early as 1868; and

Whereas, Ms. Clay Knight was the first African American to serve on the General Assembly's professional staff, working as an attorney in the Research Division beginning in 1974; and

Whereas, in 1982, African American legislators formed the North Carolina Legislative Black Caucus (NCLBC) as an unincorporated association of Senators and Representatives of African American heritage and other lawmakers of color to promote legislative policies and actions responsive to the needs of all North Carolinians, particularly African Americans, people of color, and other groups who face systemic disparities and mistreatment; and

Whereas, the NCLBC initially focused on issues such as redistricting; fair appropriations for Historically Black Colleges and Universities (HBCUs), including capital funds; and funding for minority economic development; and

Whereas, 27 years ago, the NCLBC established the North Carolina Black Caucus Foundation (501)(c)(3), which has provided over $1 million in scholarships to talented students attending the 10 HBCUs in North Carolina, enabling them to successfully complete their degrees, and which has sponsored a signature annual statewide conference that empowers our communities across the State to address important public policy issues; and

Whereas, the 2013 NCLBC includes nine Senators and 24 House members representing 31 African Americans and two Native Americans; and

Whereas, it is especially fitting to honor the lives and memories of those African American legislators who were the pioneers in the African American history of the State's General Assembly and on whose shoulders, strengths, and contributions the current members stand; Now, therefore,

Be it resolved by the Senate, the House of Representatives concurring:

SECTION 1. The General Assembly honors all of the African American pioneers serving in the General Assembly since Reconstruction and expresses its appreciation for their efforts to overcome racial segregation and exclusion and other pernicious disparities and for their struggles and work to ensure our country's founding principles of life, liberty, and the pursuit of happiness are attainable for everyone.

SECTION 2. The General Assembly urges citizens of this State to participate in ceremonies and events to commemorate and honor African Americans for their invaluable contributions to our State and nation and to learn more about the significant roles African

Americans have had in the building of our State and country not only during African American History Month but throughout the year.

SECTION 3. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 4th day of March, 2013.

Resolution 2013-8 **H.J.R. 21**

A JOINT RESOLUTION PROVIDING FOR CONFIRMATION OF APPOINTMENTS BY THE GOVERNOR OF GREGORY M. ALCORN, WILLIAM W. COBEY, JR., REBECCA H. TAYLOR, A.L. COLLINS, OLIVIA OXENDINE, AND MARCELLA RAMIREZ SAVAGE TO THE STATE BOARD OF EDUCATION.

Whereas, under the provisions of the Constitution of North Carolina and G.S. 115C-10, appointments by the Governor to membership on the State Board of Education are subject to confirmation by the General Assembly in joint session; and

Whereas, the Governor has transmitted to the presiding officers of the Senate and the House of Representatives the names of his appointees to fill the terms of membership on the State Board of Education; Now, therefore,

Be it resolved by the House of Representatives, the Senate concurring:

SECTION 1. The appointments of Gregory M. Alcorn, William W. Cobey, Jr., and Rebecca H. Taylor to membership on the State Board of Education for terms to expire March 31, 2019, are confirmed. The appointments of A.L. Collins, Olivia Oxendine, and Marcella Ramirez Savage to membership on the State Board of Education for terms to expire March 31, 2021, are confirmed.

SECTION 2. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 3rd day of April, 2013.

Resolution 2013-9 **H.J.R. 599**

A JOINT RESOLUTION SUPPORTING THE GOVERNOR'S PROCLAMATION FOR A WEEK OF PRAYER FOR NORTH CAROLINA.

Whereas, Americans celebrate the National Day of Prayer annually on the first Thursday of May; and

Whereas, the modern law formalizing its observance traces its historical origins to a mandate by George Washington, the first President of the United States; and

Whereas, this is a day when Americans are encouraged to "turn to God in prayer and meditation"; and

Whereas, our State Constitution begins, "We, the people of the State of North Carolina, grateful to Almighty God, the Sovereign Ruler of Nations, for the preservation of the American Union and the existence of our civil, political and religious liberties, and acknowledging our dependence upon Him for the continuance of those blessings to us and our posterity"; and

Whereas, we join with the authors of our Constitution being grateful to Almighty God for the existence of our liberties, and we acknowledge our dependence upon Him for the continuance of His blessings to us and our posterity; and

Whereas, our State has great challenges before us; we are dependent on God and need prayer; Now, therefore,

Be it resolved by the House of Representatives, the Senate concurring:

SECTION 1. The General Assembly honors the memory of President George Washington for his role in establishing a mandate that would help lead later to the annual observance of the National Day of Prayer.

SECTION 2. The General Assembly supports Governor Pat McCrory's proclamation for a North Carolina Week of Prayer in conjunction with the National Day of Prayer and encourages our citizens to turn to God in prayer on behalf of our State.

SECTION 3. The General Assembly encourages the citizens of North Carolina to pray for our State year-round and to also observe this designated week.

SECTION 4. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 29th day of April, 2013.

Resolution 2013-10 **S.J.R. 35**

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF EDWARD "ED" WALTER JONES, FORMER MEMBER OF THE GENERAL ASSEMBLY.

Whereas, Edward "Ed" Walter Jones was born on March 11, 1950, in Asheville, North Carolina, to James Jones and Dorothy Miller Jones Gaines; and

Whereas, Ed Jones attended public schools and Blanton's Business College in Asheville, graduated from Western Piedmont College in Morganton, and completed the North Carolina State Administrative Officer's Program in Raleigh; and

Whereas, upon graduation from college, Ed Jones entered the military and served in the 82nd Airborne Division of the United States Army; and

Whereas, after leaving the army, Ed Jones served as a deputy for the Buncombe County Sheriff's Department prior to training at the North Carolina Justice Academy; and

Whereas, Ed Jones became a highway patrol officer in 1975, receiving a promotion to sergeant in 1985 and to first sergeant in 1995; and

Whereas, Ed Jones was recognized as Officer of the Year for Hertford and Bertie Counties; and

Whereas, upon his retirement from the State Highway Patrol in 2000, Ed Jones served as the Chief of Police for the Town of Enfield and then as the Town's mayor; and

Whereas, in 2005, Ed Jones was appointed to fill an unexpired term in the House of Representatives, representing the citizens of Halifax and Nash Counties for one term; and

Whereas, in 2007, Ed Jones was appointed to the Senate to fill an unexpired term and went on to be elected to three additional terms, representing the citizens of the Counties of Bertie, Chowan, Gates, Halifax, Hertford, Northampton, and Perquimans; and

Whereas, as the only retired State Trooper ever elected to the State Senate, Ed Jones took a special interest in the area of crime control and public safety; and

Whereas, during his tenure in the General Assembly, Ed Jones served with honor and distinction as co-chair of the State and Local Government Committee, vice-chair of the Appropriations Subcommittee on Justice and Public Safety, vice-chair of Judiciary II Committee (Criminal), and as a member of the following committees: Appropriations Subcommittee on Natural and Economic Resources, Education/Public Instruction, Health Care, Joint Select Committee on Emergency Preparedness and Disaster Management Recovery, Joint Select Committee on Tornado Damage Response, Mental Health and Youth Services, Redistricting, Rules and Operations of the Senate, and Select Committee on Government and Election Reform; and

Whereas, Ed Jones was the first African-American to serve as a Trustee of Chowan University in Murfreesboro, North Carolina; and

Whereas, Ed Jones served as the president of the Halifax County Law Enforcement Association, vice-president of the Halifax County Inter-Governmental Association, and as a member of the Governor's Crime Commission; and

Whereas, Ed Jones was also a member of the Board of Directors of the Halifax Boys and Girls Club and a member of the National Conference of Black Mayors, the North Carolina Black Mayors Association, the National Legislative Caucus, the North Carolina Legislative Black Caucus; and

Whereas, Ed Jones was recognized as an Honorary Pine Tree Chief by the Meherrin Indian Nation and also received numerous other statewide and local awards and honors; and

Whereas, Ed Jones was a loyal and devoted member of his church, St. Paul Baptist Church of Enfield, North Carolina, where he served as a trustee; and

Whereas, Ed Jones was a man who was committed to helping others and truly lived by his motto, "It is not about the titles we possess, it is about the job we do;" and

Whereas, Ed Jones died December 14, 2012, after a lifetime of public service; and

Whereas, Ed Jones is survived by his wife, Maryann Holden Jones; two daughters, Alesha Jones Garrett (Donzell) and Andrea Long (Lanier); and three granddaughters, Farrah Long and Karisma and Karmyn Garrett; Now, therefore,

Be it resolved by the Senate:

SECTION 1. The General Assembly honors the life and memory of Edward "Ed" Walter Jones and expresses its appreciation for the service he rendered to his community, the State of North Carolina, and the nation.

SECTION 2. The General Assembly extends its deepest sympathy to the family of Edward "Ed" Walter Jones for the loss of a beloved husband, father, and grandfather.

SECTION 3. The Secretary of State shall transmit a certified copy of this resolution to the family of Edward "Ed" Walter Jones.

SECTION 4. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 7th day of May, 2013.

Resolution 2013-11 **H.J.R. 444**

A JOINT RESOLUTION TO CONFIRM THE APPOINTMENT OF ANDREW T. HEATH TO THE NORTH CAROLINA INDUSTRIAL COMMISSION.

Whereas, G.S. 97-77(a1) provides that appointments by the Governor to the North Carolina Industrial Commission are subject to confirmation by the General Assembly; and

Whereas, the Governor has appointed Andrew T. Heath to the North Carolina Industrial Commission; Now, therefore,

Be it resolved by the House of Representatives, the Senate concurring:

SECTION 1. The appointment of Andrew T. Heath to a term on the North Carolina Industrial Commission to begin on May 1, 2013, and expire on April 30, 2019, is confirmed.

SECTION 2. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 13th day of May, 2013.

Resolution 2013-12 **H.J.R. 1007**

A JOINT RESOLUTION PROVIDING FOR THE CONFIRMATION OF CHRISTOPHER J. AYERS AS EXECUTIVE DIRECTOR OF THE PUBLIC STAFF OF THE NORTH CAROLINA UTILITIES COMMISSION.

Whereas, under the provisions of G.S. 62-15, the appointment made by the Governor of the Executive Director of the Public Staff of the North Carolina Utilities Commission is subject to confirmation by the General Assembly by joint resolution; and

Whereas, the current term of office of the Executive Director of the Public Staff of the North Carolina Utilities Commission expires on June 30, 2013; and

Whereas, the Governor has submitted to the presiding officers of the House of Representatives and the Senate the name of his appointee, Christopher J. Ayers of Wake County, to serve as Executive Director of the Public Staff of the North Carolina Utilities Commission for a term to begin July 1, 2013, and expire June 30, 2019; Now, therefore,

Be it resolved by the House of Representatives, the Senate concurring:

SECTION 1. The appointment of Christopher J. Ayers as Executive Director of the Public Staff of the North Carolina Utilities Commission for a term to begin July 1, 2013, and expire June 30, 2019, is confirmed.

SECTION 2. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 3rd day of June, 2013.

Resolution 2013-13 **S.J.R. 431**

A JOINT RESOLUTION TO CONFIRM THE GOVERNOR'S APPOINTMENT OF RAY GRACE TO THE OFFICE OF COMMISSIONER OF BANKS.

Whereas, G.S. 53-92(a) directs the Governor to appoint a Commissioner of Banks, subject to confirmation by the General Assembly by joint resolution; and

Whereas, the former Commissioner of Banks, Joseph A. Smith, Jr., resigned effective February 16, 2012; and

Whereas, the Governor has submitted the name of Ray Grace to the presiding officers of the House of Representatives and the Senate to fill the unexpired term of the Commissioner of Banks; Now, therefore,

Be it resolved by the Senate, the House of Representatives concurring:

SECTION 1. The appointment of Ray Grace as Commissioner of Banks for the remainder of the term expiring March 31, 2015, is confirmed.

SECTION 2. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 6th day of June, 2013.

Resolution 2013-14 **H.J.R. 271**

A JOINT RESOLUTION PROVIDING FOR THE CONFIRMATION OF THE APPOINTMENT OF DON M. BAILEY TO THE UTILITIES COMMISSION.

Whereas, under the provisions of G.S. 62-10, appointments made by the Governor to membership on the North Carolina Utilities Commission are subject to confirmation by the General Assembly by joint resolution; and

Whereas, a vacancy has occurred on the North Carolina Utilities Commission due to the resignation of Lorinzo Joyner; and

Whereas, the Governor has submitted to the presiding officers of the House of Representatives and the Senate the name of Don M. Bailey to serve the remainder of the term expiring June 30, 2017, caused by the resignation of Lorinzo Joyner; Now, therefore,

Be it resolved by the House of Representatives, the Senate concurring:

SECTION 1. The appointment of Don M. Bailey to the North Carolina Utilities Commission for the remainder of the term of Lorinzo Joyner, expiring June 30, 2017, is confirmed.

SECTION 2. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 17th day of June, 2013.

Resolution 2013-15 **S.J.R. 7**

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF DON W. EAST, FORMER MEMBER OF THE GENERAL ASSEMBLY.

Whereas, Don W. East was born in Pilot Mountain, North Carolina, on December 26, 1944, to Ralph and Viola Hall East; and

Whereas, Don W. East graduated from East Surry High School in 1962 and furthered his education by taking classes at Forsyth Technical College; and

Whereas, Don W. East retired from the Winston-Salem Police Department in 1984 after 20 years of service and owned a small farm; and

Whereas, Don W. East began his political career as a member of the Surry County Board of Commissioners from 1984 to 1992; and

Whereas, Don W. East served seven terms in the North Carolina General Assembly as a member of the Senate from 1995 to 2000 and from 2005 to 2012; and

Whereas, during his tenure, Senator East made significant contributions as a member of numerous committees, serving as cochair of Agriculture/Environment/Natural Resources and Appropriations on Natural and Economic Resources and as a member of Appropriations on Justice and Public Safety, Appropriations/Base Budget, Insurance, Judiciary II, Program Evaluation, State and Local Government, and Transportation; and

Whereas, Don W. East's community involvement included membership in the Ararat Long Hill Ruritan Club; and

Whereas, Don W. East died on October 22, 2012, at the age of 67; and

Whereas, Don W. East was married to the late Connie Needham East and is survived by his daughter Gina Southern and son-in-law Mickey Southern; two grandsons, Matthew Southern and Jacob Southern; one brother, R.J. East; and two sisters, Rachel Taylor and Shelby Tucker; Now, therefore,

Be it resolved by the Senate, the House of Representatives concurring:

SECTION 1. The General Assembly honors the memory of Senator Don W. East and expresses appreciation for his life and service to the people of his community and this State.

SECTION 2. The General Assembly extends its heartfelt sympathy to the family of Don W. East for the loss of a beloved family member.

SECTION 3. The Secretary of State shall transmit a certified copy of this resolution to the family of Don W. East.

SECTION 4. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 19th day of June, 2013.

Resolution 2013-16 **S.J.R. 15**

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF JEAN ROUSE PRESTON, FORMER MEMBER OF THE GENERAL ASSEMBLY.

Whereas, Jean Rouse Preston was born May 25, 1935, in Greene County, to Marvin Wayne and Emma Mae Kearney Rouse; and

Whereas, Jean Rouse Preston graduated from Snow Hill High School in 1953, attended Flora MacDonald College from 1953 to 1955, and earned a bachelor's degree in Business Education in 1957 and a master's degree in Education in 1973 from East Carolina University; and

Whereas, Jean Rouse Preston furthered her education by completing the Public Manager Program at the North Carolina State Personnel Development Center in 1989; and

Whereas, Jean Rouse Preston was a lifelong educator, teaching business education in the Wilson County and Greene County Schools and at Lenoir Community College, and later

serving as the Director of Reading for K-12 students and the Program Administrator for Children with Special Needs in Greene County; and

Whereas, prior to her retirement, Jean Rouse Preston served as Principal and Director of Education for the Barnes School at the Caswell Center in Kinston; and

Whereas, Jean Rouse Preston made her home in Carteret County after retiring from the field of education; and

Whereas, Jean Rouse Preston served with honor and distinction in the North Carolina General Assembly as a member of the House of Representatives for seven terms between 1993 and 2006, where she represented the people of Carteret, Jones, and Onslow Counties, and as a member of the Senate for three terms between 2007 and 2012, where she represented the people of Carteret, Craven, and Pamlico Counties; and

Whereas, during her tenure in the General Assembly, Jean Rouse Preston was an advocate for education, serving as vice-chair of the House Appropriations Subcommittee on Education and House Committee on Education and as cochair of the Senate Committee on Education/Higher Education and the Senate Subcommittee on Education/Higher Education; and

Whereas, Jean Rouse Preston was a member of the Cape Carteret Presbyterian Church; and

Whereas, Jean Rouse Preston was named one of the "One Hundred Incredible East Carolina University Women" in 2007 and received the Covenant with North Carolina Children Award in 2005; and

Whereas, Jean Rouse Preston died on January 10, 2013, at the age of 77; and

Whereas, prior to her death, Jean Rouse Preston lost husband, Hugh Forbes Hardy; husband, Colonel John Edward Preston; and daughter, Lisa Forbes Hardy; and

Whereas, Jean Rouse Preston is survived by daughter, Suzanne Hardy Castleberry; and two grandchildren, Cameron and Parker; Now, therefore,

Be it resolved by the Senate, the House of Representatives concurring:

SECTION 1. The General Assembly honors the life and memory of Jean Rouse Preston and expresses its appreciation for the service she rendered to her community and the State of North Carolina.

SECTION 2. The General Assembly extends its deepest sympathy to the family of Jean Rouse Preston for the loss of a beloved family member.

SECTION 3. The Secretary of State shall transmit a certified copy of this resolution to the family of Jean Rouse Preston.

SECTION 4. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 20th day of June, 2013.

Resolution 2013-17 **H.J.R. 819**

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF BOBBY HAROLD BARBEE, SR., FORMER MEMBER OF THE GENERAL ASSEMBLY.

Whereas, Bobby Harold Barbee, Sr. was born on November 24, 1927, in Locust, North Carolina, to Realus W. Barbee and Joy Hartsell Barbee; and

Whereas, Bobby Harold Barbee, Sr. graduated from Stanfield High School in 1945, and served in the United States Army Air Force from 1945 to 1947; and

Whereas, Bobby Harold Barbee, Sr. was the owner of Barbee Insurance and Associates and was a land developer and home builder with B.B.S. Construction; and

Whereas, Bobby Harold Barbee, Sr. served his community as a member of the West Stanly High School Advisory Board from 1986 to 1987, the Stanly County Community Schools Advisory Board from 1986 to 1987, and the Board of Directors of the Stanly Memorial Hospital Foundation from 1990 to 1996; and

Whereas, Bobby Harold Barbee, Sr. served in the General Assembly with honor and distinction as a member of the House of Representatives from 1987 to 2004; and

Whereas, during his nine terms in the General Assembly, Bobby Harold Barbee, Sr. served as Chair of the Wildlife Resources Committee and as a member of several other committees, including Appropriations, Insurance, Local Government, and Pensions and Retirement; and

Whereas, Bobby Harold Barbee, Sr. was a charter member of the Carolina Presbyterian Church of Locust, where he served as a deacon, as a participant in many mission trips around the world, and as a leader in getting the church built; and

Whereas, Bobby Harold Barbee, Sr. died on February 26, 2013, at the age of 85; and

Whereas, Bobby Harold Barbee, Sr. is survived by his wife of 50 years, Jacqueline Pethel Barbee; four daughters, Tammy Burleson, Michelle Soots, Crystal Moore, and Julie Svenson; son, Bobby Barbee, Jr.; 16 grandchildren; and two great-grandchildren; Now, therefore,

Be it resolved by the House of Representatives, the Senate concurring:

SECTION 1. The General Assembly honors the memory of Bobby Harold Barbee, Sr., and expresses its appreciation for the service he rendered his community, State, and nation.

SECTION 2. The General Assembly extends its deepest sympathy to the family of Bobby Harold Barbee, Sr., for the loss of a beloved family member.

SECTION 3. The Secretary of State shall transmit a certified copy of this resolution to the family of Bobby Harold Barbee, Sr.

SECTION 4. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 26th day of June, 2013.

Resolution 2013-18 **H.J.R. 1006**

A JOINT RESOLUTION PROVIDING FOR THE CONFIRMATION OF THE APPOINTMENTS OF JERRY DOCKHAM AND JAMES PATTERSON TO THE UTILITIES COMMISSION.

Whereas, under the provisions of G.S. 62-10, appointments made by the Governor to membership on the North Carolina Utilities Commission are subject to confirmation by the General Assembly by joint resolution; and

Whereas, the Governor has submitted to the presiding officers of the House of Representatives and the Senate the names of his appointees, Jerry Dockham of Davidson County and James Patterson of Guilford County, to serve terms beginning July 1, 2013, and expiring June 30, 2019; Now, therefore,

Be it resolved by the House of Representatives, the Senate concurring:

SECTION 1. The appointments of Jerry Dockham and James Patterson to the North Carolina Utilities Commission for terms beginning July 1, 2013, and expiring June 30, 2019, are confirmed.

SECTION 2. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 26th day of June, 2013.

Resolution 2013-19 **H.J.R. 90**

A JOINT RESOLUTION HONORING THE FOUNDERS OF THE TOWN OF HAYESVILLE.

Whereas, Hayesville started as a hilltop village nestled between the mountains and valleys of Clay County; and

Whereas, Hayesville was named for George Washington Hayes, a former member of the General Assembly, who was instrumental in the formation of Clay County in 1861; and

Whereas, Hayesville was incorporated by an act of the General Assembly in March, 1913; and

Whereas, Hayesville's first officers included Mayor S.E. Hogsed; Commissioners P.N. Tiger, John O. Scroggs, and Early Anderson; and Marshal Frank McClure; and

Whereas, Hayesville now serves as the county seat of Clay County; and

Whereas, the citizens of Hayesville have contributed to the social, cultural, political, and economic prosperity of the State of North Carolina; and

Whereas, 2013 marks the 100th anniversary of the Town of Hayesville, which will be celebrated with events sponsored by both local government and community organizations working together to recognize key moments, businesses, and people that have impacted the Town; and

Whereas, the citizens of Hayesville hope the Town's future will be built on the success of their past values and continued commitment to working together; Now, therefore,

Be it resolved by the House of Representatives, the Senate concurring:

SECTION 1. The General Assembly honors the memory of the early founders of the Town of Hayesville, including George Washington Hayes, and honors the Town on its 100th anniversary.

SECTION 2. The Secretary of State shall transmit a certified copy of this resolution to the Mayor of the Town of Hayesville.

SECTION 3. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 9th day of July, 2013.

Resolution 2013-20 **H.J.R. 259**

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF EDWARD L. "ED" WILLIAMSON, FORMER MEMBER OF THE GENERAL ASSEMBLY.

Whereas, Edward L. "Ed" Williamson was born on June 6, 1923, in Cerro Gordo, North Carolina, to C. E. Williamson, Sr. and Lillie McLelland Williamson; and

Whereas, Ed Williamson received a bachelor's degree from Wake Forest in 1947 and a law degree from the Duke University School of Law in 1953; and

Whereas, Ed Williamson's education was interrupted during college when he served for three years in the United States Navy during World War II and again during law school when he was called into active service during the Korean War; and

Whereas, Ed Williamson began his law career in the Town of Chadbourn and later in the City of Whiteville; and

Whereas, Ed Williamson served as legal counsel of the Columbus County Schools, the City of Whiteville, and Southeastern Community College for more than 20 years; and

Whereas, Ed Williamson served as a member of the Board of Trustees of Pembroke State University (now University of North Carolina at Pembroke) and as past president of the Chadbourn Rotary Club; and

Whereas, Ed Williamson was a founder of the Columbus National Bank and the First Investors Savings and Loan; and

Whereas, Ed Williamson served one term in the North Carolina General Assembly as a member of the House of Representatives in 1959; and

Whereas, Ed Williamson was inducted into the North Carolina Bar Association General Practice Hall of Fame in 1995 and recognized as a 50-year practicing attorney by the North Carolina State Bar in 2003; and

Whereas, Ed Williamson was an active member of Whiteville United Methodist Church, where he served as lay leader and chair of the administrative board; and

Whereas, Ed Williamson was married to the late Sara Benton Williamson and the late Grace Pope Edwards Williamson; and

Whereas, Ed Williamson died on February 10, 2013, at the age of 89; and

Whereas, Ed Williamson is survived by his sons, Edward L. "Ren" Williamson Jr. and Carlton F. Williamson; one stepdaughter, Lucilla E. Hudson; one stepson, John Raymond Edwards, III; and five grandchildren, Alice C. Williamson, Van Williamson, Christina Williamson, Emily J. Williamson, and Forrest Williamson; Now, therefore,

Be it resolved by the House of Representatives, the Senate concurring:

SECTION 1. The General Assembly honors the memory of Edward L. Williamson and expresses its appreciation for the service he rendered to his community, State, and nation.

SECTION 2. The General Assembly extends its deepest sympathy to the family of Edward L. Williamson for the loss of a beloved family member.

SECTION 3. The Secretary of State shall transmit a certified copy of this resolution to the family of Edward L. Williamson.

SECTION 4. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 9th day of July, 2013.

Resolution 2013-21 **H.J.R. 1016**

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF JAMES EDWARD RAMSEY, FORMER SPEAKER OF THE HOUSE OF REPRESENTATIVES.

Whereas, James Edward Ramsey was born in Person County on October 19, 1931, to John Talmadge Ramsey and Otey Wilkins Ramsey; and

Whereas, James Edward Ramsey earned both an undergraduate degree and law degree from the University of North Carolina at Chapel Hill and took additional classes at the University of Hawaii in 1954; and

Whereas, James Edward Ramsey established a law practice in Roxboro in 1958 and continued to practice law until his death; and

Whereas, James Edward Ramsey was dedicated to his profession, serving as a member of the North Carolina Bar Association and the Person County Bar Association, of which he served as president from 1964 to 1966; and

Whereas, James Edward Ramsey served with honor and distinction in the North Carolina General Assembly for six terms in the House of Representatives between 1963 and 1974, during which time he served as Speaker of the House of Representatives from 1973 to 1974; and

Whereas, James Edward Ramsey was a member of several civic and fraternal organizations, including the Roxboro Chamber of Commerce, Roxboro Lions Club, Olive Hill Ruritan Club, Person County Wildlife Club, and the Chi Psi Social Fraternity; and

Whereas, James Edward Ramsey served in United States Marine Corps Reserve from 1950 to 1960, earning the rank of captain; and

Whereas, James Edward Ramsey was active in his church, serving as a steward, parsonage trustee, and associate lay leader; and

Whereas, James Edward Ramsey was recognized as the Outstanding Young Man of Person County in 1962 and was awarded the Order of the Long Leaf Pine in 2012; and

Whereas, James Edward Ramsey died Thursday, May 2, 2013, at the age of 81; and

Whereas, James Edward Ramsey was preceded in death by a grandchild, Erin Squires Ramsey; and

Whereas, James Edward Ramsey is survived by his wife, Eunice Saunders Ramsey; four children, Frank Talmadge Ramsey, Linda Hart Ramsey, David Clark Ramsey, and Carl Wilkins Ramsey; one brother, Robert T. Ramsey; and seven grandchildren, Stacy Renee

Ramsey, John Thomas Ramsey, Michael James Ramsey, Lisa Hart Sanders, Alexander Harris Ramsey, Adam Saunders Ramsey, and Jordan Clark Ramsey; Now, therefore,

Be it resolved by the House of Representatives, the Senate concurring:

SECTION 1. The General Assembly honors the life of James Edward Ramsey and expresses its appreciation for the service he rendered his community, State, and nation.

SECTION 2. The General Assembly extends its deepest sympathy to the family of James Edward Ramsey for the loss of a beloved family member.

SECTION 3. The Secretary of State shall transmit a certified copy of this resolution to the family of James Edward Ramsey.

SECTION 4. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 10th day of July, 2013.

Resolution 2013-22 **H.J.R. 1017**

A JOINT RESOLUTION HONORING THE MEMORY OF THE DESIGNERS OF THE GROVE PARK INN WHILE OBSERVING THE INN'S ONE HUNDREDTH ANNIVERSARY.

Whereas, The Grove Park Inn sits on Sunset Mountain in Buncombe County, North Carolina; and

Whereas, The Grove Park Inn was envisioned and designed by Edwin Wiley Grove and his son-in-law Fred Loring Seely; and

Whereas, The Grove Park Inn had a groundbreaking ceremony on July 9, 1912, and opened to the public on July 12, 1913; and

Whereas, in his speech at the opening banquet, United States Secretary of State William Jennings Bryan proclaimed The Grove Park Inn as "the triumph of architectural skill mingled with a scenic splendor of nature's handiwork, the whole blending in one great harmony never before equaled in the annals of the builders' craft"; and

Whereas, The Grove Park Inn, upon its opening, was called "the finest resort hotel in the world" by newspapers across the United States; and

Whereas, the Spa at The Grove Park Inn, since its 2001 opening, has been consistently recognized as one of the top 20 in the world by prestigious travel publications; and

Whereas, The Grove Park Inn is the home of The National Gingerbread House Competition and Display; and

Whereas, The Grove Park Inn has the largest public display of Arts & Crafts style furniture in the world and has served as a retreat for 10 United States Presidents; and

Whereas, welcoming nearly 500,000 guests from around the world annually, The Grove Park Inn is the largest single contributor of occupancy tax to the Buncombe County Tourism Development Authority and is one of the largest private employers in the City of Asheville; and

Whereas, The Grove Park Inn celebrates its centennial on July 12, 2013; Now, therefore,

Be it resolved by the House of Representatives, the Senate concurring:

SECTION 1. The General Assembly honors the memory of Edwin Wiley Grove and Fred Loring Seely and expresses its appreciation for their role in establishing The Grove Park Inn.

SECTION 2. The General Assembly recognizes The Grove Park Inn as an important landmark and joins the citizens of Asheville in congratulating The Grove Park Inn on its 100th anniversary.

SECTION 3. The Secretary of State shall transmit a certified copy of this resolution to The Grove Park Inn.

SECTION 4. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 10th day of July, 2013.

Resolution 2013-23 **H.J.R. 1023**

A JOINT RESOLUTION ADJOURNING THE 2013 REGULAR SESSION OF THE GENERAL ASSEMBLY TO A DATE CERTAIN AND LIMITING THE MATTERS THAT MAY BE CONSIDERED UPON RECONVENING.

Be it resolved by the House of Representatives, the Senate concurring:

SECTION 1. When the Senate and the House of Representatives adjourn on Friday, July 26, 2013, they stand adjourned to reconvene on Wednesday, May 14, 2014, at 12:00 noon.

SECTION 2. During the regular session that reconvenes on Wednesday, May 14, 2014, only the following matters may be considered:

(1) Bills directly and primarily affecting the State budget, including the budget of an occupational licensing board, for fiscal year 2014-2015, provided that the bill must be submitted to the Bill Drafting Division of the Legislative Services Office no later than 4:00 P.M. Friday, May 16, 2014, and must be introduced in the House of Representatives or filed for introduction in the Senate no later than 4:00 P.M. Tuesday, May 27, 2014.

(2) Bills amending the Constitution of North Carolina.

(3) Bills and resolutions introduced in 2013 and having passed third reading in 2013 in the house in which introduced, received in the other house in accordance with Senate Rule 41 or House Rule 31.1(h) as appropriate, and not disposed of in the other house by tabling, unfavorable committee report, indefinite postponement, or failure to pass any reading and which do not violate the rules of the receiving house.

(4) Bills and resolutions implementing the recommendations of:

a. Study commissions, authorities, and statutory commissions authorized or directed to report to the 2014 Regular Session;

b. The General Statutes Commission, the Courts Commission, or any commission created under Chapter 120 of the General Statutes that is authorized or directed to report to the General Assembly;

c. The House Ethics Committee;

d. Select committees; or

e. The Joint Legislative Ethics Committee or its Advisory Subcommittee.

A bill authorized by this subdivision must be submitted to the Bill Drafting Division of the Legislative Services Office no later than 4:00 P.M. Wednesday, May 14, 2014, and must be filed for introduction in the Senate or introduced in the House of Representatives no later than 4:00 P.M. Wednesday, May 21, 2014.

(5) Any local bill that has been submitted to the Bill Drafting Division of the Legislative Services Office by 4:00 P.M. Wednesday, May 21, 2014, is introduced in the House of Representatives or filed for introduction in the Senate by 4:00 P.M. Wednesday, May 28, 2014, and is accompanied by a certificate signed by the principal sponsor stating that no public hearing will be required or asked for by a member on the bill, the bill is noncontroversial, and that the bill is approved for introduction by each member of the House of Representatives and the Senate whose district includes the area to which the bill applies.

(6) Selection, appointment, or confirmation of members of State boards and commissions as required by law, including the filling of vacancies of positions for which the appointees were elected by the General Assembly upon recommendation of the Speaker of the House of Representatives, President of the Senate, or President Pro Tempore of the Senate.

(7) Any matter authorized by joint resolution passed by a two-thirds majority of the members of the House of Representatives present and voting and by a two-thirds majority of the members of the Senate present and voting. A bill or resolution filed in either house under the provisions of this subdivision shall have a copy of the ratified enabling resolution attached to the jacket before filing for introduction in the Senate or introduction in the House of Representatives.

(8) A joint resolution authorizing the introduction of a bill pursuant to subdivision (7) of this section.

(9) Any bills primarily affecting any State or local pension or retirement system, provided that the bill has been submitted to the Bill Drafting Division of the Legislative Services Office no later than 4:00 P.M. Wednesday, May 21, 2014, and is introduced in the House of Representatives or filed for introduction in the Senate no later than 4:00 P.M. Wednesday, May 28, 2014.

(10) Joint resolutions, House resolutions, and Senate resolutions authorized for introduction under Senate Rule 40(b) or House Rule 31.

(11) Bills:

a. Revising the Senate districts and the apportionment of senators among those districts.

b. Revising the Representative districts and the apportionment of representatives among those districts.

c. Revising the districts for the election of members of the House of Representatives of the Congress of the United States and the apportionment of representatives among those districts.

d. Bills responding to actions related to the Voting Rights Act of 1965.

e. Bills responding to actions related to litigation concerning Congressional, State House, or State Senate districts.

(12) Bills returned by the Governor with objections under Section 22 of Article II of the North Carolina Constitution, but solely for the purpose of considering overriding of the veto upon reconsideration of the bill.

(13) Any bills relating to election laws.

(14) Bills to disapprove rules under G.S. 150B-21.3.

(15) A joint resolution adjourning the 2013 Regular Session, sine die.

SECTION 3. The Speaker of the House of Representatives or the President Pro Tempore of the Senate may authorize appropriate committees or subcommittees of their respective houses to meet during the interims between sessions to:

(1) Review matters related to the State budget for the 2013-2015 fiscal biennium;

(2) Prepare reports, including revised budgets; or

(3) Consider any other matters as the Speaker of the House of Representatives or the President Pro Tempore of the Senate deems appropriate. A conference committee may meet in the interim upon approval by the Speaker of the House of Representatives or the President Pro Tempore of the Senate.

SECTION 4. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 26th day of July, 2013.

Resolution 2013-24 **H.J.R. 1024**

A JOINT RESOLUTION ADJOURNING THE RECONVENED SESSION.

Be it resolved by the House of Representatives, the Senate concurring:

SECTION 1. When the House of Representatives and the Senate, constituting the Reconvened 2013 Session of the 2013 General Assembly, adjourn on Wednesday, September 4, 2013, they stand adjourned to reconvene at 12:00 noon on Wednesday, May 14, 2014, as provided in Resolution 2013-23.

SECTION 2. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 4th day of September, 2013.

EXECUTIVE ORDERS
OF
GOVERNOR BEVERLY E. PERDUE

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State of North Carolina

BEVERLY EAVES PERDUE
GOVERNOR

EXECUTIVE ORDER 124

PROTECTING MILITARY INSTALLATIONS BY ENSURING THE COMPATIBILITY OF STATE ACTION WITH MILITARY NEEDS

WHEREAS, North Carolina is the home of six major Department of Defense (DOD)/Department of Homeland Security (DHS) installations: Coast Guard Station, Elizabeth City; Fort Bragg; Marine Corps Air Station Cherry Point; Marine Corps Air Station New River; Marine Corps Base Camp Lejeune; and Seymour Johnson Air Force Base as well as other DOD/DHS activities, properties and organizations; and

WHEREAS, the U.S. military is the second largest sector of North Carolina's economy, accounting for 8% of North Carolina's gross state product, worth $23.4 billion, and more than 416,000 individuals are either directly employed by the military or working in jobs providing goods or services that support the military's presence in North Carolina; and

WHEREAS, defense procurement contracts in North Carolina exceeded $4.1 billion in 2011, and businesses with defense related contracts operate in 87 of North Carolina's 100 counties; and

WHEREAS, North Carolina is committed to supporting and promoting the military within the state; and

WHEREAS, incompatible development of land close to a military installation can adversely affect the ability of such an installation to carry out its mission; and

WHEREAS, many military installations also depend on low altitude aviation training, which could be adversely affected by development; and

WHEREAS, the continued long-term military presence in North Carolina is directly dependent on DOD/DHS's ability to operate not only its installations but also its training and other readiness functions critical to national defense; and

WHEREAS, it is, therefore, of paramount importance to the future of North Carolina to maintain the best possible relationship with all branches of the U.S. military and to promote practices that maintain North Carolina's preeminent position as the best location for military bases and training installations; and

WHEREAS, to those ends, it is critical for all North Carolinians, all North Carolina businesses, all sectors of North Carolina's economy, and especially all branches and agencies of North Carolina's state and local governments to be knowledgeable about not only the military's presence and contributions to our state but also of the military's special and unique requirements that are critical to carrying out its national defense mission;

WHEREAS, North Carolina also seeks to promote the economic development, growth, and expansion of other industries within the state, such as the agriculture/agribusiness industry, the renewable energy industry, the tourism/outdoor recreation industry and the fisheries industry; and

WHEREAS, North Carolina has a vested economic interest in the preservation and enhancement of land uses that are compatible with military activities; and

WHEREAS, it is equally critical that activities of state agencies be planned and executed with full awareness of and sensitivity to their actual and potential impacts on the military; and

WHEREAS, the usefulness of such operational awareness is directly dependent on the timely exchange of information between all potentially affected parties at the earliest possible phase of any agency activity; and

WHEREAS, it is important for state agencies and local governments to consider the needs of our military installations, missions, and communities in their economic development activities.

NOW, THEREFORE, pursuant to the authority vested in me as Governor by the Constitution and laws of the State of North Carolina, **IT IS ORDERED:**

Section 1.

The Secretary of each Cabinet Agency shall designate a Military Affairs Awareness Coordinator, whose responsibilities shall include:

a. Staying informed of the workings and activities of the North Carolina Advisory Commission on Military Affairs and maintaining regular and effective communications with its administrative head, the Governor's Military Advisor;
b. Staying informed of the workings and activities of the North Carolina Commanders' Council and maintaining regular and effective communications with its North Carolina communications portal, the Department of Environment and Natural Resources ("DENR") Military Liaison and the Governor's Military Advisor;
c. Becoming familiar with the North Carolina Working Lands Group and its implementation of the Governor's Land Compatibility Task Force Report;
d. Becoming familiar with the operations of his/her own agency as it could impact military readiness and training;
e. Regularly informing his/her Secretary of any military readiness or training concerns which could impact, or be impacted by, any of his/her Agency's activities or plans;
f. Regularly informing the Governor's Military Advisor of any military readiness or training concerns which could impact, or be impacted by, any of his/her Agency's activities or plans;

g. Regularly informing the North Carolina Commanders' Council, through the Governor's Military Advisor and the DENR Military Liaison, of any military readiness or training concerns which could impact, or be impacted by, any of his/her Agency's activities or plans; and

h. Regularly informing any other state or local agency of any military readiness or training concerns which could impact, or be impacted by, that agency's activities or plans.

Section 2.

All Cabinet Agencies shall:

a. Cooperate with military installations and missions to encourage compatible land use, help prevent incompatible encroachment, and facilitate the continued presence of major military installations in this state;

b. Notify the commanding military officer of a military installation and the governing body in affected counties and municipalities of any economic development or other projects that may impact military installations;

c. Obtain knowledge of military requirements within local communities and throughout the State;

d. Ensure that appropriate training on the requirements of military installations, missions, and communities is provided for staff members and others who work in the areas of land use planning, infrastructure siting, permitting, or economic development;

e. Ensure that land use planning activities take into account the compatibility of land near military installations;

f. Adopt processes to ensure that all agency planning, policy formulation, and actions are conducted with timely consideration having been given to relevant military readiness or training concerns, and with appropriate communications with all potentially affected military entities, including the entities listed in Section 1(a) and 1(b);

g. Collaborate with applicants for grants, site selection, permits or other agency actions to avoid adverse impacts on military readiness or authority and incompatible land uses; and

h. Share information and coordinate efforts with the North Carolina congressional delegation and other federal agencies, as appropriate, to fulfill the objectives of this Executive Order.

Section 3.

The Department of Commerce, DENR, the Department of Transportation, and the Department of Public Safety are specifically directed to work with the North Carolina Commanders' Council and the Advisory Council on Military Affairs to identify issues that could affect the compatibility of development with military installations and operations. Representatives from each aforementioned department shall coordinate with the Governor's Military Advisor regarding any issues identified.

Section 4.

The Secretary of the Department of Commerce and the Secretary of DENR are directed to work with the other cabinet agencies and other interested stakeholders to reexamine existing efforts, and to formulate new initiatives, designed to further the objectives set out in this Executive Order.

Section 5.

The heads of each Council of State Agency and all other state agencies, including boards and commissions, are encouraged to take the actions outlined above in Sections 1 and 2.

Section 6.

Local governments whose communities are affected by military installations are strongly encouraged to adopt criteria and address compatibility of lands adjacent to or closely proximate to existing military installations in their land use plans. Local governments are also strongly encouraged to comply with the provisions of Section 2 of this Executive Order.

Section 7.

This Executive Order is effective immediately. It supersedes and replaces all other executive orders on this subject. It shall remain in effect until rescinded.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this 18th day of August in the year of our Lord two thousand and twelve, and of the Independence of the United States of America the two hundred and thirty-seventh.



Beverly Eaves Perdue
Governor

ATTEST:

Elaine F. Marshall
Secretary of State

State of North Carolina

BEVERLY EAVES PERDUE
GOVERNOR

EXECUTIVE ORDER NO. 125

ESTABLISHING THE GOVERNOR'S TASK FORCE ON EMPLOYEE MISCLASSIFICATION

WHEREAS, North Carolina's economy and its workers are adversely affected when businesses hide their activities from government regulatory, taxing, and licensing requirements;

WHEREAS, certain businesses violate insurance, tax, employment, and occupational safety laws by failing to carry mandatory workers compensation insurance, comply with health, safety and licensing requirements, or pay income taxes and payroll taxes that provide funding for unemployment insurance, disability insurance, and other benefits;

WHEREAS, certain businesses also engage in the practice of illegally classifying their employees as independent contractors (a practice referred to as "employee misclassification") and obtain "ghost policies" (an insurance loophole by which an employer purports to insure an employee in the future who does not currently exist and whose hiring is not contemplated) in order to avoid complying with obligations imposed on employers by North Carolina and federal law;

WHEREAS, employee misclassification: (1) deprives employees of protections afforded to them under the law; (2) confers upon businesses who violate the law an unfair competitive advantage over businesses that comply with the law by unlawfully reducing their operating costs; and (3) prevents the government from collecting significant tax revenues;

WHEREAS, task forces serve as an effective tool for promoting cooperation and the sharing of information between state agencies as well as for identifying effective mechanisms to decrease instances by which persons and entities violate the law;

NOW, THEREFORE, pursuant to the authority vested in me as Governor by the Constitution and laws of the State of North Carolina, **IT IS ORDERED:**

Section 1.

The Governor's Task Force on Employee Misclassification (the "Task Force") is hereby established.

Section 2.

The following individuals are invited to serve on the Task Force (or appoint designees to serve on their behalf): The Chair of the Industrial Commission, the Secretary of the Department of Revenue, the Secretary of the Department of Public Safety, the Secretary of the Department of Commerce, the Assistant Secretary of the Division of Employment Security. the Speaker of the House of Representatives, the President Pro Tempore of the Senate, the Commissioner of Insurance, the Commissioner of Labor, the Secretary of State, the Attorney General, the General Manager of the North Carolina Rate Bureau, the State Controller, the Director of the Administrative Office of the Courts, and the President of the North Carolina Sheriff's Association. The Commissioner of Insurance shall chair the Task Force.

Section 3.

The Task Force shall strive to: (a) protect the health, safety and benefits of workers; (b) eliminate any competitive advantage currently enjoyed by businesses who violate the law; and (c) educate employers and employees regarding applicable legal requirements relevant to the practice of employee misclassification.

The Task Force shall have the following duties:

(a) Identify those sectors of the economy where employee misclassification occurs most frequently and focus its efforts on eradicating such conduct within those industries;

(b) Utilize a cooperative approach in working with employers and community groups to reduce the prevalence of employee misclassification by providing educational materials explaining (1) the distinction between employees and independent contractors; and (2) raising public awareness of the problems resulting from employee misclassification;

(c) Determine regulatory or other changes in the laws of North Carolina likely to enhance efforts to enforce laws prohibiting employee misclassification;

(d) Establish a dialogue with the business community, the courts, and community groups regarding the mission and activities of the Task Force;

(e) Identify ways to increase the filing of complaints by employees and other members of the public against noncompliant employers, including a simplification of the process by which workers can report suspected violations of the laws;

(f) Reassess the efficiency of existing investigative and enforcement methods, and formulate new methods, for preventing employee misclassification;

(g) Solicit the assistance of law enforcement agencies and district attorneys with the goal of implementing effective procedures for referring appropriate cases for prosecution where appropriate;

(h) Establish relationships with social services agencies serving disadvantaged persons who have been injured by employee misclassification; and

(i) Promulgate methods for the sharing of relevant information between members of the Task Force.

Section 4.

The Task Force shall submit a report every six months to the Governor summarizing the Task Force's activities during the preceding period. The report shall include, without limitation: (a) a description of the Task Force's efforts and accomplishments during the prior six months; (b) a list of proposed legislative or regulatory changes for reducing the prevalence of employee misclassification, including a description of any existing legal or administrative barriers to accomplishing the mission of the Task Force.

Section 5.

The cabinet agencies are directed -- and the heads of each of the Council of State entities, all other state boards and commissions and the North Carolina Rate Bureau, are strongly encouraged -- to make all reasonable efforts to furnish such information and assistance as the Task Force reasonably deems necessary to accomplish its mission.

Section 6.

No per diem allowance shall be paid to members of the Task Force. Members of the Task Force and staff may receive necessary travel and subsistence expenses in accordance with State law and the policies and regulations of the Office of State Budget and Management.

Section 7.

Nothing in this Executive Order shall be interpreted as requiring any action inconsistent with applicable state or federal law.

Section 8.

This Executive Order shall be effective immediately and shall remain in effect until August 21, 2016, pursuant to N.C. Gen. Stat. 147-16.2, unless earlier rescinded.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this twenty-second day of August in the year of our Lord two thousand and twelve, and of the Independence of the United States of America the two hundred and thirty-seventh.



Beverly Eaves Perdue
Governor

ATTEST:

Elaine F. Marshall by Rodney S Maddox
Elaine F. Marshall
Chief Deputy Secretary of State

State of North Carolina



BEVERLY EAVES PERDUE
GOVERNOR

EXECUTIVE ORDER NO. 126

DECLARATION OF A STATE OF DISASTER FOR HALIFAX AND NORTHAMPTON COUNTIES

WHEREAS, the North Carolina Emergency Management Act, Chapter 166A of the North Carolina General Statutes authorizes the issuance of a proclamation declaring an area to be a disaster area as defined in N.C.G.S. § 166A-6 and categorizing the disaster as a Type I, Type II or Type III disaster; and

WHEREAS, on August 25, 2012, Halifax and Northampton Counties in North Carolina were impacted by severe flooding as a result of severe weather; and

WHEREAS, as a result of the damage from the severe weather and flooding, Halifax County proclaimed a local state of emergency on August 25, 2012; and

WHEREAS, a joint preliminary damage assessment was done by local, state and federal emergency management officials on August 29, 2012; and

WHEREAS, I have determined that a State of Disaster, as defined in N.C.G.S. §166A-6, exists in the State of North Carolina, specifically in the counties of Halifax and Northampton; and

WHEREAS, pursuant to N.C.G.S. § 166A-6, the criteria for a Type I disaster are met if: (1) the Secretary of the Department of Public Safety has provided a preliminary damage assessment to the Governor and the General Assembly; (2) Halifax County declared a local state of emergency pursuant to N.C.G.S. § 166A-8; (3) the preliminary damage assessment has met or exceeded the criteria established for the Small Business Disaster Loan Program pursuant to 13 C.F.R. Part 123; and (4) a major disaster declaration by the President of the United States pursuant to the Stafford Act has not been declared; and

WHEREAS, pursuant to N.C.G.S. § 166A-6.01, if a State of Disaster is declared, the Governor may make State funds available for disaster assistance in the form of individual assistance and public assistance for recovery from those disasters for which federal assistance under the Stafford Act is either not available or does not adequately meet the needs of the citizens of the State in the disaster area.

NOW, THEREFORE, pursuant to the authority vested in me as Governor by the Constitution and the laws of the State of North Carolina, **IT IS ORDERED:**

Section 1. Pursuant to N.C.G.S. § 166A-6, a Type I State of Disaster is hereby declared for Halifax County and Northampton County.

Section 2. I authorize state disaster assistance in the form of individual assistance grants to eligible entities located within the disaster area that meet the terms and conditions under N.C.G.S. § 166A-6.01(b)(1).

Section 3. I hereby order this declaration: (a) to be distributed to the news media and other organizations calculated to bring its contents to the attention of the general public; (b) to be promptly filed with the Secretary of the Department of Public Safety, the Secretary of State, and the clerks of superior court in the counties to which it applies; and (c) to be distributed to others as necessary to ensure proper implementation of this declaration.

Section 4. This Type I Disaster Declaration shall expire 30 days after issuance unless renewed by the Governor or the General Assembly. Such renewals may be made in increments of 30 days each, not to exceed a total of 120 days from the date of first issuance.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this 31st day of August in the year of our Lord two thousand and twelve, and of the Independence of the United States of America the two hundred and thirty-seventh.

Beverly Eaves Perdue
Governor

ATTEST:

Elaine F. Marshall by Rodney Maddox
Chief Deputy
Elaine F. Marshall
Secretary of State

State of North Carolina

BEVERLY EAVES PERDUE
GOVERNOR

EXECUTIVE ORDER NO. 127

DECLARATION OF A STATE OF DISASTER FOR THE TOWN OF MURPHY

WHEREAS, the North Carolina Emergency Management Act, Chapter 166A of the North Carolina General Statutes authorizes the issuance of a proclamation declaring an area to be a disaster area as defined in N.C.G.S. § 166A-6 and categorizing the disaster as a Type I, Type II or Type III disaster; and

WHEREAS, on March 2, 2012, the Town of Murphy, Cherokee County, North Carolina was impacted by severe weather, including severe thunderstorms, high winds, and tornadoes; and

WHEREAS, as a result of the damage from the severe weather and tornadoes, the Town of Murphy declared a local state of emergency on March 3, 2012; and

WHEREAS, a joint preliminary damage assessment was done by local, state and federal emergency management officials on March 5, 2012; and

WHEREAS, I have determined that a State of Disaster, as defined in N.C.G.S. §166A-6, exists in the State of North Carolina, specifically in the Town of Murphy; and

WHEREAS, pursuant to N.C.G.S. § 166A-6, the criteria for a Type I disaster are met if: (1) the Secretary of the Department of Public Safety has provided a preliminary damage assessment to the Governor and the General Assembly; (2) the Town of Murphy and Cherokee County have declared a local state of emergency pursuant to N.C.G.S. § 166A-8; (3) the preliminary damage assessment has met or exceeded the State infrastructure criteria set out in N.C.G.S. § 166A-6.01(b)(2); and (4) a major disaster declaration by the President of the United States pursuant to the Stafford Act has not been declared; and

WHEREAS, pursuant to N.C.G.S. § 166A-6.01, if a State of Disaster is proclaimed, the Governor may make State funds available for disaster assistance in the form of individual assistance and public assistance for recovery from those disasters for which federal assistance under the Stafford Act is either not available or does not adequately meet the needs of the citizens of the State in the disaster area.

NOW, THEREFORE, pursuant to the authority vested in me as Governor by the Constitution and the laws of the State of North Carolina, **IT IS ORDERED:**

Section 1. Pursuant to N.C.G.S. § 166A-6, a Type I State of Disaster is hereby declared for the Town of Murphy, Cherokee County.

Section 2. I authorize state disaster assistance in the form of public assistance grants to eligible entities located within the disaster area that meet the terms and conditions under N.C.G.S. § 166A-6.01(b)(2). These grants are for costs associated with the following:

a. Debris clearance
b. Emergency protective measures.

Section 3. I hereby order this proclamation: (a) to be distributed to the news media and other organizations calculated to bring its contents to the attention of the general public; (b) to be promptly filed with the Secretary of the Department of Public Safety, the Secretary of State, and the clerks of superior court in the counties to which it applies; and (c) to be distributed to others as necessary to ensure proper implementation of this proclamation.

Section 4. This Type I Disaster Declaration shall expire 30 days after issuance unless renewed by the Governor or the General Assembly. Such renewals may be made in increments of 30 days each, not to exceed a total of 120 days from the date of first issuance.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this 31st day of August in the year of our Lord two thousand and twelve, and of the Independence of the United States of America the two hundred and thirty-seven.



Beverly Eaves Perdue
Governor

ATTEST:

Elaine F. Marshall by Rodney Maddox
Elaine F. Marshall
Chief Deputy Secretary of State

State of North Carolina



BEVERLY EAVES PERDUE
GOVERNOR

EXECUTIVE ORDER NO. 128

EXPANDING OPPORTUNITIES FOR AT-RISK FOUR-YEAR-OLDS TO ACHIEVE ACADEMIC SUCCESS THROUGH NORTH CAROLINA'S PRE-KINDERGARTEN PROGRAM

WHEREAS, the North Carolina Pre-Kindergarten Program (hereafter "NC Pre-K"), formerly known as More at Four, is widely acknowledged to be one of the finest and most successful pre-kindergarten programs in America; and

WHEREAS, without the opportunity for appropriate development in the early years, children are in danger of falling behind their peers and remaining at a disadvantage throughout their educational careers; and

WHEREAS, studies have repeatedly shown that at-risk children who participate in NC Pre-K are better prepared to succeed in school and that these benefits are maintained for years thereafter; and

WHEREAS, all other children in the classroom also benefit from the success of at-risk children because teachers have more time to devote to helping all children learn; and

WHEREAS, studies have shown that through early childhood education, states save millions of dollars that would otherwise be spent on early grade retention, special education, remedial programs, drop-out prevention, and a myriad of other costs; and

WHEREAS, the Supreme Court of North Carolina has expressly recognized the constitutional right of all children in North Carolina to have the opportunity to obtain a sound basic education; and

WHEREAS, on August 21, 2012, the North Carolina Court of Appeals issued a decision in the case captioned *Hoke County Board of Education, et al v. State of North Carolina*, affirming an order from the North Carolina Superior Court mandating "the unrestricted acceptance of all 'at-risk' four-year-old prospective enrollees who seek to enroll in existing pre-kindergarten programs in his or her respective county"; and

WHEREAS, there are currently eligible at-risk four-year-olds throughout the State who have applied for NC Pre-K and who have been placed on waiting lists instead of being immediately enrolled; and

WHEREAS, the North Carolina Court of Appeals' decision makes clear that the State may "not deny any eligible 'at-risk' four-year-old admission to the North Carolina Pre-Kindergarten Program"; and

WHEREAS, the North Carolina Department of Health and Human Services (hereafter "the Department") has determined that capacity currently exists for the State to (1) enroll by January 1, 2013, into NC Pre-K up to 6,300 additional eligible at-risk four-year-olds; and (2) begin enrollment immediately; and

WHEREAS, North Carolina General Statute § 143C-6-4(b)(2)a. permits an agency, with the approval of the Director of the Budget, to spend more than was authorized in the certified budget for a program if the overexpenditure of the program is required by a court order; and

WHEREAS, the General Fund budget for fiscal year 2012 ended with an unreserved fund balance of approximately $400 million.

NOW, THEREFORE, by the power vested in me as Governor by the Constitution and laws of North Carolina, **IT IS ORDERED:**

Section 1. The Department is directed to enroll up to 6,300 eligible at-risk four-year-olds in NC Pre-K beginning immediately as of October 19, 2012, and continuing through January 1, 2013.

Section 2. The Secretary of the Department is directed to (1) identify anticipated unspent funds within the Department's budget in an amount sufficient to accomplish the enrollments set out in Section 1 above; and (2) transfer said funds to the Division of Child Development and Early Education to support the increased enrollment in NC Pre-K.

Section 3. The Department is directed to pursue all available means to expand the capacity of NC Pre-K throughout the State in order to accomplish, as soon as is practicable, the ultimate goal of enrolling all eligible at-risk-four-year-olds who apply for admission to NC Pre-K.

Section 4. The Department shall strive to eliminate any existing or potential barriers that have the effect of preventing or discouraging participation by eligible at-risk four-year-olds in NC Pre-K.

Section 5. The Department shall ensure that the existing high academic standards for NC Pre-K shall remain in effect throughout the State.

Section 6. I call on the General Assembly to appropriate the required funds in the legislative session commencing in January, 2013 to enable the State to fulfill its constitutional duty of enrolling within NC Pre-K all eligible at-risk four-year-olds who apply for admission.

Section 7. This Executive Order is effective immediately and shall remain in effect until rescinded.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this 18th day of October in the year of our Lord two thousand and twelve and of the Independence of the United States of America the two hundred and thirty-seventh.



Beverly Eaves Perdue
Governor

ATTEST:

Elaine F. Marshall
Secretary of State

State of North Carolina



BEVERLY EAVES PERDUE
GOVERNOR

EXECUTIVE ORDER 129

DECLARATION OF A STATE OF EMERGENCY
BY THE GOVERNOR OF THE STATE OF NORTH CAROLINA

Pursuant to the authority vested in me as Governor by the Constitution of the State of North Carolina and N.C.G.S. §166A-19.20:

Section 1.

I hereby declare that a state of emergency as defined in N.C.G.S. §§ 166A-19.3(6) and 166A-19.3(18) exists in the State of North Carolina. The emergency area as defined in N.C.G.S. §§ 166A-19.3(7) and N.C.G.S. 166A-19.20(b) includes the following counties: Beaufort, Bertie, Bladen, Brunswick, Camden, Carteret, Chowan, Columbus, Craven, Cumberland, Currituck, Dare, Duplin, Edgecombe, Gates, Greene, Halifax, Harnett, Hertford, Hoke, Hyde, Johnston, Jones, Lenoir, Martin, Nash, New Hanover, Onslow, Pamlico, Pasquotank, Pender, Perquimans, Pitt, Robeson, Sampson, Tyrrell, Washington, Wayne.

Section 2.

I order all state and local government entities and agencies to cooperate in the implementation of the provisions of this declaration and the provisions of the North Carolina Emergency Operations Plan.

Section 3.

I delegate to Reuben F. Young, the Secretary of the Department Public Safety, or his designee, all power and authority granted to me and required of me by Article 1A of Chapter 166A of the General Statutes for the purpose of implementing the State's Emergency Operations Plan and deploying the State Emergency Response Team to take the appropriate actions as are necessary to promote and secure the safety and protection of the populace in North Carolina.

Section 4.

Further, Secretary Young, as chief coordinating officer for the State of North Carolina, shall exercise the powers prescribed in G. S.§ 143B-602.

Section 5.

I further direct Secretary Young, to seek assistance from any and all agencies of the United States Government as may be needed to meet the emergency and seek reimbursement for costs incurred by the State in responding to this emergency.

Section 6.

I hereby order this declaration: (a) to be distributed to the news media and other organizations calculated to bring its contents to the attention of the general public; (b) unless the circumstances of the state of emergency prevent or impede, to be promptly filed with the Secretary of the Department of Public Safety, the Secretary of State, and the clerks of superior court in the counties to which it applies; and (c) to be distributed to others as necessary to ensure proper implementation of this declaration.

Section 7.

This declaration does not prohibit or restrict lawfully possessed firearms or ammunition or impose any limitation on the consumption, transportation, sale or purchase of alcoholic beverages as provided in N.C.G.S. § 166A-19.30(c).

Section 8.

Pursuant to N.C.G.S. § 166A-19.23, this declaration triggers the prohibition against excessive pricing as provided in N.C.G.S. § 75-37 and 75-38.

Section 9.

This declaration is effective Saturday, October 27, 2012 at 7:00 a.m. and shall remain in effect until rescinded.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this 26th day of October in the year of our Lord two thousand and twelve, and of the Independence of the United States of America the two hundred and thirty-seventh.

Beverly Eaves Perdue
Governor

ATTEST:

Elaine F. Marshall
Secretary of State

By Rodney S. Maddox
Chief Deputy

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State of North Carolina



BEVERLY EAVES PERDUE
GOVERNOR

EXECUTIVE ORDER NO. 130

EMERGENCY RELIEF FOR TROPICAL STORM/HURRICANE SANDY

WHEREAS, due to the anticipated impact and disaster associated with Tropical Storm/Hurricane Sandy, vehicles bearing equipment and supplies to relieve the damage to North Carolina and other states impacted by the storm need to be moved on the highways of North Carolina; and

WHEREAS, in Executive Order No. 129, I declared a state of emergency as defined in N.C.G.S. §§ 166A-19.3(6) and 166A-19.3(18) for portions of the State of North Carolina to respond to the anticipated impact of Hurricane Sandy. The emergency area as defined in N.C.G.S. §§ 166A-19.3(7) and N.C.G.S. 166A-19.20(b) includes the counties listed in Executive Order No. 129.

WHEREAS, under the provisions of N.C.G.S. § 166A-19.30(b)(3) the Governor, with the concurrence of the Council of State, may regulate and control the flow of vehicular traffic and the operation of transportation services; and

WHEREAS, with the concurrence of the Council of State, I have found that vehicles bearing equipment and supplies to relieve North Carolina and other states' grief-stricken areas must adhere to the registration requirements of N.C.G.S. § 20-86.1 and 20-382, fuel tax requirements of N.C.G.S. § 105-449.47, and the size and weight requirements of N.C.G.S. §§ 20-116 and 20-118. I have further found that citizens in this and other states have suffered losses and will likely suffer imminent further widespread damage within the meaning of N.C.G.S § 166A-19.3(3) and N.C.G.S. § 166A-19.21(b); and

WHEREAS, the prompt restoration of utility services to citizens is essential to their safety and well-being; and

WHEREAS, 49 CFR § 390.23 allows the Governor of a state to suspend the rules and regulations under 49 CFR Part 395 for up to 30 days if the Governor determines that an emergency condition exists; and

WHEREAS, under N.C.G.S. § 166A-19.70, the Governor may declare that the health, safety, or economic well-being of persons or property requires that the maximum hours of

service for drivers prescribed by N.C.G.S. § 20-381 should be waived for persons transporting essential fuels, food, water, and medical supplies, and for restoration of utility services.

NOW, THEREFORE, pursuant to the authority vested in me as Governor by the Constitution and the laws of the State of North Carolina, **IT IS ORDERED:**

Section 1.

The Department of Public Safety in conjunction with the North Carolina Department of Transportation shall waive the maximum hours of service for drivers prescribed by the Department of Public Safety pursuant to N.C.G.S. § 20-381.

Section 2.

The Department of Public Safety in conjunction with the North Carolina Department of Transportation shall waive certain size and weight restrictions and penalties arising under N.C.G.S. §§ 20-116 and 20-118, and certain registration requirements and penalties arising under N.C.G.S. §§ 20-86.1, 20-382, 105-449.47, and 105-449.49 for the vehicles transporting equipment and supplies to relieve North Carolina and other states impacted by the storm.

Section 3.

Notwithstanding the waivers set forth above, size and weight restrictions and penalties have not been waived under the following conditions:

a. When the vehicle weight exceeds the maximum gross weight criteria established by the manufacturer (GVWR) or 90,000 pounds gross weight, whichever is less.

b. When the tandem axle weight exceeds 42,000 pounds and the single axle weight exceeds 22,000 pounds.

c. When a vehicle and vehicle combination exceeds 12 feet in width and a total overall vehicle combination length of 75 feet from bumper to bumper.

d. Vehicles and vehicle combinations subject to exemptions or permits by authority of this Executive Order shall not be exempt from the requirement of having a yellow banner on the front and rear measuring a total length of 7 feet by 18 inches bearing the legend "Oversized Load" in 10 inch black letters 1.5 inches wide and red flags measuring 18 inches square to be displayed on all sides at the widest point of the load. In addition, when operating between sunset and sunrise, a certified escort shall be required for loads exceeding 8 feet 6 inches in width.

Section 4.

Vehicles referenced under Sections 2 and 3 shall be exempt from the following registration requirements:

a. The $50.00 fee listed in N.C.G.S. § 105-449.49 for a temporary trip permit is waived for the vehicles described above. No quarterly fuel tax is required because the exception in N.C.G.S. § 105-449.45(a)(1) applies.

b. The registration requirements under N.C.G.S. § 20-382.1 concerning intrastate and interstate for-hire authority is waived; however, vehicles shall maintain the required limits of insurance as required.

c. Non-participants in North Carolina's International Registration Plan will be permitted into North Carolina in accordance with the exemptions identified by this Executive Order.

Section 5.

The size and weight exemption for vehicles will be allowed on all North Carolina interstate and intrastate highways except those routes designated as light roads under N.C.G.S § 20-118.

Section 6.

The waiver of regulations under Title 49 of the Code of Federal Regulations (Federal Motor Carrier Safety Regulations) does not apply to the CDL and Insurance Requirements. This waiver shall be in effect for 30 days or the duration of the emergency, whichever is less.

Section 7.

The North Carolina State Highway Patrol shall enforce the conditions set forth in Sections 1 through 6 of this Executive Order in a manner which will implement these provisions without endangering motorists in North Carolina.

Section 8.

Upon request by law enforcement officers, exempted vehicles must produce documentation sufficient to establish their loads are being used for relief efforts associated with transporting equipment and supplies to relieve the states impacted by the storm.

Section 9.

This Executive Order does not prohibit or restrict lawfully possessed firearms or ammunition or impose any limitation on the consumption, transportation, sale or purchase of alcoholic beverages as provided in N.C.G.S. § 166A-19.30(c).

Section 10.

This Executive Order is effective Saturday, October 27, 2012 at 7:00 a.m. and shall remain in effect for thirty (30) days or the duration of the emergency, whichever is less.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this 26th day of October in the year of our Lord two thousand and twelve, and of the Independence of the United States of America the two hundred and thirty-seventh.



Beverly Eaves Perdue
Governor

ATTEST:

Elaine F. Marshall by Rodney Maddox
Chief Deputy Secretary of State

State of North Carolina



BEVERLY EAVES PERDUE
GOVERNOR

EXECUTIVE ORDER 131

DECLARATION OF A STATE OF EMERGENCY
BY THE GOVERNOR OF THE STATE OF NORTH CAROLINA

Pursuant to the authority vested in me as Governor by the Constitution of the State of North Carolina and N.C.G.S. §166A-19.20:

Section 1.

I hereby declare that a state of emergency as defined in N.C.G.S. §§ 166A-19.3(6) and 166A-19.3(18) exists in the State of North Carolina as a result of the winter storm associated with Hurricane Sandy. The emergency area as defined in N.C.G.S. §§ 166A-19.3(7) and N.C.G.S. 166A-19.20(b) includes the following counties: Alleghany, Ashe, Avery, Buncombe, Burke, Caldwell, Cherokee, Clay, Graham, Haywood, Henderson, Jackson, Macon, Madison, McDowell, Mitchell, Polk, Rutherford, Surry, Swain, Transylvania, Watauga, Wilkes, Yancey.

Section 2.

I order all state and local government entities and agencies to cooperate in the implementation of the provisions of this declaration and the provisions of the North Carolina Emergency Operations Plan.

Section 3.

I delegate to Reuben F. Young, the Secretary of the Department Public Safety, or his designee, all power and authority granted to me and required of me by Article 1A of Chapter 166A of the General Statutes for the purpose of implementing the State's Emergency Operations Plan and deploying the State Emergency Response Team to take the appropriate actions as are necessary to promote and secure the safety and protection of the populace in North Carolina.

Section 4.

Further, Secretary Young, as chief coordinating officer for the State of North Carolina, shall exercise the powers prescribed in G. S.§ 143B-602.

Section 5.

I further direct Secretary Young, to seek assistance from any and all agencies of the United States Government as may be needed to meet the emergency and seek reimbursement for costs incurred by the State in responding to this emergency.

Section 6.

I hereby expand the emergency area impacted by Hurricane Sandy as referenced in Executive Order No. 130 to include the counties listed in this declaration. Executive Order No. 130 applies in full force and effect to the counties listed herein.

Section 7.

I hereby order this declaration: (a) to be distributed to the news media and other organizations calculated to bring its contents to the attention of the general public; (b) unless the circumstances of the state of emergency prevent or impede, to be promptly filed with the Secretary of the Department of Public Safety, the Secretary of State, and the clerks of superior court in the counties to which it applies; and (c) to be distributed to others as necessary to ensure proper implementation of this declaration.

Section 8.

This declaration does not prohibit or restrict lawfully possessed firearms or ammunition or impose any limitation on the consumption, transportation, sale or purchase of alcoholic beverages as provided in N.C.G.S. § 166A-19.30(c).

Section 9.

Pursuant to N.C.G.S. § 166A-19.23, this declaration triggers the prohibition against excessive pricing as provided in N.C.G.S. § 75-37 and 75-38.

Section 10.

This declaration is effective immediately and shall remain in effect until rescinded.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this 29th day of October in the year of our Lord two thousand and twelve, and of the Independence of the United States of America the two hundred and thirty-seventh.



Beverly Eaves Perdue
Governor

ATTEST:

Elaine F. Marshall
Secretary of State

State of North Carolina



BEVERLY EAVES PERDUE
GOVERNOR

EXECUTIVE ORDER NO. 132

AMENDMENT TO EXECUTIVE ORDER NO. 130
EMERGENCY RELIEF FOR TROPICAL STORM/HURRICANE SANDY

WHEREAS, Executive Order No. 130 was issued to allow for the expedited movement of vehicles transporting equipment and supplies to the impacted areas within and outside of the State of North Carolina due to Hurricane Sandy; and

WHEREAS, the waiver on size and weight restrictions currently allowed under Executive Order No. 130 is not sufficient for certain vehicles that are transporting necessary equipment and supplies to the impacted areas; and

WHEREAS, without amending the maximum allowable size and weight limits set out in Executive Order No. 130 for certain vehicles transporting equipment and supplies, undue delay in relief efforts to the impacted areas on the eastern seaboard of the United States is likely to occur.

NOW, THEREFORE, pursuant to the authority vested in me as Governor by the Constitution and the laws of the State of North Carolina, **IT IS ORDERED:**

Section 1.

Executive Order No. 130 is amended by adding the following Section 3A:

Section 3A:

Notwithstanding any other provision herein, vehicle combinations transporting a commodity that cannot be broken down or divided to meet the requirements outlined in this section are exempt from obtaining an oversize/overweight permit:

a. When the gross weight does not exceed 112,000 pounds, and

b. When the steer axle weight does not exceed 20,000 pounds, the single axle weight does not exceed 25,000 pounds, the tandem axle weight does not exceed 50,000 pounds, the tridem axle weight does not exceed 60,000 pounds and the 4 or more axle group weight does not exceed 68,000 pounds, and

c. When the overall width does not exceed 12 feet, and

d. When the overall length does not exceed 105 feet from bumper to bumper, and

e. When the vehicle combination has five or more axles, and

f. When the vehicle combination has a minimum extreme axle spacing of 51 feet from the center of the first axle to the center of the rear most axle, and

g. When the vehicle combination is traveling on North Carolina interstate highways only.

Section 2.

Section 5 of Executive Order No. 130 is amended by adding the following:

This Order shall not apply on posted bridges pursuant to N.C.G.S. 136-72, and on light traffic roads pursuant to N.C.G.S. 20-118.

Section 3.

This Executive Order is effective immediately and shall remain in effect for thirty (30) days or until rescinded.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this 2nd day of November in the year of our Lord two thousand and twelve, and of the Independence of the United States of America the two hundred and thirty-seventh.



Beverly Eaves Perdue
Governor

ATTEST:

Elaine F. Marshall
Secretary of State

State of North Carolina



BEVERLY EAVES PERDUE
GOVERNOR

EXECUTIVE ORDER NO. 133

ALBEMARLE-PAMLICO NATIONAL ESTUARY PARTNERSHIP

WHEREAS, Congress designated the Albemarle-Pamlico estuarine system "estuary of national significance" in 1987; and

WHEREAS, the Albemarle-Pamlico National Estuary Partnership (APNEP), formerly known as the Albemarle-Pamlico Estuary Program, is a cooperative effort established by the State of North Carolina and the United States Environmental Protection Agency in cooperation with the Commonwealth of Virginia; and

WHEREAS, the mission of APNEP is to identify, restore, and protect the significant resources in the Albemarle-Pamlico estuarine system; and

WHEREAS, APNEP is a collaborative effort involving state, federal, regional, local, educational, public, and private entities in the protection and enhancement of the Albemarle-Pamlico estuarine system; and

WHEREAS, APNEP was among the first National Estuary Programs to be designated by Congress under Section 320 of the Clean Water Act; and

WHEREAS, APNEP has provided extensive information and supported scientific research to address natural resource and environmental issues facing the Albemarle-Pamlico estuarine system since 1988; and

WHEREAS, scientific information from the Albemarle-Pamlico Estuarine Study (1987-1994) was combined with extraordinary involvement by citizens to develop a Comprehensive Conservation and Management Plan (CCMP) that was first adopted in 1994 and revised in 2012; and

WHEREAS, APNEP and its CCMP also recognize that from an ecological, societal, and economic standpoint, the most effective means to sustain environmental health of the Albemarle-Pamlico estuarine system is to identify, manage, and protect the resources in the watershed through adaptive, system-based approaches; and

WHEREAS, APNEP recognizes the importance of engaging and involving the public in making decisions regarding ecosystem-based management;

NOW, THEREFORE, by the authority vested in me as Governor by the Constitution and laws of the State of North Carolina, **IT IS ORDERED:**

Section 1. Establishment and Structure.

The Albemarle-Pamlico National Estuary Partnership Office (the "APNEP Office") is hereby established to coordinate and facilitate the implementation of the CCMP, and the APNEP mission. The APNEP Office shall serve as a conduit for information, collaborations, and coordination among the state and federal agencies, local governments, tribes, academia, and the public. The Office will be located in the Offices of the Secretary of the North Carolina Department of Environment and Natural Resources ("DENR" or the "Department"). The Department shall be responsible for administrative and fiscal management of the APNEP Office as the federal grant recipient.

Section 2. Advisory Bodies.

The following advisory bodies shall be established to support the implementation of the CCMP and to assist the APNEP Office: a Policy Board, an Implementation Committee, and a Science and Technical Advisory Committee. The Secretary of the Department of Environment and Natural Resources, in consultation with the Director of the APNEP Office, shall appoint the initial membership of the advisory bodies and, to the greatest extent possible, shall seek to ensure geographic, demographic and social balance, and willingness to serve. Unless otherwise authorized by the Governor or the Governor's designee, advisory bodies shall have no authority other than to serve in an advisory capacity as provided herein.

A. Policy Board

1. Purpose

The Policy Board shall work with the APNEP Office and other partners to advise, support, evaluate, update, advocate for, and guide CCMP implementation. The Policy Board is the primary guidance body of the APNEP Office.

2. Membership

a. The membership of the Policy Board shall include the following voting members:

1) The Secretary of the North Carolina Department of Environment and Natural Resources, or designee;
2) Two members of the Implementation Committee;
3) Two members of the Science and Technical Advisory Committee;
4) A representative of a local or regional council of governments;
5) A representative of a local, state, or national conservation organization; and
6) Two at-large members.

b. The Secretary of Natural Resources of the Commonwealth of Virginia, or designee, shall be invited to participate as a voting member.

c. A representative of the United States Environmental Protection Agency–National Estuary Program shall be invited to participate as a non-voting ex-officio member.

d. The Policy Board may expand its membership, as it deems necessary, upon two-thirds affirmative vote.

3. Meetings

The Policy Board shall meet as deemed appropriate by the Chair or upon request by the APNEP Director.

B. Implementation Committee

1. Purpose

The Implementation Committee shall work with the Policy Board on CCMP implementation. Committee members shall serve as liaisons to agencies and relevant parties regarding environmental and natural resource management relevant to CCMP implementation.

2. Membership

The membership of the Implementation Committee shall be broad-based and may include the following natural resource management interests within the watershed: local governments; local or regional planning; commerce and industry; education; tourism; fishing or seafood industry; agriculture; forestry; tribal organizations; local, state, or national conservation organizations; soil and water conservation districts; finance; communication and media; education; state agencies; and federal agencies.

3. Meetings

The Implementation Committee shall meet as deemed appropriate by the Chair or upon request by the Director of the APNEP Office.

C. Science and Technical Advisory Committee

1. Purpose

The Science and Technical Advisory Committee shall provide independent advice to the Policy Board and the Implementation Committee on scientific and technical issues, including ecosystem assessment and monitoring in support of CCMP implementation.

2. Membership

a. The membership of the Science and Technical Advisory Committee shall be broad-based and may include scientists and researchers from local colleges, universities, and research institutes, as well as technical staff from federal and local agencies, industry, and environmental organizations with expertise in science and technology relevant to environment and natural resource management in the Albemarle-Pamlico estuarine system. Representatives of state agencies may serve as non-voting liaisons to the committee.

b. All members will be expected to have an advanced degree (Master's or above) and/or extensive experience (at least 6 years), with expertise in scientific and technical fields germane to APNEP's mission.

c. Members should have expertise in science and technology relevant to environment and natural resource management including, but not limited to, landscape ecology, terrestrial ecology, wetlands ecology, submerged aquatic ecology, marine biology, hydrology, remote sensing, ecological assessment, engineering, agricultural technologies, forest technologies, soil conservation, water quality modeling, environmental policy, economics, public policy, planning, spatial statistics, and law.

3. Meetings

The Scientific and Technical Advisory Committee shall meet as deemed appropriate by the Chair or upon request by the Director of the APNEP Office.

D. Administration and Expenses

1. Each advisory body shall be responsible for determining its own rules of order, terms of service, bylaws, chairmanship, attendance requirements, ad-hoc committees, and other matters of protocol. All meetings shall be held in accordance with the Open Meetings Law.

2. Vacancies on an advisory body shall be filled by invitation from the remaining members as set forth in each committee's bylaws.

3. The Department of Environment and Natural Resources, through the APNEP Office, shall provide clerical support and other services required by the advisory bodies.

4. Members of the advisory bodies shall serve voluntarily and without compensation or per diems. Extraordinary expenses may be reimbursed subject to approval by the APNEP Director and in accordance with DENR travel policies, State law, and the policies and regulations of the Office of State Budget and Management.

Section 3. Effect and Duration.

This Executive Order is effective immediately. It supersedes and replaces all other executive orders on this subject and specifically rescinds Executive Order No. 122 issued on August 2, 2007. It shall remain in effect until November 5, 2016, pursuant to N.C. Gen. Stat. § 147-16.2, unless earlier rescinded.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this 5th day of November in the year of our Lord two thousand and twelve, and of the Independence of the United States of America the two hundred and thirty-seventh.



Beverly Eaves Perdue
Governor

ATTEST:

Elaine F. Marshall by Rodney Maddox
Chief Deputy Secretary of State

State of North Carolina

BEVERLY EAVES PERDUE
GOVERNOR

EXECUTIVE ORDER NO. 134

SECOND AMENDMENT TO EXECUTIVE ORDER NO. 130
EMERGENCY RELIEF FOR TROPICAL STORM/HURRICANE SANDY

WHEREAS, Executive Order No. 130 was issued to allow for the expedited movement of vehicles transporting equipment and supplies to the impacted areas within and outside of the State of North Carolina due to Hurricane Sandy; and

WHEREAS, the Federal Emergency Management Agency (FEMA) and other federal agencies are expediting the movement of relief supplies on interstate highways, including the transportation of mobile homes to the areas impacted by Hurricane Sandy as part of the disaster relief effort.

NOW, THEREFORE, pursuant to the authority vested in me as Governor by the Constitution and the laws of the State of North Carolina, **IT IS ORDERED:**

Section 1.

Executive Order No. 130 is amended by adding the following Section 3B:

Section 3B:

Notwithstanding any other provision herein, vehicles transporting mobile homes for emergency housing relief as outlined in this order shall be exempt from the requirements specified below:

a. The requirement of a permit and travel restrictions shall be waived for transporters moving mobile homes that do not exceed 14' wide and/or 14' high being transported under contract with the Federal Emergency Management Agency (FEMA) as part of the disaster relief effort. Transporters operating under this exemption shall be allowed travel on the interstate routes 24 hours a day, seven days a week with up to three homes in a convoy. However, these transporters are required to have an escort vehicle per convoy as would be required under normal conditions. Transporters moving mobile homes under this

section are exempted from the requirement to enter weigh stations as required under N.C.G.S. § 20-118.1. However, these same transporters shall have in the transport vehicle a copy of the Transport Authorization letter from FEMA and the manufacturer's bill of lading for the mobile home being transported. This does not exempt transporters from the requirement of the regulations for escorts, flags, signs and other safety requirements as provided in 19A NCAC 02D.0600. This exemption will be allowed on all North Carolina interstate highways only.

b. For those transporters that do not qualify for the waiver of a permit outlined in subsection a. of this section, the fees listed in N.C.G.S. § 20-119 for an annual permit and a single trip permit shall be waived for mobile homes being transported under contract with FEMA as part of the disaster relief effort. Transporters moving mobile homes under this subsection are exempted from the requirement to enter weigh stations as required under N.C.G.S. § 20-118.1. However, these same transporters shall have in the transport vehicle a copy of the Transport Authorization letter from FEMA, the annual permit or single trip permit from the North Carolina Department of Transportation, and the manufacturer's bill of lading for the mobile home being transported. This does not exempt transporters from the requirement of the regulations for escorts, flags, signs and other safety requirements as provided in 19A NCAC 02D.0600. Movement of mobile homes required to obtain a permit is hereby authorized from sunrise to sunset seven (7) days a week.

Section 2.

This Executive Order is effective immediately and shall remain in effect for the duration of the emergency.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this 8th day of November in the year of our Lord two thousand and twelve, and of the Independence of the United States of America the two hundred and thirty-seventh.



Beverly Eaves Perdue
Governor

ATTEST:

Elaine F. Marshall by Rodney Maddox
Chief Deputy Secretary of State

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State of North Carolina

BEVERLY EAVES PERDUE
GOVERNOR

EXECUTIVE ORDER NO. 135

DISASTER DECLARATION FOR DARE, CURRITUCK, HYDE AND TYRRELL COUNTIES

WHEREAS, the North Carolina Emergency Management Act, Chapter 166A of the North Carolina General Statutes, authorizes the issuance of a disaster declaration for an emergency area as defined in N.C.G.S. § 166A-19.3(7) and categorizing the disaster as a Type I, Type II or Type III disaster as defined in N.C.G.S. § 166A-19.21(b); and

WHEREAS, beginning on October 27, 2012, Dare County, North Carolina was impacted by the effects of Hurricane Sandy; and

WHEREAS, as a result of the approach and impacts of Hurricane Sandy, I declared a state of emergency pursuant to N.C.G.S. § 166A-19.20(b) for numerous eastern North Carolina counties, including Dare, Currituck, Hyde and Tyrrell; and

WHEREAS, as a result of the approach and impacts of Hurricane Sandy, Dare County proclaimed a local state of emergency on October 27, 2012; and

WHEREAS, a joint preliminary damage assessment was done by local, state and federal emergency management officials on November 2 and November 3, 2012; and

WHEREAS, I have determined that a Type I disaster, as defined in N.C.G.S. §166A-19.21(b)(1), exists in the State of North Carolina, specifically in Dare County and its contiguous counties; and

WHEREAS, pursuant to N.C.G.S. § 166A-19.21(b), the criteria for a Type I disaster are met if: (1) the Secretary of the Department of Public Safety has provided a preliminary damage assessment to the Governor and the General Assembly; (2) Dare County has declared a local state of emergency pursuant to N.C.G.S. § 166A-19.22; (3) the preliminary damage assessment has met or exceeded the criteria established for the Small Business Disaster Loan Program pursuant to 13 C.F.R. Part 123; and (4) a major disaster declaration by the President of the United States pursuant to the Stafford Act has not been declared; and

WHEREAS, pursuant to N.C.G.S. § 166A-19.41(b), if a Type I disaster is declared, the Governor may make State funds available for disaster assistance in the form of individual

assistance and public assistance for recovery from those disasters for which federal assistance under the Stafford Act is either not available or does not adequately meet the needs of the citizens of the State in the emergency area.

NOW, THEREFORE, pursuant to the authority vested in me as Governor by the Constitution and the laws of the State of North Carolina, **IT IS ORDERED:**

Section 1. Pursuant to N.C.G.S. § 166A-19.21(b)(1), a Type I disaster is hereby declared for Dare County and the contiguous counties of Currituck, Hyde and Tyrrell.

Section 2. I authorize state disaster assistance in the form of individual assistance grants to eligible individuals and families located within the emergency area that meet the terms and conditions under N.C.G.S. § 166A-19.41(b)(1).

Section 3. I hereby order this declaration: (a) to be distributed to the news media and other organizations calculated to bring its contents to the attention of the general public; (b) to be promptly filed with the Secretary of the Department of Public Safety, the Secretary of State, and the clerks of superior court in the counties to which it applies; and (c) to be distributed to others as necessary to ensure proper implementation of this declaration.

Section 4. This Type I disaster declaration shall expire 60 days after issuance unless renewed by the Governor or the General Assembly. Such renewals may be made in increments of 30 days each, not to exceed a total of 120 days from the date of first issuance.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this 8th day of November in the year of our Lord two thousand and twelve, and of the Independence of the United States of America the two hundred and thirty-seventh.



Beverly Eaves Perdue
Governor

ATTEST:

Elaine F. Marshall by Rodney Maddox
Chief Deputy Secretary of State

State of North Carolina

BEVERLY EAVES PERDUE
GOVERNOR

EXECUTIVE ORDER NO. 136

DISASTER DECLARATION FOR THE CITY OF ROANOKE RAPIDS AND THE TOWN OF GASTON

WHEREAS, the North Carolina Emergency Management Act, Chapter 166A of the North Carolina General Statutes, authorizes the issuance of a disaster declaration for an emergency area as defined in N.C.G.S. § 166A-19.3(7) and categorizing the disaster as a Type I, Type II or Type III disaster as defined in N.C.G.S. § 166A-19.21(b); and

WHEREAS, on August 25, 2012, the City of Roanoke Rapids, located in Halifax County, North Carolina and the Town of Gaston, located in Northampton County, North Carolina were impacted by severe flooding; and

WHEREAS, as a result of the damage from the severe flooding, the City of Roanoke Rapids and Town of Gaston declared local states of emergency on August 25, 2012; and

WHEREAS, a joint preliminary damage assessment was done by local, state and federal emergency management officials on August 27, 2012; and

WHEREAS, I have determined that a Type I disaster, as defined in N.C.G.S. §166A-19.21(b)(1), exists in the State of North Carolina, specifically in the City of Roanoke Rapids and Town of Gaston; and

WHEREAS, pursuant to N.C.G.S. § 166A-19.21, the criteria for a Type I disaster are met if: (1) the Secretary of the Department of Public Safety has provided a preliminary damage assessment to the Governor; (2) the City of Roanoke Rapids and Town of Gaston have declared local states of emergency pursuant to N.C.G.S. § 166A-19.22; (3) the preliminary damage assessment has met or exceeded the State infrastructure criteria set out in N.C.G.S. § 166A-19.41(b)(2)a.; and (4) a major disaster declaration by the President of the United States pursuant to the Stafford Act has not been declared; and

WHEREAS, pursuant to N.C.G.S. § 166A-19.41(b), if a Type I disaster is declared, the Governor may make State funds available for disaster assistance in the form of individual assistance and public assistance for recovery from those disasters for which federal assistance

under the Stafford Act is either not available or does not adequately meet the needs of the citizens of the State in the emergency area.

NOW, THEREFORE, pursuant to the authority vested in me as Governor by the Constitution and the laws of the State of North Carolina, **IT IS ORDERED:**

Section 1. Pursuant to N.C.G.S. § 166A-19.21(b)(1), a Type I disaster is hereby declared for the City of Roanoke Rapids and the Town of Gaston.

Section 2. I authorize state disaster assistance in the form of public assistance grants to eligible entities located within the emergency area that meet the terms and conditions under N.C.G.S. § 166A-19.41(b)(2). These grants are for costs associated with the following:

a. Debris clearance.
b. Emergency protective measures.
c. Roads and bridges.

Section 3. I hereby order this declaration: (a) to be distributed to the news media and other organizations calculated to bring its contents to the attention of the general public; (b) to be promptly filed with the Secretary of the Department of Public Safety, the Secretary of State, and the clerks of superior court in the counties to which it applies; and (c) to be distributed to others as necessary to ensure proper implementation of this declaration.

Section 4. This Type I Disaster Declaration shall expire 60 days after issuance unless renewed by the Governor or the General Assembly. Such renewals may be made in increments of 30 days each, not to exceed a total of 120 days from the date of first issuance.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this 8th day of November in the year of our Lord two thousand and twelve, and of the Independence of the United States of America the two hundred and thirty-seventh.



Beverly Eaves Perdue
Governor

ATTEST:

Elaine F. Marshall by Rodney Maddox
Chief Deputy Secretary of State

State of North Carolina

BEVERLY EAVES PERDUE
GOVERNOR

EXECUTIVE ORDER NO. 137

TEMPORARILY MODIFYING THE JUDICIAL SELECTION PROCESS ESTABLISHED IN EXECUTIVE ORDER NO. 86

WHEREAS, the Constitution and the Laws of the State of North Carolina entrust the Governor with the duty of appointing Justices and Judges of the General Court of Justice when vacancies occur; and

WHEREAS, on April 5, 2011, I issued Executive Order No. 86 establishing the Judicial Nominating Commission ("the Commission") to assist me in the appointment of Justices and Judges in North Carolina; and

WHEREAS, the Commission has been very helpful to me in exercising my duty to make judicial appointments, as has been the opportunity to receive public input on the qualities citizens believe are most characteristic of an able judiciary; and

WHEREAS, the members of the Commission have performed a valuable public service through their work on the Commission, and I am grateful to them for their diligent efforts; and

WHEREAS, based on information communicated to me by members of the Commission, it is apparent that time constraints will make it difficult, if not impossible (1) for the Commission to perform in a timely fashion its role of evaluating and nominating candidates to fill judicial vacancies that currently exist or that arise between now and the end of my term as Governor; and (2) for me to then properly perform my duty to fully consider the qualifications of the candidates nominated by the Commission to fill those vacancies; and

WHEREAS, a temporary modification of the judicial selection process established in Executive Order No. 86 will enable me to best perform my constitutional and statutory duty to fully and thoroughly consider the qualifications of candidates before filling judicial vacancies that currently exist or that arise between now and the end of my term as Governor, so that the most qualified candidate for each vacancy can be appointed.

NOW, THEREFORE, pursuant to the authority vested in me as Governor by the Constitution and laws of the State of North Carolina, **IT IS ORDERED:**

Section 1. With respect to all judicial vacancies that currently exist or that may arise between the present date and the end of my term as Governor, the process contained in Executive Order No. 86 shall be modified as set out herein. For such vacancies, I will exercise my constitutional and statutory authority to fill the vacancies without first receiving nominations from the Commission. However, I plan to consult with individual members of the Commission as I deem appropriate to seek their input regarding the qualifications of specific candidates for appointment.

Section 2. I urge future Governors to continue utilizing the Commission to assist them in filling judicial vacancies for all of the reasons set forth in Executive Order No. 86.

Section 3. This Executive Order is effective immediately and supersedes all other Executive Orders on this subject. It shall remain in effect until the end of my term as Governor.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this 5th day of December in the year of our Lord two thousand and twelve, and of the Independence of the United States of America the two hundred and thirty-seventh.

Beverly Eaves Perdue
Governor

ATTEST:

Elaine F. Marshall
Secretary of State

State of North Carolina

BEVERLY EAVES PERDUE
GOVERNOR

EXECUTIVE ORDER NO. 138

RESCINDING OR TERMINATING CERTAIN EXECUTIVE ORDERS

Pursuant to the authority vested in me as Governor by the Constitution and laws of the State of North Carolina, **IT IS ORDERED:**

Section 1. Covered Executive Orders

The following Executive Orders are hereby rescinded or terminated as set out below:

a. Executive Order No. 16, *Designating the Office of Economic Recovery and Investment as the Authorized Entity Under the American Recovery and Reinvestment Act Strengthening Communities Fund*, adopted July 6, 2009, is hereby rescinded.

b. Executive Order No. 26, *Reestablishing the Governor's Task Force for Healthy Carolinians*, adopted October 8, 2009, is hereby rescinded.

c. Executive Order No. 27, *Proclamation of a State of Emergency by the Governor of the State of North Carolina*, adopted October 28, 2009, is hereby terminated.

d. Executive Order No. 30, *Proclamation of a State of Emergency by the Governor of the State of North Carolina*, adopted November 16, 2009, is hereby terminated.

e. Executive Order No. 36, *Designation of Certain State Employees and Appointees as Covered Public Servants under the State Government Ethics Act*, adopted December 9, 2009, is hereby rescinded.

f. Executive Order No. 95, *Organization of the Employment Security Commission within the Department of Commerce*, adopted June 30, 2011, is hereby rescinded.

g. Executive Order No. 96, *Offshore Wind Economic Development Task Force*, adopted June 30, 2011, is hereby rescinded.

h. Executive Order No. 97, *Reauthorize and Expand the Governor's Scientific Advisory Panel on Energy and Rescinding Executive Order No. 23*, adopted June 30, 2011, is hereby rescinded.

Section 2. Effect and Duration

This Executive Order is effective immediately. It supersedes and replaces all other executive orders on this subject. It shall remain in effect until rescinded.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this 5th day of December in the year of our Lord two thousand and twelve, and of the Independence of the United States of America the two hundred and thirty-seventh.



Beverly Eaves Perdue
Governor

ATTEST:

Elaine F. Marshall
Secretary of State

EXECUTIVE ORDERS
OF
GOVERNOR PAT McCRORY

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State of North Carolina



Pat McCrory
Governor

January 7, 2013

EXECUTIVE ORDER NO. 1

ESTABLISHING A PROCEDURE FOR THE APPOINTMENT OF JUSTICES AND JUDGES

WHEREAS, the Constitution and Laws of the State of North Carolina entrust the Governor with the duty of appointing Justices and Judges of the General Court of Justice when vacancies occur; and,

WHEREAS, the quality of our system of justice is determined by the quality of the judicial officers who serve within our judicial system; and,

WHEREAS, a fair, impartial, independent, highly qualified and diverse judiciary is essential to ensuring justice for all who come before North Carolina's courts and to fostering public confidence in the integrity of the judicial process; and,

WHEREAS, it is essential that the Governor fills judicial vacancies with persons of the highest quality who by temperament, education, experience, ability and integrity will impartially and independently interpret the laws and administer justice; and,

WHEREAS, this goal can best be achieved by the solicitation, receipt, and consideration of information pertaining to outstanding candidates from all quarters of the State to the end that these important constitutional duties are performed; and,

WHEREAS, any Executive Orders previously entered which are inconsistent with these principles should be rescinded.

NOW, THEREFORE, by the power vested in me as GOVERNOR by the Constitution and laws of the State of North Carolina, **IT IS ORDERED:**

Section 1. Purpose and Scope of this Executive Order

When a vacancy occurs in the office of Chief Justice or Associate Justice of the Supreme Court, Judge of the Court of Appeals, or Judge of the Superior Court, the Governor will appoint a person to fill the vacancy pursuant to article IV, section 19 of the North Carolina Constitution. Qualifications to be considered by the Governor shall include, but not be limited to, a candidate's integrity, legal knowledge and ability, professional experience, judicial temperament, diligence, health, financial responsibility and previous public service.

Section 2. Review

The Governor and his staff will periodically evaluate the effectiveness of this order in providing citizens a fair, impartial, independent, highly qualified and diverse judiciary.

Section 3. Effect and Duration

This Executive Order is effective immediately and will apply to any and all vacancies existing as of the date hereafter. This Executive Order supersedes and replaces all other executive orders on this subject. It shall remain in effect until rescinded.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this the seventh day of January, in the year of our Lord two thousand thirteen, and of the Independence of the United States of America the two hundred and thirty-seventh.



Pat McCrory
Governor

ATTEST:

Elaine F. Marshall
Secretary of State

State of North Carolina



Pat McCrory
Governor

January 23, 2013

EXECUTIVE ORDER NO. 2

DECLARATION OF A STATE OF EMERGENCY
BY THE GOVERNOR OF THE STATE OF NORTH CAROLINA

Pursuant to the authority vested in me as Governor by the Constitution of the State of North Carolina and N.C.G.S. §166A-19.20:

Section 1. I hereby declare that a state of emergency as defined in N.C.G.S. §§ 166A 19.3(6) and 166A-19.3(18) exists in the State of North Carolina as a result of a landslide obstructing both directions on U.S. Highway 441 beginning on January 15, 2013. The emergency area as defined in N.C.G.S. §§ 166A-19.3(7) and N.C.G.S. 166A-19.20(b) includes the following counties: Graham, Jackson and Swain and areas within the Qualla Boundary of the Eastern Band of the Cherokee.

Section 2. I order all state and local government entities and agencies to cooperate in the implementation of the provisions of this declaration and the provisions of the North Carolina Emergency Operations Plan.

Section 3. I delegate to Kieran J. Shanahan, the Secretary of the Department Public Safety, or his/her designee, all power and authority granted to me and required of me by Article 1A of Chapter 166A of the General Statutes for the purpose of implementing the State's Emergency Operations Plan and deploying the State Emergency Response Team to take the appropriate actions as is necessary to promote and secure the safety and protection of the populace in North Carolina.

Section 4. Further, Secretary Shanahan, as chief coordinating officer for the State of North Carolina, shall exercise the powers prescribed in G. S.§ 143B-602.

Section 5. I further direct Secretary Shanahan, to seek assistance from any and all agencies of the United States Government as may be needed to meet the emergency and seek reimbursement for costs incurred by the State in responding to this emergency.

Section 6. I hereby order this declaration: (a) to be distributed to the news media and other organizations calculated to bring its contents to the attention of the general public; (b) unless the circumstances of the state of emergency prevent or impede, to be promptly filed with the Secretary of the Department of Public Safety, the Secretary of State, and the clerks of superior court in the counties to which it applies; and (c) to be distributed to others as necessary to assure proper implementation of this declaration.

Section 7. This declaration does not prohibit or restrict lawfully possessed firearms or ammunition or impose any limitation on the consumption, transportation, sale or purchase of alcoholic beverages as provided in N.C.G.S. § 166A-19.30(c).

Section 8. Pursuant to N.C.G.S. § 166A-19.23, this declaration triggers the prohibition against excessive pricing as provided in N.C.G.S. § 75-37 and 75-38 in the declared emergency area.

Section 9. This declaration is effective Wednesday, January 23, 2013 and shall remain in effect until rescinded.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this 23rd day of January in the year of our Lord two thousand and thirteen, and of the Independence of the United States of America the two hundred and thirty-seventh.



Pat McCrory
Governor

ATTEST:

Elaine F. Marshall
Secretary of State

State of North Carolina

PAT McCRORY
GOVERNOR

February 13, 2013

EXECUTIVE ORDER NO. 3

DISASTER DECLARATION FOR THE TOWN OF KITTY HAWK

WHEREAS, the North Carolina Emergency Management Act, Chapter 166A of the North Carolina General Statutes authorizes the issuance of a disaster declaration for an emergency area as defined in N.C.G.S. § 166A-19.3(7) and categorizing the disaster as a Type I, Type II or Type III disaster as defined in N.C.G.S. § 166A-19.21(b); and

WHEREAS, starting on October 27, 2012, the Town of Kitty Hawk, North Carolina was impacted by the effects of Hurricane Sandy; and

WHEREAS, as a result of the approach and impacts of Hurricane Sandy, the Governor declared a state of emergency pursuant to N.C.G.S. § 166A-19.20(b) for forty (40) eastern North Carolina counties, including Dare County where the Town of Kitty Hawk is located; and

WHEREAS, as a result of the approach and impacts of Hurricane Sandy, the Town of Kitty Hawk proclaimed a local state of emergency on October 27, 2012; and

WHEREAS, due the impacts of Hurricane Sandy in the Town of Kitty Hawk, a joint preliminary damage assessment was done by local, state and federal emergency management officials on November 5, 2012; and

WHEREAS, I have determined that a Type I disaster, as defined in N.C.G.S. §166A-19.21(b)(1), exists in the State of North Carolina, specifically in the Town of Kitty Hawk; and

WHEREAS, pursuant to N.C.G.S. § 166A-19.21(b), the criteria for a Type I disaster are met if: (1) the Secretary of the Department of Public Safety has provided a preliminary damage assessment to the Governor and the General Assembly; (2) the Town of Kitty Hawk declared a local state of emergency pursuant to N.C.G.S. § 166A-19.22; (3) the preliminary damage assessment meets or exceeds the State infrastructure criteria set out in G.S. 166A-19.41(b)(2)a.; and (4) a major disaster declaration by the President of the United States pursuant to the Stafford Act has not been declared; and

WHEREAS, pursuant to N.C.G.S. § 166A-19.41(b), if a disaster is declared, the Governor may make State funds available for disaster assistance in the form of individual assistance and public assistance for recovery from those disasters for which federal assistance under the Stafford Act is either not available or does not adequately meet the needs of the citizens of the State in the emergency area.

NOW, THEREFORE, pursuant to the authority vested in me as Governor by the Constitution and the laws of the State of North Carolina, **IT IS ORDERED:**

Section 1. Pursuant to N.C.G.S. § 166A-19.21(b)(1), a Type I disaster is hereby declared for the Town of Kitty Hawk.

Section 2. I authorize state disaster assistance in the form of individual assistance grants to eligible individuals and families located within the emergency area that meet the terms and conditions under N.C.G.S. § 166A-19.41(b)(2) these grants are for the following:

a. Debris clearance.
b. Emergency protective measures.

Section 3. I hereby order this declaration: (a) to be distributed to the news media and other organizations calculated to bring its contents to the attention of the general public; (b) to be promptly filed with the Secretary of the Department of Public Safety, the Secretary of State, and the clerks of superior court in the counties to which it applies; and (c) to be distributed to others as necessary to ensure proper implementation of this declaration.

Section 4. This Type I disaster declaration shall expire 60 days after issuance unless renewed by the Governor or the General Assembly. Such renewals may be made in increments of 30 days each, not to exceed a total of 120 days from the date of first issuance.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this thirteenth day of February in the year of our Lord two thousand and thirteen, and of the Independence of the United States of America the two hundred and thirty-seventh.



Pat McCrory
Governor

ATTEST:

Elaine F. Marshall
Secretary of State

State of North Carolina

PAT McCRORY
GOVERNOR

FEBRUARY 27, 2013

EXECUTIVE ORDER NO. 4

TEMPORARY EMPLOYMENT SERVICES

WHEREAS, State agencies and departments have the need to obtain the services of temporary employees from time to time in order to efficiently respond to temporary or changing conditions; and

WHEREAS, there has been established in the Office of State Personnel a temporary employment service entitled Temporary Solutions; and

WHEREAS, Temporary Solutions has been and continues to be administered by the Office of State Personnel; and

WHEREAS, Temporary Solutions provides temporary staffing services for North Carolina State Government at a cost-effective rate; and

WHEREAS, the State Personnel Director, through Temporary Solutions charges the agencies, departments, and institutions which use Temporary Solutions for use of the temporary workforce, which includes the cost of maintenance of the Program and a small administrative fee; and

WHEREAS, the State Personnel Director is and shall continue to be responsible for the efficient operation of the Temporary Solutions program that meets the temporary employment needs of State agencies, departments, and institutions.

NOW THEREFORE, by the power vested in me as Governor by the Constitution and laws of the State of North Carolina, **IT IS ORDERED:**

Section 1. All departments and agencies which utilize temporary employees shall employ them through the Temporary Solutions Program which is administered by the Office of State Personnel or a similar temporary employment service approved by the State Personnel Director.

Section 2. The head of each Council of State department and the University of North Carolina System, which employ temporary employees, are encouraged and invited to employ them through the Temporary Solutions Program or a similar temporary employment service administered by a specified group of agencies and universities.

Section 3. The hiring of any temporary employee by a department or agency shall be reported to the Office of State Personnel. The use of any entity by a department or agency to employ a temporary employee other than Temporary Solutions shall be approved prior to such use by the State Personnel Director.

Section 4. The State Personnel Director shall establish monthly monitoring of the utilization of temporary employees in State Government and shall provide an annual report to the State Personnel

Commission on the compliance by all agencies, departments and institutions as a part of N.C.G.S. § 126-3(b)(8) and (9) as it relates to temporary employees.

Section 5. This Executive Order is effective immediately and it shall remain in effect until rescinded.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this twenty-seventh day of February, in the year of our Lord two thousand thirteen, and of the Independence of the United States of America the two hundred and thirty-seventh.



Pat McCrory
Governor

ATTEST:

Elaine F. Marshall
Secretary of State

State of North Carolina

PAT McCRORY
GOVERNOR

March 5, 2013

EXECUTIVE ORDER NO. 5

EMERGENCY RELIEF FOR THE AREAS IMPACTED BY THE MID-ATLANTIC WINTER STORM

WHEREAS, due to the anticipated impact and disaster associated with the expected winter storm in the Mid-Atlantic region of the United States, vehicles bearing equipment, supplies and those used to restore utility services to relieve the damage to those states need to be moved on the interstate highways of North Carolina; and

WHEREAS, I hereby declare that a state of emergency as defined in N.C.G.S. §§ 166A-19.3(6) and 166A-19.3(18) exists for the purposes of responding to the anticipated impact of the Mid-Atlantic winter storm. The emergency area as defined in N.C.G.S. §§ 166A-19.3(7) and N.C.G.S. 166A-19.20(b) is the Mid-Atlantic region of the United States.

WHEREAS, under the provisions of N.C.G.S. § 166A-19.30(b)(3) the Governor, with the concurrence of the Council of State, may regulate and control the flow of vehicular traffic and the operation of transportation services; and

WHEREAS, with the concurrence of the Council of State, I have found that vehicles bearing equipment, supplies and engaged in restoring utility services to relieve the emergency area must adhere to the registration requirements of N.C.G.S. § 20-86.1 and 20-382, fuel tax requirements of N.C.G.S. § 105-449.47, and the size and weight requirements of N.C.G.S. §§ 20-116 and 20-118. I have further found that citizens in the emergency area may suffer losses and will likely suffer further widespread damage within the meaning of N.C.G.S § 166A-19.3(3) and N.C.G.S. § 166A-19.21(b) and;

WHEREAS, the prompt restoration of utility services to citizens is essential to their safety and well-being; and

WHEREAS, 49 CFR § 390.23 allows the Governor of a state to suspend the rules and regulations under 49 CFR Part 395 for up to 30 days if the Governor determines that an emergency condition exists; and

WHEREAS, under N.C.G.S. § 166A-19.70, the Governor may declare that the health, safety, or economic well-being of persons or property requires that the maximum hours of service for drivers prescribed by N.C.G.S. § 20-381 should be waived for persons transporting essential fuels, food, water, and medical supplies, and for the restoration of utility services.

NOW, THEREFORE, pursuant to the authority vested in me as Governor by the Constitution and the laws of the State of North Carolina, **IT IS ORDERED:**

Section 1.

The Department of Public Safety in conjunction with the North Carolina Department of Transportation shall waive the maximum hours of service for drivers prescribed by the Department of Public Safety pursuant to N.C.G.S. § 20-381.

Section 2.

The Department of Public Safety in conjunction with the North Carolina Department of Transportation shall waive certain size and weight restrictions and penalties arising under N.C.G.S. §§ 20-116 and 20-118, and certain registration requirements and penalties arising under N.C.G.S. §§ 20-86.1, 20-382, 105-449.47, and 105-449.49 for the vehicles transporting equipment, supplies and engaged in restoring utility services in order to relieve the emergency area as described herein.

Section 3.

Vehicle combinations transporting a commodity that cannot be broken down or divided to meet the requirements outlined in this section are exempt from obtaining an oversize/overweight permit:

a. When the gross weight does not exceed 112,000 pounds, and
b. When the steer axle weight does not exceed 20,000 pounds, the single axle weight does not exceed 25,000 pounds, the tandem axle weight does not exceed 50,000 pounds, the tridem axle weight does not exceed 60,000 pounds and the 4 or more axle group weight does not exceed 68,000 pounds, and
c. When the overall width does not exceed 12 feet, and
d. When the overall height does not exceed 13 feet 6 inches, and
e. When the overall length does not exceed 105 feet from bumper to bumper, and
f. When the vehicle combination has five or more axles, and
g. When the vehicle combination has a minimum extreme axle spacing of 51 feet from the center of the first axle to the center of the rear most axle, and
h. When the vehicle combination is traveling on North Carolina interstate highways only.

Vehicles and vehicle combinations subject to exemptions or permits by authority of this Executive Order shall not be exempt from the requirement of having a yellow banner on the front and rear measuring a total length of 7 feet by 18 inches bearing the legend "Oversized Load" in 10 inch black letters 1.5 inches wide and red flags measuring 18 inches square to be displayed on all sides at the widest point of the load. In addition, when operating between sunset and sunrise, a certified escort shall be required for loads exceeding 8 feet 6 inches in width.

Section 4.

Vehicles referenced under Sections 2 and 3 shall be exempt from the following registration requirements:

a. The $50.00 fee listed in N.C.G.S. § 105-449.49 for a temporary trip permit is waived for the vehicles described above. No quarterly fuel tax is required because the exception in N.C.G.S. § 105-449.45(a)(1) applies.

b. The registration requirements under N.C.G.S. § 20-382.1 concerning intrastate and interstate for-hire authority is waived; however, vehicles shall maintain the required limits of insurance as required.

c. Non-participants in North Carolina's International Registration Plan will be permitted into North Carolina in accordance with the exemptions identified by this Executive Order.

Section 5.

The size and weight exemption for vehicles will only be allowed on all North Carolina interstate Highways.

Section 6.

The waiver of regulations under Title 49 of the Code of Federal Regulations (Federal Motor Carrier Safety Regulations) does not apply to the CDL and Insurance Requirements. This waiver shall be in effect for 30 days or the duration of the emergency, whichever is less.

Section 7.

The North Carolina State Highway Patrol shall enforce the conditions set forth in Sections 1 through 6 of this Executive Order in a manner, which will implement these provisions without endangering motorists in North Carolina.

Section 8.

Upon request by law enforcement officers, exempted vehicles must produce documentation sufficient to establish their loads are for relief efforts associated with transporting equipment, supplies and restoring utility services.

Section 9.

This Order shall not apply on posted bridges pursuant to N.C.G.S. 136-72 and light traffic roads pursuant to N.C.G.S. 20-118.

Section 10.

This Executive Order does not prohibit or restrict lawfully possessed firearms or ammunition or impose any limitation on the consumption, transportation, sale or purchase of alcoholic beverages as provided in N.C.G.S. § 166A-19.30(c).

Section 11.

This Executive Order is effective immediately and shall remain in effect for thirty (30) days or the duration of the emergency, whichever is less.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this fifth day of March, in the year of our Lord two thousand thirteen, and of the Independence of the United States of America the two hundred and thirty-seventh.

Pat McCrory
Governor

ATTEST:

Elaine F. Marshall
Secretary of State

State of North Carolina

PAT McCRORY
GOVERNOR

March 12, 2013

EXECUTIVE ORDER NO. 6

DECLARATION OF A STATE OF EMERGENCY
BY THE GOVERNOR OF THE STATE OF NORTH CAROLINA

WHEREAS, heavy rains in western North Carolina created conditions that caused flooding and mudslides to commence on January 14, 2013 and end on January 18, 2013; and

WHEREAS, due to the flooding and mudslides in western North Carolina, this State sustained severe damage to its road systems, which include both State and Federal-Aid highways, bridges and other facilities; and

WHEREAS, damage to the road systems throughout western North Carolina has been of such an extent that immediate repairs have been necessary, which conditions constitute an emergency as is contemplated in 23 U.S.C. §§ 120(e) and 125; and

WHEREAS, the immediate repair and reconstruction of the damaged highways is vital to the security, well-being, and health of the citizens of the State of North Carolina, and the Federal Highway Division Administrator is hereby requested to concur in the declaration of this emergency.

NOW, THEREFORE, pursuant to the authority vested in me as Governor by the Constitution of the State of North Carolina and N.C.G.S. §166A-19.20, **IT IS ORDERED:**

Section 1.

I hereby declare that a state of emergency as defined in N.C.G.S. §§ 166A-19.3(6) and 166A-19.3(18) exists in the State of North Carolina as a result of the flooding and mudslides that produced severe damage to its road systems, which include both State and Federal-Aid highways, bridges and other facilities.

Section 2.

The emergency area as defined in N.C.G.S. §§ 166A-19.3(7) and N.C.G.S. 166A-19.20(b) includes the following counties: Buncombe, Cherokee, Clay, Graham, Haywood, Jackson, Macon, Madison, McDowell, Mitchell, Swain and Yancey.

Section 3.

I order all state and local government entities and agencies to cooperate in the implementation of the provisions of this declaration and the provisions of the North Carolina Emergency Operations Plan.

Section 4.

I delegate to Kieran J. Shanahan, the Secretary of the Department Public Safety, or his designee, all power and authority granted to me and required of me by Article 1A of Chapter 166A of the General Statutes for the purpose of implementing the State's Emergency Operations Plan and deploying the State Emergency Response Team to take the appropriate actions as is necessary to promote and secure the safety and protection of the populace in North Carolina.

Section 5.

Further, Secretary Shanahan, as chief coordinating officer for the State of North Carolina, shall exercise the powers prescribed in G. S.§ 143B-602.

Section 6.

I further direct Secretary Shanahan or his designee, to seek assistance from any and all agencies of the United States Government as may be needed to meet the emergency and seek reimbursement for costs incurred by the State in responding to this emergency.

Section 7.

I hereby order this declaration: (a) to be distributed to the news media and other organizations calculated to bring its contents to the attention of the general public; (b) unless the circumstances of the state of emergency prevent or impede, to be promptly filed with the Secretary of the Department of Public Safety, the Secretary of State, and the clerks of superior court in the counties to which it applies; and (c) to be distributed to others as necessary to assure proper implementation of this declaration.

Section 8.

This declaration does not prohibit or restrict lawfully possessed firearms or ammunition or impose any limitation on the consumption, transportation, sale or purchase of alcoholic beverages as provided in N.C.G.S. § 166A-19.30(c).

Section 9.

Pursuant to N.C.G.S. § 166A-19.23, this declaration triggers the prohibition against excessive pricing as provided in N.C.G.S. § 75-37 and 75-38 in the declared emergency area.

Section 10.

This declaration is effective Tuesday. March 12. 2013 and shall remain in effect until rescinded.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this twelfth day of March in the year of our Lord two thousand thirteen, and of the Independence of the United States of America the two hundred and thirty-seventh.



Governor
Pat McCrory

ATTEST:

Rodney S Maddox
Secretary of State Chief Deputy Secretary of State
Elaine Marshall

State of North Carolina

PAT McCRORY
GOVERNOR

March 12, 2013

EXECUTIVE ORDER NO. 7

NOTICE OF TERMINATION OF THE STATES OF EMERGENCY DECLARED BY EXECUTIVE ORDERS 2 AND 5

WHEREAS, Executive Order No. 2 declaring a state of emergency in portions of the State of North Carolina was issued on January 23, 2013 by the Governor of the State of North Carolina as as a result of a landslide obstructing both directions on U.S. Highway 441 beginning on January 15, 2013; and

WHEREAS, Executive Order No. 5 declaring a state of emergency for the Mid-Atlantic region of the United States due to anticipated damage from a winter storm was issued on March 5, 2013 by the Governor of the State of North Carolina, in order to provide the quick restoration of power in that region by temporarily suspending size and weight restrictions and waiving the maximum hours of service on utility trucks passing through North Carolina's interstate highways; and

WHEREAS, the conditions that required the declaration of the states of emergencies have ended.

NOW, THEREFORE, by the power vested in me as Governor by the Constitution and laws of North Carolina, **IT IS ORDERED**:

Pursuant to N.C.G.S § 166A-19.20(c) the states of emergencies that were declared by Executive Orders 2 and 5 are hereby terminated as of March 12, 2013.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this twelfth day of March in the year of our Lord two thousand and thirteen, and of the Independence of the United States of America the two hundred and thirty-seventh.



Pat McCrory
Governor

ATTEST:

Elaine F. Marshall
Secretary of State

Rodney S. Maddox
Chief Deputy Secretary of State

State of North Carolina

PAT McCRORY
GOVERNOR

March 19, 2013

EXECUTIVE ORDER NO. 8

DECLARATION OF A STATE OF EMERGENCY
BY THE GOVERNOR OF THE STATE OF NORTH CAROLINA

WHEREAS, NC Highway 12 serves as the main lifeline for the communities on Hatteras and Ocracoke Islands, connecting them to each other and the mainland of North Carolina. Island residents depend on the roadway for off-island community services, such as hospitals, emergency response and other services. NC Highway 12 is also the primary evacuation route for all permanent and temporary residents on the islands when severe weather is approaching; and

WHEREAS, NC Highway 12 has been frequently blocked between the temporary bridge on Pea Island to the Village of Rodanthe as a result of flooding and overwash due to Hurricane Sandy, weather events and tidal fluctuations in the last year, including one as recent as this month; and

WHEREAS, as a result of Hurricane Sandy, Governor Beverly Perdue, issued Executive Order 129 declaring a state of emergency for portions of North Carolina including Dare and Hyde counties on October 26, 2012; and

WHEREAS, as a result of the continued overwash and flooding since Hurricane Sandy onto the highway, public safety and transportation infrastructure remains vulnerable between the temporary bridge on Pea Island to the Village of Rodanthe; and

WHEREAS, the State has requested aid from the Federal Highway Administration and the US Army Corps of Engineers, as a result of Hurricane Sandy; and

WHEREAS, the immediate repair and reconstruction of the damaged highway and surrounding transportation infrastructure is vital to the security, well-being, and health of the citizens of the State of North Carolina; and

WHEREAS, care must also be taken to protect the environmentally sensitive areas of the Pea Island National Wildlife Refuge and other protected federal lands; and

WHEREAS, I ask the federal agencies responsible for the maintenance and caretaking of those areas, to work with the State of North Carolina in developing both a short-term and long-term solution to resolve the continued problems at this and other portions of NC Highway 12.

NOW, THEREFORE, pursuant to the authority vested in me as Governor by the Constitution of the State of North Carolina and N.C.G.S. §166A-19.20, **IT IS ORDERED:**

Section 1.

I hereby declare that a state of emergency as defined in N.C.G.S. §§ 166A-19.3(6) and 166A-19.3(18) exists in the State of North Carolina as a result of the continued overwash to portions of NC Highway 12 which causes a continued threat to public safety and transportation infrastructure between the northern end of the temporary bridge on Pea Island to a point 3,250 feet south of SR 1495 (Corbina Drive) in the Village of Rodanthe.

Section 2.

The emergency area as defined in N.C.G.S. §§ 166A-19.3(7) and N.C.G.S. 166A-19.20(b) includes the following: NC Highway 12 between the northern end of the temporary bridge on Pea Island to a point 3,250 feet south of SR 1495 (Corbina Drive) in the Village of Rodanthe.

Section 3.

I order all state and local government entities and agencies to cooperate in the implementation of the provisions of this declaration and the provisions of the North Carolina Emergency Operations Plan.

Section 4.

I delegate to Kieran J. Shanahan, the Secretary of the Department Public Safety, or his designee, all power and authority granted to me and required of me by Article 1A of Chapter 166A of the General Statutes for the purpose of implementing the State's Emergency Operations Plan and deploying the State Emergency Response Team to take the appropriate actions as is necessary to promote and secure the safety and protection of the populace in North Carolina.

Section 5.

Further, Secretary Shanahan, as chief coordinating officer for the State of North Carolina, shall exercise the powers prescribed in G. S.§ 143B-602.

Section 6.

I further direct Secretary Shanahan or his designee, to seek assistance from any and all agencies of the United States Government as may be needed to meet the emergency and seek reimbursement for costs incurred by the State in responding to this emergency.

Section 7.

I hereby order this declaration: (a) to be distributed to the news media and other organizations calculated to bring its contents to the attention of the general public; (b) unless the circumstances of the state of emergency prevent or impede, to be promptly filed with the Secretary of the Department of Public Safety, the Secretary of State, and the clerks of superior court in the counties to which it applies; and (c) to be distributed to others as necessary to assure proper implementation of this declaration.

Section 8.

This declaration does not prohibit or restrict lawfully possessed firearms or ammunition or impose any limitation on the consumption, transportation, sale or purchase of alcoholic beverages as provided in N.C.G.S. § 166A-19.30(c).

Section 9.

Pursuant to N.C.G.S. § 166A-19.23, this declaration triggers the prohibition against excessive pricing as provided in N.C.G.S. § 75-37 and 75-38 in the declared emergency area.

Section 10.

This declaration is effective Tuesday, March 19, 2013 and shall remain in effect until rescinded.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this nineteenth day of March in the year of our Lord two thousand and thirteen, and of the Independence of the United States of America the two hundred and thirty-seventh.



Pat McCrory

Governor
Pat McCrory

ATTEST:

Elaine F. Marshall

Secretary of State
Elaine Marshall

State of North Carolina

PAT McCRORY
GOVERNOR

May 13, 2013

EXECUTIVE ORDER NO. 9

REAUTHORIZING THE NORTH CAROLINA MOTORSPORTS ADVISORY COUNCIL

WHEREAS, the North Carolina Motorsports Advisory Council was established in Executive Order 49 on February 11, 2010 and is scheduled to terminate February 10, 2014.

WHEREAS, North Carolina is the "State of Racing" and home to the motorsports industry; and

WHEREAS, motorsports racing, including circle track and drag racing, is a part of the heritage of North Carolina; and

WHEREAS, the first NASCAR race was held in Charlotte in 1949, and North Carolina is home to ninety percent of NASCAR teams and the NASCAR Hall of Fame; and

WHEREAS, North Carolina hosts NASCAR events, National Hot Rod Association events, and International Hot Rod Association events; and

WHEREAS, the motorsports industry contributes to the North Carolina economy by providing jobs for the citizens of this State and bolstering tourism; and

WHEREAS, the North Carolina motorsports industry has developed a collaborative partnership with the U.S. Special Operations Command community that allows the military and motorsports industry to mutually benefit through shared capabilities, knowledge, expertise, requirements and interest in National Security; and

WHEREAS, the State of North Carolina must continue to consider measures that will preserve, strengthen, and expand this historical industry in North Carolina.

NOW, THEREFORE, by the power vested in me as Governor by the Constitution and laws of the State of North Carolina, **IT IS ORDERED**:

Section 1. Establishment

The North Carolina Motorsports Advisory Council ("Advisory Council") is hereby re-established. The Advisory Council shall consist of at least 15 members, but no more than 30 members, appointed by the Governor. The Governor shall designate a Chair. Members shall include, but not be limited to, representatives of the motorsports industry and related industries.

Section 2. Term of Membership and Vacancies

All members shall be appointed for a term of two (2) years and shall serve at the pleasure of the Governor. A vacancy occurring during a term of appointment shall be filled by the Governor for the balance of the unexpired term.

Section 3. Meetings

The Advisory Council shall meet quarterly and at other times at the call of the Chair or the Governor.

a. A majority of the members of the Advisory Council shall constitute a quorum for the transaction of business.

b. No per diem allowance shall be paid to members of the Advisory Council. Members of the Advisory Council may receive necessary travel and subsistence expenses in accordance with State law and the policies and regulations of the Office of State Budget Management.

Section 4. Staff Assistance

The Department of Commerce shall provide clerical support and other services as required by the Advisory Council.

The Governor's Military Affairs Advisor shall provide support and other services to the Advisory Council for matters involving the military and defense industry.

Section 5. Duties

The Advisory Council shall have the following duties:

a. Recommend initiatives to protect, strengthen, and expand the motorsports industry in North Carolina;
b. Provide ongoing advice and consultation to State policy leaders as to how to recruit, retain and expand the motorsports industry in North Carolina;
c. Encourage support for the motorsports industry and serve as a resource for the industry to the North Carolina General Assembly and State departments and agencies; and
d. Facilitate U.S. Special Operations Command engagement with the motorsports industry including, but not limited to, developing programs and entering into agreements that allow the military and motorsports industry to share advanced technology, knowledge and expertise.

e. Perform such other duties as assigned by the Governor or the Chair.

Section 6. Conflicts of Interest

The Advisory Council shall comply with the requirements of Executive Order No. 35, Ethics for Certain Boards, issued December 9, 2009, regarding conflicts of interest standards for members of the Advisory Council.

Section 7. Duration

This Executive Order shall be effective immediately. It supersedes and replaces all other executive orders on this subject and specifically rescinds Executive Order 49, dated February 11, 2010. It shall remain in effect until May 15, 2016, pursuant to N.C.G.S. §147-16.2, or until rescinded.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this 13th day of May in the year of our Lord two thousand and thirteen, and of the Independence of the United States of America the two hundred and thirty-seventh.

Governor
Pat McCrory

ATTEST:

Secretary of State
Elaine F. Marshall

State of North Carolina

PAT McCRORY
GOVERNOR

May 21, 2013

EXECUTIVE ORDER NO. 10

DISASTER DECLARATION FOR THE TOWNS OF MURPHY AND ROBBINSVILLE

WHEREAS, the North Carolina Emergency Management Act, Chapter 166A of the North Carolina General Statutes, authorizes the issuance of a disaster declaration for an emergency area as defined in N.C.G.S. § 166A-19.3(7), and categorizing the disaster as a Type I, Type II or Type III disaster as defined in N.C.G.S. § 166A-19.21(b); and

WHEREAS, starting on January 15, 2013, the Town of Murphy in Cherokee County, North Carolina and the Town of Robbinsville in Graham County, North Carolina were impacted by severe flooding caused by heavy rains; and

WHEREAS, as a result of the flooding the Town of Murphy proclaimed a local state of emergency on January 15, 2013; and

WHEREAS, as a result of the flooding the Town of Robbinsville proclaimed a local state of emergency on January 15, 2013; and

WHEREAS, due the impact of the flooding, a joint preliminary damage assessment was done by local, state and federal emergency management officials on January 23, 2013 in the Towns of Murphy and Robbinsville; and

WHEREAS, I have determined that a Type I disaster, as defined in N.C.G.S. §166A-19.21(b)(1), exists in the State of North Carolina, specifically in the Towns of Murphy and Robbinsville; and

WHEREAS, pursuant to N.C.G.S. § 166A-19.21(b)(1), the criteria for a Type I disaster are met if: (1) the Secretary of the Department of Public Safety has provided a preliminary damage assessment to the Governor and the General Assembly; (2) the Towns of Murphy and Robbinsville declared a local state of emergency pursuant to N.C.G.S. § 166A-19.22; (3) the preliminary damage assessment meets or exceeds the State infrastructure criteria set out in G.S. 166A-19.41(b)(2)a.; and (4) a major disaster declaration by the President of the United States pursuant to the Stafford Act has not been declared; and

WHEREAS, pursuant to N.C.G.S. § 166A-19.41(b), if a disaster is declared, the Governor may make State funds available for emergency assistance in the form of individual assistance and public assistance for recovery from those disasters for which federal assistance under the Stafford Act is either not available or does not adequately meet the needs of the citizens of the State in the emergency area.

NOW, THEREFORE, pursuant to the authority vested in me as Governor by the Constitution and the laws of the State of North Carolina, **IT IS ORDERED:**

Section 1. Pursuant to N.C.G.S. § 166A-19.21(b)(1), a Type I disaster is hereby declared for the Town of Murphy in Cherokee County, North Carolina and for the Town of Robbinsville in Graham County, North Carolina

Section 2. I authorize state disaster assistance in the form of public assistance grants to eligible governments located within the emergency area that meet the terms and conditions under N.C.G.S. § 166A-19.41(b)(2). The public assistance grants are for the following:

a. Debris clearance.
b. Emergency protective measures.

Section 3. I hereby order this declaration: (a) to be distributed to the news media and other organizations calculated to bring its contents to the attention of the general public; (b) to be promptly filed with the Secretary of the Department of Public Safety, the Secretary of State, and the clerks of superior court in the counties to which it applies; and (c) to be distributed to others as necessary to ensure proper implementation of this declaration.

Section 4. This Type I disaster declaration shall expire 60 days after issuance unless renewed by the Governor or the General Assembly. Such renewals may be made in increments of 30 days each, not to exceed a total of 120 days from the date of first issuance.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this 21st day of May in the year of our Lord two thousand and thirteen, and of the Independence of the United States of America the two hundred and thirty-seventh.

Pat McCrory
Governor

ATTEST:

Elaine F. Marshall
Secretary of State



State of North Carolina

PAT McCRORY
GOVERNOR

May 21, 2013

EXECUTIVE ORDER NO. 11

PROMULGATION AND IMPLEMENTATION OF THE NORTH CAROLINA EMERGENCY OPERATIONS PLAN

WHEREAS, the North Carolina Emergency Management Act, specifically, N.C.G.S. §166A-19.10(b)(7), authorizes the Governor to utilize the services, equipment, supplies, and facilities of existing departments, offices, and agencies of the State in planning for and responding to emergencies; and

WHEREAS, the North Carolina Emergency Management Act, specifically, N.C.G.S. §166A-19.10(b)(7), requires the officers and personnel of all such departments, offices, and agencies to cooperate with and extend such services and facilities upon request; and

WHEREAS, the functions of the State emergency management program include preparation and maintenance of State plans for disasters; and

WHEREAS, to facilitate a coordinated, effective relief and recovery effort among State and local government entities and agencies, this order is executed.

NOW, THEREFORE, pursuant to the authority vested in me as Governor by the Constitution and laws of North Carolina, **IT IS ORDERED:**

Section 1. All State and local government entities are directed to cooperate in the implementation of the provisions of the North Carolina Emergency Operations Plan dated June 2012.

Section 2. I hereby delegate to the Secretary of the North Carolina Department of Public Safety, or the Secretary's designee, all power and authority granted to me and required of me by Chapter 166A of the General Statutes for the purposes of promulgating and implementing the said Emergency Operations Plan.

Section 3. The Secretary of the North Carolina Department of Public Safety shall make necessary changes to the North Carolina Emergency Operations Plan with appropriate coordination and shall similarly promulgate additional annexes and appendices as required.

Section 4. The Secretary of the North Carolina Department of Public Safety, as chief coordinating officer for the State of North Carolina, shall exercise the powers prescribed in N.C.G.S. §143B-602.

Section 5. This executive order supersedes Executive Order No. 15 (June 11, 2009). This order is effective immediately and shall remain in effect until rescinded or superseded.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this 21st of May in the year of our Lord two thousand and thirteen, and of the Independence of the United States of America the two hundred and thirty-seventh.

Pat McCrory
Governor

ATTEST:

Elaine F. Marshall
Secretary of State



State of North Carolina

PAT McCRORY
GOVERNOR

May 21, 2013

EXECUTIVE ORDER NO. 12

AMENDING THE STATE E-MAIL RETENTION AND ARCHIVING POLICY

WHEREAS, the North Carolina Public Records Law declares that the public records and public information compiled by the agencies of North Carolina government or its subdivisions are the property of the people; and

WHEREAS, Governor Perdue issued Executive Order 18, entitled E-mail Retention and Archiving Policy, on July 7, 2009; and

WHEREAS, the Office of Information Technology Services (ITS) is transitioning to a new enterprise e-mail archiving system; and

WHEREAS, the State will achieve significant cost savings by reducing the number of years e-mails that must be maintained in the ITS archiving system; and

WHEREAS, the North Carolina Department of Cultural Resources (DCR) may preserve e-mails of historical value for the State's permanent collection.

NOW, THEREFORE, pursuant to the authority vested in me as Governor by the Constitution and the laws of the State of North Carolina, **IT IS ORDERED THAT**:

1. Executive Branch employees shall treat all e-mail messages which they send or receive in connection with the transaction of public business as public records and shall handle and maintain them in compliance with the Public Records Law and records retention schedules in the same manner as paper documents or other tangible records.

2. All Executive Branch agencies shall copy all e-mails sent and received by their employees to an archive at least once daily. ITS shall provide and maintain an archive service for all agencies for which it provides e-mail services. ITS e-mail archives shall be maintained for five years unless a longer period is required by law or by an approved records retention and disposition schedule. Each Executive Branch agency that does not use ITS e-mail services or the ITS e-mail archive shall employ an archiving system that creates a back-up copy of the messages in all agency e-mail systems at least once daily. E-mails retained in agency archives systems shall also be retained for five years.

3. All e-mail archives created after the issuance of Executive Order 150 and prior to the implementation of such enterprise e-mail archive systems shall be maintained for 5 years unless a longer period is required by law or by an approved records retention and disposition schedule.

4. The Department of Cultural Resources shall develop a policy that identifies those e-mails of historical value that should be retained for a longer period of time. ITS shall work with the North Carolina Department of Cultural Resources, and other agencies as necessary, to identify and transfer e-mails to the Department of Cultural Resources that should be preserved beyond 5 years.

5. Except as amended herein, Executive Order 18 remains in full force and effect.

6. This Executive Order is effective immediately and shall remain in effect until rescinded.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this the 21st day of May in the year of our Lord two thousand and thirteen, and of the Independence of the United States of America the two hundred and thirty-seventh.

Pat McCrory
Governor



ATTEST:

Elaine F. Marshall
Secretary of State

State of North Carolina

PAT McCRORY
GOVERNOR

June 4, 2013

EXECUTIVE ORDER NO. 13

HEALTH AND SAFETY LEADERSHIP TEAM

WHEREAS, the health, safety and well-being of nearly 89,000 state employees is of utmost importance; and

WHERAS, needless and preventable accidents create a human and financial toll; and

WHEREAS, workplace safety is accomplished through example, involvement, training and support; and

WHEREAS, it is incumbent upon leadership to instill a culture of safety and to model safe work practices from the top-down; and

WHEREAS, unsafe work practices have serious business consequences, such as medical costs, lost time from work, and workers' compensation costs; and

WHEREAS, it is good business to prevent accidents and injuries.

NOW THEREFORE, by the power by the power vested in me as Governor by the Constitution and laws of the State of North Carolina, **IT IS ORDERED**:

Section 1. Established

The Health and Safety Leadership Team (hereinafter "Leadership Team") is hereby established.

Section 2. Membership

The Leadership Team shall consist of eleven (11) members. All members shall be appointed by the Governor and shall serve at the pleasure of the Governor. The Governor shall appoint members of his cabinet to serve as the initial chair and vice chair.

The Leadership Team shall be composed of top leaders and safety professionals throughout state government. No more than two members from the same State department shall serve at the same time. The Governor's appointees shall include the following persons or their designees:

a. Two cabinet secretaries, or their designees.
b. The state personnel director.
c. Two state employee managers/supervisors.
d. Two state employees.
e. Chairman of the State Safety and Health Steering Committee.

The Governor shall invite two (2) members of the Council of State to join the Leadership Team.

In addition to the eleven members appointed by the Governor, the State Personnel Director shall select Office of State Personnel Health and Safety Staff to serve as non-voting, ex officio members.

Section 3. Term of Membership

Members shall serve two year terms, except upon establishment of the Leadership Team. The initial chair appointed by the Governor shall serve a two (2) year term. The initial vice chair appointed by the Governor shall serve a three (3) year term and assume the role of chair in the third year of his or her term. Remaining initial members' terms shall be staggered for two or three years so that approximately one-half of the terms expire each year.

Section 4. Meetings

In the first year, the Leadership Team shall meet monthly. Thereafter, the Leadership Team shall meet quarterly or upon the call of the Governor or the chair.

Section 4. Duties

The Leadership Team shall:

a. Measure the safety performance of state government agencies and prepare an annual report for the Governor.

b. Establish an effective Health and Safety program across state government that establishes safety guidelines, provides training, education, equipment, and recognition. The Leadership Team shall provide adequate financial, human and organizational resources to implement the Health and Safety program.

c. Be visible and engaged in creating a business culture of safety that has at its core a genuine concern for the health, safety, and wellness of state employees.

d. As a primary goal, work towards reducing the human and financial toll of preventable accidents.

e. Perform other duties as directed by the Governor.

Section 5. Administration

The Office of State Personnel shall provide all administrative and staff support services required by the Leadership Team.

Members shall serve without compensation, but may receive necessary travel and subsistence expenses in accordance with State law and the policies and regulations of the Office of State Budget and Management.

Section 6. Effect and Duration

All Council of State agencies are invited and encouraged to participate in this executive order.

This Executive Order is effective immediately. This Executive Order shall remain in effect until June 1, 2017, pursuant to N.C. Gen. Stat. § 147-16.2(b), or until earlier rescinded.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this 4th day of June, in the year of our Lord two thousand thirteen, and of the Independence of the United States of America the two hundred and thirty-seventh.

Pat McCrory
Governor

ATTEST:

Elaine F. Marshall
Secretary of State



State of North Carolina

PAT McCRORY
GOVERNOR

June 10, 2013

EXECUTIVE ORDER NO. 14

GOVERNOR'S ADVISORY COUNCIL ON HISPANIC/LATINO AFFAIRS

WHEREAS, the Hispanic/Latino community plays an important role in the economy, diversity, and progress of North Carolina; and

WHEREAS, the number of Hispanic/Latino residents of this State continues to grow; and

WHEREAS, it is important the State remain responsive to the needs of its constituents; and;

WHEREAS, the State should promote and encourage cooperation and communication with the Hispanic/Latino community in order to ensure that Hispanic/Latino North Carolinians have access to important State services and programs; and

WHEREAS, engagement and cooperation is in the best interest of the State and will help in developing solutions to ensure the State meets the needs of all North Carolinians.

NOW THEREFORE, by the power by the power vested in me as Governor by the Constitution and laws of the State of North Carolina, **IT IS ORDERED**:

Section 1. Established

The Governor's Advisory Council on Hispanic/Latino Affairs (hereinafter the "Advisory Council") is hereby reestablished.

Section 2. Membership

The Advisory Council shall consist of fifteen (15) voting members. All members shall be appointed by the Governor for a term of two (2) years and serve at the pleasure of the Governor. A vacancy occurring during a term of appointment shall be filled by the Governor for the balance of the unexpired term. The Governor shall appoint a Chair and Vice-Chair from among the membership of the Advisory Council.

In addition to the fifteen (15) voting members, the following representatives, selected by the applicable department or agency head, shall serve as ex-officio, non-voting members:

a. One representative from the NC Department of Commerce selected by the Secretary;
b. One representative from the Office for Historically Underutilized Businesses selected by the Secretary of the Department of Administration;

c. One representative from the NC Department of Health and Human Services selected by the Secretary;
d. One representative from the NC Department of Public Safety selected by the Secretary;
e. One representative from the NC Department of Transportation selected by the Secretary;
f. One representative from the NC Department of Revenue selected by the Secretary;
g. One representative from the Employment Security Commission selected by the Assistant Secretary;
h. One representative from the Office of the Governor selected by the Governor.

Additionally, the Advisory Council shall invite the following representatives, selected by the elected Council of State members, to serve as ex-officio, non-voting members:

a. One representative from the NC Department of Agriculture and Consumer Services selected by the Commissioner;
b. One representative from the NC Department of Labor selected by the Commissioner;
c. One representative from the NC Department of Public Instruction selected by the Superintendent; and
d. One representative from the NC Department of Justice selected by the Attorney General.

Section 3. Meetings

The Advisory Council shall meet quarterly or upon the call of the Governor or the Chair. The Chair shall set the agenda for the Advisory Council's meetings. The Advisory Council may establish such committees or other working groups as are necessary to assist in performing its duties.

Section 4. Duties

The Governor's Advisory Council on Hispanic/Latino Affairs shall advise the Governor on issues related to the Hispanic/Latino community in North Carolina and support State efforts to promote cooperation and understanding between the Hispanic/Latino community, the general public, the State, federal, and local governments.

The Advisory Council shall provide a forum for the discussion of issues concerning the Hispanic/Latino community in North Carolina and support efforts towards the improvement of race and ethnic relations.

The Advisory Council shall perform other duties as directed by the Governor.

Section 5. Administration

The Office of the Governor shall provide all administrative and staff support services required by the Advisory Council. Members shall serve without compensation, but may receive necessary travel and subsistence expenses in accordance with State law and the policies and regulations of the Office of State Budget and Management.

Section 6. Effect and Duration

This Executive Order is effective immediately. It supersedes and replaces all other executive orders on this subject and specifically rescinds Executive Order No. 22, dated September 4, 2010 and Executive Order No. 128, dated September 7, 2007. This Executive Order shall remain in effect until June 1, 2017, pursuant to N.C. Gen. Stat. § 147-16.2(b), or until earlier rescinded.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this 10th day of June, in the year of our Lord two thousand thirteen, and of the Independence of the United States of America the two hundred and thirty-seventh.

Pat McCrory
Governor

ATTEST:

Elaine F. Marshall
Secretary of State



State of North Carolina

PAT McCRORY
GOVERNOR

June 14, 2013

EXECUTIVE ORDER NO. 15

TEMPORARY SUSPENSION OF MOTOR VEHICLE REGULATIONS TO ENSURE RESTORATION OF UTILITY SERVICES THROUGHOUT THE STATE

WHEREAS, due to the impact of severe weather on June 13, 2013, vehicles bearing equipment and supplies needed to restore power and utility service to communities within this State need to be moved on the highways of North Carolina; and

WHEREAS, I hereby declare that a state of emergency as defined in N.C.G.S. §§ 166A-19.3(6) and 166A-19.3(18) exists in the State of North Carolina for the purpose of restoring power and other utility service to the impacted areas. The emergency area as defined in N.C.G.S. §§ 166A-19.3(7) and N.C.G.S. 166A-19.20(b) is the State of North Carolina.

WHEREAS, under the provisions of N.C.G.S. § 166A-19.30(b)(3) the Governor, with the concurrence of the Council of State, may regulate and control the flow of vehicular traffic and the operation of transportation services; and

WHEREAS, with the concurrence of the Council of State, I have found that vehicles bearing equipment and supplies to assist in the restoration of utility services in North Carolina must adhere to the registration requirements of N.C.G.S. § 20-86.1 and 20-382, fuel tax requirements of N.C.G.S. § 105-449.47, and the size and weight requirements of N.C.G.S. §§ 20-116 and 20-118. I have further found that citizens in this State have suffered losses and will likely suffer imminent further widespread damage within the meaning of N.C.G.S § 166A-19.3(3) and N.C.G.S. § 166A-19.21(b) will occur and;

WHEREAS, the prompt restoration of utility services to citizens is essential to their safety and well-being; and

WHEREAS, 49 CFR § 390.23 allows the Governor of a state to suspend the rules and regulations under 49 CFR Part 395 for up to 30 days if the Governor determines that an emergency condition exists; and

WHEREAS, under N.C.G.S. § 166A-19.70, the Governor may declare that the health, safety, or economic well-being of persons or property requires that the maximum hours of service for drivers prescribed by N.C.G.S. § 20-381 should be waived for persons transporting essential fuels, food, water, and medical supplies, and for restoration of utility services.

NOW, THEREFORE, pursuant to the authority vested in me as Governor by the Constitution and the laws of the State of North Carolina, **IT IS ORDERED:**

Section 1.

The Department of Public Safety in conjunction with the North Carolina Department of Transportation shall waive the maximum hours of service for drivers prescribed by the Department of Public Safety pursuant to N.C.G.S. § 20-381.

Section 2.

The Department of Public Safety in conjunction with the North Carolina Department of Transportation shall waive certain size and weight restrictions and penalties arising under N.C.G.S. §§ 20-116 and 20-118, and certain registration requirements and penalties arising under N.C.G.S. §§ 20-86.1, 20-382, 105-449.47, and 105-449.49 for the vehicles transporting equipment and supplies to restore power and utility service to areas within North Carolina.

Section 3.

Notwithstanding the waivers set forth above, size and weight restrictions and penalties have not been waived under the following conditions:

a. When the vehicle weight exceeds the maximum gross weight criteria established by the manufacturer (GVWR) or 90,000 pounds gross weight, whichever is less.

b. When the tandem axle weight exceeds 42,000 pounds and the single axle weight exceeds 22,000 pounds.

c. When a vehicle and vehicle combination exceeds 12 feet in width and a total overall vehicle combination length of 75 feet from bumper to bumper.

d. Vehicles and vehicle combinations subject to exemptions or permits by authority of this Executive Order shall not be exempt from the requirement of having a yellow banner on the front and rear measuring a total length of 7 feet by 18 inches bearing the legend "Oversized Load" in 10 inch black letters 1.5 inches wide and red flags measuring 18 inches square to be displayed on all sides at the widest point of the load. In addition, when operating between sunset and sunrise, a certified escort shall be required for loads exceeding 8 feet 6 inches in width.

Section 4.

Vehicles referenced under Sections 2 and 3 shall be exempt from the following registration requirements:

a. The $50.00 fee listed in N.C.G.S. § 105-449.49 for a temporary trip permit is waived for the vehicles described above. No quarterly fuel tax is required because the exception in N.C.G.S. § 105-449.45(a)(1) applies.

b. The registration requirements under N.C.G.S. § 20-382.1 concerning intrastate and interstate for-hire authority is waived; however, vehicles shall maintain the required limits of insurance as required.

c. Non-participants in North Carolina's International Registration Plan will be permitted into North Carolina in accordance with the exemptions identified by this Executive Order.

Section 5.

The size and weight exemption for vehicles will be allowed on all routes designated by the North Carolina Department of Transportation, except those routes designated as light traffic roads under N.C.G.S. § 20-118. This order shall not be in effect on bridges posted pursuant to N.C.G.S. § 136-72.

Section 6.

The waiver of regulations under Title 49 of the Code of Federal Regulations (Federal Motor Carrier Safety Regulations) does not apply to the CDL and Insurance Requirements. This waiver shall be in effect for 30 days or the duration of the emergency, whichever is less.

Section 7.

The North Carolina State Highway Patrol shall enforce the conditions set forth in Sections 1 through 6 of this Executive Order in a manner which will implement these provisions without endangering motorists in North Carolina.

Section 8.

Upon request by law enforcement officers, exempted vehicles must produce documentation sufficient to establish their loads are being used for relief efforts associated with transporting equipment and supplies to restore power and utility services.

Section 9.

This Executive Order does not prohibit or restrict lawfully possessed firearms or ammunition or impose any limitation on the consumption, transportation, sale or purchase of alcoholic beverages as provided in N.C.G.S. § 166A-19.30(c).

Section 10.

Pursuant to N.C.G.S. § 166A-19.23, this declaration triggers the prohibition against excessive pricing as provided in N.C.G.S. § 75-37 and 75-38 in the declared emergency area.

Section 11.

This Executive Order is effective immediately and shall remain in effect for thirty (30) days or the duration of the emergency, whichever is less.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this fourteenth day of June in the year of our Lord two thousand and thirteen, and of the Independence of the United States of America the two hundred and thirty-seven.

Pat McCrory
Governor

ATTEST:

Elaine F. Marshall
Secretary of State



State of North Carolina

PAT McCRORY
GOVERNOR

July 11, 2013

EXECUTIVE ORDER NO. 16

DISASTER DECLARATION FOR STANLY COUNTY

WHEREAS, the North Carolina Emergency Management Act, Chapter 166A of the North Carolina General Statutes authorizes the issuance of a disaster declaration for an emergency area as defined in N.C.G.S. § 166A-19.3(7) and categorizing the disaster as a Type I, Type II or Type III disaster as defined in N.C.G.S. § 166A-19.21(b); and

WHEREAS, on June 13, 2013, Stanly County, North Carolina and the contiguous counties of Anson, Cabarrus, Montgomery, Rowan, and Union were impacted by severe weather, including high winds, rain and some flooding; and

WHEREAS, as a result of the severe weather Stanly County proclaimed a local state of emergency on June 14, 2013; and

WHEREAS, due the impact of the severe weather, a joint preliminary damage assessment was done by local, state and federal emergency management officials on June 25, 2013; and

WHEREAS, I have determined that a Type I disaster, as defined in N.C.G.S. §166A-19.21(b)(1), exists in the State of North Carolina, specifically in Stanly County, North Carolina and the contiguous counties of Anson, Cabarrus, Montgomery, Rowan, and Union; and

WHEREAS, pursuant to N.C.G.S. § 166A-19.21(b)(1), the criteria for a Type I disaster are met if: (1) the Secretary of the Department of Public Safety has provided a preliminary damage assessment to the Governor and the General Assembly; (2) Stanly County declared a local state of emergency pursuant to N.C.G.S. § 166A-19.22; (3) the preliminary damage assessment has met or exceeded the criteria established for the Small Business Disaster Loan Program pursuant to 13 C.F.R. § 123; and (4) a major disaster declaration by the President of the United States pursuant to the Stafford Act has not been declared; and

WHEREAS, pursuant to N.C.G.S. § 166A-19.41(b), if a disaster is declared, the Governor may make State funds available for emergency assistance in the form of individual assistance and public assistance for recovery from those disasters for which federal assistance under the Stafford Act is either not available or does not adequately meet the needs of the citizens of the State in the emergency area.

NOW, THEREFORE, pursuant to the authority vested in me as Governor by the Constitution and the laws of the State of North Carolina, **IT IS ORDERED:**

Section 1. Pursuant to N.C.G.S. § 166A-19.21(b)(1), a Type I disaster is hereby declared for Stanly County, North Carolina and the contiguous counties of Anson, Cabarrus, Montgomery, Rowan, and Union.

Section 2. I authorize state emergency assistance funds in the form of grants to individuals and families located within the emergency area that meet the terms and conditions under N.C.G.S. § 166A-19.41(b)(1).

Section 3. I hereby order this declaration: (a) to be distributed to the news media and other organizations calculated to bring its contents to the attention of the general public; (b) to be promptly filed with the Secretary of the Department of Public Safety, the Secretary of State, and the clerks of superior court in the counties to which it applies; and (c) to be distributed to others as necessary to ensure proper implementation of this declaration.

Section 4. This Type I disaster declaration shall expire 60 days after issuance unless renewed by the Governor or the General Assembly. Such renewals may be made in increments of 30 days each, not to exceed a total of 120 days from the date of first issuance.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this eleventh day of July in the year of our Lord two thousand and thirteen, and of the Independence of the United States of America the two hundred and thirty-eight.

Pat McCrory
Governor



ATTEST:

Elaine F. Marshall
Secretary of State

State of North Carolina

PAT McCRORY
GOVERNOR

EXECUTIVE ORDER NO. 17

DISASTER DECLARATION FOR ORANGE COUNTY

WHEREAS, the North Carolina Emergency Management Act, Chapter 166A of the North Carolina General Statutes authorizes the issuance of a disaster declaration for an emergency area as defined in N.C.G.S. § 166A-19.3(7) and categorizing the disaster as a Type I, Type II or Type III disaster as defined in N.C.G.S. § 166A-19.21(b); and

WHEREAS, on June 30, 2013, Orange County, North Carolina and the contiguous counties of Alamance, Caswell, Chatham, Durham, and Person were impacted by severe weather that produced heavy rains which caused severe flooding; and

WHEREAS, as a result of the severe weather Orange County proclaimed a local state of emergency on July 2, 2013; and

WHEREAS, due the impact of the severe weather, a joint preliminary damage assessment was done by local, state and federal emergency management officials on July 9, 2013; and

WHEREAS, I have determined that a Type I disaster, as defined in N.C.G.S. §166A-19.21(b)(1), exists in the State of North Carolina, specifically in Orange County, North Carolina and the contiguous counties of Alamance, Caswell, Chatham, Durham, and Person; and

WHEREAS, pursuant to N.C.G.S. § 166A-19.21(b)(1), the criteria for a Type I disaster are met if: (1) the Secretary of the Department of Public Safety has provided a preliminary damage assessment to the Governor and the General Assembly; (2) Orange County declared a local state of emergency pursuant to N.C.G.S. § 166A-19.22; (3) the preliminary damage assessment has met or exceeded the criteria established for the Small Business Disaster Loan Program pursuant to 13 C.F.R. § 123; and (4) a major disaster declaration by the President of the United States pursuant to the Stafford Act has not been declared; and

WHEREAS, pursuant to N.C.G.S. § 166A-19.41(b), if a disaster is declared, the Governor may make State funds available for emergency assistance in the form of individual assistance and public assistance for recovery from those disasters for which federal assistance under the Stafford Act is either not available or does not adequately meet the needs of the citizens of the State in the emergency area.

NOW, THEREFORE, pursuant to the authority vested in me as Governor by the Constitution and the laws of the State of North Carolina, **IT IS ORDERED:**

Section 1. Pursuant to N.C.G.S. § 166A-19.21(b)(1), a Type I disaster is hereby declared for Orange County, North Carolina and the contiguous counties of Alamance, Caswell, Chatham, Durham, and Person.

Section 2. I authorize state emergency assistance funds in the form of grants to individuals and families located within the emergency area that meet the terms and conditions under N.C.G.S. § 166A-19.41(b)(1).

Section 3. I hereby order this declaration: (a) to be distributed to the news media and other organizations calculated to bring its contents to the attention of the general public; (b) to be promptly filed with the Secretary of the Department of Public Safety, the Secretary of State, and the clerks of superior court in the counties to which it applies; and (c) to be distributed to others as necessary to ensure proper implementation of this declaration.

Section 4. This Type I disaster declaration shall expire 60 days after issuance unless renewed by the Governor or the General Assembly. Such renewals may be made in increments of 30 days each, not to exceed a total of 120 days from the date of first issuance.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this sixteenth day of July in the year of our Lord two thousand and thirteen, and of the Independence of the United States of America the two hundred and thirty-eight.

Pat McCrory
Governor



ATTEST:

Elaine F. Marshall
Secretary of State

State of North Carolina

PAT McCRORY
GOVERNOR

July 31, 2013

EXECUTIVE ORDER NO. 18

STATEWIDE IMPAIRED DRIVING TASK FORCE

WHEREAS, impaired drivers pose a serious threat to the health and safety of those traveling on North Carolina highways; and

WHEREAS, in accordance with MAP-21, as a mid-range State, North Carolina is required to submit a statewide impaired driving plan to the U.S. Department of Transportation, National Highway Traffic Safety Administration; and

WHERAS, the purpose of a statewide impaired driving plan is to provide a comprehensive strategy for preventing and reducing impaired driving behavior; and

NOW THEREFORE, by the power vested in me as Governor by the Constitution and laws of the State of North Carolina, **IT IS ORDERED**:

Section 1. Established

The Statewide Impaired Driving Task Force (hereinafter "Task Force") is hereby established.

Section 2. Membership

The Task Force shall consist of not more than thirty (30) voting members. All members shall be appointed by the Governor and shall serve at the pleasure of the Governor. The Governor shall appoint a Chair from among the membership of the Task Force.

The Task Force shall be composed of individuals from a variety of transportation and law enforcement backgrounds and disciplines in order that many different perspectives and experiences are represented. Members shall include representatives from the General Assembly.

Section 3. Meetings

The Task Force shall meet upon the call of the Governor or the Chair. The Chair shall set the agenda for the Task Force meetings. The Task Force may establish such committees or other working groups as are necessary to assist in performing its duties.

Section 4. Duties

The Task Force shall review existing North Carolina data, laws, regulations, and programs and develop a statewide impaired driving plan to provide a comprehensive strategy for preventing and reducing impaired driving behavior.

Other duties as assigned by the Governor.

Section 5. Administration

The Department of Transportation shall provide all administrative and staff support services required by the Task Force. Members shall serve without compensation, but may receive necessary travel and subsistence expenses in accordance with State law and the policies and regulations of the Office of State Budget and Management.

Section 6. Effect and Duration

This Executive Order is effective immediately and shall remain in effect until July 31, 2016, pursuant to N.C. Gen. Stat. § 147-16.2(b), or until earlier rescinded.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this 31st day of July, in the year of our Lord two thousand thirteen, and of the Independence of the United States of America the two hundred and thirty-eighth.

Pat McCrory
Governor

ATTEST:

Elaine F. Marshall
Secretary of State



State of North Carolina

PAT McCRORY
GOVERNOR

August 7, 2013

EXECUTIVE ORDER NO. 19

DISASTER DECLARATION FOR CATAWBA COUNTY

WHEREAS, the North Carolina Emergency Management Act, Chapter 166A of the North Carolina General Statutes authorizes the issuance of a disaster declaration for an emergency area as defined in N.C.G.S. § 166A-19.3(7) and categorizing the disaster as a Type I, Type II or Type III disaster as defined in N.C.G.S. § 166A-19.21(b); and

WHEREAS, from on or about July 12, 2013 to July 27, 2013, Catawba County, North Carolina and the contiguous counties of Alexander, Burke, Caldwell, Iredell, and Lincoln were impacted by severe weather that produced heavy rains which caused severe flooding; and

WHEREAS, as a result of the severe weather Catawba County proclaimed a local state of emergency on July 27, 2013; and

WHEREAS, due the impact of the severe weather, a joint preliminary damage assessment was done by local, state and federal emergency management officials on July 31, 2013; and

WHEREAS, I have determined that a Type I disaster, as defined in N.C.G.S. §166A-19.21(b)(1), exists in the State of North Carolina, specifically in Catawba County, North Carolina and the contiguous counties of Alexander, Burke, Caldwell, Iredell, and Lincoln; and

WHEREAS, pursuant to N.C.G.S. § 166A-19.21(b)(1), the criteria for a Type I disaster are met if: (1) the Secretary of the Department of Public Safety has provided a preliminary damage assessment to the Governor and the General Assembly; (2) Catawba County declared a local state of emergency pursuant to N.C.G.S. § 166A-19.22; (3) the preliminary damage assessment has met or exceeded the criteria established for the Small Business Disaster Loan Program pursuant to 13 C.F.R. § 123; and (4) a major disaster declaration by the President of the United States pursuant to the Stafford Act has not been declared; and

WHEREAS, pursuant to N.C.G.S. § 166A-19.41(b), if a disaster is declared, the Governor may make State funds available for emergency assistance in the form of individual assistance and public assistance for recovery from those disasters for which federal assistance under the Stafford Act is either not available or does not adequately meet the needs of the citizens of the State in the emergency area.

NOW, THEREFORE, pursuant to the authority vested in me as Governor by the Constitution and the laws of the State of North Carolina, **IT IS ORDERED:**

Section 1. Pursuant to N.C.G.S. § 166A-19.21(b)(1), a Type I disaster is hereby declared for Catawba County, North Carolina and the contiguous counties of Alexander, Burke, Caldwell, Iredell, and Lincoln.

Section 2. I authorize state emergency assistance funds in the form of grants to individuals and families located within the emergency area that meet the terms and conditions under N.C.G.S. § 166A-19.41(b)(1).

Section 3. I hereby order this declaration: (a) to be distributed to the news media and other organizations calculated to bring its contents to the attention of the general public; (b) to be promptly filed with the Secretary of the Department of Public Safety, the Secretary of State, and the clerks of superior court in the counties to which it applies; and (c) to be distributed to others as necessary to ensure proper implementation of this declaration.

Section 4. This Type I disaster declaration shall expire 60 days after issuance unless renewed by the Governor or the General Assembly. Such renewals may be made in increments of 30 days each, not to exceed a total of 120 days from the date of first issuance.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this 7th day of August in the year of our Lord two thousand and thirteen, and of the Independence of the United States of America the two hundred and thirty-eight.

Pat McCrory
Governor

ATTEST:

Elaine F. Marshall
Secretary of State

State of North Carolina

PAT McCRORY
GOVERNOR

August 13, 2013

EXECUTIVE ORDER NO. 20

DISASTER DECLARATION FOR THE TOWN OF BAKERSVILLE

WHEREAS, the North Carolina Emergency Management Act, Chapter 166A of the North Carolina General Statutes authorizes the issuance of a disaster declaration for an emergency area as defined in N.C.G.S. § 166A-19.3(7) and categorizing the disaster as a Type I, Type II or Type III disaster as defined in N.C.G.S. § 166A-19.21(b); and

WHEREAS, starting on July 2, 2013, the Town of Bakersville, located in Mitchell County, North Carolina was impacted by severe flooding caused by heavy rains; and

WHEREAS, as a result of the flooding the Town of Bakersville proclaimed a local state of emergency on July 3, 2013; and

WHEREAS, due the impact of the flooding, a joint preliminary damage assessment was done by local, state and federal emergency management officials on July 22, 2013; and

WHEREAS, I have determined that a Type I disaster, as defined in N.C.G.S. §166A-19.21(b)(1), exists in the State of North Carolina, specifically in the Town of Bakersville; and

WHEREAS, pursuant to N.C.G.S. § 166A-19.21(b)(1), the criteria for a Type I disaster are met if: (1) the Secretary of the Department of Public Safety has provided a preliminary damage assessment to the Governor and the General Assembly; (2) the Town of Bakersville declared a local state of emergency pursuant to N.C.G.S. § 166A-19.22; (3) the preliminary damage assessment meets or exceeds the State infrastructure criteria set out in G.S. 166A-19.41(b)(2)a.; and (4) a major disaster declaration by the President of the United States pursuant to the Stafford Act has not been declared; and

WHEREAS, pursuant to N.C.G.S. § 166A-19.41(b), if a disaster is declared, the Governor may make State funds available for emergency assistance in the form of individual assistance and public assistance for recovery from those disasters for which federal assistance under the Stafford Act is either not available or does not adequately meet the needs of the citizens of the State in the emergency area.

NOW, THEREFORE, pursuant to the authority vested in me as Governor by the Constitution and the laws of the State of North Carolina, **IT IS ORDERED:**

Section 1. Pursuant to N.C.G.S. § 166A-19.21(b)(1), a Type I disaster is hereby declared for the Town of Bakersville in Mitchell County, North Carolina.

Section 2. I authorize state disaster assistance in the form of public assistance grants to eligible governments located within the emergency area that meet the terms and conditions under N.C.G.S. § 166A-19.41(b)(2). The public assistance grants are for the following:

a. Emergency protective measures.
b. Roads and bridges.

Section 3. I hereby order this declaration: (a) to be distributed to the news media and other organizations calculated to bring its contents to the attention of the general public; (b) to be promptly filed with the Secretary of the Department of Public Safety, the Secretary of State, and the clerks of superior court in the counties to which it applies; and (c) to be distributed to others as necessary to ensure proper implementation of this declaration.

Section 4. This Type I disaster declaration shall expire 60 days after issuance unless renewed by the Governor or the General Assembly. Such renewals may be made in increments of 30 days each, not to exceed a total of 120 days from the date of first issuance.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this thirteenth day of August in the year of our Lord two thousand and thirteen, and of the Independence of the United States of America the two hundred and thirty-eight.

Pat McCrory
Governor

ATTEST:

Elaine F. Marshall
Secretary of State



State of North Carolina

PAT McCRORY
GOVERNOR

August 14, 2013

EXECUTIVE ORDER NO. 21

STRENGTHENING FUGITIVE APPREHENSION AND PROTECTING PUBLIC BENEFITS

WHEREAS, states shall not use federal grants under the Temporary Assistance for Needy Families program to assist an individual who is:

(i) fleeing to avoid prosecution, or custody, or confinement after conviction, under the laws of the place from which the individual flees, for a crime, or an attempt to commit a crime, which is a felony under the laws of the place from which the individual flees (hereinafter, a "fleeing felon"), or

(ii) violating a condition of probation or parole imposed under federal or state law; and

WHEREAS, federal law shall not prevent the states from providing federal, state or local law enforcement with applicant information upon request if certain conditions are met; and

WHEREAS, the State has invested in criminal justice information systems to provide centralized access to criminal information in accordance with federal and State law.

NOW, THEREFORE, pursuant to the authority vested in me as Governor by the Constitution and laws of the State of North Carolina, **IT IS ORDERED**:

Section 1. Compliance with Federal Law.

The Department of Health and Human Services shall ensure that county departments of social services, to the extent allowed by federal or State law, check the criminal history of a new or recertification applicant in the Work First Program or Nutrition Services Program using existing resources to verify whether an applicant is a fleeing felon or probation or parole violator.

Nothing herein shall require fingerprints to be taken of a new or recertification applicant to the Work First Program or Nutrition Services Program.

The Department of Health and Human Services shall ensure that fleeing felon and probation or parole violators are not provided Work First Program or Food and Nutrition Services Program assistance in conflict with 42 U.S.C. § 608.

An applicant's status as a fleeing felon or probation or parole violator shall not affect the eligibility for assistance of other members of the applicant's or recipient's household.

Section 2. Disclosure.

The Department of Health and Human Services shall ensure that all new and recertification applicants for Work First Program or Food and Nutrition Services Program assistance are notified that if there exists an outstanding warrant for arrest of the applicant, confidential information from the applicant's records may be disclosed to federal, state or local law enforcement officers.

Section 3. Law Enforcement.

The Department of Health and Human Services shall study how an applicant's status as a fleeing felon or probation or parole violator may be shared with federal, state or local law enforcement officers consistent with federal and state law.

The Office of the State Chief Information Officer and the Department of Health and Human Services are directed to study and develop a plan and recommendations whereby databases containing criminal information may be queried on behalf of the Department of Health and Human Services to check the criminal history of a new or recertification applicant in the Work First Program or Nutrition Services Program and whereby databases used by law enforcement may query Department of Health and Human Services databases exclusively for information to assist state and local law enforcement in locating fleeing felons or probation or parole violators in a manner consistent with federal law.

Section 4. Effect and Duration.

This Executive Order is effective immediately and shall remain in effect until rescinded.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this fourteenth day of August, in the year of our Lord two thousand thirteen, and of the Independence of the United States of America the two hundred and thirty-eighth.

Pat McCrory
Governor



ATTEST:

Elaine F. Marshall
Secretary of State

State of North Carolina

PAT McCRORY
GOVERNOR

August 22, 2013

EXECUTIVE ORDER NO. 22

TO PROTECT THE PUBLIC FROM SOLID WASTE

WHEREAS, the General Assembly has enacted legislation concerning vehicles and containers used for the collection and transportation of solid waste to be moved on highways of North Carolina; and

WHEREAS, the Department of Environment and Natural Resources implements rules adopted by the Commission for Public Health concerning vehicles transporting solid waste by observing trucks at solid waste management facilities, and the Department of Public Safety ensures compliance with statutes requiring that vehicles transporting loads on highways in North Carolina be constructed and loaded to prevent any of its load from escaping; and

WHEREAS, the Department of Environment and Natural Resources is prohibited by House Bill 74, as enacted by the 2013 General Assembly, from requiring that vehicles or containers used for collection and transportation be leak-proof but may require that they be designed and maintained to be leak resistant, and the Department of Public Safety is given guidance through House Bill 74, as enacted by the 2013 General Assembly, that the terms "load" and "leaking" do not include water accumulated from precipitation; and

WHEREAS, the provisions enacted may be perceived to be in conflict with one another in that any part of a load of solid waste, including liquids that may be mixed with precipitation, escaping from a vehicle driven or moved on a highway, violates statutes the Department of Public Safety is charged with enforcing; while, the Department of Environment and Natural Resources shall apply a standard of leak resistance to containers and vehicles used to collect and transport solid waste; and

WHEREAS, reasonable and consistent application of the law and rules governing the collection and transportation of solid waste is needed to ensure the protection of public health, safety, and the environment throughout North Carolina.

NOW, THEREFORE, by the power vested in me as Governor by the Constitution and laws of the State of North Carolina, **IT IS ORDERED**:

The State Highway Patrol and law enforcement officers of the Department of Public Safety (hereinafter "DPS") shall continue to exercise their powers under Article 3 of Chapter 20 of the General Statutes to ensure no vehicle is driven or moved in violation of N.C.G.S. § 20-116(g)(1) and that leachate is not permitted to escape from containers or vehicles transporting solid waste on North Carolina highways.

Before issuing a citation to the driver of a vehicle used for transporting solid waste, the State Highway Patrol and law enforcement officers of DPS shall consider recent weather conditions and the accumulation of rainwater, snowmelt, and other forms of precipitation. If a member of the State Highway Patrol or law enforcement officer of DPS determines that any rainwater, snowmelt, or other form of precipitation leaking, or otherwise escaping from a vehicle has passed through or emerged from solid waste, the officer shall issue a citation.

This Executive Order is effective immediately and shall remain in effect until rescinded.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this twenty-second day of August, in the year of our Lord two thousand thirteen, and of the Independence of the United States of America the two hundred and thirty-seventh.

Pat McCrory
Governor

ATTEST:

Elaine F. Marshall
Secretary of State

State of North Carolina

PAT McCRORY
GOVERNOR

August 23, 2013

EXECUTIVE ORDER NO. 23

LIMITING CLEAR CUTTING AROUND LOCAL BILLBOARDS

WHEREAS, the General Assembly has determined that outdoor advertising is a legitimate commercial use of private property adjacent to roads and highways; and

WHEREAS, the erection and maintenance of outdoor advertising in the vicinity of the roadways within the State should be controlled and regulated in order to promote the safety, health, welfare of our local communities and the convenience and enjoyment of travel on and protection of the public investment in highways within the State; and

WHEREAS, the Department of Transportation is charged with enforcing the laws and regulations related to outdoor advertising in order to promote highway safety while preserving and enhancing the natural scenic beauty of the highways, and to promote the prosperity, economic well-being and general welfare of the State by ensuring the reasonable, orderly and effective display of outdoor advertising; and

WHEREAS, the Department of Transportation can better promote the prosperity, economic well-being and general welfare of the State by consulting with local municipalities about the display of outdoor advertising in local communities.

NOW, THEREFORE, pursuant to the authority vested in me as Governor by the Constitution and laws of the State of North Carolina, **IT IS ORDERED:**

Section 1.
Pursuant to N.C. General Statute 136-133.1, as rewritten in Section 8.(a) of House Bill 74, as enacted by the 2013 General Assembly, the Department of Transportation, upon a request by a selective vegetation removal permittee to modify the cut or removal zone pertaining to an outdoor advertising sign as defined in GS 136-133.1(a), may authorize a one-time modification or adjustment of the cut or removal zone that will permit the sign to be more clearly viewed.

Section 2.
The Department of Transportation shall establish and record the new cut zone as the permanent cut or removal zone in accordance with SL2011-397. If any existing trees, as defined in GS 136-

133.1 (b) are pruned, cut, thinned, or removed outside the cut or removal zone as defined in SL2011-397, GS 136-133.1 (b), (c), (d), and (e) would be applicable.

Section 3.
The Department of Transportation shall apply the provisions of Title 19A NCAC 02E .0609 (b) (4) in the event of removal of vegetation planted as part of a local, State, or Federal beautification project.

Section 4.
The Department shall consult with local municipalities before approving plans for the cutting, thinning, pruning, or removal of vegetation outside of the cut or removal zone pursuant to N.C.G.S. § 136-133.1.

Section 5.
The Department shall conform to the provisions set out in SL2011-397.

Section 6.
This Executive Order is effective immediately and shall remain in effect until rescinded.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this twenty-third day of August, in the year of our Lord two thousand thirteen, and of the Independence of the United States of America the two hundred and thirty-eight.

Pat McCrory
Governor

ATTEST:

Elaine F. Marshall
Secretary of State

State of North Carolina

PAT McCRORY
GOVERNOR

September 3, 2013

EXECUTIVE ORDER NO. 24

GOVERNOR'S ADVISORY COUNCIL ON SMALL AND HISTORICALLY UNDERUTILIZED BUSINESSES

WHEREAS, the creation, growth and sustainability of small and historically underutilized businesses (hereinafter referred to as HUBs) are central to the economic growth and stability of the State of North Carolina; and

WHEREAS, it is the policy of the State of North Carolina to encourage and promote the use of small contractors, minority contractors, physically disabled contractors, and women contractors in State purchasing of goods and services and certain building contracts as set forth in the General Statutes section 143-48 and section 143-128.2; and

WHEREAS, it is a priority of the State to promote the recruitment and utilization of small and minority businesses and assure access to purchase and contract opportunities for small businesses, and for businesses owned by a minority, or a woman, or a disabled person, in an efficient and effective manner; and

WHEREAS, it is the policy of the State that North Carolina businesses be given an equal opportunity to participate in the provision of goods and services to the State of North Carolina; and

WHEREAS, it is my expectation, as the Governor of the State, that this will be accomplished without regard to race, gender, or physical disability; and

WHEREAS, it is my expectation that barriers are eliminated that may limit or lessen opportunities for small businesses and HUB firms to do business with the State of North Carolina.

NOW THEREFORE, by the power vested in me as the Governor of the State of North Carolina by the Constitution and laws of the State of North Carolina, **IT IS ORDERED**:

Section 1. Established

The Governor's Advisory Council on Small and Historically Underutilized Businesses (hereinafter "HUB Advisory Council") is hereby established.

The HUB Advisory Council will provide support and guidance to the Governor, Secretary of the Department of Administration, and to the Department of Administration's Office of Historically Underutilized Businesses (hereinafter "HUB Office"), on matters specific to the furtherance of the objectives of this Executive Order.

Section 2. Membership

The HUB Advisory Council shall consist of thirteen (13) members, each appointed for a term of two (2) years. All members shall be appointed by the Governor and shall serve at the pleasure of the Governor. The Governor shall appoint a Chair from among the membership of the HUB Advisory Council.

The Governor shall appoint members from the following categories:

A. Two representatives of minority owned business enterprises.

B. Two representatives of women owned business enterprises.

C. Two representatives of small business enterprises.

D. Two representatives of physically disabled business enterprises.

E. Five at-large members.

Section 3. Meetings

The HUB Advisory Council shall meet on a monthly basis for the first six months after the effective date of this order, and quarterly thereafter.

Section 4. Goals of the HUB Advisory Council

The HUB Advisory Council shall be responsible for providing advisory guidance and direction in the accomplishment of the following:

A. The identification of opportunities for small businesses and HUBs to do business with each of the cabinet agencies.

B. The identification of barriers that inhibit access to state contract and procurement opportunities, and to provide recommendations to remedy such barriers.

C. To review reports on HUB utilization by the respective agencies and to offer recommendations from the evaluations of such reports.

D. Monitor and offer recommendations in the utilization of technology in the identification of small businesses and HUBs, as well as the certification and registration of such firms.

The Advisory Council shall issue an annual report to the Governor in December of each year for the prior fiscal year.

Section 5. Administration

The HUB Office shall provide administrative and staff services to the HUB Advisory Council.

Members of the Advisory Council shall neither receive compensation nor travel reimbursement for their service on the Council.

Section 6. State Contracts and Purchasing

For purposes of this order a "small businesses" must meet United States Small Business Administration's size standards for its primary industry classification as defined in 13 C.F.R. § 121.201.

Each cabinet agency shall work to achieve the objectives and address remedies as identified in the respective disparity studies conducted for the State and any of its agencies. Each cabinet agency should strive to increase the amount of goods and services acquired by it from small and HUB vendors, whether directly as principal contractors or indirectly as subcontractors or otherwise. It is expected that each agency will issue an aspirational goal of at least ten percent (10%), by dollar amount, of the State's purchases of goods and services that will be derived from small and HUB firms. It is further expected that such aspirational goals shall be adjusted per any disparity study findings as recommended by HUB Office and the North Carolina Department of Transportation, Business Opportunity and Workforce Development Office, and the Office of Civil Rights.

The HUB Advisory Council and the HUB Office shall assist each agency in developing a plan and should provide technical assistance to reach the recommended objectives related to the purchases of goods and services. The HUB Office may work in coordination with local, regional, and non-profit economic development organizations to engage in outreach and assistance that encourages State and local units of government to provide opportunities to small and HUB firms.

Each cabinet agency shall be expected to work towards identifying market opportunities within the agency, and shall assure that such information is provided to the HUB Office for outreach to small and HUB vendors.

Each cabinet agency shall report on challenges and accomplishments during meetings of the HUB Advisory Council as determined by the Chair.

Each cabinet agency shall coordinate with the HUB Office and the DOA Division of Purchase and Contract in outreach to HUB vendors to share information on the procurement process and the contact persons within the cabinet agencies.

The State Purchasing Office, the Director of the State Construction Office, the Secretary of the Department of Transportation, the Director of the State Property Office, and all State agencies shall continue to implement guidelines and procedures that ensure that the State's contracts contain specific requirements that compel contractors doing business with the State to comply with federal and state equal employment opportunity and non-discrimination requirements or their equivalents.

Section 7. Effect and Duration

The Board of Governors of the University of North Carolina System, the State Board of Community Colleges, local boards of education, and each head of the Council of State agencies are encouraged and invited to participate in this Executive Order.

This Executive Order is effective immediately and shall remain in effect until September 5, 2017, pursuant to N.C. Gen. Stat. § 147-16.2(b), or until earlier rescinded. It supersedes and replaces all other executive orders on this subject and specifically rescinds Executive Order No. 13, dated May 7, 2009.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this third day of September, in the year of our Lord two thousand thirteen, and of the Independence of the United States of America the two hundred and thirty-eighth.

Pat McCrory
Governor

ATTEST:

Elaine F. Marshall
Secretary of State

State of North Carolina

PAT McCRORY
GOVERNOR

September 3, 2013

EXECUTIVE ORDER NO. 25

GOVERNOR'S TASK FORCE ON SAFER SCHOOLS

WHEREAS, on March 19, 2013, the Secretary of Public Safety was charged with making schools in North Carolina safer places and creating the Center for Safer Schools to be the primary point of contact for and a comprehensive resource on school safety issues; and

WHEREAS, the Center for Safer Schools hosted public forums to collect information from parents, students, teachers, school administrators, law enforcement officers, juvenile justice professionals, mental health professionals, and concerned citizens about how North Carolinians can make our schools safer learning environments; and

WHEREAS, the Center for Safer Schools recommends a multidisciplinary advisory board comprised of stakeholders including parents, students, teachers, school administrators, law enforcement officers, juvenile justice professionals, and mental health professionals to provide guidance to the Center for Safer Schools and to consider future policy and legislative action that is needed to improve school safety in North Carolina; and

WHEREAS, the 2011 North Carolina Youth Risk Behavior Survey found that nearly 23% of middle school students and nearly 40% of high school students reported gang activity on their school campuses and that 30% of North Carolina's high school students have been offered, sold, or given illegal drugs on school property.

WHEREAS, the General Assembly, through Session Law 2013-360, charged multiple state agencies with setting standards and guidelines for school safety exercises, providing schematic diagrams of school facilities to local law enforcement, providing anonymous tip lines so anyone can report concerns about school safety, developing school safety plans and crisis kits, creating and teaching emergency and crisis training to people who may need to respond to such a situation at a school, and implementing a volunteer school safety officers program.

NOW, THEREFORE, pursuant to the authority vested in me as Governor by the Constitution and laws of the State of North Carolina, **IT IS ORDERED**:

Section 1. Established

The Governor's Task Force for Safer Schools (hereinafter "Task Force") is hereby established.

Section 2. Membership

The Task Force shall consist of up to twenty (20) voting members.

The Governor shall appoint members from among the following categories:

1. The Secretary of the Department of Public Safety or their designee.
2. The Secretary of the Department of Health and Human Services or their designee.
3. A member of the State Board of Education.
4. A member of the Governor's Crime Commission.
5. Two members of local school boards.
6. Two local law enforcement officers.
7. Two public school administrators.
8. A public school teacher.
9. A public school psychologist.
10. A public school resource officer.
11. A high school student attending a public high school.
12. The parent of a currently enrolled public school student.
13. A juvenile justice professional.
14. A licensed social worker.
15. Three at-large members.

The Governor shall appoint a Chair and Vice-Chair from among the membership of the Task Force.

All members shall be appointed for a term of two years and may be reappointed to successive terms. The terms of membership of the Task Force shall be staggered so that the terms of approximately one-half of the members shall expire in a single calendar year. A vacancy occurring during a term of appointment shall be filled by the Governor for the balance of the unexpired term.

Section 3. Meetings

The Task Force shall meet quarterly or upon the call of the Governor or the Chair. The Chair shall set the agenda for the Task Force's meetings. The Task Force may establish such committees or other working groups as are necessary to assist in performing its duties.

Section 4. Duties

The Task Force shall have the following duties:

A. Serve as an Advisory Board to the newly formed Center for Safer Schools.

B. Provide guidance and recommendations to improve statewide policy for the Governor and the General Assembly to enhance statewide and local capacities to create safer schools.

C. Encourage interagency collaboration among state and local government agencies to achieve effective policies and streamline efforts to create safer schools.

D. Assist the Center for Safer Schools in collecting and disseminating information on recommended best practices and community needs related to creating safer schools in North Carolina.

E. Other duties as assigned by the Governor.

Section 5. Administration

The Department of Public Safety and the Center for Safer Schools shall provide administrative and staff support services to the Task Force. Members shall serve without compensation, but may receive necessary travel and subsistence expenses in accordance with State law and the policies and regulations of the Office of State Budget and Management.

Section 6. Effect and Duration

This Executive Order is effective immediately and shall remain in effect until September 30, 2017, pursuant to N.C. Gen. Stat. § 147-16.2(b), or until earlier rescinded.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this third day of September, in the year of our Lord two thousand thirteen, and of the Independence of the United States of America the two hundred and thirty-eight.

Pat McCrory
Governor



ATTEST:

Elaine F. Marshall
Secretary of State

State of North Carolina

PAT McCRORY
GOVERNOR

September 3, 2013

EXECUTIVE ORDER NO. 26

GOVERNOR'S TEACHER ADVISORY COMMITTEE

WHEREAS, teachers are essential to the successes of student achievement and job creation for North Carolina; and

WHEREAS, teachers are committed to the day when all children, regardless of circumstance, have access to an excellent education; and

WHEREAS, teachers are the most direct link to our students and are the best ambassadors for their schools and districts, providing vital feedback to policymakers regarding what works and what doesn't regarding assessments, school innovation, teacher compensation and digital solutions; and

WHEREAS, teachers are the drivers of educational outcomes and therefore the drivers of our economic development; and

WHEREAS, education is one of the "3 E's" and is therefore a top priority of this administration.

NOW THEREFORE; by the power vested in me as Governor of the State of North Carolina by the Constitution and laws of the State of North Carolina, **IT IS ORDERED**:

Section 1. Establishment

The Governor's Teacher Advisory Committee (hereinafter "Committee") is hereby re-established.

Section 2. Membership

The Committee shall be composed of up to twenty members (20) appointed by the Governor. All members shall serve at the pleasure of the Governor. All appointed members shall serve a one year term and may be reappointed to successive terms.

All members shall be active classroom teachers serving in a North Carolina public school.

The North Carolina Teacher(s) of the Year shall serve as ex officio, voting members.

Members should represent diverse, demographic and geographic regions of the state, grade levels and subject areas, including public charter schools.

The Governor shall appoint a Chair. The Committee shall select the Vice Chair from among its membership.

Section 3. Meetings

The Committee shall meet quarterly and at other times at the call of the Governor or the Chair. The Committee is encouraged to conduct meetings using electronic conferencing and other electronic means.

A simple majority of Committee members shall constitute a quorum for conducting the business of the Committee.

Section 4. Duties

The Committee shall advise the Governor on best practices to improve student outcomes and therefore drive economic development in North Carolina.

The Committee shall advise the Governor in his efforts to improve teaching and learning in North Carolina's public schools.

The Committee shall identify, recognize and celebrate innovative schools and school systems in North Carolina.

The Committee shall recommend strategies for recruiting and retaining quality educators who drive results for their students.

The Committee shall advise the Governor on effective strategies for rewarding, supporting and compensating teachers so that they may pursue a meaningful career in the teaching profession in the service of students, especially the highest need students of North Carolina.

Section 5. Administration

The Governor shall attend at least half of the Committee meetings annually.

The Governor's Senior Education Advisor and the Office of the Governor staff shall provide administrative and staff services to the Committee.

Members shall serve without compensation, but may receive necessary travel and subsistence expenses in accordance with State law and the policies and regulations of the Office of State Budget and Management.

Section 6. Effect and Duration

This Executive Order is effective immediately and shall remain in effect until September 10, 2018, pursuant to N.C. Gen. Stat. § 147-16.2(b), or until earlier rescinded. It supersedes and replaces all other executive orders on this subject and specifically rescinds Executive Order No. 51, dated March 2, 2010.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this third day of September, in the year of our Lord two thousand thirteen, and of the Independence of the United States of America the two hundred and thirty-eighth.

Pat McCrory
Governor



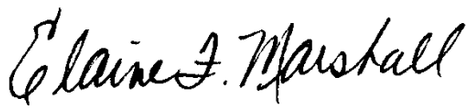
ATTEST:

Elaine F. Marshall
Secretary of State

STATE OF NORTH CAROLINA
DEPARTMENT OF STATE,
RALEIGH, SEPTEMBER 5, 2013

I, ELAINE F. MARSHALL, Secretary of State of North Carolina, hereby certify pursuant to G.S. 120-34 that the foregoing volume was printed under the direction of the Legislative Services Commission from ratified acts and resolutions and executive orders of the Governors on file in the office of the Secretary of State.

This publication includes Session Laws 2013-1 through 2013-418, Resolutions 2013-1 through 2013-24, and Executive Orders 124 through 138 of Governor Beverly E. Perdue and Executive Orders 1 through 26 of Governor Pat McCrory.



Secretary of State

2013

2014

THE JOINT CONFERENCE COMMITTEE REPORT ON THE CONTINUATION, EXPANSION, AND CAPITAL BUDGETS

Senate Bill 402

North Carolina General Assembly

July 21, 2013

2015

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General Fund Availability Statement

		FY 2013-14	FY 2014-15
1	Unappropriated Balance Remaining from Previous Year	213,432,877	250,510,043
2	Projected Overcollections FY 2012-13	458,483,783	0
3	Overcollections Due to Disputed MSA Payments	71,516,217	0
4	Projected Reversions FY 2012-13	225,000,000	0
5	Net Supplemental Medicaid Appropriations (S.L. 2013-56 as amended by Section 13 of S.L. 2013-184)	(308,100,000)	0
6	Less Earmarkings of Year End Fund Balance		0
7	Savings Reserve	(232,537,942)	(37,122,346)
8	Repairs and Renovations	(150,000,000)	(12,751,137)
9	**Beginning Unreserved Fund Balance**	**277,794,935**	**200,636,560**
10			
11	**Revenues Based on Existing Tax Structure**	**19,628,100,000**	**20,549,000,000**
12			
13	**Non-tax Revenues**		
14	Investment Income	13,700,000	14,100,000
15	Judicial Fees	250,200,000	251,400,000
16	Disproportionate Share	110,000,000	109,000,000
17	Insurance	72,500,000	73,400,000
18	Other Non-Tax Revenues	173,000,000	175,000,000
19	Highway Trust Fund/Use Tax Reimbursement Transfer	0	0
20	Highway Fund Transfer	218,100,000	215,900,000
21	**Subtotal Non-tax Revenues**	**837,500,000**	**838,800,000**
22			
23	**Total General Fund Availability**	**20,743,394,935**	**21,588,436,560**
24			
25	**Adjustments to Availability: 2013 Session**		
26	Reserve for Tax Simplification and Reduction Act (HB 998)	(86,600,000)	(437,800,000)
27	Repeal Certain Real Estate Conveyance Tax Earmarks	37,400,000	37,400,000
28	Repeal Certain Scrap Tire Disposal Tax Earmarks	3,475,291	3,475,291
29	Repeal Certain White Goods Management Tax Earmarks	1,217,796	1,217,796
30	Direct Portion of Solid Waste Disposal Tax to General Fund	2,300,000	2,300,000
31	Adjust Gross Premiums Tax for Volunteer Safety Workers' Workers' Compensation Fund	(3,000,000)	(3,000,000)
32	Reserve for Repeal of Education Expenses Credit (HB 269)	0	1,500,000
33	Extend Aviation Fuel Tax Refunds	(3,186,000)	0
34	Tobacco Master Settlement Agreement (MSA)	137,500,000	137,500,000
35	MSA Disputed Payments Erroneously Paid to Golden LEAF (S.L. 2011-145)	24,639,357	0
36	Repeal North Carolina Public Campaign Fund	3,500,000	0
37	Transfer from NC Flex FICA Fund Balance	6,000,000	0
38	Transfer from E-Commerce Reserve Fund Balance	5,111,585	6,000,000
39	Transfer from Misdemeanant Confinement Fund	1,000,000	1,000,000
40	Transfer from Separate Insurance Benefits Plan for Reimbursement of Premiums Paid for State Law Enforcement Officers	16,510,611	16,510,611
41	Increase Lobbyist Fees	400,000	400,000
42	Extend Local Government Hold Harmless	(7,850,000)	0
43	Certificate of Need for Certain Replacement Equipment	(150,513)	(150,513)
44	Adjust Transfer from Insurance Regulatory Fund	(560,589)	(560,589)
45	Adjust Transfer from Treasurer's Office	175,215	175,215
46			
47	**Subtotal Adjustments to Availability: 2013 Session**	**137,882,753**	**(234,032,189)**
48			
49	**Revised General Fund Availability**	**20,881,277,688**	**21,354,404,371**
50			
51	**Less General Fund Appropriations**	**(20,630,767,645)**	**(20,998,801,208)**
52			
53	**Unappropriated Balance Remaining**	**250,510,043**	**355,603,163**

SUMMARY:

GENERAL FUND APPROPRIATIONS

2018

Summary of General Fund Appropriations Fiscal Year 2013-14 2013 Legislative Session						
		Legislative Adjustments				Revised
	Continuation Budget 2013-14	Recurring Adjustments	Nonrecurring Adjustments	Net Changes	FTE Changes	Appropriation 2013-14
Education:						
Community Colleges	1,037,430,475	(33,494,580)	17,359,572	(16,135,008)	2.50	1,021,295,467
Public Education	7,984,924,757	(79,794,040)	(37,170,068)	(116,964,108)	3.00	7,867,960,649
University System	2,709,551,807	(104,723,381)	(21,780,156)	(126,503,537)	0.00	2,583,048,270
Total Education	**11,731,907,039**	**(218,012,001)**	**(41,590,652)**	**(259,602,653)**	**5.50**	**11,472,304,386**
Health and Human Services:						
Central Management and Support	54,028,354	14,840,375	4,917,400	19,757,775	(6.00)	73,786,129
Aging and Adult Services	54,443,196	(300,855)	0	(300,855)	0.00	54,142,341
Blind and Deaf / Hard of Hearing Services	8,178,618	0	0	0	0.00	8,178,618
Child Development and Early Education	259,254,083	(1,590,625)	(3,348,849)	(4,939,474)	(14.00)	254,314,609
Health Service Regulation	16,761,992	(365,935)	0	(365,935)	10.00	16,396,057
Medical Assistance	3,069,576,810	391,202,327	1,170,982	392,373,309	0.00	3,461,950,119
Mental Health, Dev. Disabilities, & Sub. Abuse Services	706,797,747	(18,660,348)	11,398,203	(7,262,145)	0.00	699,535,602
NC Health Choice	80,131,026	(12,181,866)	0	(12,181,866)	0.00	67,949,160
Public Health	156,784,502	(6,605,500)	(6,024,915)	(12,630,415)	(15.00)	144,154,087
Social Services	170,629,904	(847,818)	4,826,346	3,978,528	0.00	174,608,432
Vocational Rehabilitation	39,284,143	(510,974)	0	(510,974)	0.00	38,773,169
Total Health and Human Services	**4,615,870,375**	**364,978,781**	**12,939,167**	**377,917,948**	**(25.00)**	**4,993,788,323**
Justice and Public Safety:						
Public Safety	1,722,061,784	(32,305,599)	27,137,210	(5,168,389)	(815.70)	1,716,893,395
Judicial	458,416,996	(1,990,744)	500,000	(1,490,744)	22.00	456,926,252
Judicial - Indigent Defense	114,505,898	(3,148,634)	3,772,159	623,525	(3.25)	115,129,423
Justice	77,773,575	785,351	1,167,197	1,952,548	18.00	79,726,123
Total Justice and Public Safety	**2,372,758,253**	**(36,659,626)**	**32,576,566**	**(4,083,060)**	**(778.95)**	**2,368,675,193**
Natural And Economic Resources:						
Agriculture and Consumer Services	108,918,334	4,291,568	1,875,800	6,167,368	15.00	115,085,702
Commerce	33,469,442	9,686,416	8,072,946	17,759,362	(2.17)	51,228,804
Commerce - State Aid	59,714,814	(46,669,609)	8,678,021	(37,991,588)	0.00	21,723,226
Environment and Natural Resources	109,140,591	40,086,720	4,810,000	44,896,720	64.57	154,037,311
Labor	16,196,339	500,000	0	500,000	0.00	16,696,339
Wildlife Resources Commission	18,476,588	(4,000,000)	(2,000,000)	(6,000,000)	0.00	12,476,588
Total Natural and Economic Resources	**345,916,108**	**3,895,095**	**21,436,767**	**25,331,862**	**77.40**	**371,247,970**

Summary of General Fund Appropriations Fiscal Year 2013-14 2013 Legislative Session						
		Legislative Adjustments				Revised
	Continuation Budget 2013-14	Recurring Adjustments	Nonrecurring Adjustments	Net Changes	FTE Changes	Appropriation 2013-14
General Government:						
Administration	68,316,992	270,692	(1,020,659)	(749,967)	5.10	67,567,025
Auditor	11,013,547	203,921	0	203,921	2.00	11,217,468
Cultural Resources	63,626,477	(721,380)	765,048	43,668	(2.00)	63,670,145
Cultural Resources - Roanoke Island	1,058,757	(608,757)	0	(608,757)	0.00	450,000
General Assembly	52,845,390	(334,499)	(422,905)	(757,404)	(3.60)	52,087,986
Governor	5,539,743	(369,693)	0	(369,693)	0.00	5,170,050
Housing Finance Agency	9,408,417	(120,000)	(876,785)	(996,785)	0.00	8,411,632
Insurance	38,454,593	(460,589)	0	(460,589)	(9.00)	37,994,004
Insurance - Workers' Compensation Fund	2,623,654	(2,623,654)	0	(2,623,654)	0.00	0
Lieutenant Governor	444,047	231,042	6,000	237,042	3.00	681,089
Office of Administrative Hearings	4,335,464	571,241	334,938	906,179	5.00	5,241,643
Revenue	80,031,575	864,883	102,460	967,343	11.00	80,998,918
Secretary of State	11,845,185	(270,002)	0	(270,002)	(3.00)	11,575,183
State Board of Elections	5,213,445	88,928	0	88,928	1.52	5,302,373
State Budget and Management	6,951,706	500,000	0	500,000	0.00	7,451,706
State Budget and Management -- Special	49,000	(29,000)	4,892,000	4,863,000	0.00	4,912,000
State Controller	29,279,290	(568,599)	0	(568,599)	0.00	28,710,691
Treasurer - Operations	6,851,090	175,215	1,111,585	1,286,800	(1.00)	8,137,890
Treasurer - Retirement / Benefits	23,179,042	0	0	0	0.00	23,179,042
Total General Government	**421,067,414**	**(3,200,251)**	**4,891,682**	**1,691,431**	**9.02**	**422,758,845**
Statewide Reserves and Debt Service:						
Debt Service:						
Interest / Redemption	707,080,339	500,295	0	500,295	0.00	707,580,634
Federal Reimbursement	1,616,380	0	0	0	0.00	1,616,380
Subtotal Debt Service	**708,696,719**	**500,295**	**0**	**500,295**	**0.00**	**709,197,014**
Statewide Reserves:						
Salary Adjustment Reserve	0	7,500,000	0	7,500,000	0.00	7,500,000
State Health Plan Contribution	0	33,500,000	0	33,500,000	0.00	33,500,000
State Retirement System Contributions	0	36,000,000	0	36,000,000	0.00	36,000,000
Judicial Retirement System Contributions	0	1,000,000	0	1,000,000	0.00	1,000,000
Eugenics Sterilization Compensation Fund	0	0	10,000,000	10,000,000	0.00	10,000,000
Severance Reserve	0	0	16,000,000	16,000,000	0.00	16,000,000
Statewide Compensation Study	0	0	1,000,000	1,000,000	0.00	1,000,000

Summary of General Fund Appropriations Fiscal Year 2013-14 2013 Legislative Session						
		Legislative Adjustments				Revised
	Continuation Budget 2013-14	Recurring Adjustments	Nonrecurring Adjustments	Net Changes	FTE Changes	Appropriation 2013-14
Firemen's and Rescue Squad Workers' Pension Fund	0	(820,000)	0	(820,000)	0.00	(820,000)
Information Technology Fund	6,053,142	1,417,515	1,582,485	3,000,000	0.00	9,053,142
Information Technology Reserve Fund	0	5,635,000	22,365,000	28,000,000	33.00	28,000,000
NC Government Efficiency and Reform Project	0	0	2,000,000	2,000,000	0.00	2,000,000
One North Carolina Fund	9,000,000	0	0	0	0.00	9,000,000
Unemployment Insurance (UI) Reserve	0	0	23,800,000	23,800,000	0.00	23,800,000
Reserve for Escheat Fund Global TransPark Debt Repayment	0	0	27,000,000	27,000,000	0.00	27,000,000
Reserve for Pending Legislation	0	4,000,000	0	4,000,000	0.00	4,000,000
Reserve for Voter ID	0	1,000,000	0	1,000,000	0.00	1,000,000
Contingency and Emergency Fund	5,000,000	0	0	0	0.00	5,000,000
Job Development Investment Grants (JDIG)	27,400,000	24,423,772	0	24,423,772	0.00	51,823,772
Subtotal Statewide Reserves	**47,453,142**	**113,656,287**	**103,747,485**	**217,403,772**	**33.00**	**264,856,914**
Total Reserves and Debt Service	**756,149,861**	**114,156,582**	**103,747,485**	**217,904,067**	**33.00**	**974,053,928**
Total General Fund for Operations	**20,243,669,050**	**225,158,580**	**134,001,015**	**359,159,595**	**(679.03)**	**20,602,828,645**
Capital Improvements						
Water Resources Projects	0	0	11,522,000	11,522,000		11,522,000
Other Capital Improvements	0	0	16,417,000	16,417,000		16,417,000
Total Capital Improvements	**0**	**0**	**27,939,000**	**27,939,000**		**27,939,000**
Total General Fund Budget	**20,243,669,050**	**225,158,580**	**161,940,015**	**387,098,595**	**(679.03)**	**20,630,767,645**

Summary of General Fund Appropriations Fiscal Year 2014-15 2013 Legislative Session						
		Legislative Adjustments				Revised
	Continuation Budget 2014-15	Recurring Adjustments	Nonrecurring Adjustments	Net Changes	FTE Changes	Appropriation 2014-15
Education:						
Community Colleges	1,037,430,475	(21,494,580)	551,572	(20,943,008)	2.50	1,016,487,467
Public Education	8,111,097,830	(66,215,430)	3,219,222	(62,996,208)	3.00	8,048,101,622
University System	2,737,874,470	(142,472,761)	4,500,000	(137,972,761)	6.00	2,599,901,709
Total Education	**11,886,402,775**	**(230,182,771)**	**8,270,794**	**(221,911,977)**	**11.50**	**11,664,490,798**
Health and Human Services:						
Central Management and Support	54,718,515	20,400,758	1,182,055	21,582,813	(6.00)	76,301,328
Aging and Adult Services	54,443,196	(100,855)	0	(100,855)	0.00	54,342,341
Blind and Deaf / Hard of Hearing Services	8,178,618	0	0	0	0.00	8,178,618
Child Development and Early Education	259,254,083	(1,590,625)	(3,348,849)	(4,939,474)	(14.00)	254,314,609
Health Service Regulation	16,761,992	(350,513)	0	(350,513)	10.00	16,411,479
Medical Assistance	3,083,576,810	524,542,281	0	524,542,281	0.00	3,608,119,091
Mental Health, Dev. Disabilities, & Sub. Abuse Services	706,797,747	(18,660,348)	16,848,589	(1,811,759)	0.00	704,985,988
NC Health Choice	80,131,026	(22,383,093)	0	(22,383,093)	0.00	57,747,933
Public Health	156,784,502	(16,818,000)	1,975,085	(14,842,915)	(175.00)	141,941,587
Social Services	170,629,904	1,102,182	4,826,346	5,928,528	0.00	176,558,432
Vocational Rehabilitation	39,284,143	(510,974)	0	(510,974)	0.00	38,773,169
Total Health and Human Services	**4,630,560,536**	**485,630,813**	**21,483,226**	**507,114,039**	**(185.00)**	**5,137,674,575**
Justice and Public Safety:						
Public Safety	1,732,859,184	(33,378,378)	(9,466,800)	(42,845,178)	(715.70)	1,690,014,006
Judicial	458,416,996	(1,990,744)	0	(1,990,744)	22.00	456,426,252
Judicial - Indigent Defense	114,505,898	(3,148,634)	0	(3,148,634)	(3.25)	111,357,264
Justice	80,773,575	1,535,351	0	1,535,351	18.00	82,308,926
Total Justice and Public Safety	**2,386,555,653**	**(36,982,405)**	**(9,466,800)**	**(46,449,205)**	**(678.95)**	**2,340,106,448**
Natural And Economic Resources:						
Agriculture and Consumer Services	108,918,334	4,991,568	1,500,000	6,491,568	15.00	115,409,902
Commerce	33,469,442	15,413,840	7,850,000	23,263,840	(3.17)	56,733,282
Commerce - State Aid	61,954,814	(50,330,047)	4,000,000	(46,330,047)	0.00	15,624,767
Environment and Natural Resources	109,220,682	48,736,554	(190,000)	48,546,554	49.57	157,767,236
Labor	16,196,339	500,000	0	500,000	0.00	16,696,339
Wildlife Resources Commission	18,476,588	(4,000,000)	0	(4,000,000)	0.00	14,476,588
Total Natural and Economic Resources	**348,236,199**	**15,311,915**	**13,160,000**	**28,471,915**	**61.40**	**376,708,114**

Summary of General Fund Appropriations Fiscal Year 2014-15 2013 Legislative Session						
		Legislative Adjustments				Revised
	Continuation Budget 2014-15	Recurring Adjustments	Nonrecurring Adjustments	Net Changes	FTE Changes	Appropriation 2014-15
General Government:						
Administration	68,241,992	151,584	(1,346,543)	(1,194,959)	3.10	67,047,033
Auditor	11,013,547	203,921	0	203,921	2.00	11,217,468
Cultural Resources	63,629,480	(721,380)	100,000	(621,380)	(2.00)	63,008,100
Cultural Resources - Roanoke Island	1,058,757	(608,757)	0	(608,757)	0.00	450,000
General Assembly	52,845,390	(379,499)	(831,124)	(1,210,623)	(3.60)	51,634,767
Governor	5,541,825	(369,693)	0	(369,693)	0.00	5,172,132
Housing Finance Agency	9,408,417	(120,000)	(876,785)	(996,785)	0.00	8,411,632
Insurance	38,464,213	(460,589)	0	(460,589)	(9.00)	38,003,624
Insurance - Worker's Compensation Fund	2,623,654	(2,623,654)	0	(2,623,654)	0.00	0
Lieutenant Governor	444,047	231,042	0	231,042	3.00	675,089
Office of Administrative Hearings	4,350,431	571,699	105,000	676,699	5.00	5,027,130
Revenue	80,031,575	864,883	0	864,883	11.00	80,896,458
Secretary of State	11,845,185	(270,002)	0	(270,002)	(3.00)	11,575,183
State Board of Elections	5,213,445	302,294	177,505	479,799	3.52	5,693,244
State Budget and Management	7,034,217	500,000	0	500,000	0.00	7,534,217
State Budget and Management -- Special	49,000	(29,000)	1,500,000	1,471,000	0.00	1,520,000
State Controller	29,279,290	(568,599)	0	(568,599)	0.00	28,710,691
Treasurer - Operations	6,851,090	175,215	0	175,215	(1.00)	7,026,305
Treasurer - Retirement / Benefits	23,179,042	0	0	0	0.00	23,179,042
Total General Government	**421,104,597**	**(3,150,535)**	**(1,171,947)**	**(4,322,482)**	**9.02**	**416,782,115**
Statewide Reserves and Debt Service:						
Debt Service:						
Interest / Redemption	707,080,339	16,640,940	0	16,640,940		723,721,279
Federal Reimbursement	1,616,380	0	0	0		1,616,380
Subtotal Debt Service	**708,696,719**	**16,640,940**	**0**	**16,640,940**		**725,337,659**
Statewide Reserves:						
Salary Adjustment Reserve	0	7,500,000	0	7,500,000	0.00	7,500,000
State Health Plan Contribution	0	89,000,000	0	89,000,000	0.00	89,000,000
State Retirement System Contributions	0	36,000,000	0	36,000,000	0.00	36,000,000
Reserve for Future Benefit Needs	0	56,400,000	0	56,400,000	0.00	56,400,000
Judicial Retirement System Contributions	0	1,000,000	0	1,000,000	0.00	1,000,000
Firemen's and Rescue Squad Workers' Pension Fund	0	(820,000)	0	(820,000)	0.00	(820,000)
Information Technology Fund	6,053,142	1,417,515	3,000,000	4,417,515	0.00	10,470,657

Summary of General Fund Appropriations Fiscal Year 2014-15 2013 Legislative Session						
		Legislative Adjustments				Revised
	Continuation Budget 2014-15	Recurring Adjustments	Nonrecurring Adjustments	Net Changes	FTE Changes	Appropriation 2014-15
Information Technology Reserve Fund	0	7,820,000	23,762,485	31,582,485	44.00	31,582,485
NC Government Efficiency and Reform Project	0	0	2,000,000	2,000,000	0.00	2,000,000
One North Carolina Fund	9,000,000	0	0	0	0.00	9,000,000
Unemployment Insurance (UI) Reserve	0	0	13,600,000	13,600,000	0.00	13,600,000
Reserve for Pending Legislation	0	4,500,000	0	4,500,000	0.00	4,500,000
Reserve for Voter ID	0	1,000,000	0	1,000,000	0.00	1,000,000
Contingency and Emergency Fund	5,000,000	0	0	0	0.00	5,000,000
Job Development Investment Grants (JDIG)	27,400,000	35,645,357	0	35,645,357	0.00	63,045,357
					0.00	
Subtotal Statewide Reserves	**47,453,142**	**239,462,872**	**42,362,485**	**281,825,357**	**44.00**	**329,278,499**
Total Reserves and Debt Service	**756,149,861**	**256,103,812**	**42,362,485**	**298,466,297**	**44.00**	**1,054,616,158**
Total General Fund for Operations	**20,429,009,621**	**486,730,829**	**74,637,758**	**561,368,587**	**(738.03)**	**20,990,378,208**
Capital Improvements						
National Guard Projects	0	0	3,250,000	3,250,000		3,250,000
Samarkand Training Facility	0	0	5,173,000	5,173,000		5,173,000
Total Capital Improvements	**0**	**0**	**8,423,000**	**8,423,000**		**8,423,000**
Total General Fund Budget	**20,429,009,621**	**486,730,829**	**83,060,758**	**569,791,587**	**(738.03)**	**20,998,801,208**

2024

EDUCATION
Section F

2025

Public Education

GENERAL FUND

	FY 13-14		FY 14-15	
Recommended Continuation Budget	**$7,984,924,757**		**$8,111,097,830**	
Legislative Changes				
A. Technical Adjustments				
1 Average Daily Membership (ADM) Revises projected ADM to reflect 6,642 more students than originally projected in FY 2013-14 and 6,636 more students than originally projected in FY 2014-15. This adjustment includes revisions to all position, dollar, and categorical allotments. Total revised allotted ADM for FY 2013-14 is 1,509,985, an increase of 17,192 students over FY 2012-13. Total revised allotted ADM for FY 2014-15 is 1,526,591, an increase of 16,606 students over FY 2013-14.	$10,651,329	R	$9,914,165	R
2 ADM Adjustment: Opportunity Scholarships Adjusts FY 2014-15 ADM to reflect the estimated decrease in public school enrollment resulting from the Opportunity Scholarship Grants authorized by Section 8.29 of this act.			($11,797,941)	R
3 Average Salaries for Certified Personnel Revises budgeted funding for certified personnel salaries based on actual salary data from December 2012. The adjustment does not reduce any salary paid to certified personnel, nor does it reduce the number of guaranteed State-funded teachers, administrators, or instructional support personnel.	($11,873,083)	R	($11,980,756)	R
4 Civil Penalties Increases budgeted receipts from Civil Penalties and takes a corresponding General Fund reduction to reflect one-time transfers from the Departments of Justice, Revenue and Transportation in FY 2012-13. These funds are used to support State Public School Fund requirements.	($43,030,131)	NR		
5 Sales Tax Receipts Transfer to State Public School Fund Increases the annual transfer from the Department of Revenue (DOR) to the State Public School Fund based on projected growth in State sales tax proceeds. This transfer was initiated in S.L. 2005-276, Current Operations and Capital Improvements Appropriations Act of 2005, in lieu of a State sales tax refund to local school administrative units (LEAs). Funds from the DOR transfer are used to support State Public School Fund requirements. The total DOR transfer will be $51.3 million in FY 2013-14; $52.8 million in FY 2014-15.	($5,025,426)	R	($6,553,965)	R

	FY 13-14		FY 14-15	
6 Exceptional Children Headcount Adjusts funding budgeted for the Children With Disabilities preschool and school-age allotments to reflect actual student headcount. The continuation budget includes anticipated growth based on the projected headcount of children with disabilities. This adjustment revises budgeted funding for both preschool and school-age children with special needs to reflect the April 1, 2013 headcount and does not reduce funding per student.	($2,689,483)	R	($2,689,483)	R
B. Elimination of the LEA Adjustment				
7 LEA Adjustment Elimination Eliminates the LEA Adjustment completely. The elimination is accomplished by: 1) providing additional General Fund support to lower the recurring amount of the Adjustment, and, 2) reducing specific allotments in approximately the same proportion as school districts have done the last two years in implementing the Adjustment.	$376,124,279	R	$376,124,279	R
8 Classroom Teachers Adjusts funding to school districts for guaranteed Classroom Teacher positions, modifying this allotment in approximately the same proportion that school districts had done in previous fiscal years to implement the LEA Adjustment. Nearly 70% of all funds foregone by LEAs over the last two years to comply with the Adjustment came from the Classroom Teachers and Career Technical Education Months of Employment allotments. Revised ratios for distributing guaranteed positions from this allotment are as follows: FY 2013-14 K: 1 teacher per 19 students 1-3: 1 teacher per 18 students 4-6: 1 teacher per 24 students 7-8: 1 teacher per 23 students 9: 1 teacher per 26.5 students 10-12: 1 teacher per 29 students FY 2014-15 K: 1 teacher per 19 students 1: 1 teacher per 18 students 2-3: 1 teacher per 17 students 4-6: 1 teacher per 24 students 7-8: 1 teacher per 23 students 9: 1 teacher per 26.5 students 10-12: 1 teacher per 29 students	($286,433,312)	R	($245,897,168)	R
9 Instructional Support Personnel Adjusts funding to school districts for guaranteed Instructional Support positions, modifying this allotment in approximately the same proportion that school districts had done in previous fiscal years to implement the LEA Adjustment. Nearly 5% of all funds foregone by LEAs over the last two years to comply with the Adjustment came from this allotment. $323.0 million will be available in this allotment in FY 2013-14; $326.1 million will be available in FY 2014-15.	($16,990,590)	R	($17,186,802)	R

	FY 13-14		FY 14-15	
10 Instructional Supplies Adjusts funding to school districts for Instructional Supplies, modifying this allotment in approximately the same proportion that school districts had done in previous fiscal years to implement the LEA Flexibility Adjustment. LEAs gave up over $5 million in FY 2012-13 from this allotment to comply with the Adjustment. $43.2 million will be available in this allotment in FY 2013-14; $43.3 million will be available in FY 2014-15.	($6,919,008)	R	($7,372,550)	R
C. Other Public School Funding Adjustments				
11 Limited English Proficiency Reduces the allotment for Limited English Proficiency. Of the $6 million reduction, $3 million is reduced to account for declining enrollment based on revised student headcount figures. $75.3 million will be available in this allotment in FY 2013-14; $82.0 million will be available in FY 2014-15.	($6,000,000)	R	($6,000,000)	R
12 ACT Assessments Provides a dedicated source of State funding for the administration of the ACT testing suite, which includes the ACT, PLAN, EXPLORE, and WorkKeys diagnostic assessments.	$7,500,000	R	$7,500,000	R
13 School Bus Replacement Reduces funding for school bus replacement and modifies the school bus replacement standards pursuant to Section 8.11. Currently, school buses are eligible for replacement after 20 years or 200,000 miles of service. This item modifies the mileage and age standards and appropriates sufficient funding to replace all school buses meeting the revised criteria. 539 buses will be replaced in FY 2013-14; 579 buses will be replaced in FY 2014-15. $37.8 million will be available for this purpose in FY 2013-14; $49.6 million will be available in FY 2014-15.	($29,823,055)	R	($39,102,605)	R
14 Stop Arm Cameras Provides funding to purchase two school bus stop arm safety cameras for all 115 LEAs in both years of the biennium. The cameras are intended to improve student safety by serving as a visible deterrent to potential stop arm violators and documenting actual violations for use in prosecution.	$690,000	R	$690,000	R
15 Low Wealth Supplemental Funding Adjusts the supplemental allotment for school districts in low wealth communities to align funding availability with actual school district eligibility. This adjustment will not reduce funding to eligible districts. In addition, Section 8.3 of this act adjusts the Low Wealth formula to provide the same amount of supplemental funding to school districts in certain low wealth counties as received in the 2012-2013 fiscal year. These local school administrative units have an average daily membership of more than 23,000 students and are in counties that also contain a base of the Armed Forces of the United States. $213.1 million will be available in this allotment in FY 2013-14 and FY 2014-15.	($15,526,391)	R	($15,526,391)	R

	FY 13-14		FY 14-15	
16 Small County Supplemental Funding Reduces funding for this supplemental allotment for small counties in FY 2013-14 to align funding availability with actual school district eligibility. In FY 2014-15, this allotment is restructured to restrict eligibility to only those counties with ADM of 3,200 or less and to provide per-pupil funding on a sliding scale based on the size of the school district. LEAs made ineligible under this formula will have their allotment phased-out over a five-year period. Section 8.4 provides additional details on this change. $44.6 million will remain in this allotment in FY 2013-14 and $42.4 million will remain in FY 2014-15.	($949,694)	R	($3,192,877)	R
17 Education Value Added Assessment System (EVAAS) Increases General Fund support for EVAAS to continue expansion initially supported by receipts in FY 2012-13. That expansion enables: 1) direct access to value-added information for teachers who teach classes with an End of Course/End of Grade test, and 2) capability for users to export EVAAS data and merge it with other relevant analyses. Total EVAAS funding will be $2.7 million.	$850,000	R	$850,000	R
18 EVAAS School Performance Grades Provides funds for the data collection, analysis and calculation of school performance grades, as described in Section 9.4.	$300,000	NR	$100,000	R
19 Teacher Assistants Reduces Teacher Assistants funding by 21% in FY 2013-14 and 19% in FY 2014-15 and allocates funding on the basis of student headcount in grades K-3. In FY 2013-14, $450.8 million will remain in this allotment. In FY 2014-15, $447.4 million will remain in this allotment.	($110,000,000) ($10,000,000)	R NR	($110,000,000)	R
20 Education-Based Salary Supplements Phases out education-based salary supplements in FY 2014-15 for certain education personnel not compensated for such supplements in FY 2013-14, as directed in Section 8.22.			($18,700,000)	R
21 Educator Effectiveness and Compensation Task Force Supports the costs associated with a newly established North Carolina Educator Effectiveness and Compensation Task Force, created in Section 8.31.	$62,000	NR		
22 Advanced Placement/International Baccalaureate Provides support to encourage Advanced Placement (AP) and International Baccalaureate (IB) participation in all LEAs and defray student fees for AP/IB tests. FY 2013-14 funds support the creation and initial efforts of the North Carolina Advanced Placement Partnership, as prescribed by Section 8.27. FY 2014-15 funds support the Partnership and student test fees.	$1,500,000	R	$12,331,184	R
23 School Safety Provides $7 million in recurring support for School Resource Officers in elementary and middle schools and $2 million for installing and maintaining panic alarms in public schools. Sections 8.36 and 8.37 describe the rules related to the distribution of this funding.	$9,000,000	R	$9,000,000	R

	FY 13-14		FY 14-15	
24 Career and Technical Education Test Fees Provides support to defray student fees for examinations leading to industry certifications and credentials.	$1,252,157	R	$1,302,243	R
25 Education Innovation Grants Provides support for a pilot program that will make competitive grants to foster innovation in education with a goal to graduate more career- and college-ready students. Section 8.34 details the program rules.	$2,000,000	R	$2,000,000	R
26 Cooperative and Innovative High School Allotment Provides funding for Yadkin Valley Regional Career Academy to receive Cooperative and Innovative High School allotment support.	$310,669	R	$310,669	R
D. Pass-through Funds				
27 Teach for America Provides additional State support to Teach for America (TFA), an organization that focuses on new teacher recruitment, training and placement in high-need school districts. Funds will support the establishment of a TFA program in the Triad region, growth of existing efforts in Southeastern North Carolina, targeted subject-specific recruitment, and the assumption of management responsibilities for the NC Teacher Corps program beginning in FY 2014-15. State support for TFA will total $6 million in both years of the biennium.	$5,100,000	R	$5,100,000	R
28 Tarheel ChalleNGe Transfers funding from the Department of Public Instruction for Tarheel ChalleNGe, a National Guard program for at-risk youth, to the Department of Public Safety (DPS) budget. The State funds were transferred to DPI in 2009, but federal matching funds remain with DPS. This transfer consolidates all of the funding for Tarheel ChalleNGe in one place. A corresponding increase can be found in the Justice and Public Safety Section of this budget.	($767,719)	R	($767,719)	R
29 North Carolina Center for the Advancement of Teaching (NCCAT)	($3,219,222)	R	($3,219,222)	R
Shifts State support for the ongoing operations of this teacher professional development provider to nonrecurring funding over the upcoming biennium while the General Assembly reviews NCCAT's progress in redesigning its activities consistent with Section 8.10.	$3,219,222	NR	$3,219,222	NR
30 Teaching Fellows	($3,095,000)	R	($6,190,000)	R
Continues the phase-out of State support for the Teaching Fellows program begun in S.L. 2011-145, Current Operations and Capital Improvements Appropriations Act of 2011. This adjustment continues the reductions initiated in the preceding biennium while preserving the prior General Assembly's intent to support obligations made to previous Fellows classes until the State's scholarship commitment is completed. Additionally, this item reduces the cash balance of the Teaching Fellows Trust Fund by $1.3 million in FY 2013-14.	($1,300,000)	NR		

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E. Department of Public Instruction				
31 Office of Charter Schools Adds three consultant positions to DPI's Office of Charter Schools. These positions will be used to keep pace with the increase of newly-established charter schools in North Carolina. Funds are included for salaries and benefits, travel, technology needs, and miscellaneous expenses.	$320,000 3.00	R	$320,000 3.00	R
32 DPI Flexible Reduction Reduces State support for Department of Public Instruction operations, including salaries and benefits, by 1.8%. The State Board of Education may allocate this reduction at its discretion.	($780,491)	R	($780,491)	R
F. Excellent Public Schools Act				
33 Excellent Public Schools Act Provides additional funds to the Department of Public Instruction to carry out elements of the Excellent Public Schools Act contained in Section 7A.1 of S.L. 2012-142, except for the reading plans and workshops for parents of retained students authorized by the Act in G.S. 115C-83.1H(d).	$5,000,000 $13,578,841	R NR	$5,000,000	R
34 Merit Pay for Teachers Provides funds to allow superintendents to provide a $500 annual pay raise in FY 2014-15 for each teacher opting to enter into a four-year contract based on effectiveness, pursuant to Section 9.6.			$10,200,000	R
Total Legislative Changes	**($79,794,040)** **($37,170,068)**	R NR	**($66,215,430)** **$3,219,222**	R NR
Total Position Changes	3.00		3.00	
Revised Budget	**$7,867,960,649**		**$8,048,101,622**	

Community Colleges

	GENERAL FUND			
	FY 13-14		FY 14-15	
Recommended Continuation Budget	**$1,037,430,475**		**$1,037,430,475**	
Legislative Changes				
A. Enrollment				
35 Enrollment Model Funding Change	($19,893,462)	R	($19,893,462)	R
Modifies the community college enrollment funding model. Currently, community colleges are funded based on the higher of the prior year's actual enrollment or the three-year average enrollment. This adjustment shifts the three-year average to a two-year average, and accounts for varying enrollment among the tiered funding levels.	$4,000,000	NR		
The State Board of Community Colleges shall allocate the $4 million nonrecurring in FY 2013-14 to phase in the reduction for those colleges most affected by the policy change.				
B. Tuition and Fees				
36 Curriculum Tuition	($10,433,065)	R	($10,433,065)	R
Increases curriculum tuition by $2.50 per credit hour and makes a corresponding General Fund reduction in anticipation of increased tuition receipts.				
Tuition will increase from $69 to $71.50 per credit hour for residents and from $261 to $263.50 for nonresidents. Tuition for full-time resident students will increase by a maximum of $80 per year, from $2,208 to $2,288.				
37 Continuing Education Fee	($664,509)	R	($664,509)	R
Increases continuing education fees by $5 per course and takes a corresponding General Fund reduction in anticipation of increased tuition receipts. The new fees will be as follows:				
Classes 1-24 hours - $70, Classes 25-50 hours - $125, Classes 51+ hours - $180.				
38 Senior Citizens Tuition Waiver	($970,000)	R	($970,000)	R
Eliminates the tuition waiver found in G.S. 115D-5(b)(11) that waives tuition for up to six hours of credit instruction and one course of noncredit instruction per academic semester for senior citizens age 65 or older who are qualified as legal residents of North Carolina.				

	FY 13-14		FY 14-15	
C. Performance Funding				
39 Restore Management Flexibility Reduction Provides funding to restore a portion of the management flexibility reduction. These funds will be distributed to colleges in accordance with the Community College Institutional Performance Accountability structure, as amended in Section 10.5.	$9,000,000	R	$24,000,000	R
40 Curriculum Formula Funding Reduces regular formula funding for curriculum instruction. These funds will instead be distributed in accordance with the Community College Institutional Performance Accountability structure, as amended in Section 10.5.	($7,500,000)	R	($7,500,000)	R
41 Continuing Education Funding Formula Reduces regular formula funding for continuing education instruction. These funds will instead be distributed in accordance with the Community College Institutional Performance Accountability structure, as amended in Section 10.5.	($1,500,000)	R	($1,500,000)	R
42 Basic Skills Funding Formula Reduces regular formula funding for basic skills instruction. These funds will instead be distributed in accordance with the Community College Institutional Performance Accountability structure, as amended in Section 10.5.			($3,000,000)	R
D. Other State Aid Adjustments				
43 Equipment Provides funds for the purchase of instructional equipment and technology at all 58 colleges. These funds are in addition to the $49 million included in the base budget for this purpose. Funds shall be distributed in accordance with the existing equipment formula.	$10,000,000	NR		
44 Manufacturing Solutions Center Provides additional funding for the Manufacturing Solutions Center at Catawba Valley Community College. Total funding for this program will be $696,922.	$150,000	R	$150,000	R
45 Textile Technology Center Provides additional funding for the Textile Technology Center at Gaston College. Total funding for this program will be $503,954.	$150,000	R	$150,000	R
46 Customized Training Reduces the Customized Training budget on a one-time basis. Total recurring funding for the program is $12.5 million; however, per G.S. 115D-5.1(f2), unexpended funds for the program do not revert and are instead carried forward to the next year. The total amount available for expenditure in FY 2013-14 is projected to be $20.8 million.	($2,000,000)	NR		

	FY 13-14		FY 14-15	
47 Data Connectivity Eliminates a portion of the recurring funding for data connectivity at each community college's main campus. Due to their concentrated buying power, community colleges were able to negotiate lower rates and these funds have remained unspent. Total funding remaining for the initiative will be $4,986,528.	($647,972)	R	($647,972)	R
48 BioNetwork Reduces funds for the BioNetwork program. Total funding remaining for the program will be $4,159,611.	($100,000)	R	($100,000)	R
49 Botanical Laboratory Reduces support for the categorical allotment for the botanical laboratory at Fayetteville Technical Community College. The college will continue to receive regular FTE formula funding for enrollment at the botanical laboratory, and may use other State funding allocated to it to continue the program.	($164,000)	R	($164,000)	R
50 NC Back-to-Work: Investing in Our Workforce Provides nonrecurring funding for a retraining program to prepare North Carolinians facing long-term unemployment for new careers, described further in Section 10.16. This program provides students with job training, employability skills, and industry-recognized, third-party credentials.	$4,808,000	NR		
E. Community Colleges System Office Adjustments				
51 GED Program Office Shifts $104,266 in FY 2013-14 and $208,533 in FY 2014-15 from the Basic Skills Block Grant to the Community Colleges System Office to administer the Adult High School and General Education Development (GED) Programs. S.L. 2011-145 shifted this program's budget and the associated 2.5 positions from General Fund appropriations to receipt support from GED exam fees. Due to changes in the GED exam, these fees will no longer be paid to the System Office as of January 1, 2014. This item shifts the program budget, including two GED and Adult High School Tech positions and one-half of the Education Program Director position, back to General Fund appropriations.	2.50		2.50	
52 State Board Reserve Reduces funding for the State Board reserve, leaving $250,000 in this reserve.	($250,000)	R	($250,000)	R
53 System Office Advertising and Travel Reduces the System Office budget for advertising ($100,000) and travel ($20,000).	($120,000)	R	($120,000)	R
54 Audit Services Eliminates recurring funding for the Audit Services division of the System Office. Restoration of recurring funding is subject to the results of a study by the State Board of Community Colleges in accordance with Section 10.15 of this act.	($551,572) $551,572	R NR	($551,572) $551,572	R NR

	FY 13-14		FY 14-15	
Total Legislative Changes	**($33,494,580)**	R	**($21,494,580)**	R
	$17,359,572	NR	**$551,572**	NR
Total Position Changes	2.50		2.50	
Revised Budget	**$1,021,295,467**		**$1,016,487,467**	

UNC System

GENERAL FUND

	FY 13-14		FY 14-15	
Recommended Continuation Budget	**$2,709,551,807**		**$2,737,874,470**	
Legislative Changes				
A. Strategic Directions Initiative				
55 Administrative and Operational Efficiencies Reduces funding in anticipation of savings from the implementation of administrative and operational efficiencies, including: - Shared services for residency determination, internal audit, financial aid review, and IT infrastructure; - Strategic purchasing; - Span-of-control evaluations; - Improved business practices; and - Energy efficiency measures.	($10,000,000)	R	($15,000,000)	R
56 Instructional Efficiencies Reduces funding in anticipation of savings from the implementation of system-wide academic programming measures, including system-wide section size guidelines and improved transferability of credits between UNC campuses.	($15,800,000)	R	($21,100,000)	R
57 Program Consolidation Reduces funding in anticipation of savings from the consolidation of small or duplicative programs within the UNC System.			($1,900,000)	R
B. Other Adjustments				
58 Tuition Increases for Nonresident Undergraduate Students Increases tuition rates for nonresident undergraduate students beginning in FY 2014-15. Nonresident tuition rates for undergraduate degree programs will be increased by 12.3% for UNC-SA, NCA&T, UNC-CH, and UNC-W and 6% for ASU, ECU, ECSU, FSU, NCCU, UNC-A, UNC-G, UNC-P, WCU, and WSSU.			($27,243,157)	R
59 Management Flexibility Reduction Mandates a management flexibility reduction for the UNC operating budget. As directed in Section 11.5, the UNC Board of Governors shall not allocate this reduction on an across-the-board basis to constituent institutions.	($65,805,042)	R	($73,610,344)	R
60 Optional Retirement Program Forfeitures Reduces UNC's budget by $4 million annually. The UNC System shall offset this reduction by replacing contributions to the Optional Retirement Program with forfeitures the Program receives under G.S. 135-5.1(b)(5).	($4,000,000)	R	($4,000,000)	R

	FY 13-14		FY 14-15	
61 McNair Hall Building Reserve Eliminates recurring operating funds previously budgeted for an addition to McNair Hall at NCA&T State University. The McNair Hall addition was to be part of the Graduate Engineering School Project but has been cancelled.	($150,185)	R	($150,185)	R
62 UNC School of Medicine Subsidy Eliminates the reserve for the UNC School of Medicine.	($15,000,000)	R	($15,000,000)	R
63 Institute for Regenerative Medicine Transfers funds for the Institute for Regenerative Medicine at Wake Forest University from the Commerce-State Aid budget to the UNC System budget.	$7,000,000	R	$7,000,000	R
64 Opportunity Scholarships Provides funds for Opportunity Scholarship Grants, as authorized by Section 8.29 of this act. The program will create scholarship grants of up to $4,200 per year for eligible students to attend nonpublic schools. Also, the North Carolina State Education Assistance Authority is authorized to create two positions to support the requirements of the program.			$10,000,000 2.00	R
65 WCU Engineering Degree Program at Biltmore Park Provides funding for a general engineering degree program at Western Carolina University's Biltmore Park Town Square location in Buncombe County. Funds will help support start-up costs, four full-time equivalent positions, and ongoing program operations.	$698,962	NR	$719,844 4.00	R
C. Financial Aid				
66 Tuition Grant for NC Science & Math Graduates Completes the phase out of the UNC tuition grant for graduates of the North Carolina School of Science and Math (NCSSM). $1,220,765 will remain in the budget for FY 2013-14 to pay tuition for students who graduated from NCSSM in 2010; all funding is eliminated for FY 2014-15.	($1,248,310)	R	($2,469,075)	R
67 National Board Certification Loan Program Reduces recurring funding for this revolving loan program for teachers pursuing certification by the National Board for Professional Teaching Standards. Total remaining recurring funding will be $100,000. Additionally, Section 11.2 reduces the available fund balance for the program, leaving $1,300,000 to support ongoing operations.	($3,174,500)	R	($3,174,500)	R
68 UNC Need-Based Grant Forward Funding Reserve Provides additional funding for the UNC Need-Based Grant Forward Funding Reserve, in order to shift the entire program to forward funding for FY 2015-16. In addition to these funds, Section 11.2 appropriates an additional $36.6 million in FY 2013-14 and $19.1 million in FY 2014-15 to the reserve.	$3,454,656 $20,882	R NR	$3,454,656	R

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69 UNC Need-Based Grant				
Decreases General Fund support for the program on a nonrecurring basis, to offset a one-time increase from the Escheat Fund. Total funding available for scholarships in the 2013-14 academic year will remain at $122,475,842.	($27,000,000)	NR		
70 NC Need-Based Scholarship				
Provides additional nonrecurring funding for the NC Need-Based Scholarship for private college students. Total program funding for FY 2013-14 and FY 2014-15 will be $86,351,588.	$4,500,000	NR	$4,500,000	NR
Total Legislative Changes	**($104,723,381)**	R	**($142,472,761)**	R
	($21,780,156)	NR	**$4,500,000**	NR
Total Position Changes			6.00	
Revised Budget	**$2,583,048,270**		**$2,599,901,709**	

HEALTH
&
HUMAN SERVICES
Section G

Health and Human Services

	GENERAL FUND			
	FY 13-14		FY 14-15	
Recommended Continuation Budget	**$4,615,870,375**		**$4,630,560,536**	
Legislative Changes				
(1.0) Division of Central Management and Support				
1 Office of Citizen Services Positions Eliminates six positions associated with the elimination of the NC Care Line in S.L. 2011-145. -6.00 60037847 Processing Assistant III 60037849 Community Service Consultant 60037850 Administrative Officer I 60037854 Processing Assistant V 60037855 Human Service Planner/Evaluator II 60090103 Administrative Officer I	($339,787)	R	($339,787) -6.00	R
2 Adjustment Based on Historical Transfers/Elimination of Vacant Positions Reduces funds based on transfers from the Division of Central Management to the Division of Medical Assistance. In FY 2010-11 approximately $3.7 million was transferred from lapsed salary, contracts and Division of Information and Resource Management (DORM) administration accounts. In FY 2011-12 approximately $2.7 million was transferred from lapsed salary and indirect cost accounts. These funds were transferred to the Division of Medical Assistance to cover Medicaid shortfalls in both years. In order to achieve this reduction, the Secretary may exercise the authority provided in Section 12A.1 to eliminate vacant positions throughout the Department.	($2,287,280)	R	($2,287,280)	R
3 North Carolina Families Accessing Services Through Technology (NC FAST) Provides funds to match federal receipts and continue the development and implementation of NC FAST.			$864,655	NR
4 Department of Justice Settlement Agreement Provides funds pursuant to the agreement between the State and the U.S. Department of Justice to develop and implement housing, support, and other services for people with mental illness. The funds will be used to provide services to an additional 150 people in FY 2013-14 and up to 708 people in FY 2014-15.	$3,834,275	R	$9,394,658	R
5 Medicaid Management Information System (MIMS) Directs the Department to use prior-year earned revenue to fund this system. FY 2013-14: $9,658,152 NR FY 2014-15: $1,666,625 NR				

	FY 13-14		FY 14-15	
6 Medication Assistance Program Provides funding for the Medication Assistance Program (MAP). MAP assists uninsured, low-income people in obtaining free prescription drugs.	$1,704,033	R	$1,704,033	R
7 NC MedAssist Program Provides funding to award a grant to the NC MedAssist Program to expand the capacity of its statewide pharmacy program which serves uninsured and low-income persons.	$400,000	R	$400,000	R
8 DHHS Competitive Block Grant for Non-Profits Provides funds for historically funded non-profits for FY 2013-14. The Department is directed to create a competitive block grant process for the appropriation of these funds beginning in FY 2014-15. In addition to the state funds, Social Services Block Grant funds are appropriated for non-profits for FY 2013-14 in the amount of $3,852,500 for a total appropriation of $13,699,034.	$9,529,134 $317,400	R NR	$9,529,134 $317,400	R NR
9 Supplemental Short-Term Assistance for Group Homes Appropriates funds for one year for group home residents who were determined to be ineligible for Medicaid personal care services on or after January 1, 2013. The maximum monthly payment is set at $464.30 and is based on providing 33 hours of service per eligible recipient. Group homes may only use these funds to provide supervision and medication management to residents who meet the required eligibility criteria. Funds for this purpose are capped at a maximum amount of $4,600,000 and will end upon the implementation of a tiered State-County Special Assistance Block Grant program or upon depletion of the funds.	$4,600,000	NR		
10 Statewide Telepsychiatry Program Provides funds to establish a statewide telepsychiatry program to provide consultant services as an alternative to alleviate hospital emergency department wait times, involuntary commitments, and local law enforcement involvement in the transport of patients who have been involuntarily committed, especially in rural and medically underserved areas. The funds are provided to the Office of Rural Health and Community Care to be used to establish and administer the program and to purchase telepsychiatry equipment for the State-owned facilities.	$2,000,000	R	$2,000,000	R

	FY 13-14		FY 14-15	
(2.0) Division of Child Development and Early Education				
11 Regulatory Positions Shifted from State to Federal Funding Transfers $604,541 in salaries and $204,962 in benefits for 14 positions as well as $90,497 in operating costs to receipt support by utilizing the Child Care Development Fund block grant. The Child Care Regulatory fund has $1.5 million remaining in state appropriations. The following positions are affected: 60038736 Child Day Care Specialist 60038746 Child Day Care Specialist 60038747 Child Day Care Specialist 60038610 Child Day Care Specialist 60038743 Child Day Care Specialist 60038742 Child Day Care Specialist 60038735 Child Day Care Specialist 60038741 Child Day Care Specialist 60038745 Child Day Care Specialist 60038734 Child Day Care Specialist 60038739 Child Day Care Specialist 60038749 Child Day Care Specialist 60038730 Child Day Care Specialist 60038835 Program Assistant V	($900,000) -14.00	R	($900,000) -14.00	R
12 Seat Management Funding Elimination Eliminates funding for seat management, the outsourcing of management of workstation capabilities for employees, including hardware and software.	($38,125)	R	($38,125)	R
13 Adjustments Based on Historical Transfers Reduces funds based on transfers from the Division of Child Development and Early Education to the Division of Medical Assistance. In FY 2011-12 approximately $870,000 was transferred from lapsed salary, contracts and administrative services to the Division of Medical Assistance to cover the Medicaid shortfall.	($652,500)	R	($652,500)	R
14 Pre-K Slots Provides $12,400,000 additional funding from lottery receipts to add 2,500 slots for Pre-K. These additional slots bring the total available Pre-K slots to 27,500.				
15 TANF Funds for Child Care Subsidy Replaces general fund appropriation for child care subsidy with Temporary Assistance for Needy Families (TANF) block grant carryforward funds on a non-recurring basis.	($5,111,251)	NR	($3,348,849)	NR
16 Replace Child Care Subsidy Funds Needed For Quality Initiatives Replaces federal Child Care Development Fund block grant subsidy funds, that by federal requirements are needed for Quality and Availability Initiatives, with general fund appropriation. This ensures that the funding for child care subsidy in FY 2013-14 is the same in total as was available from all sources in FY 2012-13.	$1,762,402	NR		

	FY 13-14		FY 14-15	
(4.0) Division of Social Services				
17 Seat Management Funding Elimination Eliminates funding for seat management, the outsourcing of management of workstation capabilities for employees, including hardware and software.	($606,695)	R	($606,695)	R
18 Adjustment Based on Historical Transfers Reduces funds based on historical transfers from the Division of Social Services to the Division of Medical Assistance. In FY 2010-11 $9.7 million was transferred from contracts, unused adoption and foster care services funding, and other administrative funds. In FY 2011-12 the division transferred approximately $15.3 million. Of this amount approximately $4.5 million was from unspent foster care and adoption services funding, $600,000 from lapsed salary, $1 million in contracts, and $4 million from non-recurring revenue from prior year earned revenue, indirect costs and prior year audit and adjustments. The remaining funds came from administration, including seat management. Some of the historical transfers are reduced in the seat management and contract and administrative reduction items. Foster Care and Adoption services funding was reduced in the continuation budget.	($1,875,000)	R	($1,875,000)	R
19 Contract and Administrative Savings Eliminates funds for the Child Welfare Multiple Response System (MRS) Conference that trained county staff on MRS. The conference is no longer needed as MRS has been implemented statewide. Also eliminates funds for the forms and supply warehouse that is no longer needed as the warehouse has closed. The remaining reduction is from administration and internet billing costs.	($1,066,123)	R	($1,066,123)	R
20 Federal Funds for County Child Welfare Services Replacement Provides funds to partially replace federal funding for child welfare administration due to a change in the application of federal policy. The State supports county DSS agencies at an overall rate of 31% of the non-federal share of their county budgets for public assistance and service programs. This appropriation replaces 33% of the lost federal funding on a nonrecurring basis to support the counties while the North Carolina Families Accessing Services through Technology (NCFAST) information system is being developed and implemented. Once fully implemented, NCFAST is projected to save administrative costs for counties.	$4,826,346	NR	$4,826,346	NR

	FY 13-14		FY 14-15	
21 NC Reach - Child Welfare Postsecondary Education Provides funds to support 10% growth each year of the biennium for NC Reach, which provides funds for former foster care youth who have aged out of foster care and children adopted after age 12 who attend college within the UNC and Community College systems. There is currently no waiting list for this service. Expenditure growth rate from FY 2010-11 to FY 2011-12 was 10%. No additional funding was available for FY 2012-13. NC Reach funding is the payer of last resort and covers items such as books, supplies, transportation, and room and board not covered by other funding sources.	$200,000	R	$400,000	R
22 Adoption Promotion Fund Provides funds to support adoptions through reimbursements to private nonprofit organizations to support adoption programs and provide financial incentive to county departments of social services to complete adoptions above an established baseline.	$1,500,000	R	$1,500,000	R
23 Permanency Innovation Initiative Fund Provides funds to support the Permanency Innovation Initiative Fund that will improve permanency outcomes for children living in foster care, improve engagement with biological relatives of children in or at risk of entering foster care, and reduce costs associated with maintaining children in foster care.	$1,000,000	R	$2,750,000	R
(6.0) Division of Vocational Rehabilitation				
24 Independent Living Program Administration Reduction Reduces the administrative budget for the Independent Living Program.	($10,000)	R	($10,000)	R
25 Vocational Rehabilitation Services Administration Funding Replaces General Fund appropriations budgeted for administrative expenses in the Vocational Rehabilitation Basic Support program with program receipts.	($102,236)	R	($102,236)	R
26 State Funding in the Assistive Technology Program Replaced Replaces the General Fund appropriation in the Assistive Technology Program with program receipts.	($98,738)	R	($98,738)	R
27 Historical Transfers to Medicaid Reduces funding based on transfers from the Division of Vocational Rehabilitation to the Division of Medical Assistance. In FY 2011-12 approximately $845,000 was transferred from indirect costs funds to the Division of Medical Assistance to cover the Medicaid shortfall.	($300,000)	R	($300,000)	R
(7.0) Division of Aging and Adult Services				
28 Seat Management Funding Elimination Eliminates funding for seat management within the Division. The Department discontinued outsourcing management of its workstation capabilities including hardware and software.	($855)	R	($855)	R

	FY 13-14		FY 14-15	
29 Adjustment Based on Historical Transfers Reduces funding based on transfers from the Division of Aging and Adult Services to the Division of Medical Assistance. In FY 2011-12 approximately $470,000 was transferred from lapsed salary and administration accounts to the Division of Medical Assistance to cover the Medicaid shortfall.	($300,000)	R	($300,000)	R
30 Long-Term Care Ombudsman Replaces lost federal receipts and maintains the current level of service. In the FY 2011-13 budget, General Fund support for the Long-Term Care Ombudsman was replaced with federal civil monetary penalties receipts. Since then, the Centers for Medicare and Medicaid Services (CMS) has restricted the use of those federal receipts for this purpose.			$200,000	R
(8.0) Division of Public Health				
31 Early Intervention - Children's Developmental Services Agencies Reduces FY 2013-14 funding to the Division of Public Health based on historical transfers to the Division of Medical Assistance. In FY 2010-11, approximately $17.1 million was transferred from lapsed salary, administration, and contract accounts to address the Medicaid shortfall. In FY 2011-12, approximately $17.4 million was transferred. Of the amounts transferred, over half was lapsed salary and other unspent funds budgeted to the Early Intervention Branch. Eliminates 160 CDSA positions, effective July 1, 2014. In implementing the position eliminations, the Division is authorized to close up to 4 of the 16 CDSAs. However, the Division shall retain the Morganton CDSA and make it a priority to maintain the CDSAs that have the highest caseloads of children who reside in rural or medically underserved areas of the State.	($8,000,000)	NR	($10,000,000) -160.00	R
32 AIDS Drug Assistance Program (ADAP) Drug Purchases Reduces ADAP funding to more accurately reflect current spending levels. ADAP provides pharmaceuticals to financially-eligible persons with AIDS. There are currently two ADAP funding sources: federal Ryan White CARE Act and State appropriations. Due to increased FY 2013-14 federal ADAP receipts, the amount of funds remaining for ADAP pharmaceutical purchases after the $8 million reduction is anticipated to be $5 million more than the FY2012-13 budget.	($8,000,000)	R	($8,000,000)	R
33 Oral Health Section Eliminates 15.0 positions in the Oral Health Section, effective October 1, 2013.	($637,500) -15.00	R	($850,000) -15.00	R
34 Autopsy Fee Receipts Reduces the General Fund appropriation and budgets increased autopsy fee receipts. Effective August 1, 2013, the autopsy fee increases from $1,000 to $1,250.	($220,000)	R	($220,000)	R

	FY 13-14		FY 14-15	
35 State Public Health Laboratory Provides funding for the State Public Health Laboratory to offset receipts lost due to FY 2010-11 Medicaid provider rate reductions.	$1,052,000	R	$1,052,000	R
36 NC Tobacco Use Quitline Provides funds to continue the operation of the North Carolina Tobacco Use Quitline (NC Quitline). NC Quitline provides free tobacco cessation services and treatment for NC residents.	$1,200,000	R	$1,200,000	R
37 High Risk Maternity Clinic Provides funds for the East Carolina University High Risk Maternity Clinic.	$375,000	NR	$375,000	NR
38 Maternity Homes Provides funds for maternity homes.	$925,085	NR	$925,085	NR
39 Nurse-Family Partnership Provides funds to the Nurse-Family Partnership for intensive home visiting services.	$675,000	NR	$675,000	NR
(9.0) Division of Mental Health, Developmental Disabilities, and Substance Abuse Services				
40 LME/MCO Administration Reduces funds provided for Local Management Entities (LME)/Managed Care Organizations (MCO) administration funding formula. The LME/MCO transition phase will be fully implemented by July 1, 2013 resulting in savings to the General Fund.	($15,228,245)	R	($15,228,245)	R
41 Gambling Fund Balance Budgets accumulated lottery budget receipts transferred to the Division for gambling addiction education and treatment programs. This reduction is not anticipated to affect the level of services provided.	($416,264)	NR		
42 Adult and Drug Abuse Treatment Centers (ADATC) Reduces the budget for each ADATC by 12 percent: R.J. Blackley ADATC (1,667,037) Walter B. Jones ADATC (1,493,983) Julian F. Keith ADATC (1,757,337)	($4,918,357)	R	($4,918,357)	R
43 NC High School Athletic Association (NCHSAA) Transfers the special appropriation to the Division of Central Management and Support to disburse the funds to NCHSAA in FY 2013-14. Beginning in FY 2014-15, the funds shall be budgeted for the performance-based, competitive block grant process, for which NCHSAA would be eligible to apply.	($332,491)	R	($332,491)	R

	FY 13-14		FY 14-15	
44 Broughton Hospital Beds Realigns the Division's base budget to transfer $3,513,000 recurring from Fund Code 1910 - Reserves and Transfers to Fund Code - 1561 Broughton Hospital to open 19 additional adult psychiatric care beds. These funds were originally appropriated by S.L. 2012-142 for this purpose but contingent upon the status of the Medicaid budget. Due to the contingency, FY 2012-13 funds were placed in the reserve account and then transferred to Budget Code 14445 to address the Medicaid budget shortfall. In the Division's FY 2013-15 continuation budget, the funds remain in Fund Code 1910.				
45 Three-Way Contracts Realigns the Division's base budget to transfer $9 million recurring from Fund Code 1910 - Reserves and Transfers to Fund Code 1464 - Crisis Services to increase the number of three-way contract community hospital beds available to Local Management Entities/Managed Care Organizations. These funds were originally appropriated by S.L. 2012-142 for this purpose but contingent upon the status of the Medicaid budget. Due to the contingency, FY 2012-13 funds were placed in the reserve account and then transferred to Budget Code 14445 to address the Medicaid budget shortfall. In the Division's FY 2013-15 continuation budget, the funds remain in Fund Code 1910. In addition to increasing the number of beds which may be purchased, the Department shall develop and implement a two-tiered payment system for the three-way contracts. The two-tiered system shall provide an enhanced payment for inpatients assessed at higher acuity levels. The enhanced payment rate shall not exceed the lowest average cost per patient bed day among the three State psychiatric hospitals.				
46 New Broughton Hospital Provides funds to purchase medical equipment, furniture, and information technology infrastructure for the new, expanded Broughton Hospital scheduled to open in December 2014.	$11,510,467	NR	$16,598,589	NR
47 NC Child Treatment Program	$1,818,745	R	$1,818,745	R
Provides funds for the statewide implementation of the NC Child Treatment Program. Funds will be used to provide clinical training to Medicaid-certified physicians, child trauma treatment services, and to develop an online database system.	$250,000	NR	$250,000	NR
48 Controlled Substances Reporting System Provides funds to redesign the Controlled Substances Reporting System (CSRS) to shorten the amount of time in which dispensers report information to the CSRS, as provided in G.S. 90-113.73(a).	$54,000	NR		

	FY 13-14		FY 14-15	
(10.0) Division of Health Service Regulation				
49 Adjustment Based on Historical Transfers Establishes a recurring reduction in the Division of Health Service Regulation at the level of historical transfers made to cover Medicaid shortfalls. Approximately $600,000 was transferred to the Division of Medical Assistance in FY 2010-11; approximately $800,000 was transferred to the Division of Medical Assistance in FY 2011-12.	($300,000)	R	($300,000)	R
50 Certificate of Need Exemption for Main Campus Replacements Receipts from Certificate of Need (CON) fees will be reduced based on the exemption of hospitals from CON when replacing or improving of capital assets on the main campus.	($150,513)	R	($150,513)	R
51 Increase in Staffing Positions for Health and Safety Inspections Provides additional operating funds for 10 additional positions in the Acute and Home Care Licensure Section to investigate complaints, conduct surveys for uncredentialed hospitals and monitor abortion clinics on an annual basis. Total costs in FY 2013-14 are $845,776, with $761,198 in receipts resulting in an increased appropriation of $85,578. In FY 2014-15 total costs are $1,000,000, receipts $900,000 and appropriations $100,000.	$84,578 10.00	R	$100,000 10.00	R
(11.0) Division of Medical Assistance				
52 Health Homes for the Chronically Ill Reflects the last quarter of increased federal match under the Health Homes for the Chronically Ill program for qualified care management per member per month expenditures. Includes an enhanced federal match for all Medicaid care management payments for recipients with comorbid conditions including a chronic health condition and severe and persistent mental health conditions paid through September 30, 2013.	($3,757,682)	NR		
53 Report Separately Payments to CCNC and CCNC Providers Establishes a separate budget item for per member per month payments to the North Carolina Community Care Network for care management activities and to Community Care North Carolina (CCNC) physicians for CCNC activities for reporting and tracking purposes. The respective amounts are:	$59,340,923	R	$62,046,013	R

FY 2013-14	Total Requirements	State Funds
Care Management	$125,800,000	$44,000,000
Provider Payments	$ 43,800,000	$15,300,000
FY 2014-15		
Care Management	$131,600,000	$46,100,000
Provider Payments	$ 45,700,000	$16,000,000

	FY 13-14		FY 14-15	
54 Physician Expenditures Adjustment to Appropriately Report CCNC Payments Establishes a separate budget item for per member per month payments to the North Carolina Community Care Network for care management activities and to Community Care North Carolina (CCNC) physicians for CCNC activities for reporting and tracking purposes. The respective amounts are: FY 2013-14 — Total Requirements — State Funds Care Management — ($125,800,000) — ($44,000,000) Provider Payments — ($ 43,800,000) — ($15,300,000) FY 2014-15 Care Management — ($131,600,000) — ($46,100,000) Provider Payments — ($ 45,700,000) — ($16,000,000)	($59,340,923)	R	($62,046,013)	R
55 Hospital Provider Assessment Effective July 1, 2013 the hospital provider assessment plan will be modified so the State's retention will be 25.9% o the total assessment paid by hospitals instead of a stated amount of $43,000,000.	($52,000,000)	R	($52,000,000)	R
56 Hospital Base Rates Recalibrate the hospital inpatient payment system so that the base rates will be regionally set for all hospitals in that region to eliminate the disparity in rates for the same services between hospitals that exist in the current system. Hospital inpatient services are paid based on a diagnosis related group (DRG) system. There are 746 DRG's in the Medicaid program that represent classifications of services provided during an inpatient hospitalization. Each of the 746 DRG's has a weight that represents the relative resources required for services related to that diagnosis, recipient age, sex and the presence of complications or comorbidities. Hospital payment is determined by applying a base rate, unique to each hospital, to the DRG weight. The hospital base rates were developed using each hospital's costs in 1994. Changes to these base rates have only occurred when the General Assembly has approved an increase or decrease in rates. DHHS will work with hospitals to identify appropriate regional differences and define regional definitions.	$0	R	$0	R
57 Medicaid Copays Increases nominal copays for eligible Medicaid services to the maximum allowed by the Centers for Medicare and Medicaid Services (CMS) effective November 1, 2013. Services that are excluded from copays by CMS are medical emergency services, family planning services, "preventative" services for children and pregnancy-related services. All nominal copays will be capped at the maximum allowed by CMS at June 30, 2013.	($3,308,100)	R	($4,962,150)	R
58 Medicaid Contract Reductions Adjusts contract expenditures in the second year of the biennium to reflect a reduced cost of operation and adjudication of claims related to the new Medicaid Management Information System that will be implemented July 1, 2013.	$0	R	($2,016,771)	R

	FY 13-14		FY 14-15	
59 Hospital Outpatient Payments at 70% of Costs Reduces interim outpatient payments to hospitals to reflect the impact of reducing the settlement to 70% of costs effective January 1, 2014. Hospitals are currently paid for outpatient services at 80% of costs.	($23,122,268)	R	($48,002,826)	R
60 Cost Savings Through Drug Adjustments Requires Department to implement payment reforms to achieve savings, with changes to be effective January 1, 2014. Currently, brand drugs are paid at Wholesale Acquisition Cost (WAC) plus 6% and Generic drugs are paid at 195% of the State Medicaid Average Costs (SMAC). WAC mark up will be adjusted 1% and SMAC mark up to 150%. Dispensing fees for brand drugs will be reduced to $2.	($14,616,627)	R	($30,185,714)	R
61 Shared Savings Plan Establishes a 3% withhold on selective services effective January 1, 2014. Services subject to the withhold include inpatient hospital, physician (excluding primary care physicians until January 1, 2015), dental, optical services and supplies, podiatry, chiropractors, hearing aids, personal care services, nursing homes, adult care homes and drugs. DHHS will work with providers to develop a shared savings plan that will be implemented by January 1, 2015 that will include incentives to provide effective and efficient care that results in positive outcomes for Medicaid recipients. In FY 2013-14 the State share of the amount withheld will be $14.7 million. This represents a total impact of $41.9 million in provider payments, including both the State and federal shares. In FY 2014-15 the State share of the withhold will be $30.6 million, providers will be eligible for shared savings that are projected to total $8.9 million and the impact of the shared savings plan on expenditures is projected to be $15.1 million.	($26,924,941)	R	($44,710,352)	R
62 Rehabilitation Services Limitation Limits adult rehabilitative services for set up and training to three visits per year, effective January 1, 2014.	($2,748,350)	R	($5,651,495)	R
63 Physician Office Visits Limitation Reduces the limit on office visits for adults from 22 visits a year to 10 visits a year effective January 1, 2014. Prior authorization will be required for medically necessary visits in excess of 10 per year. Recipients with chronic conditions will be exempted from this limitation.	($3,676,525)	R	($7,560,122)	R
64 Medicaid Rate Methodologies Modification for Acquired Providers Modifies Medicaid rate methodologies to ensure that rates paid to hospital or physician providers that were acquired, merged, leased or managed after December 31, 2011 will not exceed rates that would have been paid if the provider had not been acquired, merged, leased or managed.				

	FY 13-14		FY 14-15	
65 Rate Freeze for Services Subject to Automatic Increases Freezes rates for hospital outpatient services and other rates that contain an inflation or increase factor not specifically approved by the General Assembly at the rate in effect June 30, 2013. Interim hospital outpatient services percentage of cost will be adjusted to compensate for expected inflation for which hospitals would be eligible. The cost settlement will be limited to that percentage. Nursing direct care services will continue to receive case mix index increases after June 30, 2013. Federally Qualified Health Centers, Rural Health Centers, State Operated services, Hospice, Part B and D Premiums, third party and HMO premiums, drugs, Critical Access Hospitals and MCO capitation payments are excluded.	($17,165,653)	R	($26,567,409)	R
66 Medicaid Rebase Provides Medicaid funding for the continuation of the program at the current level, adjusted for changes in enrollment, mix of enrollment, consumption, new service and new policy. Additionally, the rebase includes the impact of changes in federal match (FMAP), annualization of reductions not fully implemented during FY 2012-13 and the extension of Medicaid to the former foster care children until age 26 beginning January 1, 2014.	$434,000,000	R	$557,000,000	R
67 Provider Cost Settlements Increases funding for Medicaid cost settlements to provide for the growth in Medicaid recipients and the cost of serving Medicaid recipients for those providers whose payments are cost settled after the providers fiscal year. Providers that are cost settled include hospitals, skilled nursing facilities, and Intermediate Care for the Mentally Retarded facilities (ICF-MRs).	$18,000,000	R	$18,000,000	R
68 Contracts Provides funding for Medicaid contracts that ensure the appropriate level of medical service is provided, including contracts that provide prior authorization, utilization reviews and assessments of individuals receiving medical care. This increase is due to estimated increases in the Medicaid population being served. Funding is also provided for the asset verification contract which will ensure Medicaid recipients are within the asset limit for eligibility determination purposes.	$11,000,000	R	$11,000,000	R
69 "Woodwork" and Affordable Care Act Provides funding for expenditures for new Medicaid recipients. Even though North Carolina has decided not to expand Medicaid eligibility under the Affordable Care Act (ACA) effective January 1, 2014, 69,683 new enrollees are expected to join Medicaid in FY 2013-14 and 72,426 are expected to join in FY 2014-15 as a result of provisions contained in the ACA related to penalties for non-coverage and outreach efforts.	$49,684,791	R	$114,119,120	R

	FY 13-14		FY 14-15	
70 Transfer of Health Choice Children Transfers all children under 133% of the Federal Poverty Level beginning January 1, 2014 in accordance with the Affordable Care Act which requires they be covered under Medicaid instead of Health Choice. Provides funding for the increase in costs that will be incurred as a result of these recipients being eligible for broader benefits under Medicaid than they had when covered under Health Choice. In FY 2013-14 there will be about 51,000 recipients impacted. The State will retain the State Children's Health Insurance Program federal match instead of the traditional Medicaid federal match. There is a partial offset in Health Choice for this amount.	$22,080,000	R	$46,080,000	R
71 MMIS Implementation Costs Provides funding to implement manual processes to ensure the appropriate payment of claims by hiring temporary staff or through external contracts. The new Medicaid Management Information System (MMIS) for the adjudication of claims is scheduled to be implemented July 1, 2013. The new system will not contain all of the functionality of the current MMIS.	$4,828,664	NR		
72 Community Care of North Carolina Study Provides funding for a study to determine whether the Community Care of North Carolina model saves money and improves health outcomes. This was recommended by the State Auditor in the January 2013 performance audit of the Medicaid Program. Total funding available for the study is $200,000 as the State funds may be used to match federal Medicaid administrative funds.	$100,000	NR		
(12.0) NC Health Choice				
73 Transfer of Health Choice Children Reduces funds by transferring children to Medicaid. Beginning January 1, 2014 the Affordable Care Act requires all children under 133% of the Federal Poverty Level be covered under Medicaid instead of Health Choice. In FY 2013-14 there will be about 51,000 recipients impacted and the State will retain the State Children's Health Insurance Plan federal match instead of the traditional Medicaid federal match.	($12,348,000)	R	($25,480,000)	R
74 Contract Budget Adjustment Reduces Health Choice contract expenditures to actual amounts.	($2,800,000)	R	($2,800,000)	R
75 Rate Freezes for Services Subject to Automatic Increases Freezes rates for hospital outpatient services and other rates that contain an inflation or increase factor not specifically approved by the General Assembly at the rate in effect June 30, 2013. Hospital outpatient services percentage of cost will be adjusted to compensate for expected inflation for which hospitals would be eligible. Cost settlement will be limited to that percentage. Federally Qualified Health Centers, Rural Health Centers, State Operated services, Hospice, Part B and D Premiums, third party and HMO premiums, drugs, Critical Access Hospitals and MCO capitation payments are excluded.	($1,265,912)	R	($1,405,614)	R

	FY 13-14		FY 14-15	
76 Shared Savings Plan Establishes a 3% withhold on selective services effective January 1, 2014. Services subject to the withhold include inpatient hospital, physician services (excluding primary care until January 1, 2015), dental, optical services and supplies, podiatry, chiropractors, hearing aids, personal care services, nursing homes, adult care homes and drugs. DHHS will collaborate with providers to develop and implement a shared savings plan that will be implemented by January 1, 2015 to provide incentives for effective and efficient care that results in positive outcomes for Medicaid recipients.	($881,640)	R	($1,787,957)	R
77 Cost Savings Through Drug Adjustments Requires Department to implement payment reforms to achieve savings, with changes to be effective January 1, 2014. Currently, brand drugs are paid at Wholesale Acquisition Cost (WAC) plus 6% and Generic drugs are paid at 195% of the State Medicaid Average Costs (SMAC). WAC mark up will be adjusted 1% and SMAC mark up to 150%. Dispensing fees for brand drugs will be reduced by $1.	($697,597)	R	($1,334,600)	R
78 Physician Expenditures Adjusted to Appropriately Report CCNC Payments Establishes a separate budget for per member per month payments to the North Carolina Community Care Network for care management activities and to Community Care North Carolina (CCNC) physicians for CCNC activities for reporting and tracking purposes. The respective amounts are:	$2,557,144	R	$2,699,001	R
79 Physician Expenditures Adjustment to Appropriately Report CCNC Payments Establishes a separate budget for per member per month payments to the North Carolina Community Care Network for care management activities and to Community Care North Carolina (CCNC) physicians for CCNC activities for reporting and tracking purposes. The respective amounts are:	($2,557,144)	R	($2,699,001)	R

	Total Requirements	State Funds
FY2013-14		
CCNC Care Management	$5,800,000	$1,400,000
Provider Payments	$4,500,000	$1,100,000
FY 2014-15		
CCNC Care Management	$6,100,000	$1,500,000
Provider Payments	$4,700,000	$1,200,000

	Total Requirements	State Funds
FY2013-14		
CCNC Care Management	($5,800,000)	($1,400,000)
Provider Payments	($4,500,000)	($1,100,000)
FY 2014-15		
CCNC Care Management	($6,100,000)	($1,500,000)
Provider Payments	($4,700,000)	($1,200,000)

	FY 13-14		FY 14-15	
80 Health Choice Rebase Provides Health Choice funding to continue of the program at the current level, adjusted for changes in enrollment, mix of enrollment, consumption, new services and new policy. Additionally, the rebase includes the impact of changes in federal match (FMAP), annualization of reductions not fully implemented during FY 2012-13.	$6,176,522	R	$11,178,930	R
81 Cost Settle Hospital Outpatient Services to 70% of Cost Reduces interim outpatient payments to hospitals to reflect the impact of reducing the settlement to 70% of costs effective January 1, 2014. Hospitals are currently paid for outpatient services at 80% of costs.	($365,239)	R	($753,852)	R
Total Legislative Changes	**$364,978,781**	R	**$485,630,813**	R
	$12,939,167	NR	**$21,483,226**	NR
Total Position Changes	-25.00		-185.00	
Revised Budget	**$4,993,788,323**		**$5,137,674,575**	

NATURAL
&
ECONOMIC
RESOURCES
Section H

Agriculture and Consumer Services

GENERAL FUND

	FY 13-14		FY 14-15	
Recommended Continuation Budget	**$108,918,334**		**$108,918,334**	
Legislative Changes				
Department-wide				
1 Management Flexibility Reserve	($1,500,000)	R	($1,500,000)	R
Reduces operational support to encourage increased efficiency. The reduction equates to a 1.5% operating reduction from the Department's continuation budget in FY 2013-14 and 1.4% operating reduction in FY 2014-15.	($125,000)	NR		
Food & Drug				
2 Food Compliance Officer Position	$64,338	R	$64,338	R
Provides funding to support a new position in the Food and Drug Division to improve the compliance inspection process in the Grade "A" Milk program.	$800	NR		
	1.00		1.00	
Forest Service				
3 Forest Service Operational Support/Aircraft Maintenance	$350,000	R	$350,000	R
Provides an additional $350,000 in recurring funding for operational support. Of the recurring funds provided, the Department shall establish an administrative position whose primary responsibility will be the collection of Forest Service receipts.	$500,000	NR		
	1.00		1.00	
This section also provides a nonrecurring appropriation of $500,000 in FY 2013-14 for aircraft maintenance.				
Markets				
4 Additional Marketing Funding	$1,500,000	R	$1,500,000	R
Provides an additional $1.5 million recurring to expand domestic and international marketing initiatives to support North Carolina agricultural products. The Department shall also use the additional funds to support the Wine and Grape Growers Council that was funded on nonrecurring basis in FY 2012-13.	1.00		1.00	
The time-limited position supporting the Wine and Grape Growers Council (60080945) will be made permanent and will be supported by funds allocated to the Wine and Grape Growers Council.				
5 Southeastern NC Agricultural Center	$362,230	R	$362,230	R
Restores recurring funding and positions to the Southeastern NC Agricultural Center in Lumberton. The Center was provided nonrecurring funding in FY 2012-13 and directed to study alternative operating models.	6.00		6.00	

	FY 13-14		FY 14-15	
Plant Industry				
6 Plant Conservation Continuation Provides recurring funding to restore the amount no longer transferred from the Natural Heritage Trust Fund. Shifts one position (60012489) previously supported by Natural Heritage Trust Fund receipts to General Fund support.	$75,000 1.00	R	$75,000 1.00	R
Research Stations				
7 Bioenergy Development Provides funding to the Department of Agriculture and Consumer Services to stimulate energy production from North Carolina agricultural or forestry based products. Funding is provided to support up to five new positions and a grant program. Operating expenses, including personnel and travel, are not to exceed $400,000 in FY 2013-14 and $500,000 in FY 2014-15.	$900,000 5.00	R	$1,500,000 5.00	R
8 Research Stations Equipment Provides funds to modernize farming equipment on Research Stations in each year of the biennium.	$2,500,000	NR	$2,500,000	NR
Reserves & Transfers				
9 Tobacco Trust Fund Provides funding to the Tobacco Trust Fund to be disbursed as grants. Administrative expenses may be deducted from funds available, but shall not exceed $350,000 in any fiscal year.	$2,000,000	R	$2,000,000	R
10 Agricultural Development and Farmland Preservation Trust Fund Reduces the General Fund appropriation by $1 million on nonrecurring basis in each year of the biennium. Reduction in General Fund support will be offset by $1 million in each year of the biennium from TVA Settlement funds.	($1,000,000)	NR	($1,000,000)	NR
11 NC Agriculture Foundation (FFA Foundation) Provides additional funding to the FFA Foundation, which was previously funded through Commerce State-Aid.	$40,000	R	$140,000	R
Soil and Water Conservation				
12 AgWRAP Provides a recurring $500,000 appropriation to the Agriculture Water Resource Assistance Program ("AgWRAP"). The program received a nonrecurring $500,000 appropriation in FY 2012-13.	$500,000	R	$500,000	R

	FY 13-14		FY 14-15	
Total Legislative Changes	**$4,291,568**	R	**$4,991,568**	R
	$1,875,800	NR	**$1,500,000**	NR
Total Position Changes	15.00		15.00	
Revised Budget	**$115,085,702**		**$115,409,902**	

Labor

	GENERAL FUND			
	FY 13-14		FY 14-15	
Recommended Continuation Budget	**$16,196,339**		**$16,196,339**	
Legislative Changes				
Occupational Safety & Health				
13 Partial Restoration of OSHA Federal Receipts Provides funds to offset federal funding reductions.	$500,000	R	$500,000	R
Standards & Inspections				
14 Apprenticeship Bureau Transfers $350,000 recurring in Workforce Investment Act funds from the Department of Commerce to the Department of Labor for the Apprenticeship program.				
Total Legislative Changes	**$500,000**	R	**$500,000**	R
Total Position Changes				
Revised Budget	**$16,696,339**		**$16,696,339**	

Environment & Natural Resources

GENERAL FUND

	FY 13-14		FY 14-15	
Recommended Continuation Budget	**$109,140,591**		**$109,220,682**	
Legislative Changes				
Department-wide				
15 Management Flexibility Reserve Reduces funding to the Department by 2% and provides the Secretary with the flexibility to take the reduction to programs and activities that cause the least disruption in service.	($2,277,894)	R	($2,277,894)	R
16 Clean Water Management Trust Fund Combines the activities of the Natural Heritage Trust Fund with the Clean Water Management Trust Fund and provides funding to support the combined purposes. Provides staff to administer the Trust Fund (13.5 FTE's) and up to $750,000 for staff to administer the Natural Heritage program.	$10,426,976 13.50	R	$13,657,530 13.50	R
Aquariums				
17 Admission Receipts Budgets over-realized admission fee receipts in the General Fund to offset the operating costs of the State's three aquariums at Roanoke Island, Fort Fisher, and Pine Knoll Shores.	($100,000)	R	($100,000)	R
Conservation, Planning, and Community Affairs				
18 Sustainable Communities Task Force Abolishes the Community Planner position (60031547) that supports the Sustainable Communities Task Force, which was created by the General Assembly in 2010 to lead and support the State's sustainable communities initiatives. Also, sunsets the Task Force on June 30, 2013.	($95,331) -1.00	R	($95,331) -1.00	R
19 Operating Support Restores personnel and operating funds for the Office of Conservation, Planning and Community Affairs that had been previously supported with a transfer from the Natural Heritage Trust Fund. 60036191 Program Development Coordinator 60036192 Program Development Coordinator 60036213 Educational Development Coordinator	$325,000 3.00	R	$325,000 3.00	R

Conference Report on the Continuation, Capital, and Expansion Budget	FY 13-14		FY 14-15	
Energy, Mineral and Land Resources				
20 Energy Office	$1,762,714	R	$1,762,714	R
Transfers the Energy Office from the Department of Commerce to the Department of Environment and Natural Resources as a Type I transfer, including 49.91 FTEs supported by receipts in special funds.	6.17		6.17	
21 Pass-through Funding to Appalachian State University				
Reduces funding to Appalachian State University. Instead, provides nonrecurring funds from the Tennessee Valley Authority settlement, which must be spent in accordance with either the Consent Decree ("Categories of Projects," paragraph 128) or the Compliance Agreement ("Environmental Mitigation Projects," Appendix C).	($240,000)	NR	($240,000)	NR
22 Shale Gas Exploration	$300,000	R	$400,000	R
Provides funding to support up to four positions to assist the Energy and Mining Commission as well as operating support including but not limited to annual membership dues to the Southern States Energy Board and marketing expenses related to shale gas resources. Also provides nonrecurring funding to provide for data collection and analysis of geological samples associated with the State's shale gas basins: Deep River Basin, Dan River Basin, and the Cumberland-Marlboro Basin.	$300,000 4.00	NR	$250,000 4.00	NR
Environmental Assistance and Outreach				
23 Small Business Assistance Program	($19,422)	R	($19,422)	R
Budgets Air Quality permit fees to partially offset General Fund support of a Senior Environmental Specialist (60035965) in the federally mandated Small Business Assistance Program, which helps small businesses comply with the requirements of the Clean Air Act.	-0.30		-0.30	
24 Solid Waste Management	$1,100,000	R	$1,100,000	R
Provides funding for the activities of the Solid Waste Management Outreach Program (previously the Solid Waste Management Trust Fund), which now includes developing secondary markets for the reuse of scrap tires.				
25 Operating Funds	$1,375,000	R	$1,375,000	R
Provides funds to support personnel and operating costs that were previously funded from the Solid Waste Management Trust Fund.	15.50		15.50	
Marine Fisheries				
26 Temporary Wages	($183,183)	R	($183,183)	R
Reduces temporary wages in the License Administration and Trip Ticket programs, the Purchasing/Warehouse Unit and the Marine Patrol Section. Total funding remaining for temporary wages is $103,503.				

	FY 13-14		FY 14-15	
27 Shellfish Rehabilitation Program Reduces funding for the Shellfish Rehabilitation Program by cutting temporary wages ($27,474). Also eliminates one Marine Biologist position (60032767), which supports the Oyster Shell Recycling program, and associated operating costs.	($81,605) -1.00	R	($81,605) -1.00	R
28 Fisheries Resource Grant Program Eliminates the remaining appropriation for the Fishery Resource Grant Program which promotes cooperative research among commercial fishers, recreational anglers, seafood businesses and university researchers.	($100,000)	R	($100,000)	R
29 Marine Patrol Budgets anticipated federal receipts due to the creation of a Joint Enforcement Agreement that would allow the Division of Marine Fisheries to receive federal funds for enforcing federal fisheries laws in federal waters and law enforcement officers to be cross-sworn as National Marine Fisheries Agents. North Carolina is the only coastal state without a Joint Enforcement Agreement.	($150,000)	NR	($200,000)	NR
30 At-Sea Observer Program Provides nonrecurring funding for six new positions to support a statewide at-sea observer program for all fisheries, with an emphasis on the commercial estuarine gill net fishery. These positions, combined with nine existing positions, are necessary to meet federal requirements to monitor multiple fisheries. Support for the Observer Program in FY 2014-15 will come from an increase in commercial fish licenses and permits.	$1,100,000 15.00	NR		
Parks and Recreation				
31 Adopt-a-Trails Eliminates funding for the Adopt-a-Trails Program. Grant funding for trail projects is still available through the NC Parks and Recreation Trust Fund.	($108,000)	R	($108,000)	R
32 Parks Operations Restores funding to the Division's operating budget which was reduced on a nonrecurring basis in the 2011-13 biennium.	$6,000,000	R	$6,000,000	R
33 Parks and Recreation Trust Fund Provides a recurring General Fund appropriation to the Parks and Recreation Trust Fund to replace the loss of the deed stamp tax revenue which will now be deposited in the State's General Fund. Continues funding for staff associated with Trust Fund activities.	$11,000,000 15.00	R	$13,000,000 15.00	R
Waste Management				
34 Inactive Hazardous Waste Sites Provides funding for the Inactive Hazardous Sites Program to hire one engineer and one hydrogeologist to evaluate areas with known contamination that have limited data on water supply wells. The staff will sample water supply wells as well as investigate and abate contamination sources.	$250,000 2.00	R	$250,000 2.00	R

	FY 13-14		FY 14-15	
35 Noncommercial Fund Provides a nonrecurring appropriation for the Noncommercial Leaking Underground Storage Tank Fund to assist homeowners with the cleanup costs of petroleum releases from home heating oil tanks and smaller farm tanks.	$3,500,000	NR		
36 Scrap Tire Program Provides recurring funding to support a portion of the salaries (.25 FTE) of four positions in four regional offices ($80,000) and $420,000 for scrap tire grants to counties. 60034594 Environmental Senior Specialist (0.25 FTE) 60034602 Environmental Program Supervisor (0.25 FTE) 60034608 Environmental Specialist (0.25 FTE) 60034595 Environmental Specialist (0.25 FTE)	$500,000 1.00	R	$500,000 1.00	R
37 Bernard Allen Memorial Emergency Drinking Water Fund Provides funds to replace the loss of scrap tire tax revenue, which will now be deposited into the State's General Fund.	$400,000	R	$400,000	R
38 Inactive Hazardous Sites Cleanup Fund Provides recurring funding to the Inactive Hazardous Sites Cleanup Fund to be used to fund assessment, remediation, and recordation of notices of inactive hazardous substance or waste disposal sites as provided in G.S. 130A-310.1(e), G.S. 130A-310.5(c), G.S. 130A-310.6(a), and G.S. 130A-310.8(d).	$400,000	R	$400,000	R
39 Texfi Site Contamination Provides nonrecurring funds to be used for the cleanup and monitoring of groundwater and other contamination located at the Texfi site in Fayetteville as well as any emergency cleanup activities at that site.	$50,000	NR		
Water Infrastructure Authority				
40 Water Infrastructure Authority (WIA) Creates a new division and authority within the Department of Environment and Natural Resources for the purpose of addressing critical public water and wastewater infrastructure needs. Provides funding for a new Division Director, as well as a recurring General Fund appropriation for a water and sewer database and planning and supplemental grants to assist local governments. WIA will also administer the State Revolving Funds and the Community Development Block Grant Infrastructure Grant Program. Grant funds distributed by the authority shall be limited to Tier One and Tier Two counties.	$4,000,000 1.00	R	$5,500,000 1.00	R
41 Clean Water State Revolving Fund Provides funding for the required State match to draw down the maximum amount of federal funds available for the Clean Water State Revolving Fund. This program provides low-interest loans to local governments to construct wastewater facilities and provides $5 in federal capitalization grant funds for every $1 the state provides in matching funds.	$4,925,000	R	$5,000,000	R

	FY 13-14		FY 14-15	
42 Drinking Water State Revolving Fund Provides funding to meet State match requirements of $4.71 million to allow the Department to draw down the maximum amount of federal funds available ($23.54 million) for the Drinking Water State Revolving Fund for FY 2013-14. State match will be provided by combining a nonrecurring General Fund appropriation of $1,234,545 with $3.8 million in State funds from the Drinking Water Reserve.	$1,234,545	R	$4,978,825	R
Water Quality				
43 Groundwater Unit Eliminates funding for the Groundwater Investigation Unit's well-drilling services.	($251,236) -4.00	R	($251,236) -4.00	R
44 Clean Water State Revolving Fund Transfers the Clean Water State Revolving Fund program and staff to the newly created Division of Water Infrastructure.				
Water Resources				
45 Receipt Support Budgets additional federal receipts and shifts 4.3 positions from General Fund appropriation to receipt support. Also abolishes one vacant Office Assistant IV (60034526), and reduces $75,000 in contract funds for well-drilling services. 60034385 Engineering Manager (1.00 FTE) 60034388 Engineer (0.80 FTE) 60034394 Engineering Supervisor (1.00 FTE) 60034398 Engineering Supervisor (1.00 FTE) 60034397 Geologist (0.50 FTE)	($484,521) -5.30	R	($484,521) -5.30	R
46 Division Consolidation Reduces funding due to efficiencies created by consolidating the Divisions of Water Resources and Water Quality. Reductions should focus on personnel line-items and operating costs associated with eliminating or fund shifting positions where feasible.			($2,000,000)	R
47 Drinking Water State Revolving Fund Transfers the Drinking Water State Revolving Fund program and staff to the newly created Division of Water Infrastructure.				
Zoo				
48 Operating Reductions Reduces operating support for temporary wages, worker's compensation and equipment.	($211,323)	R	($211,323)	R
49 Zoo Tram Provides funding to support repair and replacement of zoo trams.	$250,000	NR		

	FY 13-14		FY 14-15	
Total Legislative Changes	**$40,086,720**	R	**$48,736,554**	R
	$4,810,000	NR	**($190,000)**	NR
Total Position Changes	64.57		49.57	
Revised Budget	**$154,037,311**		**$157,767,236**	

Wildlife Resources Commission

GENERAL FUND

	FY 13-14		FY 14-15	
Recommended Continuation Budget	**$18,476,588**		**$18,476,588**	
Legislative Changes				
Commission-wide				
50 Wildlife Resources Commission Reduces General Fund support by $6 million in FY 2013-14 and $4 million in FY 2014-15. Allows the Wildlife Resources Commission to use other funds available to the Commission to offset the reduction at its discretion.	($4,000,000) ($2,000,000)	R NR	($4,000,000)	R
Total Legislative Changes	**($4,000,000)** **($2,000,000)**	R NR	**($4,000,000)**	R
Total Position Changes				
Revised Budget	**$12,476,588**		**$14,476,588**	

Commerce

GENERAL FUND

	FY 13-14		FY 14-15	
Recommended Continuation Budget	**$33,469,442**		**$33,469,442**	
Legislative Changes				
Department-wide				
51 Management Flexibility Reserve Reduces funding to the Department by 2.0% and provides the Secretary with the flexibility to take the reduction to programs and activities that cause the least disruption in service.	($567,469)	R	($567,469)	R
52 Indirect Cost Receipts Offsets the General Fund appropriation by maximizing the use of indirect cost receipts.	($205,786)	R	($205,786)	R
Administration				
53 Special Funds Offsets the General Fund appropriation for Administration by directing the unencumbered cash balance as of June 30, 2013 from the following funds toward operating costs: NC Green Business Fund (24609-2535) Energy Research Grants Special Fund (24609-2537) International Trade Show Special Fund (24610-2431). Closes the International Trade Show Special Fund after transfer.	($332,527)	NR		
54 Director of Internal Operations Eliminates the Director of Internal Operations (60077182) position.	($131,001) -1.00	R	($131,001) -1.00	R
55 Accountant I Eliminates an Account I position (60089502). This position is no longer required to monitor nonprofits.	($61,866) -1.00	R	($61,866) -1.00	R
56 Processing Assistant Eliminates a Processing Assistant position (60080973).	($47,581) -1.00	R	($47,581) -1.00	R
57 Base Realignment and Closure (BRAC) Provides nonrecurring funding for the State's preparation for Department of Defense BRAC activities.	$1,000,000	NR		
58 Office of Information Technology Services (OITS) Charges Restores funding to pay for ITS provided services.	$75,000	R	$75,000	R

	FY 13-14		FY 14-15	
Business and Industry				
59 Economic Developer Eliminates an Economic Developer position (60080949).	($83,651) -1.00	R	($83,651) -1.00	R
Commerce Finance Center				
60 Job Maintenance and Capital Development Fund (JMAC) Provides funds to fulfill JMAC agreements with Goodyear, Bridgestone, and Domtar.	$6,705,473	NR	$7,500,000	NR
Community Assistance				
61 Support Positions and Operating Budget Reduces one Office Assistant IV position (60081170).	($43,481) -1.00	R	($43,481) -1.00	R
Energy				
62 Energy Transfers the Energy Office from the Department of Commerce to the Department of Environment and Natural Resources as a Type I transfer.	($1,762,714) -6.17	R	($1,762,714) -6.17	R
Industrial Commission				
63 Management Flexibility Reserve Reduces funding to the Commission by 1.7% and provides the Commissioner with the flexibility to take the reduction in programs and activities that cause the least disruption in service.	($81,539)	R	($81,539)	R
64 Commissioner Eliminates a Commissioner position (60080616). Section 16 of S.L. 2011- 287 reduced the number of Commissioners from seven to six, but did not eliminate the associated funding.	($150,029) -1.00	R	($150,029) -1.00	R
65 Insurance Compliance Program Provides funds to the Industrial Commission to establish a compliance program that will apply data analytics received from North Carolina's Government Data Analytics Center (formerly the Government Business Intelligence Competency Center). This data and its application will enable the Industrial Commission to proactively identify noncompliant businesses and ensure these businesses obtain and maintain the required workers' compensation coverage.	$901,502 13.00	R	$901,502 13.00	R
66 Investigation Management System Provides the Industrial Commission's newly established compliance program with the technology necessary to process, prioritize and track investigations and results based on data provided by North Carolina's Government Data Analytics Center (formerly the Government Business Intelligence Competency Center).	$75,000 $50,000	R NR	$75,000	R

	FY 13-14		FY 14-15	
International Trade				
67 Position Reduction Eliminates an Administrative Assistance I position (60081000) and an Events Coordinator position (60081001).	($98,403) -2.00	R	($98,403) -2.00	R
68 High Point Office Eliminates the High Point office and an Office Assistant position (60081007). The remaining Economic Developer position will co-locate with the High Point Market Authority.	($58,430) -1.00	R	($58,430) -1.00	R
69 Trade Shows Reduces the trade show advertising budget to align with prior year expenditures. Total budget remaining is $92,705.	($48,347)	R	($48,347)	R
Labor and Economic Analysis Division				
70 Common Follow-Up System Provides funding for the Common Follow-Up System managed by the Labor and Economic Analysis Division (LEAD), which is used to track performance measures related to current and former participants in State job training, education and placement programs. Recurring funding will be contingent upon the findings of a legislative continuation review.	$500,000	NR		
Marketing				
71 Comprehensive Branding Strategy Provides funding for the Department of Commerce to develop a comprehensive branding strategy to promote North Carolina.	$800,000	R	$1,500,000	R
72 Trade and Investment Event Provides funds for the 2014 Southeastern U.S. Canadian Strategic Trade and Investment Partnership Event. In an agreement signed in 2006, North Carolina agreed to host the event, which will identify opportunities to increase trade and investment between six southeastern U.S. States and seven Canadian provinces. The total cost is estimated at $400,000. It is expected that the remaining $250,000 will be raised from private sponsors.	$150,000	NR		
NC Broadband				
73 State Match Eliminates the State match for the federal grant provided by the U.S. Department of Commerce National Telecommunications and Information Administration for State Broadband Data and Development Grant, currently titled NC Broadband-Rigor in Mapping. The required State match has been satisfied and the project will be complete by October 2014.	($172,203)	R	($172,203)	R

	FY 13-14		FY 14-15	
Rural Economic Development				
74 Rural Economic Development Division Creates a new Division within the Department of Commerce for the purpose of addressing the economic development needs of the State's rural counties. Provides funding for a new Assistant Secretary for Rural Economic Development who will oversee administration of a new infrastructure grant program to local governments in Tier One and Two Counties. The Division may use up to five percent (5%) of the funds appropriated in this section to cover its expenses in administering the new infrastructure grant program. The Assistant Secretary will also oversee existing programs, including the Industrial Development Fund - Utility Account and the Community Development Block Grant for Economic Development. Also provides nonrecurring funding to encourage private sector broadband providers to extend connectivity to unserved areas that are otherwise not economically feasible for deployment.	$11,347,414	R	$12,971,898 $350,000	R NR
75 Limited Resource Communities Grant Program Creates a new competitive grant program within the Division for underserved and low resource communities. Provides over $2.5 million in recurring funding beginning in FY 2014-15.			$2,543,021	R
Travel, Tourism, & Sports Development				
76 Tourism Advertising Provides additional funding for tourism advertising.			$1,000,000	R
Wanchese Seafood Industrial Park				
77 Receipt Support Eliminates funding for the Wanchese Seafood Industrial Park, including the Director position (60080846). The Park must be fully receipt supported beginning in FY 2014-15.			($140,081) -1.00	R
Workforce Solutions				
78 Workforce Investment Act Funds Transfers $350,000 recurring in federal Workforce Investment Act funds from the Department of Commerce to the Department of Labor to be used for the Apprenticeship Program.				
Total Legislative Changes	**$9,686,416** **$8,072,946**	R NR	**$15,413,840** **$7,850,000**	R NR
Total Position Changes	-2.17		-3.17	
Revised Budget	**$51,228,804**		**$56,733,282**	

Commerce - State Aid

GENERAL FUND

	FY 13-14		FY 14-15	
Recommended Continuation Budget	**$59,714,814**		**$61,954,814**	
Legislative Changes				
(1) State-Aid				
79 Biofuels Center Eliminates General Fund support for operational expenditures.	($2,063,035)	R	($4,303,035)	R
80 Community Development Initiative Eliminates General Fund support for operational expenditures.	($3,806,180)	R	($3,806,180)	R
81 Council of Governments (COGs) Eliminates General Fund support for operational expenditures.	($328,105)	R	($328,105)	R
82 Grassroots Science Museums Reduces General Fund support for operational expenditures by 15%.	($425,261)	R	($425,261)	R
83 Institute of Minority Economic Development Eliminates General Fund support for operational expenditures.	($2,046,080)	R	($2,046,080)	R
84 Johnson and Wales University Provides nonrecurring funding to fulfill funding commitment to Johnson and Wales University.	$1,635,000	NR		
85 Land Loss Prevention Project Eliminates General Fund support for operational expenditures.	($575,050)	R	($575,050)	R
86 NC Agriculture Foundation (FFA Foundation) Eliminates General Fund support for operational expenditures from Commerce State-Aid. Provides additional recurring funds through the Department of Agriculture and Consumer Services.	($35,855)	R	($35,855)	R
87 NC Association of Community Development Corporations (CDCs) Eliminates General Fund support for operational expenditures.	($797,102)	R	($797,102)	R
88 NC Indian Economic Development Initiative Eliminates General Fund support for operational expenditures.	($86,004)	R	($86,004)	R

	FY 13-14		FY 14-15	
89 Partnership for the Sounds Eliminates General Fund support for operational expenditures.	($391,408)	R	($391,408)	R
90 Regional Economic Development Commissions Reduces General Fund support of operational expenditures in FY 2013-14. Eliminates General Fund support of operational expenditures in FY 2014-15. Out of funds appropriated to the Charlotte Regional Partnership, $24,000 nonrecurring shall instead be allocated to Anson County. Out of funds appropriated to the Piedmont Triad Partnership, $19,000 nonrecurring shall instead be allocated to Montgomery County, and $18,000 nonrecurring shall instead be allocated to Surry County. Out of funds appropriated to the Western NC Regional Economic Development Commission, $18,000 nonrecurring shall instead be allocated to Burke County.	($731,079)	R	($2,151,517)	R
91 Research Triangle Institute Provides nonrecurring funding to the Research Triangle Institute.	$500,000	NR		
92 The Support Center Eliminates recurring funding for operational expenditures. Provides nonrecurring funding in FY 2013-14.	($2,543,021) $2,543,021	R NR	($2,543,021)	R
93 Wake Forest Institute of Regenerative Medicine Eliminates General Fund support for operational expenditures. Funding is provided to the Institute through the UNC budget.	($7,649,897)	R	($7,649,897)	R
94 Restore Negative Management Flexibility Reserve Provides funding to fill a budget gap created by making a FY 2012-13 nonrecurring reduction permanent in the FY 2013-14 continuation budget.	$28,000	R	$28,000	R
(2) Biotechnology Center				
95 Biotechnology Center Reduces recurring funding for the Center by 50% or $8.6 million. Provides $4 million in additional nonrecurring funding for FY 2013-14 and FY 2014-15.	($8,600,338) $4,000,000	R NR	($8,600,338) $4,000,000	R NR
(3) Rural Economic Development Center				
96 Rural Economic Development Center Eliminates General Fund support for operational expenditures.	($16,619,194)	R	($16,619,194)	R
Total Legislative Changes	**($46,669,609)** **$8,678,021**	R NR	**($50,330,047)** **$4,000,000**	R NR
Total Position Changes				
Revised Budget	**$21,723,226**		**$15,624,767**	

Drinking Water Reserve

Budget Code: 64324

	FY 2013-14		FY 2014-15	
Beginning Unreserved Fund Balance	**$13,298,248**		**$9,498,248**	
Recommended Budget				
Requirements	**$472,051**		**$472,051**	
Receipts	**$472,051**		**$472,051**	
Positions	**0.00**		**0.00**	
Legislative Changes				
Requirements:				
Drinking Water Reserve	$0	R	$0	R
Provides a portion of the State match required to draw down the maximum amount of federal funds available ($23.54 million) for the Drinking Water State Revolving Fund for FY 2013-14.	$3,800,000	NR	$0	NR
	0.00		0.00	
Subtotal Legislative Changes	**$0**	R	**$0**	R
	$3,800,000	NR	**$0**	NR
	0.00		0.00	
Receipts:				
Drinking Water Reserve	$0	R	$0	R
	$0	NR	$0	NR
Subtotal Legislative Changes	**$0**	R	**$0**	R
	$0	NR	**$0**	NR

	FY 2013-14	FY 2014-15
Revised Total Requirements	$4,272,051	$472,051
Revised Total Receipts	$472,051	$472,051
Change in Fund Balance	($3,800,000)	$0
Total Positions	0.00	0.00
Unappropriated Balance Remaining	$9,498,248	$9,498,248

Commerce - Special Revenue - GF

Budget Code: 24609

	FY 2013-14		FY 2014-15	
Beginning Unreserved Fund Balance	**$18,348,044**		**$17,797,898**	
Recommended Budget				
Requirements	**$28,711,556**		**$28,711,556**	
Receipts	**$28,476,737**		**$28,476,737**	
Positions	**6.00**		**6.00**	
Legislative Changes				
Requirements:				
NC Green Business Fund	$0	R	$0	R
Transfers a portion of the cash balance to Commerce's Administration Division to offset operating expenses.	$36,827	NR	$0	NR
	0.00		0.00	
Energy Research Grants	$0	R	$0	R
Transfers a portion of the cash balance to Commerce's Administration Division to offset operating expenses.	$278,500	NR	$0	NR
	0.00		0.00	
Subtotal Legislative Changes	**$0**	R	**$0**	R
	$315,327	NR	**$0**	NR
	0.00		0.00	
Receipts:				
NC Green Business Fund	$0	R	$0	R
	$0	NR	$0	NR
Energy Research Grants	$0	R	$0	R
	$0	NR	$0	NR
Subtotal Legislative Changes	**$0**	R	**$0**	R
	$0	NR	**$0**	NR

	FY 2013-14	FY 2014-15
Revised Total Requirements	**$29,026,883**	**$28,711,556**
Revised Total Receipts	**$28,476,737**	**$28,476,737**
Change in Fund Balance	**($550,146)**	**($234,819)**
Total Positions	**6.00**	**6.00**
Unappropriated Balance Remaining	**$17,797,898**	**$17,563,079**

Commerce- Special, Unbudgeted

Budget Code: 24610

	FY 2013-14		FY 2014-15	
Beginning Unreserved Fund Balance	**$698,929**		**$681,729**	
Recommended Budget				
Requirements	**$66,100**		**$66,100**	
Receipts	**$66,100**		**$66,100**	
Positions	**0.00**		**0.00**	
Legislative Changes				
Requirements:				
International Trade Show	$0	R	$0	R
Transfers the cash balance to Commerce's Administration Division to offset operating expenses. Closes fund 24610 - 2431.	$17,200	NR	$0	NR
	0.00		0.00	
Subtotal Legislative Changes	**$0**	R	**$0**	R
	$17,200	NR	**$0**	NR
	0.00		0.00	
Receipts:				
International Trade Show	$0	R	$0	R
	$0	NR	$0	NR
Subtotal Legislative Changes	**$0**	R	**$0**	R
	$0	NR	**$0**	NR

	FY 2013-14	FY 2014-15
Revised Total Requirements	$83,300	$66,100
Revised Total Receipts	$66,100	$66,100
Change in Fund Balance	($17,200)	$0
Total Positions	0.00	0.00
Unappropriated Balance Remaining	$681,729	$681,729

JUSTICE
&
PUBLIC SAFETY
Section I

Public Safety

	GENERAL FUND			
	FY 13-14		FY 14-15	
Recommended Continuation Budget	**$1,722,061,784**		**$1,732,859,184**	
Legislative Changes				
A. Department-wide				
1 Consolidation Efficiencies Allows the Department to identify additional savings resulting from the consolidation of the Departments of Crime Control and Public Safety, Juvenile Justice, and Adult Correction that occurred January 1, 2012.	($5,000,000)	R	($5,000,000)	R
2 Vacant Positions Eliminates 15 vacant positions. No district level State Highway Patrol (SHP) Troopers, custody and security officers or probation and parole positions in the Division of Adult Correction, or court counselors in the Division of Juvenile Justice may be eliminated as a result of this reduction.	($952,582) -15.00	R	($952,582) -15.00	R
B. Administration				
3 Secretary's Office Positions Eliminates two vacant management positions in the Secretary's Office.	($292,384) -2.00	R	($292,384) -2.00	R
4 Operating Budget Reduces various line items from the operating budget for the Division of Administration.	($579,244)	R	($579,244)	R
5 Enterprise Resource Planning System Provides $9 million nonrecurring for the purchase and implementation of an enterprise resource planning (ERP) system. The Department is authorized to expend up to $10 million for the system. The ERP is subject to the approval of the State Chief Information Officer and shall be consistent with a statewide ERP initiative. These funds shall be placed in a separate information technology fund within DPS.	$9,000,000	NR		
C. Law Enforcement				
6 ALE Operating Reduction Reduces the operating budget for the Alcohol Law Enforcement (ALE) section. The Department may eliminate ALE positions to meet this reduction.	($1,750,000)	R	($1,750,000)	R
7 Butner Public Safety Eliminates the State grant to the Butner Public Safety Authority. The Authority can receive State funds through the State Fire Protection Grant Fund. $100,000 is appropriated in the General Government Section of the budget to expand the program to Butner without reducing allotments to other fire departments.	($1,751,118)	R	($1,751,118)	R

	FY 13-14		FY 14-15	
8 SCP Positions	$336,122	R	$336,122	R
Provides funding for four telecommunicator positions and four public safety officer positions in the State Capitol Police.	$45,751	NR		
	8.00		8.00	
9 SHP Vacant Trooper Positions	$2,505,713	R	$2,505,713	R
Budgets all vacant trooper positions (including vacant Senior Trooper and vacant Master Trooper positions) at the starting pay for troopers ($35,700 plus benefits). Currently, 69 vacant trooper positions cannot be filled because they are budgeted at $0.10 as a result of reductions taken in FY 2011-12. This appropriation restores that reduction, increasing the total number of troopers statewide.				
10 SHP Fuel	$3,677,292	R	$3,677,292	R
Provides funding to increase the budget for State Highway Patrol fuel to actual expenditure levels.				
11 SHP Aircards	$626,000	R	$626,000	R
Provides funds to support air card connectivity for mobile data computers in trooper vehicles. The air card allows troopers to have mobile access to multiple criminal, court, and DMV databases.				
12 SHP Mobile Computers				
Provides funds to replace outdated or failing mobile data computer equipment, including computers, printers, and docking stations, for State Highway Patrol troopers' vehicles.	$1,050,640	NR		
13 SHP Communication Center Consolidation	($1,141,480)	R	($1,662,707)	R
Consolidates communication centers from three troops. Transfers eighteen telecommunicator positions to other troops and provides funding in the first year for equipment required to expand communication operations in two of the remaining troops. Consolidation of communication centers should be completed no later than October 1, 2013.	-30.00		-30.00	
14 SHP Aviation	($901,900)	R	($901,900)	R
Consolidates the Highway Patrol Aviation section from four hangars to two.	-9.00		-9.00	
15 SHP Consolidation of Technology Services Functions	($506,517)	R	($506,517)	R
Eliminates six civilian information technology related positions in the Highway Patrol. Consolidation of all law enforcement information technology functions in the Department of Public Safety should result in additional reductions in the future.	-6.00		-6.00	
16 SHP Administration	($700,000)	R	($700,000)	R
Eliminates various positions in State Highway Patrol administration. Positions that are eliminated should all be administrative and/or management positions. No district level positions should be eliminated as a result of this reduction.				

	FY 13-14		FY 14-15	
17 SHP Accreditation Unit Eliminates three sworn law enforcement and two civilian positions responsible for overseeing the State Highway Patrol's accreditation process.	($402,978) -5.00	R	($402,978) -5.00	R

Position	Title	Total Position Cost
60084955	Quality Accreditation Unit Mgr.	$104,417
60086601	Policy & Procedure Manager	$ 87,923
60085343	Accreditation Manager	$ 87,923
60086920	Civilian Accreditation Mgr.	$ 74,689
60084612	Tech Support Technician	$ 48,026

18 SHP Support Positions Eliminates nine vacant civilian positions that provide support services to various units within the Highway Patrol.	($772,853) -9.00	R	($772,853) -9.00	R
19 SHP Traffic Safety Information Officers Eliminates the Traffic Safety Information Officer position in each Highway Patrol Troop.	($527,288) -8.00	R	($527,288) -8.00	R
20 VIPER Operations and Maintenance Provides additional funding for the operation and maintenance of the Voice Interoperability Plan for Emergency Responders (VIPER) system.	$2,825,471 13.00	R	$2,825,471 $580,000 13.00	R NR
21 SHP VIPER Technology Upgrade Provides $25 million nonrecurring in FY 2013-14 to upgrade the VIPER system to P-25 technology.	$25,000,000	NR		
22 SHP VIPER Tower Construction Provides $7 million recurring in FY 2014-15 to complete construction of 29 State-funded towers for the VIPER system. Tower construction should be complete in FY 2016-17, at which time this appropriation will be reduced to $2 million recurring to fully fund operation and maintenance of the completed VIPER system.			$7,000,000	R

D. National Guard

23 Armories Upgrade Provides funds to address maintenance needs at the State's 93 National Guard Readiness Centers. Additional funds are appropriated in the Capital Section for repair and renovation of the armories.	$850,000	R	$850,000	R
24 Tarheel ChalleNGe Transfers funding from the Department of Public Instruction (DPI) for Tarheel ChalleNGe, a National Guard program for at-risk youth, back to the Department of Public Safety (DPS) budget. These funds were transferred to DPI in 2009, but federal matching funds are currently receipted to DPS. This transfer consolidates all of the funding for Tarheel ChalleNGe in one place. A corresponding reduction can be found in the Education Section of the budget.	$767,719	R	$767,719	R

	FY 13-14		FY 14-15	
E. Adult Correction - General				
25 Budget Reserve Restoration Continues the nonrecurring budget reserve reduction from FY 2011-12 that reflected a lower prison population.			($11,957,000)	NR
F. Adult Correction - Prisons				
26 Education Supplies Reduces funding for prison substance abuse supplies to reflect actual expenditures, leaving $100,557.	($36,000)	R	($36,000)	R
27 Inmate Health Care Reduces Inmate Health Care funding to account for savings from completion of the new hospitals at Central Prison and NC Correctional Institution for Women, increased Medicaid reimbursements for treatment of qualified inmates, and the payment cap on billed charges to hospital and other providers.	($9,000,000)	R	($9,000,000)	R
28 Morrison CI Electronic Intrusion Eliminates tower positions effective April 1, 2014 at Morrison Correctional Institution through the use of an electronic intrusion system that provides increased security.	($24,202) -12.00	R	($404,911) -12.00	R
29 Duplin Correctional Center Closes Duplin Correctional Center, a 328-bed minimum custody facility, effective August 1, 2013. The closure is part of a reduction in prison capacity to reflect the declining prison population.	($3,759,729) -80.00	R	($4,101,522) -80.00	R
30 Robeson Correctional Center Closes Robeson Correctional Center, a 276-bed minimum custody facility, effective August 1, 2013. The closure is part of a reduction in prison capacity to reflect the declining prison population.	($3,625,960) -80.00	R	($3,955,592) -80.00	R
31 Bladen Correctional Center Closes Bladen Correctional Center, a 172-bed minimum custody facility, effective October 1, 2013. The closure is part of a reduction in prison capacity to reflect the declining prison population.	($1,969,779) -52.00	R	($2,499,168) -52.00	R
32 Wayne Correctional Center Closes Wayne Correctional Center, a 428-bed medium custody facility, effective October 1, 2013. The closure is part of a reduction in prison capacity to reflect the declining prison population.	($5,425,999) -150.00	R	($7,234,666) -150.00	R
33 Western Youth Institution Closes Western Youth Institution, a 708-bed mixed custody facility, effective January 1, 2014. The closure is part of a reduction in prison capacity to reflect the declining prison population.	($7,953,209) -323.00	R	($16,312,132) -323.00	R
34 Johnston Correctional Institution Converts Johnston Correctional Institution from a medium custody to a minimum custody prison, effective January 1, 2014.	($1,300,000) -50.00	R	($2,600,000) -50.00	R

	FY 13-14		FY 14-15	
35 Statewide Misdemeanant Confinement Fund Admin				
Reallocates the Statewide Misdemeanant Confinement Fund administration allotment to reduce the NC Sheriffs' Association percentage from 10% to 5%. The Department of Public Safety will continue to receive 1% for administration. Transfers funds from the Statewide Misdemeanant Confinement Fund (Special Fund code 24500-2225) to the Department of Public Safety (General Fund budget code 14550) on a nonrecurring basis.	($750,000)	NR	($750,000)	NR
Since the program's inception in August 2011, $39.5 million has been collected in the Fund. The Sheriff's Association has received $3.9 million and the Division of Adult Correction has received $394,881 to administer the program.				
36 Statewide Misdemeanant Confinement Fund				
Transfers funds from the Statewide Misdemeanant Confinement Fund (Special Fund code 24500-2225) to the Department of Public Safety (General Fund budget code 14550) for the Division of Adult Correction. As of March 31, 2013, this fund has a balance of $20 million.	($7,700,000)	NR		
37 Tabor Correctional Institution Operating Reserve				
Reduces the operating reserve for the new minimum-custody dorm at Tabor Correctional Institution to reflect a delay in completion of construction.	($529,424)	NR		
G. Adult Correction - Community Corrections				
38 TECS Reduction				
Reduces the appropriation for Treatment for Effective Community Supervision (TECS) to adjust for delayed community programming start dates in some counties. The total funding for this program is $12.4 million after this non-recurring reduction.	($1,500,000)	NR		
39 Substance Abuse Treatment for High-Risk Offenders				
Additional funds are provided to the Broaden Access to Community Treatment program. These funds shall be restricted to substance abuse treatment services for offenders assessed as moderate to high-risk for recidivism and high need for substance abuse services. Contracts awarded using these funds shall be given to evidence-based programs that demonstrate support from local stakeholders, including chief district court judges, senior resident superior court judges, probation and parole officers, district attorneys' offices and county governments.	$2,000,000	NR	$2,000,000	NR
40 Parole Commission	$374,497	R	$374,497	R
Increases funding for the Parole Commission in order to adequately manage the expected caseload of 12,500 to 15,000 offender records that will require review following implementation of the Justice Reinvestment Act. Total funding for this program will be $2.3 million.	$49,893 8.00	NR	 8.00	

	FY 13-14		FY 14-15	
41 Probation and Parole Positions	$5,761,119	R	$12,120,219	R
Funds 175 new Probation Officer positions to adequately manage the increased caseloads created by the requirements of the Justice Reinvestment Act. In addition, provides funding for the reallocation of surveillance officers to probation officer positions.	$465,150 75.00	NR	$660,200 175.00	NR
42 Electronic Monitoring Equipment	$1,800,000	R	$1,800,000	R
Provides funds for the lease of electronic monitoring equipment for offenders who require it as a condition of their probation or status as a sex offender.				

H. **Juvenile Justice**

43 Executive Management Staff	($363,183)	R	($363,183)	R
Eliminates three full-time executive positions in the Division of Juvenile Justice. These positions are currently filled.	-3.00		-3.00	

Position	Title	Total Position Cost
60000972	Deputy Comm Courts and Programs	$139,635
60001044	Deputy Comm Facilities	$129,992
60000891	Director of Detention Services	$ 93,556

44 YDC Operating Reduction	($100,000)	R	($100,000)	R
Reduces the total operating budget for Youth Development Centers.				
45 Lenoir Youth Development Center	($2,584,615)	R	($3,446,154)	R
Closes Lenoir Youth Development Center (YDC) and eliminates 66 full-time equivalent (FTE) positions. This facility shall be closed by October 1, 2013. All positions at this facility, including receipt-supported positions, shall be eliminated.	-66.00		-66.00	
46 Richmond Detention Center	($1,268,240)	R	($1,268,240)	R
Closes Richmond Detention Center and eliminates 4.4 full-time equivalent (FTE) positions. All positions at this facility, including receipt-supported positions, shall be eliminated.	-4.40		-4.40	
47 Buncombe Detention Center	($951,844)	R	($951,844)	R
Closes Buncombe Detention Center and eliminates 19.3 full-time equivalent (FTE) positions. All positions at this facility, including receipt-supported positions, shall be eliminated.	-19.30		-19.30	
48 New Western Multipurpose Group Home	$500,000	R	$500,000	R
Appropriates funds for a new multipurpose group home in the Western district to provide youth services that may be needed following the closure of Buncombe Detention Center.				
49 Juvenile Justice Community Programs	$1,000,000	R	$1,000,000	R
Provides funding to the Division of Juvenile Justice for the expansion of contracted services for adjudicated juveniles. A portion of the appropriated funds may be set aside for a facility to provide educational and vocational programs for girls that will be similar to the residential boys facility located in Craven County.				

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50 Safer Schools Initiative Provides funding for the Center for Safer Schools, which will provide training and technical support to educators, law enforcement agencies and parents statewide.	$311,572 $5,200 4.00	R NR	$311,572 4.00	R
Total Legislative Changes	**($32,305,599)** **$27,137,210**	R NR	**($33,378,378)** **($9,466,800)**	R NR
Total Position Changes	-815.70		-715.70	
Revised Budget	**$1,716,893,395**		**$1,690,014,006**	

Justice

GENERAL FUND

	FY 13-14		FY 14-15	
Recommended Continuation Budget	**$77,773,575**		**$80,773,575**	
Legislative Changes				
A. Department-wide				
51 Operating Efficiencies Reduction	($1,700,000)	R	($1,700,000)	R
Directs the Department to identify efficiencies in its operation through the elimination of positions, transitioning of expenditures to receipt support, or reductions to operating line items such as travel, purchased services, and supplies. No reductions will be made to the NC State Crime Lab.				
52 Indirect Cost Receipts	($259,310)	R	($259,310)	R
Budgets indirect cost receipts from recurring federal grants that may be allocated to support central administrative functions that include finance, human resources and logistics. Transfers four positions to receipt support:	-4.00		-4.00	

Position	Title	Total Position Cost
60010148	Business Officer	$82,281
60010147	HR Recruiter	$66,644
60010134	Admin. Secretary III	$42,915
60010466	Admin. Assistant I	$44,534

B. Legal Services				
53 Tobacco Attorney and Paralegal Positions	$244,661	R	$244,661	R
Transitions one attorney position (60010420) and two paralegal positions (60010422 and 60010421) from receipt support to General Fund support. These positions were previously supported by receipts from Golden L.E.A.F. and the Tobacco Trust Fund. Another receipt supported attorney position that was vacant (60010423) is eliminated.	3.00		3.00	
D. NC State Crime Laboratory				
54 Toxicology Positions	$1,500,000	R	$1,500,000	R
Provides funding for 19 new toxicology positions in the Crime Lab to serve the western part of the State. The Crime Lab is directed to work with the Office of State Personnel to create a new apprentice level analyst position at a pay grade lower than that of Forensic Analyst I for trainee analysts.	$111,424 19.00	NR	19.00	
55 Crime Lab Equipment				
Provides additional funds for equipment to expand the Crime Lab's ability to provide toxicology services in the western part of the State.	$1,055,773	NR		

	FY 13-14		FY 14-15	
56 Toxicology Outsourcing Funds Provides funds for the outsourcing of toxicology cases to private lab service providers. Priority should be given to cases originating in the western part of the State to reduce the need for Crime Lab analysts from Raleigh and Greensboro to travel to those areas. If the Department determines that outsourcing of toxicology cases is not feasible due to legal concerns involving analyst testimony, these funds may be redirected to increase toxicology analysis capabilities within the Crime Lab.			$750,000	R
E. Training and Standards				
57 Sheriffs' Education and Training Standards Appropriates funds to support the Sheriffs' Education and Training Standards Commission. Section 16C.6 transfers funds from the Statewide Misdemeanant Confinement Fund to the General Fund for this purpose. This Commission is currently supported by a portion of the $2 court fee designated for law enforcement training. Those funds will now wholly support the Criminal Justice Education and Training Standards Commission. These changes increase the funds available to DOJ to support both Standards Commissions.	$1,000,000	R	$1,000,000	R
58 Criminal Justice Education and Training Section 18B.18 changes the allocation of the $2 court fee designated for law enforcement training and standards by directing that all of the funds go to the Criminal Justice Education and Training Standards Commission (CJTS). Previously, those funds were split between the Sheriffs' Standards Commission and CJTS. The appropriation of funds to support Sheriffs' Standards in the previous item allows for the redirection of all of the $2 court fee to CJTS, increasing the amount available to DOJ for the support of both Standards Commissions.				
Total Legislative Changes	**$785,351** **$1,167,197**	R NR	**$1,535,351**	R
Total Position Changes	18.00		18.00	
Revised Budget	**$79,726,123**		**$82,308,926**	

Judicial - Indigent Defense

	GENERAL FUND			
	FY 13-14		FY 14-15	
Recommended Continuation Budget	**$114,505,898**		**$114,505,898**	
Legislative Changes				
59 Administrative Staff Operations Reduction Reduces administrative staff through efficiencies gained by increased partnership with the School of Government for training, greater utilization of existing staff in lieu of contracted consultants, and more efficient distribution of workload. One position is being reduced to half-time (Special Counsel Legal Assistant, 60091441). The following three positions are being eliminated: Position Title Total Position Cost 60002264 IDS Admin Asst. $44,473 60096765 IDS Research Staff $28,000 60002229 Special Counsel $52,739	($258,634) -3.25	R	($258,634) -3.25	R
60 Prisoner Legal Services Reduces funding for North Carolina Prisoner Legal Services to reflect the declining number of inmates incarcerated in the state's prison system.	($890,000)	R	($890,000)	R
61 Low-Level Misdemeanor Reclassification Reclassifies low-level misdemeanors that rarely result in incarceration as Class 3 misdemeanors or infractions and modifies the sentencing structure for Class 3 misdemeanors so that the first three charges are fineable offenses. With no possibility of incarceration, these offenses do not require legal counsel.	($2,000,000)	R	($2,000,000)	R
62 Additional Private Assigned Counsel Funds Allocates nonrecurring funds to pay private counsel assigned to represent indigent defendants, reducing a budget shortfall that has accumulated over several years. This budget shortfall creates a hardship for small business legal firms whose payments are delayed when State funding is exhausted before the end of the fiscal year.	$3,772,159	NR		
Total Legislative Changes	**($3,148,634)** **$3,772,159**	R NR	**($3,148,634)**	R
Total Position Changes	-3.25		-3.25	
Revised Budget	**$115,129,423**		**$111,357,264**	

Judicial

	GENERAL FUND			
	FY 13-14		FY 14-15	
Recommended Continuation Budget	**$458,416,996**		**$458,416,996**	
Legislative Changes				
63 Administrative Budget Reduction Reduces funding for the Administrative Office of the Courts' Administration Division. This reduction will not impact any county or district level court personnel. This changes leaves total funding of $45.3 million for the Division in each year of the 2013-15 biennium.	($4,000,000)	R	($4,000,000)	R
64 Additional Magistrate Funding Restores 22 magistrate positions. Some of these may be used in counties that currently have three magistrates to increase coverage and minimize after-hours call-backs.	$1,000,000 22.00	R	$1,000,000 22.00	R
65 Funds for Interpreters, Witnesses, and Juries Increases the budget for interpreters, expert witnesses, and jury fees as necessary to operate the State court system. Funds for interpreters would increase by $342,821 over the current budget of $1.0 million. Funds for expert witnesses would increase by $203,458 over the current budget of $422,498. Funds for jury fees would increase by $462,977 over the current budget of $3.2 million.	$1,009,256	R	$1,009,256	R
66 Local Hospital Toxicology Analysis Establishes a fund to be administered by the Conference of District Attorneys to allow district attorneys to use local hospitals for toxicology services in DWI cases.	$500,000	NR		
Total Legislative Changes	**($1,990,744)** **$500,000**	R NR	**($1,990,744)**	R
Total Position Changes	22.00		22.00	
Revised Budget	**$456,926,252**		**$456,426,252**	

DPS Special Fund (Statewide Misdemeanant Confi

Budget Code: 24550

	FY 2013-14		FY 2014-15	
Beginning Unreserved Fund Balance	**$20,085,259**		**$5,635,259**	
Recommended Budget				
Requirements	**$0**		**$0**	
Receipts	**$0**		**$0**	
Positions	**0.00**		**0.00**	
Legislative Changes				
Requirements:				
Statewide Misdemeanant Confinement Fund	$0	R	$0	R
Transfers $7.7 million nonrecurring to the Department of Public Safety (General Fund budget code 14550) for the Division of Adult Correction.	$7,700,000	NR	$0	NR
	0.00		0.00	
Sheriffs' Education and Training Standards	$1,000,000	R	$1,000,000	R
Transfers $1 million recurring to the General Fund to support the Sheriffs' Education and Training Standards Commission.	$0	NR	$0	NR
	0.00		0.00	
Continuation Budget Correction	$0	R	$0	R
Corrects a $5 million nonrecurring transfer to the Division of Adult Correction for the Treatment of Effective Community Supervision that was inadvertently omitted from the Governor's Continuation Budget.	$5,000,000	NR	$0	NR
	0.00		0.00	
Statewide Misdemeanant Confinement Fund Admin	$0	R		R
Transfers funds from the Statewide Misdemeanant Confinement Fund (Special Fund code 24500-2225) to the Department of Public Safety (General Fund budget code 14550) on a nonrecurring basis.	$750,000	NR	$750,000	NR
	0.00		0.00	
Subtotal Legislative Changes	**$1,000,000**	R	**$1,000,000**	R
	$13,450,000	NR	**$750,000**	NR
	0.00		0.00	

	FY 2013-14		FY 2014-15	
Receipts:				
Statewide Misdemeanant Confinement Fund	$0	R	$0	R
	$0	NR	$0	NR
Subtotal Legislative Changes	**$0**	R	**$0**	R
	$0	NR	**$0**	NR
Revised Total Requirements	**$14,450,000**		**$1,750,000**	
Revised Total Receipts	**$0**		**$0**	
Change in Fund Balance	**($14,450,000)**		**($1,750,000)**	
Total Positions	**0.00**		**0.00**	
Unappropriated Balance Remaining	**$5,635,259**		**$3,885,259**	

GENERAL GOVERNMENT
Section J

(1.0) Cultural Resources

	GENERAL FUND			
	FY 13-14		FY 14-15	
Recommended Continuation Budget	**$63,626,477**		**$63,629,480**	
Legislative Changes				
1110 - Administration				
1 Strategic Marketing Program Provides funding to create a department-wide marketing strategy. The Department shall coordinate these efforts with the Department of Commerce.	$53,000	NR		
1210 - Archives and Records				
2 Director of Division of Historical Resources Eliminates one vacant supervisor position (60083302). The salary is $93,523 and benefits are $25,657.	($119,190) -1.00	R	($119,190) -1.00	R
1241 - Historic Sites				
3 Savings at Historic Sites Achieves savings at historic sites by implementing a policy of standard operating days, reducing contracts, and securing revenue enhancements. There will be a reduction of one position: Building and Environmental Technician (600083487).	($152,190) -1.00	R	($152,190) -1.00	R
1242 - Tryon Palace				
4 Tryon Palace Provides non-recurring funds for operations of Tryon Palace. There will be over $2.5 million in State appropriations for Tryon Palace in FY 2013-14.	$500,000	NR	$100,000	NR
1330 - NC Arts Council				
5 Administration Reduces State appropriations available for administration of the Arts Council activities; remaining funding will be $1,325,049. Positions may be eliminated in this reduction.	($250,000)	R	($250,000)	R
Across Divisions				
6 Management Flexibility Reserve Reduces funding to the Department and provides the Secretary with the flexibility to take the reduction by identifying administrative savings and efficiencies department-wide.	($150,000)	R	($150,000)	R

Conference Report on the Continuation, Capital, and Expansion Budget	FY 13-14		FY 14-15	
Agency Wide				
7 Budget Gaps Provides non-recurring funds for workers' compensation and disability claims and corrects underfunded budget line items in Archives and Records and Historic Preservation. Workers' Compensation and Disability Claims $116,629 Archives and Records and Historic Preservation $95,419	$212,048	NR		
Historic Sites				
8 Historic Sites Reduces State appropriations for operations at the following historic sites: Aycock Birthplace, Polk Memorial, Vance Birthplace, House in the Horseshoe and the Museum at Old Fort.	($50,000)	R	($50,000)	R
Total Legislative Changes	**($721,380)**	R	**($721,380)**	R
	$765,048	NR	**$100,000**	NR
Total Position Changes	-2.00		-2.00	
Revised Budget	**$63,670,145**		**$63,008,100**	

(2.0) Cultural Resources - Roanoke Island Commission

GENERAL FUND

	FY 13-14		FY 14-15	
Recommended Continuation Budget	**$1,058,757**		**$1,058,757**	
Legislative Changes				
1584 - Roanoke Island Commission				
9 Roanoke Island Commission Reduces funds available for Roanoke Island Commission.	($608,757)	R	($608,757)	R
Total Legislative Changes	**($608,757)**	R	**($608,757)**	R
Total Position Changes				
Revised Budget	**$450,000**		**$450,000**	

(3.0) Insurance

	GENERAL FUND			
	FY 13-14		FY 14-15	
Recommended Continuation Budget	**$38,454,593**		**$38,464,213**	
Legislative Changes				
1500 - Fire Marshal				
10 Fire Protection Grants Provides additional funds for the State Fire Protection Grant Fund. These funds will be used to provide fire protection for the State-owned facilities located in Butner.	$100,000	R	$100,000	R
Across Divisions				
11 Position Eliminations Eliminates nine positions across the Department of Insurance.	($560,589) -9.00	R	($560,589) -9.00	R
Total Legislative Changes	**($460,589)**	R	**($460,589)**	R
Total Position Changes	-9.00		-9.00	
Revised Budget	**$37,994,004**		**$38,003,624**	

(4.0) Insurance - Volunteer Safety Workers' Compensation Fund

GENERAL FUND

	FY 13-14		FY 14-15	
Recommended Continuation Budget	**$2,623,654**		**$2,623,654**	
Legislative Changes				
Volunteer Safety Workers' Compensation Fund				
12 Fund Eliminates recurring State appropriations. The funds for the Volunteer Safety Workers' Compensation Fund will come from G.S. 105-228.5(d)(3). Up to 20% of the tax shall be deposited into this Fund to continue financial support.	($2,623,654)	R	($2,623,654)	R
Total Legislative Changes	**($2,623,654)**	R	**($2,623,654)**	R
Total Position Changes				
Revised Budget	**$0**		**$0**	

(5.0) State Board of Elections

	GENERAL FUND			
	FY 13-14		FY 14-15	
Recommended Continuation Budget	**$5,213,445**		**$5,213,445**	
Legislative Changes				
1100 - Administration				
13 Operating Budget Reduces the operating budget across all divisions.	($20,313)	R	($20,313)	R
Campaign Finance and Auditing				
14 Positions Provides funding for 1.5 FTEs that had previously been funded by the NC Public Campaign Finance Fund. The positions include one General Accounts Auditor I position and .52 FTE Deputy Director of Campaign Finance.	$109,241 1.52	R	$109,241 1.52	R
State Board of Elections				
15 Help America Vote Act (HAVA) Funds Provides matching funds for federal HAVA funds to support the Statewide Election and Information Management System (SEIMS) and two time-limited positions in FY 2014-15. These additional funds will allow the State to access $4,071,740 of HAVA federal funds for information technology efforts.			$213,366 $177,505 2.00	R NR
Total Legislative Changes	**$88,928**	R	**$302,294** **$177,505**	R NR
Total Position Changes	1.52		3.52	
Revised Budget	**$5,302,373**		**$5,693,244**	

NC Public Campaign Finance Fund

Budget Code: 68025

	FY 2013-14		FY 2014-15	
Beginning Unreserved Fund Balance	**$8,491,702**		**$4,991,702**	
Recommended Budget				
Requirements	**$0**		**$0**	
Receipts	**$0**		**$0**	
Positions	**0.00**		**0.00**	
Legislative Changes				
Requirements:				
NC Public Campaign Finance Fund	$0	R	$0	R
Transfers $3,500,000 in FY 2013-14 to general availability.	$3,500,000	NR	$0	NR
	0.00		0.00	
Subtotal Legislative Changes	**$0**	R	**$0**	R
	$3,500,000	NR	**$0**	NR
	0.00		0.00	
Receipts:				
NC Public Campaign Finance Fund	$0	R	$0	R
	$0	NR	$0	NR
Subtotal Legislative Changes	**$0**	R	**$0**	R
	$0	NR	**$0**	NR

	FY 2013-14	FY 2014-15
Revised Total Requirements	$3,500,000	$0
Revised Total Receipts	$0	$0
Change in Fund Balance	($3,500,000)	$0
Total Positions	0.00	0.00
Unappropriated Balance Remaining	$4,991,702	$4,991,702

(6.0) General Assembly

	GENERAL FUND			
	FY 13-14		FY 14-15	
Recommended Continuation Budget	**$52,845,390**		**$52,845,390**	
Legislative Changes				
1100 - Administration				
16 Furniture - Across Divisions Reduces the funds available for purchase of furniture in FY 2014-15.			($35,000)	NR
17 Management Flexibility Reduction - Agency Wide Creates a management flexibility reduction of $153,035 for the General Assembly.	($153,035)	R	($153,035)	R
18 Operating Budgets - All Divisions Reduces operating budgets across all divisions.			($31,500)	NR
19 Rental Parking Space Budget Reduces the rental parking space budget due to anticipated revenues to be generated from charging temporary staff a monthly parking fee.			($30,000)	R
20 Vacant Position Eliminations - Administrative Division Eliminates 2.6 positions that have been vacant over 180 days: 1.0 FTE Bill Room Supervisor (P30118) 0.6 FTE Housekeeper (P30549) 1.0 FTE Food Services Assistant I (P30615A)	($120,504) -2.60	R	($120,504) -2.60	R
21 School of Government Reduces funds for the School of Government contract.	($20,000)	R	($35,000)	R
1213 - Research Division				
22 Vacant Position Eliminates one vacant position that has been vacant for approximately 150 days: 1.0 FTE Senior Legislative Secretary (P30343)	($40,960) -1.00	R	($40,960) -1.00	R
House and Senate				
23 Subsistence Reduces the subsistence budget for FY 2014-15 based on the assumption that the long session end date of mid-July.			($123,760)	NR
24 Temporary Wages Reduces funding available for floaters during sessions.	($422,905)	NR	($640,864)	NR

	FY 13-14		FY 14-15	
Total Legislative Changes	**($334,499)**	R	**($379,499)**	R
	($422,905)	NR	**($831,124)**	NR
Total Position Changes	-3.60		-3.60	
Revised Budget	**$52,087,986**		**$51,634,767**	

(7.0) Governor

	GENERAL FUND			
	FY 13-14		FY 14-15	
Recommended Continuation Budget	**$5,539,743**		**$5,541,825**	
Legislative Changes				
25 Savings Achieves savings through reducing non-essential dues and memberships by $369,693.	($369,693)	R	($369,693)	R
Total Legislative Changes	**($369,693)**	R	**($369,693)**	R
Total Position Changes				
Revised Budget	**$5,170,050**		**$5,172,132**	

(8.0) State Budget & Management

	GENERAL FUND			
	FY 13-14		FY 14-15	
Recommended Continuation Budget	**$6,951,706**		**$7,034,217**	
Legislative Changes				
26 Positions Provides funding to increase staff capacity to perform complex analyses and forecasting for the development and administration of the State's budget.	$500,000	R	$500,000	R
Total Legislative Changes	**$500,000**	R	**$500,000**	R
Total Position Changes				
Revised Budget	**$7,451,706**		**$7,534,217**	

(9.0) State Budget and Management - Special

GENERAL FUND

	FY 13-14		FY 14-15	
Recommended Continuation Budget	**$49,000**		**$49,000**	
Legislative Changes				
Grants-in-Aid				
27 Tarheel ChalleNGe - Stanly County Campus Provides funds for the renovation of the New London school facility in Stanly County to expand the Tarheel ChalleNGe Academy.	$3,092,000	NR		
28 Grants for Nonprofits Provides funding to the Office of State Budget and Management for nonprofits including the North Carolina Symphony and The Bridge Down East.	$1,800,000	NR	$1,500,000	NR
29 North Carolina Humanities Council Reduces funds for the North Carolina Humanities Council.	($29,000)	R	($29,000)	R
Total Legislative Changes	**($29,000)**	R	**($29,000)**	R
	$4,892,000	NR	**$1,500,000**	NR
Total Position Changes				
Revised Budget	**$4,912,000**		**$1,520,000**	

(10.0) Auditor

	GENERAL FUND			
	FY 13-14		FY 14-15	
Recommended Continuation Budget	**$11,013,547**		**$11,013,547**	
Legislative Changes				
30 Audit Positions Funds two auditor positions that will focus on IT security and fraud detection.	$203,921 2.00	R	$203,921 2.00	R
Total Legislative Changes	**$203,921**	R	**$203,921**	R
Total Position Changes	2.00		2.00	
Revised Budget	**$11,217,468**		**$11,217,468**	

(11.0) Revenue

	GENERAL FUND			
	FY 13-14		FY 14-15	
Recommended Continuation Budget	**$80,031,575**		**$80,031,575**	
Legislative Changes				
1624 - Income Tax Division				
31 Income Tax Division Auditors	$190,027	R	$190,027	R
Adds two auditor positions in the Income Tax Division to help with backlogged cases. Backlogged cases are the result of requests for reviews of disputed audits.	$12,630	NR		
	2.00		2.00	
1627 - Sales and Use Tax				
32 Sales and Use Tax Division Auditor	$95,483	R	$95,483	R
Adds one auditor position to the Sales and Use Tax Division to help with backlogged cases. Backlogged cases are the result of requests for review of disputed audits.	$7,030	NR		
	1.00		1.00	
Agency Wide				
33 Tax Reform Implementation	$579,373	R	$579,373	R
Appropriates funds for two full time equivalent positions currently supported by the franchise tax and to hire six new FTEs to implement tax reform. The new FTEs are three auditors in the Sales and Use Division and three tax technicians in Taxpayer Assistance.	$82,800	NR		
	8.00		8.00	
Total Legislative Changes	**$864,883**	R	**$864,883**	R
	$102,460	NR		
Total Position Changes	11.00		11.00	
Revised Budget	**$80,998,918**		**$80,896,458**	

(12.0) Secretary of State

	GENERAL FUND			
	FY 13-14		FY 14-15	
Recommended Continuation Budget	**$11,845,185**		**$11,845,185**	
Legislative Changes				
Agency Wide				
34 Positions Eliminates three positions	($121,909)	R	($121,909)	R
	-3.00		-3.00	
(60008714) Processing Assistant V (60008777) Program Assistant IV (60008779) Administrative Assistant II				
35 Operations Reductions Achieves savings throughout the Department by reducing various operating accounts.	($148,093)	R	($148,093)	R
Total Legislative Changes	**($270,002)**	R	**($270,002)**	R
Total Position Changes	-3.00		-3.00	
Revised Budget	**$11,575,183**		**$11,575,183**	

(13.0) Lieutenant Governor

	GENERAL FUND			
	FY 13-14		FY 14-15	
Recommended Continuation Budget	**$444,047**		**$444,047**	
Legislative Changes				
1110 - Administration				
36 Support for Office Operations	$231,042	R	$231,042	R
Adds a Communication Director, Policy Director, and Director of Constituent Services to the Lieutenant Governor's Office.	$6,000	NR		
	3.00		3.00	
Total Legislative Changes	**$231,042**	R	**$231,042**	R
	$6,000	NR		
Total Position Changes	3.00		3.00	
Revised Budget	**$681,089**		**$675,089**	

(14.0) State Controller

	GENERAL FUND			
	FY 13-14		FY 14-15	
Recommended Continuation Budget	**$29,279,290**		**$29,279,290**	
Legislative Changes				
37 Operating Budget Reduces various accounts across the office to achieve savings.	($45,000)	R	($45,000)	R
38 ITS Charges Reflects the reduced Information Technology Services (ITS) charges that will result from a new help desk ticketing system.	($35,000)	R	($35,000)	R
39 Personnel Directs the State Controller to reduce the Department's personnel budget.	($488,599)	R	($488,599)	R
Total Legislative Changes	**($568,599)**	R	**($568,599)**	R
Total Position Changes				
Revised Budget	**$28,710,691**		**$28,710,691**	

Office of State Controller

Budget Code: 24160

	FY 2013-14		FY 2014-15	
Beginning Unreserved Fund Balance	**$18,348,484**		**$8,031,223**	
Recommended Budget				
Requirements	**$4,317,261**		**$4,317,261**	
Receipts	**$0**		**$0**	
Positions	**0.00**		**0.00**	
Legislative Changes				
Requirements:				
Federal Insurance Contribution Act (FICA) Savings	$0	R	$0	R
Transfers $6,000,000 in FY 2013-14 to general availability.	$6,000,000	NR	$0	NR
	0.00		0.00	
Subtotal Legislative Changes	**$0**	R	**$0**	R
	$6,000,000	NR	**$0**	NR
	0.00		0.00	
Receipts:				
FICA Savings	$0	R	$0	R
	$0	NR	$0	NR
Subtotal Legislative Changes	**$0**	R	**$0**	R
	$0	NR	**$0**	NR

	FY 2013-14	FY 2014-15
Revised Total Requirements	**$10,317,261**	**$4,317,261**
Revised Total Receipts	**$0**	**$0**
Change in Fund Balance	**($10,317,261)**	**($4,317,261)**
Total Positions	**0.00**	**0.00**
Unappropriated Balance Remaining	**$8,031,223**	**$3,713,962**

(15.0) Administration

	GENERAL FUND			
	FY 13-14		FY 14-15	
Recommended Continuation Budget	**$68,316,992**		**$68,241,992**	
Legislative Changes				
1123 - Historically Underutilized Businesses				
40 Historically Underutilized Business Education			($119,108)	R
Eliminates up to two positions within the Division of Historically Underutilized Businesses. The Division is to continue current efforts to certify businesses as being historically underutilized and reduce efforts to educate businesses about the State's requirements. The Statutory requirements regarding historically underutilized businesses have been in existence since 2001.			-2.00	
1124 - Justice for Sterilization Victims				
41 Operations for Justice for Sterilization Victims Foundation				
Provides funding to continue the Justice for Sterilization Victims Foundation on a non-recurring basis. The Foundation will administer the compensation for victims of the State's Eugenics Program.	$130,000	NR	$130,000	NR
1411 - Office of State Construction				
42 Office of State Construction Receipts	$924,013	R	$924,013	R
Moves positions at the Office of State Construction back to General Fund support. In FY 2011-12, nine positions within the Office of State Construction and 0.85 positions within the Management Information System Division were placed on receipt support. The receipts were to be from various projects' contingency reserves. The collection of funds from the contingency reserve has been problematic and the receipt source is uncertain. The following positions are to be moved back to General Fund support:	9.85		9.85	

60014580 Engineer
60014582 Engineer
60014588 Engineer
60014589 Mechanical Engineer
60014590 Engineer
60014608 Engineering Technician
60014614 Engineer
60014700 Control System Technician
60089475 Engineer
60014137 Business & Technology Applications Analyst

	FY 13-14		FY 14-15	
1421 - Facilities Management Division				
43 Public Health Lab/Office of the Chief Medical Examiner Reserve	$254,493	R	$254,493	R
Provides increased funding for the operation and maintenance of the Public Health Lab/Office of the Chief Medical Examiner building. The building first received funding in FY 2011-12.				
1511 - Purchase and Contract Division				
44 E-Commerce Reserve				
Utilizes funds collected in the E-Commerce Reserve to fund the ongoing operations of the Purchase and Contract Division. The Reserve is funded by a charge paid on goods purchased through the State's E-Procurement System.	($1,218,659)	NR	($1,476,543)	NR
1732 - Displaced Homemakers Program				
45 Displaced Homemakers Program Elimination	($292,390)	R	($292,390)	R
Eliminates the Displaced Homemaker Program over two years. The General Fund appropriation to the program is eliminated. Funds collected by the Divorce Filing Fee that support the program are reduced from $55 per divorce to $35 in FY 2013-14 and are transferred entirely to support the Domestic Violence Center Fund in FY 2014-15. The Domestic Violence Center Fund provides funding related to domestic violence across the State. In FY 2011-12, the Displaced Homemakers Program Fund received $1.8 million from the fee. The following receipt supported positions are eliminated:				
60089848 Community Development Specialist I 65003391 Processing Assistant IV				
1741 - Human Relations Commission				
46 Consolidation	($178,521)	R	($178,521)	R
Consolidates staff functions by reducing the Human Relations Commission by three FTEs.	-3.00		-3.00	
1771 - Division of Veterans Affairs				
47 Veterans Affairs ITS Consolidation	$115,000	R	$115,000	R
Provides funding to complete the Information Technology Services consolidation for the Division of Veterans Affairs field offices.	$68,000	NR		
1810 - State Ethics Commission				
48 Position Funding				
Uses receipts from the Highway Fund to fund one new paralegal position in the State Ethics Commission.				
Paralegal $55,146				

Conference Report on the Continuation, Capital, and Expansion Budget	FY 13-14		FY 14-15	
49 Operating Expenses Achieves savings by reducing various operating accounts.	($22,434)	R	($22,434)	R
1861 - Commission of Indian Affairs				
50 Commission of Indian Affairs Consolidation Eliminates a vacant Administrative Assistant II position (60013923) at the Commission of Indian Affairs.	($34,444) -0.75	R	($34,444) -0.75	R
1900 - Reserves and Transfers				
51 Reserve and Transfer Reduction Eliminates an unnecessary appropriation within the Reserve and Transfer budget.	($32,942)	R	($32,942)	R
Agency Wide				
52 Operations Reductions Eliminates a vacant position Human Services Planner/Evaluator IV position (65010199) and reduces various operating line items including: supplies, facility and hardware, motor vehicle replacement parts, furniture equipment, and contracted services, within the Department.	($286,119) -1.00	R	($286,119) -1.00	R
Office of State Personnel				
53 Operations Reduces funds from various operating line items including: supplies, office furniture, office equipment, computer/data processing services, travel, and other contracted services within the Office of State Personnel.	($175,964)	R	($175,964)	R
Total Legislative Changes	**$270,692** **($1,020,659)**	R NR	**$151,584** **($1,346,543)**	R NR
Total Position Changes	5.10		3.10	
Revised Budget	**$67,567,025**		**$67,047,033**	

Reserve for E-Commerce Initiative (2514)

Budget Code: 24100

	FY 2013-14		FY 2014-15	
Beginning Unreserved Fund Balance	**$15,318,833**		**$8,988,589**	
Recommended Budget				
Requirements	**$19,278,000**		**$19,278,000**	
Receipts	**$19,278,000**		**$19,278,000**	
Positions	**0.00**		**0.00**	
Legislative Changes				
Requirements:				
E-Commerce Fund Transfer	$0	R	$0	R
Transfers $5,111,585 in FY 2013-14 and $6,000,000 in FY 2014-15 to general availability.	$5,111,585	NR	$6,000,000	NR
	0.00		0.00	
Purchase and Contract Use of E-Commerce Reserve	$0	R	$0	R
Utilizes the E-Commerce Reserve to support operations within the Division of Purchase and Contract. Funds from the Reserve are to be transferred to the Division (1511) to support recurring operating requirements.	$1,218,659	NR	$1,476,543	NR
	0.00		0.00	
Subtotal Legislative Changes	**$0**	R	**$0**	R
	$6,330,244	NR	**$7,476,543**	NR
	0.00		0.00	
Receipts:				
E-Commerce Funds Transfer	$0	R	$0	R
	$0	NR	$0	NR
E-Commerce Funds Transfer	$0	R	$0	R
	$0	NR	$0	NR

	FY 2013-14		FY 2014-15	
E-Commerce Funds Transfer	$0	R	$0	R
	$0	NR	$0	NR
Subtotal Legislative Changes	**$0**	R	**$0**	R
	$0	NR	**$0**	NR
Revised Total Requirements	**$25,608,244**		**$26,754,543**	
Revised Total Receipts	**$19,278,000**		**$19,278,000**	
Change in Fund Balance	**($6,330,244)**		**($7,476,543)**	
Total Positions	**0.00**		**0.00**	
Unappropriated Balance Remaining	**$8,988,589**		**$1,512,046**	

(16.0) Housing Finance Agency

	GENERAL FUND			
	FY 13-14		FY 14-15	
Recommended Continuation Budget	**$9,408,417**		**$9,408,417**	
Legislative Changes				
1100 - HOME Match				
54 Home Match Reduction Reduces the State match for the HOME program due to reductions in federal funding.	($120,000)	R	($120,000)	R
1100 Housing Trust Fund				
55 Housing Trust Fund Reduces the General Fund appropriation to the Housing Trust Fund to $7,000,000 for each year of the FY 2013-15 Biennium.	($876,785)	NR	($876,785)	NR
Total Legislative Changes	**($120,000)**	R	**($120,000)**	R
	($876,785)	NR	**($876,785)**	NR
Total Position Changes				
Revised Budget	**$8,411,632**		**$8,411,632**	

(17.0) Office of Administrative Hearings

	GENERAL FUND			
	FY 13-14		FY 14-15	
Recommended Continuation Budget	**$4,335,464**		**$4,350,431**	
Legislative Changes				
1100 - Civil Rights Division				
56 Vacant Civil Rights Position and Contractual Services	($82,845)	R	($82,845)	R
Eliminates a vacant Civil Rights Investigator position (60088609) in the Civil Rights Division and reduces contractual services (532199).	-1.00		-1.00	
1100 - Hearings Division				
57 Staffing for Hearings Division	$194,687	R	$194,687	R
Increases staffing for the Hearings Division in order to meet increased case filings. The increased funding will provide for one Administrative Law Judge and one Law Clerk.	$10,388 2.00	NR	2.00	
58 Case Management System	$109,850	R	$110,308	R
Provides funding to fully implement the AMCAD case management system. This system will reduce paper filing, clerical entry, and mail processing.	$160,000	NR	$80,000	NR
1100 Rules Review Division				
59 Regulatory Reform	$349,549	R	$349,549	R
Provides funds to implement regulatory reform within the Rules Review Division. The funding will create four new positions that are needed for additional review, reporting and publication requirements required under regulatory reform. There is additional funding for information technology upgrades. The positions created are as follows: two Attorneys, one Paralegal II, and one Administrative Assistant.	$164,550 4.00	NR	$25,000 4.00	NR
Total Legislative Changes	**$571,241**	R	**$571,699**	R
	$334,938	NR	**$105,000**	NR
Total Position Changes	5.00		5.00	
Revised Budget	**$5,241,643**		**$5,027,130**	

(18.0) Treasurer

	GENERAL FUND			
	FY 13-14		FY 14-15	
Recommended Continuation Budget	**$6,851,090**		**$6,851,090**	
Legislative Changes				
1210 - Investment Division				
60 Operating Reduction to Investment Division Eliminates the appropriated position reserve (537199) for Investment Directors and Chief Investment Officer.	($45,416)	R	($45,416)	R
1310 - Local Government Division				
61 State and Local Government Automation Project Authorizes the use of receipts for the State and Local Government Automation Project. This project is a multi-year effort to replace outdated information systems used by local government units. Project components include infrastructure upgrades, audit package with document management capabilities, modernization of Annual Financial Information Reporting (AFIR) process, and implementation of audit software. The Automation Project is funded from fees paid by local governments for debt issuance. The first phase of this project was authorized in FY 2011-12. The nonrecurring costs for this project are $1,048,200 for FY 2013-14. There will be additional recurring costs of $200,419.				
1510 - Financial Operations Division				
62 Reduction to Operating Funds in Financial Operations Division Reduces transfers to the Information Management Division by $70,000 (538175) to reflect change in the allocation formula, and reduces miscellaneous contractual services (532199) by $25,000. In addition, a vacant Banking Specialist position (60009292) is eliminated. The position has been vacant over three years.	($133,221) -1.00	R	($133,221) -1.00	R
63 Core Banking System Upgrade Provides non-recurring funds for the upgrade of the State's Core Banking System. Appropriations to the Division for this item will not be subject to G.S. 147-68.1.	$1,111,585	NR		
64 Operation of State Core Banking System Allows the Financial Operations Division to access funds under management to fund the operations of the upgraded State's Core Banking System Upgrade. Appropriations to the Division will be reimbursed in accordance with G.S. 147-68.1.	$353,852	R	$353,852	R

	FY 13-14		FY 14-15	
Total Legislative Changes	**$175,215**	R	**$175,215**	R
	$1,111,585	NR		
Total Position Changes	-1.00		-1.00	
Revised Budget	**$8,137,890**		**$7,026,305**	

(19.0) Fire Rescue Nat Guard Pensions & LDD Benefits

GENERAL FUND

	FY 13-14	FY 14-15
Recommended Continuation Budget	**$23,179,042**	**$23,179,042**

Legislative Changes

1412 - Fire Pension

65 General Fund Fire Contribution

Provides the General Fund contribution to the Firemen's Pension Fund. The payment of these pension benefits is made pursuant to Article 86 of G.S. 58. The amount of the recurring General Fund contribution in the continuation budget is $14,015,734.

1413 - Rescue Squad

66 General Fund Contribution to the Rescue Squad Workers Pension Fund

Provides the General Fund contribution to the Rescue Squad Workers' Pension Fund. The payment of these pension benefits is made pursuant to Article 86 of G.S. 58. The amount of the recurring General Fund contribution in the continuation budget is $1,430,865. The appropriation is reduced by $820,000 relative to the continuation budget in order to align with the Annual Required Contribution in the June 30, 2012 actuarial valuation. This reduction appears in a corresponding money item in the Statewide Reserves section of the Committee Report.

1414 - National Guard

67 General Fund Contribution to National Guard

Provides the General Fund contribution to the National Guard Pension Fund. The payment of these pension benefits is made pursuant to G.S. 127A-40. The amount of the recurring General Fund contribution to the fund is $7,007,443.

1432 - Line of Duty Death Benefits

68 General Fund Contribution to Line of Duty Death Benefits

Provides the General Fund contribution to the Line of Duty Death Benefits Fund. The Fund provides benefits to families of certain public servants who die in the line of duty. The payment of these death benefits is made pursuant to G.S. 143-12A. The amount of the recurring General Fund contribution to the fund is $725,000.

	FY 13-14	FY 14-15
Total Legislative Changes		
Total Position Changes		
Revised Budget	**$23,179,042**	**$23,179,042**

TRANSPORTATION
Section K

Highway Fund

HIGHWAY FUND

	FY 13-14	FY 14-15
Recommended Continuation Budget	**$1,696,197,124**	**$1,692,322,459**

Legislative Changes

Adjustments to Availability

1 Inspection Program Account & Telecommunications Account

Appropriates $10.5 million of accumulated unencumbered fund balance in accordance with the elimination of the Inspection Program Account and Telecommunications Account upon completion of the Motor Vehicle Inspection and Law Enforcement System (MILES) information technology project. Projected recurring revenues from the consolidation of the Inspection ($3.00) and Telecommunications ($1.75) electronic authorization fees total $23.6 million in FY 2013-14 and $21.6 million in FY 2014-15.

2 Division of Motor Vehicles Technology Improvement Account

Appropriates $4.55 million of accumulated unencumbered fund balance in accordance with the elimination of the Technology Improvement Account. Additional recurring revenues to the Highway Fund total $634,000.

3 Access and Public Service Road Program

Appropriates $4,843,441 of accumulated unencumbered fund balance from the Access and Public Service Road Program.

4 Division Small Urban Construction Program

Appropriates $21,914,410 of accumulated unencumbered fund balance from the Division Small Urban Construction Program.

5 Contingency Fund

Appropriates $27,060,083 of accumulated unencumbered fund balance from the Contingency Fund.

6 Economic Development Program

Appropriates $3,346,215 of accumulated unencumbered fund balance within the Economic Development Program for qualifying projects to be used in FY 2013-14.

7 Shallow Draft Navigation Channel Dredging Fund

Reduces Highway Fund revenue by $2,280,350 in FY 2013-14 and $2,193,500 in FY 2014-15 to reflect the crediting of one-sixth of one percent (1/6 of 1%) of motor fuel tax revenue to the Shallow Draft Navigation Channel Dredging Fund.

8 Registration Fee for Electric Vehicles

Increases Highway Fund revenues by $60,000 in FY 2013-14 and $120,000 in FY 2014-15 based on the implementation of a $100 surcharge on registration fees for electric vehicles.

	FY 13-14		FY 14-15	
9 Freight Rail & Rail Crossing Safety Improvement Fund Increases Highway Fund availability to reflect dividend payments issued by the North Carolina Railroad Company during the 2013-15 fiscal biennium. Estimated receipts total $19.2 million in FY 2013-14 and $3.75 million in FY 2014-15.				
10 Motor Fuels Tax Reduces Highway Fund revenue by $1,837,500 in FY 2013-14 per implementation of a cap on the motor fuels excise tax rate of 37.5 cents per gallon.				
Administration				
11 Facility Security Appropriates recurring funds to maintain the existing level of contract security at seven DOT buildings, as recommended in the Governor's Budget. Funds were previously allocated from the year-end credit balance within the Highway Fund for this purpose.	$303,896	R	$303,896	R
12 Fiscal Section - Appalachian Regional Commission Appropriates funding for the Department's share of the Appalachian Regional Commission Assessment, as recommended in the Governor's Budget. Funds were previously allocated from the Highway Fund year-end credit balance for this purpose.	$278,099	R	$278,099	R
13 Occupational Safety and Health (OSHA) Program Reduces funding for the Occupational Safety and Health (OSHA) Program, leaving $365,337, as recommended in the Governor's Budget.	($7,455)	R	($7,455)	R
14 DOT-IT - Mainframe Application Modernization			$5,000,000	R
Appropriates funds to advance the development and implementation of replacement systems for Division of Motor Vehicles mainframe applications, including the State Titling and Registration System (STARS), State Automated Driver License System (SADLS), and Liability Insurance Tracking and Enforcement System (LITES). Funds are authorized for the procurement of contractual services, hardware and software for these replacement efforts.	$8,832,000	NR	$8,798,400	NR
15 Fiscal Section - Combined Registration and Tax Collection System Authorizes three additional receipt-supported positions to administer the collection of registration fees and property taxes upon implementation of the Combined Motor Vehicle Registration and Property Tax Collection System. Budgeted receipts are increased by $189,278 recurring in FY 2013-14 and $189,372 recurring in FY 2014-15. Costs incurred for project administration are supported by the administrative fee authorized in G.S. 105-330.5(b) and determined pursuant to the Memorandum of Understanding between the Department of Revenue and Division of Motor Vehicles, as required by G.S. 105-330.11. Total budgeted receipts for Fiscal Section project administration are $634,702 in FY 2013-14 and $634,796 in FY 2014-15.				

	FY 13-14		FY 14-15	
16 DOT-IT - Combined Registration and Tax Collection System Authorizes two additional receipt-supported positions to support and maintain the Combined Motor Vehicle Registration and Property Tax Collection System. Budgeted receipts are increased by $240,296 recurring and $232,750 nonrecurring in FY 2013-14, and are reduced by $1,767,963 in FY 2014-15 per project close-out. Costs incurred for project administration are supported by the administrative fee authorized in G.S. 105-330.5(b) and determined pursuant to the Memorandum of Understanding between the Department of Revenue and Division of Motor Vehicles, as required by G.S. 105-330.11. Total budgeted receipts for DOT-IT project administration are $4,831,480 in FY 2013-14 and $2,861,062 in FY 2014-15.				
17 Departmental Staffing Efficiencies Eliminates 100 vacant positions across the Department in FY 2013-14 and a total of 400 vacant positions by FY 2014-15. Of these, the Department shall eliminate a minimum of 17 vacant administrative positions in FY 2013-14 and 34 vacant administrative positions by FY 2014-15, for a recurring savings of $2,113,406.	($1,056,703) -17.00	R	($2,113,406) -34.00	R
Aid to Municipalities				
18 State Aid to Municipalities Appropriates additional funding based on the consolidation of State Aid to Municipalities/Powell Bill allocations within the Highway Fund. Budgeted funds total $142,102,740 for FY 2013-14 and $136,874,010 for FY 2014-15.	$53,216,442	R	$48,165,484	R
Capital, Repairs & Renovations				
19 Repairs & Renovations Appropriates funds for repairs and renovations to Department of Transportation owned facilities during the 2013-15 fiscal biennium.	$3,532,900	NR	$2,792,000	NR
20 Capital Improvements Appropriates nonrecurring funds for capital improvement projects included in the Department of Transportation's 2013-2019 Capital Improvements Plan.	$14,522,600	NR	$17,145,700	NR
Construction				
21 Secondary Road Construction and Unpaved Secondary Road Paving Programs	($76,886,298)	R	($76,708,526)	R
Reduces funding for the Secondary Road Construction Program in FY 2013-14 and eliminates the program in FY 2014-15. The fund will be renamed in FY 2014-15 to the Unpaved Secondary Road Paving Program. The total budget is $27.0 million in FY 2013-14 and $12.0 million in FY 2014-15. The Department will allocate $12.0 million recurring beginning in FY 2013-14 for the paving of unpaved secondary roads based on the statewide prioritization list.	$15,000,000	NR		

	FY 13-14		FY 14-15	
22 Division Small Urban Construction	($7,000,000)	R	($7,000,000)	R
Eliminates recurring funding for the Division Small Urban Construction Program and appropriates $5.0 million nonrecurring in FY 2013-14 and FY 2014-15.	$5,000,000	NR	$5,000,000	NR
23 Access and Public Service Road Program	($35,178)	R	($35,178)	R
Reduces funding for the Access and Public Service Roads Program by 2%, leaving $1,723,707, as recommended in the Governor's Budget.				
24 Economic Development Program Fund				
Appropriates $3,846,215 nonrecurring in FY 2013-14 and $4,036,171 nonrecurring in FY 2014-15 to the Economic Development Program for qualifying projects. From these funds, $500,000 is allocated in FY 2013-14 to support costs incurred for the study directed by Section 34.23.	$3,846,215	NR	$4,036,171	NR
Division of Motor Vehicles				
25 Customer Service Improvement Initiative	$889,782	R	$963,829	R
Appropriates funds to support part-time personnel, utilities, and other operating costs associated with the provision of extended weekday and Saturday hours of operation at 20 driver license offices during FY 2013-14, increasing to 30 offices by FY 2014-15, as recommended in the Governor's Budget.	$540,683	NR		
Nonrecurring funds are appropriated for the training of new personnel and to replace three digital scanners which are no longer supported by the manufacturer.				
26 Credit/Debit Transaction Costs	$6,646,233	R	$7,975,480	R
Appropriates funds to support transaction costs incurred for the acceptance of credit and debit card payments for registration, title, and highway use tax transactions.				

	FY 13-14		FY 14-15	
27 Combined Registration and Tax Collection System Continues funding for a total of 79 receipt-supported positions authorized by S.L. 2012-142, Sec. 24.10, of which 58 are time-limited, to administer the Combined Motor Vehicle Registration and Property Tax Collection System. Fifty-four of these authorized time-limited positions shall terminate no later than June 30, 2015. Vehicle Services personnel are responsible for system training, transaction and document processing, and resolution of branch agent and customer service requests. Budgeted receipts are increased by $8,151,788 in FY 2013-14 and $10,460,702 in FY 2014-15. Costs incurred for project administration are supported by the administrative fee authorized in G.S. 105-330.5(b) and determined pursuant to the Memorandum of Understanding between the Department of Revenue and Division of Motor Vehicles, as required by G.S. 105-330.11. Total budgeted receipts for DMV project administration are $11,591,432 in FY 2013-14 and $11,423,636 in FY 2014-15. Funding is reduced by $167,796 in FY 2014-15 due to the elimination of four positions responsible for initial training activities.				
28 Combined Registration and Tax Collection System - Receipts Reduces funding to account for additional receipts derived from compensation for property tax transactions performed by the Division of Motor Vehicles and from the administrative fee for the production of combined registration renewal notices and vehicle property tax bills (G.S. 105-330.5(b)). Receipts budgeted within Vehicle Services (Fund Center 1500/157055) are increased by $1,645,215 in FY 2013-14 and $1,974,258 in FY 2014-15, and will partially offset costs incurred for credit/debit transactions. Receipts budgeted within General Services (Fund Center 1500/157030) are increased by $2,358,157 recurring.	($4,003,372)	R	($4,332,415)	R
29 Inspection Program Increases funding to support the costs of administering the Inspection Program per the elimination of the Inspection Program Account and Telecommunications Account. Receipt-supported functions are converted to Highway Fund appropriation. Recurring funding for the Inspection Program (Fund Center 1500/150054) is increased by $8,964,895, for a total Program budget of $12,158,854 recurring. Receipts budgeted for split-funded positions within the License and Theft Bureau (Fund Center 1500/157060) are reduced by $6,475,642.	$15,440,537	R	$15,440,537	R
Intermodal				
30 Aviation Division - Economic Development Appropriates $6.5 million in nonrecurring funds for aviation-related economic development projects.	$6,500,000	NR		

	FY 13-14		FY 14-15	
31 Aviation Division - State Aid to Airports Reduces funding for grants to airports to $20.0 million recurring, a reduction of $2,311,031 from the FY 2012-13 Certified Budget. Amounts shown represent adjustments relative to the Continuation Budget for the 2013-15 fiscal biennium, in accordance with the repeal of G.S. 136-16.4.	$31,627	R	$2,128,306	R
32 Public Transportation Division - High Point Furniture Market Increases assistance for transit services associated with the High Point Furniture Market to $1.2 million recurring.	$200,000	R	$200,000	R
33 Ferry Division - Operating Efficiencies Reduces funding for Ferry Division operations by 2%, as recommended in the Governor's Budget.	($820,763)	R	($820,763)	R
34 Ferry Division - Operations Appropriates funds to offset the shifting of toll revenue to reserve accounts for capital improvements to the North Carolina Ferry System. Toll revenue previously offset recurring operating and maintenance costs.	$5,000,000	R	$5,000,000	R
35 Ferry Division - Spoil Site Capacity Appropriates nonrecurring funds to re-establish capacity at spoil sites at Fort Fisher ($100,000), Southport ($150,000), Cherry Branch ($400,000), and Swan Quarter ($500,000), as recommended in the Governor's Budget.	$1,150,000	NR		
36 Rail Division - Operations Reduces funding for Rail Division programs by 2%, as recommended in the Governor's Budget.	($424,023)	R	($424,023)	R
37 Rail Division - Infrastructure Assistance Programs Eliminates funding for the Rail Industrial Access Program and Short Line Infrastructure Assistance Program. Eligible projects may qualify for funding through the Freight Rail and Rail Crossing Safety Improvement Fund.	($519,000)	R	($519,000)	R
38 Rail Division - Freight Rail & Rail Crossing Safety Improvement Fund	$3,700,000	R	$3,750,000	R
Appropriates receipts from dividend payments issued by the North Carolina Railroad Company. Funds shall be used for the enhancement of freight rail service and railroad-roadway crossing safety improvements, including projects which improve access to industrial, port, and military facilities. A total of $19.2 million is budgeted in FY 2013-14 and $3.75 million in FY 2014-15 from estimated dividend payments.	$15,500,000	NR		
39 Division of Bicycle & Pedestrian Transportation - Planning Grants Reduces funding for the Regional Bicycle Planning Grant Program to $250,000 recurring.	($129,447)	R	($129,447)	R

	FY 13-14		FY 14-15	
Maintenance				
40 Primary System Reduces funding for the Primary System Maintenance Program, leaving $147,097,510 in FY 2013-14 and $147,523,208 in FY 2014-15.	($16,255,309)	R	($15,829,611)	R
41 Secondary Road Maintainence and Improvement Program Reduces funding to the Secondary Road Maintenance and Improvement Program, leaving $270,593,678 in FY 2013-14 and $273,582,225 in FY 2014-15.	($12,406,635)	R	($9,418,088)	R
42 System Preservation Reduces funding for the System Preservation Program, consistent with new revenue estimates and G.S. 119-18(b).	($500,000)	R	($1,400,000)	R
43 Reserve for General Maintenance Increases funding for the Reserve for General Maintenance, as recommended in the Governor's Budget. Budgeted funds total $89,790,226 for FY 2013-14 and $45,560,850 for FY 2014-15.	$51,989,914	R	$7,760,538	R
44 Contract Resurfacing Increases funding for the Contract Resurfacing Program. Budgeted funds total $433,462,800 for FY 2013-14 and $402,423,088 for FY 2014-15.	$145,288,396 $13,289,751	R NR	$127,538,435	R
45 System Preservation Increases funding for the System Preservation Program. Budgeted funds total $179,599,774 for FY 2013-14 and $153,008,350 for FY 2014-15.	$100,771,279	R	$74,779,855	R
Reserves				
46 State Health Plan Provides additional funding to continue health benefit coverage for enrolled active and retired employees supported by the Highway Fund for the 2013-15 fiscal biennium.	$1,700,000	R	$4,450,000	R
47 State Retirement System Contributions Increases the State's contribution to the Teachers' and State Employees' Retirement System for the 2013-15 biennium to fund the Annual Required Contribution.	$1,121,000	R	$1,121,000	R
48 Reserve for Future Benefit Needs Creates a reserve for increased contributions to existing employee benefits programs.			$1,745,000	R

	FY 13-14		FY 14-15	
Transfers				
49 Department of Public Instruction - Driver Education Program Reduces funds for transfer to the Department of Public Instruction in accordance with an authorized increase to the optional driver education fee, from $45.00 to $55.00 per participating student. Estimates adjust for projected increases in 9th grade average daily membership (ADM) and eligible private and federal school students over the 2013-15 fiscal biennium. Transfers total $26,138,808 for FY 2013-14 and $26,682,132 for FY 2014-15.	($1,709,142)	R	($1,701,923)	R
50 State Ethics Commission Transfers $55,146 to the State Ethics Commission to support a Paralegal position for the implementation of S.L. 2013-156.	$55,146	R	$55,146	R
Total Legislative Changes	**$264,879,026**	R	**$186,215,770**	R
	$87,714,149	NR	**$37,772,271**	NR
Total Position Changes	-17.00		-34.00	
Revised Budget	**$2,048,790,299**		**$1,916,310,500**	

Highway Trust Fund

HIGHWAY TRUST FUND

	FY 13-14		FY 14-15	
Recommended Continuation Budget	**$1,118,600,000**		**$1,152,000,000**	
Legislative Changes				
Adjustments to Availability				
51 Motor Fuels Tax Reduces Highway Trust Fund revenue by $612,500 in FY 2013-14 per implementation of a cap on the motor fuels excise tax rate of 37.5 cents per gallon.				
Administration				
52 Administration Eliminates the statutory adjustment to Administration and holds funding at the FY 2012-13 certified budget amount.	($8,008,320)	R	($9,611,520)	R
Aid to Municipalities				
53 Aid to Municipalities Eliminates the Highway Trust Fund allocation to the Aid to Municipalities program and transfers funds to the Strategic Prioritization Program. The Highway Fund allocation to the Aid to Municipalities program is increased to hold municipalities harmless over a five-year period.	($56,072,216)	R	($58,054,337)	R
Construction				
54 Strategic Prioritization Program Appropriates funding for highway and intermodal capital projects funded through the Highway Trust Fund per the new Strategic Prioritization Funding Plan for Transportation Investments.	$930,926,530	R	$950,101,672	R
55 Intrastate System Eliminates the Intrastate System program and transfers funds to the Strategic Prioritization Program.	($515,520,933)	R	($530,210,557)	R
56 Mobility Fund Eliminates the Mobility Fund program and transfers funds to the Strategic Prioritization Program.	($58,000,000)	R	($58,000,000)	R
57 Secondary Roads Eliminates the Secondary Road program and transfers funds to the Strategic Prioritization Program.	($78,972,723)	R	($86,253,540)	R
58 Urban Loops Eliminates the Urban Loops program and transfers funds to the Strategic Prioritization Program.	($164,864,838)	R	($191,571,718)	R

Conference Report on the Continuation, Capital, and Expansion Budget	FY 13-14		FY 14-15	
Turnpike Authority				
59 Gap Funding Eliminates gap funding in the amounts of $35 million for the Garden Parkway and $28 million for the Mid-Currituck Bridge projects. The projects are eligible to compete for funding based on the prioritization process established under the Strategic Prioritization Funding Plan for Transportation Improvements.	($63,000,000)	R	($63,000,000)	R
Total Legislative Changes	**($13,512,500)**	R	**($46,600,000)**	R
Total Position Changes				
Revised Budget	**$1,105,087,500**		**$1,105,400,000**	

Turnpike Authority

Budget Code: 64208

	FY 2013-14		FY 2014-15	
Beginning Unreserved Fund Balance	**$0**		**$0**	
Recommended Budget				
Requirements	**$151,879,602**		**$1,404,739,602**	
Receipts	**$151,879,602**		**$1,404,739,602**	
Positions	**22.00**		**22.00**	
Legislative Changes				
Requirements:				
Departmental Staffing Efficiencies	($153,884)	R	($153,884)	R
Eliminates two vacant receipt-supported positions within the Turnpike Authority. Recurring savings total $153,884.	$0	NR	$0	NR
	-2.00		-2.00	
Subtotal Legislative Changes	**($153,884)**	R	**($153,884)**	R
	$0	NR	**$0**	NR
	-2.00		-2.00	
Receipts:				
Departmental Staffing Efficiencies	($153,884)	R	($153,884)	R
Reduces budgeted receipts per the elimination of two vacant positions.	$0	NR	$0	NR
Subtotal Legislative Changes	**($153,884)**	R	**($153,884)**	R
	$0	NR	**$0**	NR

	FY 2013-14	FY 2014-15
Revised Total Requirements	$151,725,718	$1,404,585,718
Revised Total Receipts	$151,725,718	$1,404,585,718
Change in Fund Balance	$0	$0
Total Positions	20.00	20.00
Unappropriated Balance Remaining	$0	$0

RESERVES/
DEBT SERVICE/
ADJUSTMENTS
Section L

Statewide Reserves

	GENERAL FUND			
	FY 13-14		FY 14-15	
Recommended Continuation Budget	**$756,149,861**		**$756,149,861**	
Legislative Changes				
A. Employee Benefits				
1 Severance Expenditure Reserve Provides funding for severance salary continuation payments and health benefits coverage under the State Health Plan for eligible employees who are reduced in force (RIF) during FY 2013-14. Any funds remaining in this reserve at the end of FY 2013-14 shall not revert and shall be used to pay severance salary continuation needs in FY 2014-15.	$16,000,000	NR		
2 Statewide Compensation Study Establishes a reserve to fund a statewide compensation study by the Office of State Personnel (OSP). OSP shall report the results of its study to the chairs of the Senate Appropriations/ Base Budget Committee, the chairs of the House of Representatives Appropriations Committee, and the Fiscal Research Division by May 1, 2014.	$1,000,000	NR		
3 Salary Adjustment Fund Appropriates funds to the Salary Adjustment Fund.	$7,500,000	R	$7,500,000	R
4 State Retirement System Contributions Increases the State's contribution to the Teachers' and State Employees' Retirement System for the 2013-15 biennium to fund the Annual Required Contribution.	$36,000,000	R	$36,000,000	R
5 Judicial Retirement System Contributions Increases the State's contribution to the Consolidated Judicial Retirement System for the 2013-15 biennium to fund the Annual Required Contribution.	$1,000,000	R	$1,000,000	R
6 Highway Fund Retirement System Contributions Increases the State's contribution to the Teachers' and State Employees' Retirement System for positions supported by the Highway Fund by $1,121,000 for 2013-15 biennium to fund the Annual Required Contribution. The increased expenditures appear in the Transportation section of the Committee Report.				
7 Reserve for Future Benefit Needs Creates a General Fund reserve for increased contributions to existing employee benefits programs.			$56,400,000	R

	FY 13-14		FY 14-15	
8 Highway Fund Reserve for Future Benefit Needs Creates a Highway Fund reserve of $1,745,000 for increased contributions to existing employee benefits programs. Funds for the reserve appear in a corresponding item in the Transportation section of the Committee Report.				
9 Firemen's and Rescue Squad Workers' Pension Fund Reduces contributions to the Firemen's and Rescue Squad Workers' Pension Fund for the 2013-15 biennium to match the Annual Required Contribution.	($820,000)	R	($820,000)	R
10 State Health Plan Provides additional funding to continue health benefit coverage for enrolled active and retired employees supported by the General Fund for the 2013-15 fiscal biennium.	$33,500,000	R	$89,000,000	R
11 Highway Fund State Health Plan Contribution Provides additional funding to continue health benefit coverage for enrolled active and retired employees supported by the Highway Fund for the 2013-15 fiscal biennium. The additional funding required from the Highway Fund is $1.7 million for FY 2013-14 and $4.45 million for FY 2014-15. The increased expenditures appear in a corresponding item in the Transportation section of the Committee Report.				
B. Other Reserves				
12 Eugenics Sterilization Compensation Fund Creates a fund to compensate verified victims of the State's Eugenics Program.	$10,000,000	NR		
13 Reserve for Escheat Fund Global TransPark Loan Repayment Provides General Fund appropriation to repay the Global TransPark's loan funded from the Escheat Fund. The Office of State Budget and Management shall transfer these funds to the Escheat Fund. Any excess funds remaining after the loan is paid in full shall remain in the Escheat Fund.	$27,000,000	NR		
14 Unemployment Insurance (UI) Reserve Establishes a reserve for the requirements of S.L. 2013-2, UI Fund Solvency and Program Changes. The Office of State Budget and Management shall distribute the reserve to State agencies to fund the 1% UI reserve requirements for General Fund-supported employees and State-funded teachers. Total funding in FY 2013-14 will be $40.8 million due to the transfer of $17 million from the Worker Training Trust Fund, the Training and Employment Account, and the Special Employment Security Administration Fund.	$23,800,000	NR	$13,600,000	NR
15 Job Development Investment Grant Reserve Increases funding for the Job Development Investment Grant (JDIG) Reserve to meet projected needs for FY 2013-14 and FY 2014-15. Total funding in FY 2013-14 will be $51,823,772; total funding in FY 2014-15 will be $63,045,357.	$24,423,772	R	$35,645,357	R

	FY 13-14		FY 14-15	
16 NC GEAR Establishes a statewide reserve in the Office of State Budget and Management for the NC Government Efficiency and Reform (NC GEAR) project.	$2,000,000	NR	$2,000,000	NR
17 Reserve for Pending Legislation Creates a reserve to fund the following House bills should they be enacted into law: -HB 473 - Department of Insurance to regulate captive insurance companies. -HB 675 - General Fund portion (80%) of the total impact on the State Health Plan from changes in the Pharmacy Laws. -HB 498 - General Fund portion (80%) of the total impact on the State Health Plan from changes in autism health insurance coverage. -HB 269 - State Education Assistance Authority and the Department of Public Instruction to implement the bill. -HB 392 - Department of Health and Human Services to implement the bill.	$4,000,000	R	$4,500,000	R
18 Reserve for Voter Information Verification Act Provides funds for the implementation of the Voter Information Verification Act (VIVA). Funds may be used for outreach and operations by the State Board of Elections, reimbursement for issuance of state-issued identification cards by Division of Motor Vehicles, reimbursement for the State Registrar for the provision of free vital records certificates, and for reimbursement to county governments.	$1,000,000	R	$1,000,000	R
19 IT Fund Provides additional funding to the Information Technology (IT) Fund to support the implementation of the Government Data Analytics Center (GDAC) as an enterprise information technology project. The GDAC will facilitate the integration and analysis of data across State agencies, improving coordination between and among the participating organizations.	$1,417,515 $1,582,485	R NR	$1,417,515 $3,000,000	R NR
20 IT Reserve Fund Provides additional funding for the State Chief Information Officer to upgrade, simplify, and modernize the State's IT operations and internal infrastructure. This includes replacing obsolete computers and applications, and ensuring that State agencies are meeting IT security requirements.	$5,635,000 $22,365,000 33.00	R NR	$7,820,000 $23,762,485 44.00	R NR
C. Debt Service				
21 Debt Service Adjustment Adjusts debt service appropriations based on updated cash flow requirements.	($34,949,705)	R	($18,648,784)	R
22 Tobacco Master Settlement Agreement Debt Provides a direct General Fund appropriation for University projects' debt service that was previously funded by Tobacco Master Settlement Agreement receipts.	$35,450,000	R	$35,289,724	R

	FY 13-14		FY 14-15	
Total Legislative Changes	**$114,156,582**	R	**$256,103,812**	R
	$103,747,485	NR	**$42,362,485**	NR
Total Position Changes	33.00		44.00	
Revised Budget	**$974,053,928**		**$1,054,616,158**	

State Health Plan (Administration)

Budget Code: 28410

	FY 2013-14		FY 2014-15	
Beginning Unreserved Fund Balance	**$5**		**$5**	
Recommended Budget				
Requirements	**$195,380,187**		**$195,380,187**	
Receipts	**$195,380,187**		**$195,380,187**	
Positions	**46.00**		**46.00**	
Legislative Changes				
Requirements:				
Medical Benefits/Claims Processing Contract Adjusts the budgeted amounts for Third Party Administrative Services contracts based on newly effective contracts, changes in membership, and on-going administrative services.	($19,507,650) $0 0.00	R NR	($15,997,012) $0 0.00	R NR
Pharmacy Benefits Management (PBM) Contract Adjusts the budgeted amount for the PBM contract based on anticipated contractual costs, changes in membership, and administrative services provided by the PBM. Reflects a full year of the Employer Group Waiver Plan (EGWP) in FY 2013-14.	($3,020,918) $0 0.00	R NR	($11,804,511) $0 0.00	R NR
Disease & Case Management Contracts Adjusts the budgeted amount for Population Health Management Services contracts based on anticipated contractual costs, changes in membership, and on-going disease and case management services.	$1,830,916 $0 0.00	R NR	$2,808,916 $0 0.00	R NR
Wellness Initiatives and Programs Adjusts the budgeted amount for Wellness Initiatives contracts based on on-going contracts, programs, and initiatives and reflecting the expiration of some contracts.	($177,425) $0 0.00	R NR	($379,250) $0 0.00	R NR

	FY 2013-14		FY 2014-15	
Other Administrative Costs Adjusts the budgeted amounts for the Plan's other administrative costs to reflect increased member communications due to plan design changes, enhanced auditing efforts, and anticipated adjustments to contractual costs due to inflation and membership changes. Reflects the transitional reinsurance fee under the federal Affordable Care Act in FY 2014-15.	$6,841,519 $0 0.00	R NR	$41,043,218 $0 0.00	R NR
Department Overhead Allocation Directs the Office of State Budget and Management to create a new fund code for the Department of State Treasurer core services allocation. The amounts in other fund codes may only be used for purposes directly related to the administration of the State Health Plan.	$1,100,000 $0 0.00	R NR	$1,100,000 $0 0.00	R NR
Subtotal Legislative Changes	**($12,933,558)** **$0** 0.00	R NR	**$16,771,361** **$0** 0.00	R NR
Receipts:				
Adjust Transfers from Trust Funds Adjusts the amount of transfer from the Plan's health benefit trust fund budget codes to support administrative costs authorized for the 2013-15 fiscal biennium.	($12,933,558) $0	R NR	$16,771,361 $0	R NR
Subtotal Legislative Changes	**($12,933,558)** **$0**	R NR	**$16,771,361** **$0**	R NR
Revised Total Requirements	**$182,446,629**		**$212,151,548**	
Revised Total Receipts	**$182,446,629**		**$212,151,548**	
Change in Fund Balance	**$0**		**$0**	
Total Positions	**46.00**		**46.00**	
Unappropriated Balance Remaining	**$5**		**$5**	

CAPITAL
Section M

Capital

	GENERAL FUND			
	FY 13-14		FY 14-15	
Legislative Changes				
A. Department of Administration				
1 Division of Veterans Affairs - Sandhills State Veterans Cemetery Appropriates $125,000 to construct an enclosed committal structure for the Sandhills State Veterans Cemetery in Spring Lake, NC. The funding will match contributions from non-State entities. The total cost of the project is $300,000.	$125,000	NR		
2 Division of Veterans Affairs - New State Veterans Cemetery Appropriates funds to construct a State Veterans Cemetery in Goldsboro. The State currently has three cemeteries located in Black Mountain, Kinston, and Spring Lake.	$600,000	NR		
B. Department of Environment and Natural Resources				
3 Water Resources Provides funds for the State's share of Water Resource Development Projects. These funds will match $39.5 million in federal funds and $7.3 million in local funds in FY 2013-14. The projects are specified in a special provision.	$11,522,000	NR		
C. Department of Justice				
4 Western Crime Laboratory Planning Provides funding to complete full planning for the Western Crime Laboratory. Initial planning funds were authorized in S.L. 2012-142. The planned facility will be 36,050 square feet. The estimated cost of this project is $16.8 million.	$1,442,000	NR		
D. Department of Public Safety				
5 Samarkand Training Facility Converts the vacant Division of Juvenile Justice Youth Development Center into an overnight training facility for the Department of Public Safety.	$5,250,000	NR	$5,173,000	NR
6 Armory and Facility Development Projects Appropriates $8.25 million in State funds over the fiscal biennium to expand and renovate National Guard Armories and Facilities located throughout the State. These funds will match $21 million in federal funds. The projects are specified in a special provision.	$5,000,000	NR	$3,250,000	NR

	FY 13-14		FY 14-15	
E. University of North Carolina				
7 University of North Carolina - Asheville - Land Purchases Appropriates funds for the University of North Carolina - Asheville for land purchases to allow for the long-term growth and expansion of the campus consistent with the strategic plans of the campus and the UNC Board of Governors.	$2,000,000	NR		
8 Appalachian State University - Health Sciences Building Funds advance planning for Appalachian State University's College of Nursing and Health Sciences Building. The 200,000 sq. ft. facility will be constructed in association with the Watauga Medical Center. Planning funds for this project were originally appropriated in S.L. 2008-107 but were reverted by the Governor to cover the FY 2008-09 budgetary shortfall. The project is estimated to cost $80.2 million.	$2,000,000	NR		
Total Appropriation to Capital	**$27,939,000**	**NR**	**$8,423,000**	**NR**

INFORMATION TECHNOLOGY SERVICES
Section N

Information Technology Fund

Budget Code: 24667

	FY 2013-14		FY 2014-15	
Beginning Unreserved Fund Balance	**$0**		**$2,200**	
Recommended Budget				
Requirements	**$6,053,142**		**$6,053,142**	
Receipts	**$6,053,142**		**$6,053,142**	
Positions	**33.00**		**33.00**	
Legislative Changes				
Requirements:				
Criminal Justice Information Network Provides $189,563 in each year of the biennium to the Criminal Justice Information Network (CJIN). The CJIN is a statewide criminal justice infrastructure that allows the sharing of information between State and local criminal justice agencies.	$0 $0 0.00	R NR	$0 $0 0.00	R NR
Center for Geographic Information and Analysis Provides $495,338 in each year of the biennium for the Center for Geographic Information and Analysis (CGIA). The CGIA is the lead agency for geographic information systems (GIS) services and GIS coordination for North Carolina. CGIA provides GIS services to State and local governments.	$0 $0 0.00	R NR	$0 $0 0.00	R NR
Enterprise Security Risk Management Office Reduces funding for Enterprise Security Risk Management to 2011-2013 levels, leaving $864,148 (recurring) for each year of the biennium. The Enterprise Security and Risk Management Office (ESRMO) is responsible for the development, delivery and maintenance of an information security and risk management program that safeguards the State's information assets and the supporting infrastructure against unauthorized use, disclosure, modification, damage, or loss.	($248,746) $0 0.00	R NR	($248,746) $0 0.00	R NR

	FY 2013-14		FY 2014-15	
Enterprise Project Management Office	($219,116)	R	($219,116)	R
Reduces funding for the Enterprise Project Management Office (EPMO) to 2011-13 levels, leaving $1,473,285 for FY 2013-14 and FY 2014-15. The EPMO was established to improve the management of IT projects in State government.	$0	NR	$0	NR
	0.00		0.00	
Architecture and Engineering	($48,354)	R	($48,354)	R
Reduces funding for the Office of Enterprise Architecture to 2011-2013 levels, providing $851,986 for FY 2013-14 and FY 2014-15. The Office acts as a strategic planner and architect for the State's IT programs and is responsible for formulating and advancing a vision for those programs.	$0	NR	$0	NR
	0.00		0.00	
State Web Site	$0	R	$0	R
Provides funding of $224,741 for FY 2013-14 and FY 2014-15 to support the operation and maintenance of the State's web site.	$0	NR	$0	NR
	0.00		0.00	
Enterprise Licenses	$0	R	$0	R
Provides funding of $33,000 for FY 2013-14 and FY 2014-15 for enterprise license agreements. Enterprise license agreements support multiple agencies' IT projects and applications.	$0	NR	$0	NR
	0.00		0.00	
Consolidation	($383,784)	R	($383,784)	R
Reduces funding for consolidation to $1,021,081 for each year of the biennium to offset other requirements within the Office of the State Chief Information Officer.	$0	NR	$0	NR
	0.00		0.00	
Electronic Forms and Digital Signatures	$900,000	R	$900,000	R
Provides funding to continue the State's effort to develop and enterprise electronic forms and digital signatures capability.	$0	NR	$0	NR
	0.00		0.00	
Government Data Analytics Center	$1,417,515	R	$1,417,515	R
Provides funding to continue the efforts of the Government Data Analytics Center (GDAC) and the North Carolina Financial Accountability and Compliance Technology System (NCFACTS) to develop an enterprise business intelligence capability.	$1,582,485	NR	$3,000,000	NR
	8.00		8.00	
Subtotal Legislative Changes	**$1,417,515**	R	**$1,417,515**	R
	$1,582,485	NR	**$3,000,000**	NR
	8.00		8.00	

	FY 2013-14		FY 2014-15	
Receipts:				
Interest	$2,200	R	$2,200	R
Accounts for interest generated by the Information Technology Fund during FY 2012-13 and 2013-14.	$0	NR	$0	NR
Funding for Government Data Analytics Center	$1,417,515	R	$1,417,515	R
Provides funding for the Government Data Analytics Center and the North Carolina Financial Accountability and Compliance Technology System to continue the State's efforts to develop an enterprise business intelligence capability.	$1,582,485	NR	$3,000,000	NR
Subtotal Legislative Changes	**$1,419,715**	R	**$1,419,715**	R
	$1,582,485	NR	**$3,000,000**	NR
Revised Total Requirements	**$9,053,142**		**$10,470,657**	
Revised Total Receipts	**$9,055,342**		**$10,472,857**	
Change in Fund Balance	**$2,200**		**$2,200**	
Total Positions	**41.00**		**41.00**	
Ending Unreserved Fund Balance	**$2,200**		**$4,400**	

Information Technology Reserve Fund

Budget Code: 00000

	FY 2013-14	FY 2014-15
Beginning Unreserved Fund Balance	**$0**	**$0**
Recommended Budget		
Requirements	**$28,000,000**	**$31,582,485**
Receipts	**$28,000,000**	**$31,582,485**
Positions	**0.00**	**0.00**

Legislative Changes

Requirements:

Prepare/Focus (Strategic Plan)	$0	R	$0	R
Provides $250,000 in FY 2013-14 to allow the State Chief Information Officer (CIO) to develop a new strategic plan that can be consistently implemented across State agencies, using a cross-agency working group to assess Statewide needs and formulate a plan. To support this effort, the State CIO will retain consultants with public and private sector expertise and estimates a requirement for 1,250 hours of support at $200 per hour.	$0	NR	$0	NR
	0.00		0.00	
Plan (Enterprise Architecture)	$0	R	$0	R
Provides the State CIO with funding of $1,570,806 in FY 2013-14 and $2,239,512 in FY 2014-15 to hire personnel with the skills necessary to ensure that the State has an enterprise architecture that can be used as the basis for planning Statewide IT support and integrating agency requirements. As part of this effort, a consistent, detailed business case development process will be created that is based on best practices and ensures that the State acquires the best support at the lowest cost. To facilitate this process, the State CIO plans to recruit personnel with the necessary expertise. These will include the following: 1 IT Executive 4 IT Managers (2 hired in FY 2014-15) 11 IT Professionals (6 hired 10/01/2013) (1 hired in FY 2014-15)	$0	NR	$0	NR
	13.00		16.00	

	FY 2013-14		FY 2014-15	
Build (Project Management)	$0	R	$0	R
Provides funding of $1,507,353 in FY 2013-14 and $2,882,254 in FY 2014-15 to allow the State CIO to hire staff with the skills required to create and deploy a development model for Cabinet agencies that will assist them in defining software requirements and require standard methodologies for project management and system development. The State CIO has projected the following staffing requirements: 1 IT Executive 3 IT Managers (1 to be hired 10/01/2013, 1 to be hired 01/01/2014) 14 IT Analysts (6 to be hired 10/1/2013, 5 to be hired 01/01/2014) 8 IT Analysts for 2014 (1 to be hired 10/01/2014, 1 to be hired 01/01/2015)	$0	NR	$0	NR
	18.00		26.00	
Remediation (Equipment Relocation)	$0	R	$0	R
Provides the State CIO with funding to move information technology equipment from substandard facilities to State data centers. The associated costs are estimated as follows: Vendor support of $300,000 in FY 2013-2014 Equipment costs of $800,000 in FY 2013-14 & $600,000 in FY 2014-15	$0	NR	$0	NR
	0.00		0.00	
Security	$0	R	$0	R
Ensures that State agencies are meeting IT security requirements by providing nonrecurring funding of $1,500,000 in FY 2013-14 and $250,000 in FY 2014-15 to allow the State CIO to conduct an assessment of their current status, then implement improvements based on identified shortfalls. To accomplish this, the services of an outside consultant will be required. The State CIO has also identified shortfalls in the IT Security staff and requires an additional IT security specialist, to be hired in January 2014, with an annual salary and benefits totaling $142,788.	$0	NR	$0	NR
	1.00		1.00	
Network Simplification	$0	R	$0	R
Provides nonrecurring funding of $4,832,485 in FY 2014-15 to allow for the upgrade, simplification, and modernization of the State's internal IT infrastructure to accommodate current technology. Applications will also be upgraded.	$0	NR	$0	NR
	0.00		0.00	
Desktop Remediation	$0	R	$0	R
Provides nonrecurring funding of $17,000,000 in FY 2013-14 and $13,300,000 in FY 2014-15 for the replacement of obsolete computers and applications.	$0	NR	$0	NR
	0.00		0.00	

	FY 2013-14		FY 2014-15	
MS Office	$0	R	$0	R
Provides $2,300,000 in FY 2013-14 and FY 2014-15, as well as nonrecurring funding of $1,715,000 in FY 2013-14 to update approximately 50,000 agency software licenses to meet current standards.	$0	NR	$0	NR
	0.00		0.00	
Operate (Standards and Measures)	$0	R	$0	R
Allows the State CIO to establish consistent, comparable IT standards and measures. To accomplish this, the State CIO has requested funding of $185,446 in FY 2013-14 and FY 2014-15 for an IT Executive to be responsible for managing the delivery of IT services for State agencies. To enable this executive to standardize IT, the State CIO will engage the services of a consultant with nonrecurring funding of $800,000 in FY 2013-2014 and $500,000 in FY 2014-2015.	$0	NR	$0	NR
	1.00		1.00	
Customer Data	$0	R	$0	R
Facilitates the State CIO developing a standard State policy regarding access to and use of data held by the State, using the services of a consultant at the nonrecurring cost of $1 million in FY 2014-2015.	$0	NR	$0	NR
	0.00		0.00	
Secure Sign-On	$0	R	$0	R
Provides recurring funding of $70,000 and nonrecurring funding of $3,280,000 in FY 2014-15 for the upgrade of the State's identity management system to accommodate increasing security requirements for anyone accessing certain types of data.	$0	NR	$0	NR
	0.00		0.00	
Innovation Center	$0	R	$0	R
Creates an innovation center to encourage collaboration between State agencies, institutions of higher learning, citizens, and the private sector to create information technology solutions with potential benefit to the State and anyone using government services.	$0	NR	$0	NR
	0.00		0.00	
Subtotal Legislative Changes	**$0**	R	**$0**	R
	$0	NR	**$0**	NR
	33.00		44.00	

	FY 2013-14		FY 2014-15	
Receipts:				
Information Technology Reserve Receipts	$0	R	$0	R
Sets IT Reserve receipts at $28,000,000 in appropriations for FY 2013-14 and $31,582,485 for FY 2014-15.	$0	NR	$0	NR
Subtotal Legislative Changes	**$0**	R	**$0**	R
	$0	NR	**$0**	NR
Revised Total Requirements	**$28,000,000**		**$31,582,485**	
Revised Total Receipts	**$28,000,000**		**$31,582,485**	
Change in Fund Balance	**$0**		**$0**	
Total Positions	**33.00**		**44.00**	
Ending Unreserved Fund Balance	**$0**		**$0**	

Information Technology Internal Service Fund

Budget Code: 74660

	FY 2013-14	FY 2014-15
Beginning Unreserved Fund Balance	**$16,656,521**	**$16,656,521**
Recommended Budget		
Requirements	**$190,000,000**	**$190,000,000**
Receipts	**$190,000,000**	**$190,000,000**
Positions	**507.00**	**507.00**

Legislative Changes

Requirements:

Information Technology Internal Service Fund	$0 R	$0 R
Provides funding for the Office of Information Technology Services. For FY 2013-14 and FY 2014-15, the Fund is limited to $190 million.	$0 NR	$0 NR
	0.00	0.00
Subtotal Legislative Changes	**$0** R	**$0** R
	$0 NR	**$0** NR
	0.00	0.00

Receipts:

IT Internal Service Fund Receipts	$0 R	$0 R
Limits receipts for FY 2013-14 and 2014-15 to $190 million each year.	$0 NR	$0 NR
Subtotal Legislative Changes	**$0** R	**$0** R
	$0 NR	**$0** NR

	FY 2013-14	FY 2014-15
Revised Total Requirements	$190,000,000	$190,000,000
Revised Total Receipts	$190,000,000	$190,000,000
Change in Fund Balance	$0	$0
Total Positions	507.00	507.00
Ending Unreserved Fund Balance	$16,656,521	$16,656,521

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19	6	139	27	252	65
20	R4	140	172	254	59
21	R8	142	97	255	325
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24	123	146	71	259	R20
25	95	147	236	261	212
26	323	149	52	269	364
29	124	157	125	270	21
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57	235	192	266	293	412
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350	129	501	112	669	353
354	175	505	131	671	62
357	287	506	39	675	379
358	288	510	326	683	309
359	405	512	263	684	137
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390	188	532	105	710	106
391	291	533	114	727	400
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396	122	538	264	754	310
399	378	543	258	762	139
402	292	544	221	763	140
404	253	545	61	765	141
407	104	546	257	767	268
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409	218	552	402	783	275
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Suggestions for Use: Local legislation appears under the name of the particular county or municipality. Legislation that amends or repeals another session law appears under "Laws Amended or Repealed" and under the particular subject. General appropriations appear under "Appropriations". Specific appropriations or earmarks appear under the particular agency, entity, or subject. Committees, Commissions, Councils, and Boards appear as main entries. Numbers are alphabetized as spelled (i.e., 9 is listed alphabetically as "nine"). Session Law numbers (locators) are shown in standard citation format with the word "Section" replaced by the section symbol (§). Thus, "Session Law 145 Section 6A.10 subsection (a) through subsection (p)" would appear as "145§6A.10(a)-(p)", and "Session Law 145 Section 28.31 through Section 28.31A" would appear as "145§§28.31-28.31A". Noncontiguous Session Law sections are separated by a comma. Complete Session Law citations are separated by a semicolon.

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