

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2019**

**SENATE BILL 556  
RATIFIED BILL**

AN ACT TO UPDATE STATUTES RELATING TO THE PROVISION OF SERVICES WITH PEOPLE FIRST LANGUAGE BY CHANGING THE PHRASE "MENTAL RETARDATION" TO "INTELLECTUAL DISABILITY" OR "INTELLECTUAL OR OTHER DEVELOPMENTAL DISABILITY" AND TO MAKE FURTHER PEOPLE FIRST LANGUAGE, TECHNICAL, AND CLARIFYING AMENDMENTS IN THOSE STATUTES, AND ALSO TO AMEND THE MEMBERSHIP OF THE GENERAL STATUTES COMMISSION TO REPEAL THE APPOINTING AUTHORITY OF THE CHARLOTTE SCHOOL OF LAW, WHICH HAS CLOSED, TO PROVIDE FOR THE TERMS OF MEMBERS TO BEGIN ON SEPTEMBER 1 RATHER THAN JUNE 1, AND TO HARMONIZE TWO PROVISIONS DEALING WITH VACANCIES AND HOLDOVER MEMBERS, AS RECOMMENDED BY THE GENERAL STATUTES COMMISSION.

The General Assembly of North Carolina enacts:

**PART I. PEOPLE FIRST LANGUAGE AMENDMENTS TO CHAPTER 122C OF THE GENERAL STATUTES**

**SECTION 1.** G.S. 122C-3 reads as rewritten:

**"§ 122C-3. Definitions.**

The following definitions apply in this Chapter:

- (1) ~~"Area authority" means the~~ Area authority. – The area mental health, developmental disabilities, and substance abuse authority.
- (2) ~~"Area board" means the~~ Area board. – The area mental health, developmental disabilities, and substance abuse board.
- (2a) ~~"Area director" means the~~ Area director. – The administrative head of the area authority program appointed pursuant to G.S. 122C-121.
- (2b) ~~"Board of county commissioners" includes~~ Board of county commissioners. – Includes the participating boards of county commissioners for multicounty area authorities and multicounty programs.
- (3) ~~"Camp Butner reservation" means the~~ Camp Butner reservation. – The original Camp Butner reservation as may be designated by the Secretary as having been acquired by the State and includes not only areas which are owned and occupied by the State but also those which may have been leased or otherwise disposed of by the State, and ~~shall also include~~ also includes those areas within the municipal boundaries of the Town of Butner and that portion of the extraterritorial jurisdiction of the Town of Butner consisting of lands not owned by the State of North Carolina.
- (4) ~~"City" has the same meaning as~~ City. – As defined in G.S. 153A-1(1).
- (5) ~~"Catchment area" means the~~ Catchment area. – The geographic part of the State served by a specific area authority or county program.



- (6) ~~"Client" means an~~ Client. – An individual who is admitted to and receiving service from, or who in the past had been admitted to and received services from, a facility.
- (7) ~~"Client advocate" means a~~ Client advocate. – A person whose role is to monitor the protection of client rights or to act as an individual advocate on behalf of a particular client in a facility.
- (8) ~~"Commission" means the~~ Commission. – The Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services, established under Part 4 of Article 3 of Chapter 143B of the General Statutes.
- (8a) ~~"Commitment examiner" means a~~ Commitment examiner. – A physician, an eligible psychologist, or any health professional or mental health professional who is certified under G.S. 122C-263.1 to perform the first examination for involuntary commitment described in G.S. 122C-263(c) or G.S. 122C-283(c) as required by Parts 7 and 8 of this Article.
- (9) ~~"Confidential information" means any~~ Confidential information. – Any information, whether recorded or not, relating to an individual served by a facility that was received in connection with the performance of any function of the facility. "Confidential information" does not include statistical information from reports and records or information regarding treatment or services which is shared for training, treatment, habilitation, or monitoring purposes that does not identify clients either directly or by reference to publicly known or available information.
- (9a) ~~"Core services" are services~~ Core services. – Services that are necessary for the basic foundation of any service delivery system. Core services are of two types: front-end service capacity such as screening, assessment, and emergency triage, and indirect services such as prevention, education, and consultation at a community level.
- (10) ~~"County of residence" of a client means the~~ County of residence. – The county of ~~his a client's~~ domicile at the time of his or her admission or commitment to a facility. A county of residence is not changed because an individual is temporarily out of his or her county in a facility or otherwise.
- (10a) ~~"County program" means a~~ County program. – A mental health, developmental disabilities, and substance abuse services program established, operated, and governed by a county pursuant to G.S. 122C-115.1.
- (11) ~~"Dangerous to self or others" means:~~ Dangerous to self or others. –  
 a. ~~"Dangerous to self" means that within~~ Dangerous to self. – Within the relevant past: past, the individual has done any of the following:  
 1. The individual has acted in such a way as to ~~show:~~ show all of the following:  
 I. ~~That he~~ The individual would be unable, without care, supervision, and the continued assistance of others not otherwise available, to exercise self-control, judgment, and discretion in the conduct of ~~his~~ the individual's daily responsibilities and social relations, or to satisfy ~~his~~ the individual's need for nourishment, personal or medical care, shelter, or self-protection and ~~safety;~~ safety.  
 II. ~~That there~~ There is a reasonable probability of ~~his~~ the individual's suffering serious physical debilitation within the near future unless adequate treatment is given pursuant to this Chapter. A showing of behavior

that is grossly irrational, of actions that the individual is unable to control, of behavior that is grossly inappropriate to the situation, or of other evidence of severely impaired insight and judgment shall create a prima facie inference that the individual is unable to care for ~~himself; or~~ himself or herself.

2. The individual has attempted suicide or threatened suicide and that there is a reasonable probability of suicide unless adequate treatment is given pursuant to this ~~Chapter; or~~ Chapter.
3. The individual has mutilated himself or herself or has attempted to mutilate himself or herself and that there is a reasonable probability of serious self-mutilation unless adequate treatment is given pursuant to this Chapter.

Previous episodes of dangerousness to self, when applicable, may be considered when determining reasonable probability of physical debilitation, suicide, or self-mutilation.

- b. ~~"Dangerous to others" means that within~~ Dangerous to others. – Within the relevant past, the individual has inflicted or attempted to inflict or threatened to inflict serious bodily harm on another, or has acted in such a way as to create a substantial risk of serious bodily harm to another, or has engaged in extreme destruction of property; and that there is a reasonable probability that this conduct will be repeated. Previous episodes of dangerousness to others, when applicable, may be considered when determining reasonable probability of future dangerous conduct. Clear, cogent, and convincing evidence that an individual has committed a homicide in the relevant past is prima facie evidence of dangerousness to others.
- (11a) ~~"Day/night service" means a~~ Day/night service. – A service provided on a regular basis, in a structured environment that is offered to the same individual for a period of three or more hours within a 24-hour period.
- (12) ~~"Department" means the~~ Department. – The North Carolina Department of Health and Human Services.
- (12a) ~~"Developmental disability" means a~~ Developmental disability. – A severe, chronic disability of a person ~~which;~~ that satisfies all of the following:
- a. Is attributable to a mental or physical impairment or combination of mental and physical ~~impairments;~~ impairments.
  - b. Is manifested before the person attains age 22, unless the disability is caused by a traumatic head injury and is manifested after age ~~22;~~ 22.
  - c. Is likely to continue ~~indefinitely;~~ indefinitely.
  - d. Results in substantial functional limitations in three or more of the following areas of major life activity: self-care, receptive and expressive language, capacity for independent living, learning, mobility, ~~self-direction~~ self-direction, and economic ~~self-sufficiency;~~ and self-sufficiency.
  - e. Reflects the person's need for a combination and sequence of special interdisciplinary, or generic care, treatment, or other services which are of a lifelong or extended duration and are individually planned and ~~coordinated;~~ coordinated.
  - f. ~~When applied to children from birth through four years of age, may be evidenced as a developmental delay.~~

When applied to children from birth through four years of age, a developmental disability may be evidenced as a developmental delay.

(13) ~~"Division" means the Division.~~ – The Division of Mental Health, Developmental Disabilities, and Substance Abuse Services of the Department.

(13a) Repealed by Session Laws 2000-67, s. 11.21(c), effective July 1, 2000.

(13a1) Recodified as subdivision (13c).

(13b) Recodified as subdivision (13d).

(13c) ~~"Eligible infants and toddlers" means children~~ Eligible infants and toddlers. – Children with or at risk for developmental delays or atypical development until all of the following have occurred:

a. They have reached their third ~~birthday;~~ birthday.

b. Their parents have requested to have them receive services in the preschool program for children with disabilities established under Article 9 of Chapter 115C of the General ~~Statutes;~~ Statutes.

c. They have been placed in the program by the local educational agency. In no event shall a child be considered an eligible toddler after the beginning of the school year immediately following the child's third birthday, unless the Secretary and the State Board enter into an agreement under ~~G.S. 115C-106.4(e) [G.S. 115C-107.1(e)];~~ G.S. 115C-107.1(c).

The early intervention services that may be provided for these children and their families include early identification and screening, multidisciplinary evaluations, case management services, family training, counseling and home visits, psychological services, speech pathology and audiology, and occupational and physical therapy. All evaluations performed as part of early intervention services shall be appropriate to the individual child's age and development.

(13d) ~~"Eligible psychologist" means a~~ Eligible psychologist. – A licensed psychologist who has at least two years' clinical experience. After January 1, 1995, "eligible psychologist" means a licensed psychologist who holds permanent licensure and certification as a health services provider psychologist issued by the North Carolina Psychology Board.

(14) ~~"Facility" means any~~ Facility. – Any person at one location whose primary purpose is to provide services for the care, treatment, habilitation, or rehabilitation of the mentally ill, the developmentally disabled, individuals with mental illnesses or intellectual or other developmental disabilities or substance abusers, and includes:

a. An "area ~~facility~~," facility," which is a facility that is operated by or under contract with the area authority or county program. For the purposes of this subparagraph, a contract is a contract, memorandum of understanding, or other written agreement whereby the facility agrees to provide services to one or more clients of the area authority or county program. Area facilities may also be licensable facilities in accordance with Article 2 of this Chapter. A State facility is not an area ~~facility;~~ facility.

b. A "licensable ~~facility~~," facility," which is a facility for one or more minors or for two or more adults that provides services to individuals who are mentally ill, developmentally disabled, have mental illnesses or intellectual or other developmental disabilities or are substance abusers for one or more minors or for two or more adults. ~~abusers.~~ These services shall be day services offered to the same individual for a period of three hours or more during a 24-hour period, or residential

- services provided for 24 consecutive hours or more. Facilities for individuals who are substance abusers include chemical dependency ~~facilities; facilities.~~
- c. A "private ~~facility~~," facility," which is a facility that is either a licensable facility or a special unit of a general hospital or a part of either in which the specific service provided is not covered under the terms of a contract with an area ~~authority; authority.~~
  - d. The psychiatric service of the University of North Carolina Hospitals at Chapel ~~Hill; Hill.~~
  - e. A "residential ~~facility~~," facility," which is a 24-hour facility that is not a hospital, including a group ~~home; home.~~
  - f. A "State facility", which is a facility that is operated by the ~~Secretary; Secretary.~~
  - g. A "24-hour ~~facility~~," facility," which is a facility that provides a structured living environment and services for a period of 24 consecutive hours or more and includes hospitals that are facilities under this ~~Chapter; and Chapter.~~
  - h. A Veterans Administration facility or part thereof that provides services for the care, treatment, habilitation, or rehabilitation of ~~the mentally ill, the developmentally disabled, individuals with mental illnesses or intellectual or other developmental disabilities~~ or substance abusers.
- (15) "~~Guardian~~" ~~means a Guardian.~~ – A person appointed as a guardian of the person or general guardian by the court under Chapters 7A or 35A or former Chapters 33 or 35 of the General Statutes.
  - (16) "~~Habilitation~~" ~~means training,~~ Habilitation. – Training, care, and specialized therapies undertaken to assist a client in maintaining his current level of functioning or in achieving progress in developmental skills areas.
  - (16a) "~~Health screening~~" ~~means an~~ Health screening. – An appropriate screening suitable for the symptoms presented and within the capability of the entity, including ancillary services routinely available to the entity, to determine whether or not an emergency medical condition exists. An emergency medical condition exists if an individual has acute symptoms of sufficient severity, including severe pain, such that the absence of immediate medical attention could reasonably be expected to result in placing the individual's health in serious jeopardy, serious impairment to bodily functions, or serious dysfunction of any bodily organ or part.
  - (16b) "~~Incapable~~" ~~with~~ Incapable. – With respect to an ~~individual has the same definition set forth~~ individual, as defined in G.S. 122C-72(4). An adult individual who is incapable is not the same as an incompetent adult unless the adult individual has been adjudicated incompetent under Chapter 35A of the General Statutes.
  - (17) "~~Incompetent adult~~" ~~means an~~ Incompetent adult. – An adult individual who has been adjudicated incompetent under Chapter 35A of the General Statutes.
  - (17a) Intellectual disability. – A developmental disability characterized by significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior and manifested before age 22.
  - (18) "~~Intoxicated~~" ~~means the~~ Intoxicated. – The condition of an individual whose mental or physical functioning is presently substantially impaired as a result of the use of alcohol or other substance.

- (19) ~~"Law enforcement officer" means sheriff,~~ Law enforcement officer. – Sheriff, deputy sheriff, police officer, State highway patrolman, or an officer employed by a city or county under G.S. 122C-302.
- (20) ~~"Legally responsible person" means:~~ Legally responsible person. – The following:
- a. ~~(i) when~~ When applied to an ~~adult,~~ adult who has been adjudicated incompetent, a ~~guardian;~~ guardian.
  - b. ~~(ii) when~~ When applied to a minor, a parent, guardian, a person standing in loco parentis, or a legal custodian other than a parent who has been granted specific authority by law or in a custody order to consent for medical care, including psychiatric ~~treatment;~~ treatment.
  - c. ~~or (iii) when~~ When applied to an adult who is incapable as defined in G.S. 122C-72(4) and who has not been adjudicated incompetent, a health care agent named pursuant to a valid health care power of ~~attorney;~~ attorney. If an incapable adult does not have a health care agent or guardian, "legally responsible person" means one of the persons specified in subdivisions (3) through (7) of subsection (c) of G.S. 90-21.13, to be selected based on the priority indicated in ~~said subdivisions (3) through (7);~~ those subdivisions.
- (20a) ~~"Local funds" means fees~~ Local funds. – Fees from services, including client payments, Medicare and the local and federal share of Medicaid receipts, fees from agencies under contract, gifts and donations, and county and municipal funds, and any other funds not administered by the Division.
- (20b) ~~"Local management entity" or "LME" means an~~ Local management entity (LME). – An area authority.
- (20c) ~~"Local management entity/managed care organization" or "LME/MCO" means a~~ Local management entity/managed care organization (LME/MCO). – A local management entity that is under contract with the Department to operate the combined Medicaid Waiver program authorized under Section 1915(b) and Section 1915(c) of the Social Security Act.
- (21) ~~"Mental illness" means:~~ Mental illness. – The following:
- a. ~~(i) when~~ When applied to an adult, an illness which so lessens the capacity of the individual to use self-control, judgment, and discretion in the conduct of ~~his~~ the individual's affairs and social relations as to make it necessary or advisable for ~~him~~ the individual to be under treatment, care, supervision, guidance, or ~~control;~~ and control.
  - b. ~~(ii) when~~ When applied to a minor, a mental condition, other than ~~mental retardation~~ an intellectual disability alone, that so impairs the ~~youth's~~ minor's capacity to exercise age adequate self-control or judgment in the conduct of ~~his~~ the minor's activities and social relationships so that ~~he~~ the minor is in need of treatment.
- (22) ~~"Mental retardation" means significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior and manifested before age 22.~~
- (23) ~~"Mentally retarded with accompanying behavior disorder" means an individual who is mentally retarded and who has a pattern of maladaptive behavior that is recognizable no later than adolescence and is characterized by gross outbursts of rage or physical aggression against other individuals or property.~~
- (23a) ~~"Minimally adequate services" means a~~ Minimally adequate services. – A level of service required for compliance with all applicable State and federal

laws, rules, regulations, and policies and with generally accepted professional standards and principles.

- (24) ~~"Next of kin" means the~~ Next of kin. – The individual designated in writing by the client or ~~his the client's~~ legally responsible person upon the client's acceptance at a ~~facility; provided that if facility.~~ facility. If no such designation has been made, "next of kin" means the client's spouse or nearest blood relation in accordance with G.S. 104A-1.
- (25) ~~"Operating costs" means expenditures~~ Operating costs. – Expenditures made by an area authority in the delivery of services for mental health, developmental disabilities, and substance abuse as provided in this Chapter and includes the employment of legal counsel on a temporary basis to represent the interests of the area authority.
- (26) Repealed by Session Laws 1987, c. 345, s. 1.
- (26a) ~~"Other recipient" means an~~ Other recipient. – An individual who is not admitted to a facility but who receives a service other than care, treatment, or rehabilitation services. The services that the "other recipient" may receive include consultative, preventative, educational, and assessment services.
- (27) ~~"Outpatient treatment" as~~ Outpatient treatment. – As used in Part 7 of Article 5 of this Chapter, means treatment in an outpatient setting and may include medication, individual or group therapy, day or partial day programming activities, services and training including educational and vocational activities, supervision of living arrangements, and any other services prescribed either to alleviate the individual's illness or disability, to maintain semi-independent functioning, or to prevent further deterioration that may reasonably be predicted to result in the need for inpatient commitment to a 24-hour facility.
- (27a) ~~"Outpatient treatment physician or center" as~~ Outpatient treatment physician or center. – As used in Part 7 of Article 5 of this Chapter means a Chapter, a physician or center that provides treatment services directly to the outpatient commitment respondent. An LME/MCO that contracts with an outpatient treatment physician or center to provide outpatient treatment services to a respondent is not an outpatient treatment physician or center. Every LME/MCO is responsible for contracting with qualified providers of services in accordance with G.S. 122C-141, 122C-142(a), 122C-115.2(b)(1)b., and 122C-115.4(b)(2) to ensure the availability of qualified providers of outpatient commitment services to clients of LME/MCOs who are respondents to outpatient commitment proceedings and meet the criteria for outpatient commitment. A contracted provider with an LME/MCO shall not be designated as an outpatient treatment physician or center on an outpatient commitment order unless the respondent enrolled with an LME/MCO or is eligible for services through an LME/MCO, or the respondent otherwise qualifies for the provision of services offered by the provider.
- (28) ~~"Person" means any~~ Person. – Any individual, firm, partnership, corporation, company, association, joint stock association, agency, or area authority.
- (29) ~~"Physician" means an~~ Physician. – An individual licensed to practice medicine in North Carolina under Chapter 90 of the General Statutes or a licensed medical doctor employed by the Veterans Administration.
- ...
- (30) ~~"Provider of support services" means a~~ Provider of support services. – A person that provides to a facility support services such as data processing,

- dosage preparation, laboratory analyses, or legal, medical, accounting, or other professional services, including human services.
- (30a) ~~"Psychologist" means an~~ Psychologist. – An individual licensed to practice psychology under Chapter 90-90 of the General Statutes. The term "eligible psychologist" is defined in subdivision (13a)-(13d) of this section.
- (30b) ~~"Public services" means publicly~~ Public services. – Publicly funded mental health, developmental disabilities, and substance abuse services, whether provided by public or private providers.
- (31) ~~"Qualified professional" means any~~ Qualified professional. – Any individual with appropriate training or experience as specified by the General Statutes or by rule of the Commission in the fields of mental health or developmental disabilities or substance abuse treatment or habilitation, including physicians, psychologists, psychological associates, educators, social workers, registered nurses, certified fee-based practicing pastoral counselors, and certified counselors.
- (32) ~~"Responsible professional" means an~~ Responsible professional. – An individual within a facility who is designated by the facility director to be responsible for the care, treatment, habilitation, or rehabilitation of a specific client and who is eligible to provide care, treatment, habilitation, or rehabilitation relative to the client's disability.
- (33) ~~"Secretary" means the~~ Secretary. – The Secretary of the Department of Health and Human Services.
- (33a) ~~"Severe and persistent mental illness" means a~~ Severe and persistent mental illness. – A mental disorder suffered by persons of 18 years of age or older that leads these persons to exhibit emotional or behavioral functioning that is so impaired as to interfere substantially with their capacity to remain in the community without supportive treatment or services of a long term or indefinite duration. This disorder is a severe and persistent mental disability, resulting in a long-term limitation of functional capacities for the primary activities of daily living, such as interpersonal relations, homemaking, self-care, employment, and recreation.
- (34) Repealed by Session Laws 2001-437, s. 1.2(c), effective July 1, 2002.
- (35) Repealed by Session Laws 2001-437, s. 1.2(c), effective July 1, 2002.
- (35a) Renumbered as subdivision (35e).
- (35b) ~~"Specialty services" means services~~ Specialty services. – Services that are provided to consumers from low-incidence populations.
- (35c) ~~"State" or "Local" Consumer Advocate means the~~ State or Local Consumer Advocate. – The individual carrying out the duties of the State or Local Consumer Advocacy Program Office in accordance with Article 1A of this Chapter.
- (35d) ~~"State Plan" means the~~ State Plan. – The State Plan for Mental Health, Developmental Disabilities, and Substance Abuse Services.
- (35e) ~~"State resources" means~~ State resources. – State and federal funds and other receipts administered by the Division.
- (36) ~~"Substance abuse" means the~~ Substance abuse. – The pathological use or abuse of alcohol or other drugs in a way or to a degree that produces an impairment in personal, social, or occupational functioning. "Substance abuse" may include a pattern of tolerance and withdrawal.
- (37) ~~"Substance abuser" means an~~ Substance abuser. – An individual who engages in substance abuse.

- (38) ~~"Targeted population" means those~~ Targeted population. – Those individuals who are given service priority under the State Plan.
- (39) ~~"Uniform portal process" means a~~ Uniform portal process. – A standardized process and procedures used to ensure consumer access to, and exit from, public services in accordance with the State Plan."

**SECTION 2.** G.S. 122C-57 reads as rewritten:

**"§ 122C-57. Right to treatment and consent to treatment.**

(a) Each client who is admitted to and is receiving services from a facility has the right to receive age-appropriate treatment for ~~mental health, mental retardation, and substance abuse illness or disability.~~ a mental illness, an intellectual or other developmental disability, substance abuse, or a combination thereof. Each client within 30 days of admission to a facility shall have an individual written treatment or habilitation plan implemented by the facility. The client and the client's legally responsible person shall be informed in advance of the potential risks and alleged benefits of the treatment choices.

...

(e) In the case of an involuntarily committed client, treatment measures other than those requiring express written consent as specified in subsection (f) of this section may be given despite the refusal of the client, the client's legally responsible person, a health care agent named pursuant to a valid health care power of attorney, or the client's refusal expressed in a valid advance instruction for mental health treatment in the event of an emergency or when consideration of side effects related to the specific treatment measure is given and in the professional judgment, as documented in the client's record, of the treating physician and a second physician, who is either the director of clinical services of the facility, or the director's designee, ~~either;~~ that any of the following is true:

- (1) The client, without the benefit of the specific treatment measure, is incapable of participating in any available treatment plan which will give the client a realistic opportunity of improving the client's ~~condition;~~ condition.
- (2) There is, without the benefit of the specific treatment measure, a significant possibility that the client will harm self or others before improvement of the client's condition is realized.

...."

**SECTION 3.** G.S. 122C-63 reads as rewritten:

**"§ 122C-63. Assurance for continuity of care for individuals with ~~mental retardation.~~ intellectual disabilities.**

(a) Any individual with ~~mental retardation~~ an intellectual disability admitted for residential care or treatment for other than respite or emergency care to any residential facility operated under the authority of this Chapter and supported all or in part by ~~state appropriated~~ State-appropriated funds has the right to residential placement in an alternative facility if the client is in need of placement and if the original facility can no longer provide the necessary care or treatment.

(b) The operator of a residential facility providing residential care or treatment, for other than respite or emergency care, for individuals with ~~mental retardation~~ intellectual disabilities shall notify the area authority serving the client's county of residence of ~~his~~ the operator's intent to close a facility or to discharge a client who may be in need of continuing care at least 60 days prior to the closing or discharge.

The operator's notification to the area authority of intent to close a facility or to discharge a client who may be in need of continuing care constitutes the operator's acknowledgement of the obligation to continue to serve the client ~~until;~~ until whichever of the following occurs first:

- (1) The area authority determines that the client is not in need of continuing ~~care;~~ care.
- (2) The client is moved to an alternative residential ~~placement;~~ or placement.

(3) Sixty days have ~~elapsed~~elapsed,  
~~whichever occurs first.~~

In cases in which the safety of the client who may be in need of continuing care, of other clients, of the staff of the residential facility, or of the general public, is concerned, this 60-day notification period may be waived by securing an emergency placement in a more secure and safe facility. The operator of the residential facility shall notify the area authority that an emergency placement has been arranged within 24 hours of the placement. The area authority and the Secretary shall retain their respective responsibilities upon receipt of this notice.

(c) An individual who may be in need of continuing care may be discharged from a residential facility without further claim for continuing care against the area authority or the State ~~if~~if any of the following is true:

- (1) After the parent or guardian, if the client is a minor or an adjudicated incompetent adult, or the client, if an adult not adjudicated incompetent, has entered into a contract with the operator upon the client's admission to the original residential ~~facility~~facility, the parent, guardian, or client who entered into the contract refuses to carry out the ~~contract, or~~contract.
- (2) After an alternative placement for a client in need of continuing care is located, the parent or guardian who admitted the client to the residential facility, if the client is a minor or an adjudicated incompetent adult, or the ~~client~~client, if the client is an adult not adjudicated incompetent, refuses the alternative placement.

(d) Decisions made by the area authority regarding the need for continued placement or regarding the availability of an alternative placement of a client may be appealed pursuant to the appeals process of the area authority and subsequently to the Secretary or the Commission under their rules. If the appeal process extends beyond the operator's 60-day obligation to continue to serve the client, the Secretary shall arrange a temporary placement in a ~~State facility for the mentally retarded~~State developmental center pending the outcome of the appeal.

(e) The area authority that serves the county of residence of the client is responsible for assessing the need for continuity of care and for the coordination of the placement among available public and private facilities whenever the authority is notified that a client may be in need of continuing care. If an alternative placement is not available beyond the operator's 60-day obligation to continue to serve the client, the Secretary shall arrange for a temporary placement in a ~~State facility for the mentally retarded~~State developmental center. The area authority shall retain responsibility for coordination of placement during a temporary placement in a ~~State facility~~developmental center.

(f) The Secretary is responsible for coordinative and financial assistance to the area authority in the performing of its duties to coordinate placement so as to assure continuity of care and for assuring a continuity of care placement beyond the operator's 60-day obligation period.

(g) The area authority's financial responsibility, through local and allocated State resources, is limited ~~to~~to the following:

- (1) Costs relating to the identification and coordination of alternative ~~placements;~~placements.
- (2) If the original facility is an area facility, maintenance of the client in the original facility for up to 60 ~~days;~~and days.
- (3) Release of allocated categorical State funds used to support the care or treatment of the specific client at the time of alternative placement if the Secretary requires the release.

(h) In accordance with G.S. 143B-147(a)(1) the Commission shall develop programmatic rules to implement this section, and, in accordance with G.S. 122C-112(a)(6), the Secretary shall adopt budgetary rules to implement this section."

**SECTION 4.** G.S. 122C-202 reads as rewritten:

**"§ 122C-202. Applicability of Article.**

This Article applies to all facilities unless expressly provided otherwise. Specific provisions that are delineated by the disability of the client, whether ~~mentally ill, mentally retarded, developmentally disabled, or~~ the client has a mental illness, has an intellectual or other developmental disability, or is a substance abuser, also apply to all facilities for that client's disability. Provisions that refer to a specific facility or type of facility apply only to the designated facility or facilities."

**SECTION 5.** G.S. 122C-203 reads as rewritten:

**"§ 122C-203. Admission or commitment and incompetency proceedings to have no effect on one another.**

The admission or commitment to a facility of an ~~alleged mentally ill individual, individual who allegedly has a mental illness,~~ an alleged substance abuser, or an ~~alleged mentally retarded or developmentally disabled individual~~ individual who allegedly has an intellectual or other developmental disability under the provisions of this Article shall in no way affect incompetency proceedings as set forth in Chapter 35A or former Chapters 33 or 35 of the General Statutes and incompetency proceedings under those Chapters shall have no effect upon admission or commitment proceedings under this Article."

**SECTION 6.** G.S. 122C-241 reads as rewritten:

**"§ 122C-241. Admissions.**

(a) Except as provided in subsection (c) of this ~~section~~ section, an individual with intellectual or other developmental disabilities may be admitted to a facility for ~~the developmentally disabled in order that he~~ individuals with intellectual or other developmental disabilities to receive care, habilitation, rehabilitation, training, or treatment. Application for admission is made as follows:

- (1) A minor with intellectual or other developmental disabilities may be admitted upon application by both the father and the mother if they are living together and, if not, by the parent or parents having custody or by the legally responsible person.
- (2) An adult with intellectual or other developmental disabilities who has been adjudicated incompetent under Chapter 35A or former Chapters 33 or 35 of the General Statutes may be admitted upon application by ~~his~~ the adult's guardian.
- (3) An adult with intellectual or other developmental disabilities who has not been adjudicated incompetent under Chapter 35A or former Chapters 33 or 35 of the General Statutes may be admitted upon ~~his~~ the adult's own application.

(b) Prior to admission to a 24-hour facility, the individual shall be examined and evaluated by a physician or psychologist to determine whether the individual ~~is developmentally disabled.~~ has a developmental disability. In addition, the individual shall be examined and evaluated by a qualified developmental disabilities professional no sooner than 31 days prior to admission or within 72 hours after admission to determine whether the individual is in need of care, habilitation, rehabilitation, ~~training~~ training, or treatment by the facility. If the evaluating professional determines that the individual will not benefit from an admission, the individual shall not be admitted as a client.

(c) An admission to an area or State 24-hour facility of an individual from a single portal area shall follow the procedures as prescribed in the area plan. When an individual from a single portal area presents himself or herself or is presented for admission ~~to a State facility for the mentally retarded~~ directly to a State developmental center and is in need of an emergency admission, he or she may be accepted for admission. The State ~~facility~~ developmental center shall notify the area authority within 24 hours of the admission and further planning of treatment for the individual is the joint responsibility of the area authority and the State ~~facility~~ developmental center as prescribed in the area plan."

**SECTION 7.** G.S. 122C-261 reads as rewritten:

**"§ 122C-261. Affidavit and petition before clerk or magistrate when immediate hospitalization is not necessary; custody order.**

(a) Anyone who has knowledge of an individual who ~~is mentally ill~~ has a mental illness and is either (i) dangerous to self, as defined in G.S. 122C-3(11)a., or dangerous to others, as defined in G.S. 122C-3(11)b., or (ii) in need of treatment in order to prevent further disability or deterioration that would predictably result in dangerousness, may appear before a clerk or assistant or deputy clerk of superior court or a magistrate and execute an affidavit to this effect, and petition the clerk or magistrate for issuance of an order to take the respondent into custody for examination by a commitment examiner. The affidavit shall include the facts on which the affiant's opinion is based. If the affiant has knowledge or reasonably believes that the respondent, in addition to ~~being mentally ill, is also mentally retarded,~~ having a mental illness, also has an intellectual disability, this fact shall be stated in the affidavit. Jurisdiction under this subsection is in the clerk or magistrate in the county where the respondent resides or is found.

(b) If the clerk or magistrate finds reasonable grounds to believe that the facts alleged in the affidavit are true and that the respondent ~~is probably mentally ill~~ probably has a mental illness and is either (i) dangerous to self, as defined in G.S. 122C-3(11)a., or dangerous to others, as defined in G.S. 122C-3(11)b., or (ii) in need of treatment in order to prevent further disability or deterioration that would predictably result in dangerousness, the clerk or magistrate shall issue an order to a law enforcement officer or any other designated person under G.S. 122C-251(g) to take the respondent into custody for examination by a commitment examiner. If the clerk or magistrate finds that, in addition to ~~probably being mentally ill,~~ probably having a mental illness, the respondent ~~is also probably mentally retarded,~~ also probably has an intellectual disability, the clerk or magistrate shall contact the area authority before issuing a custody order and the area authority shall designate the facility to which the respondent is to be taken for examination by a commitment examiner. The clerk or magistrate shall provide the petitioner and the respondent, if present, with specific information regarding the next steps that will occur for the respondent.

(c) If the clerk or magistrate issues a custody order, the clerk or magistrate shall also make inquiry in any reliable way as to whether the respondent is indigent within the meaning of G.S. 7A-450. A magistrate shall report the result of this inquiry to the clerk.

(d) If the affiant is a commitment examiner, all of the following apply:

...

(6) If the clerk or magistrate finds probable cause to believe that the respondent, in addition to ~~being mentally ill, is also mentally retarded,~~ having a mental illness, also has an intellectual disability, the clerk or magistrate shall contact the area authority before issuing the order and the area authority shall designate the facility to which the respondent is to be transported.

...

(f) Notwithstanding the provisions of this section, in no event shall an individual known or reasonably believed to ~~be mentally retarded~~ have an intellectual disability be admitted to a State psychiatric hospital, except as follows:the following:

(1) Persons described in ~~G.S. 122C-266(b);~~ G.S. 122C-266(b).

(2) Persons admitted pursuant to ~~G.S. 15A-1321;~~ G.S. 15A-1321.

(3) Respondents who are so extremely dangerous as to pose a serious threat to the community and to other patients committed to non-State hospital psychiatric inpatient units, as determined by the Director of the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services or ~~his designee;~~ and the Director's designee.

(4) Respondents who are so gravely disabled by both multiple disorders and medical fragility or multiple disorders and deafness that alternative care is inappropriate, as determined by the Director of the Division of Mental Health,

Developmental Disabilities, and Substance Abuse Services or ~~his~~ the Director's designee.

Individuals transported to a State facility for ~~the mentally ill~~ individuals with mental illnesses who are not admitted by the facility may be transported by appropriate law enforcement officers or designated staff of the State facility in State-owned vehicles to an appropriate 24-hour facility that provides psychiatric inpatient care.

No later than 24 hours after the transfer, the responsible professional at the original facility shall notify the petitioner, the clerk of court, and, if consent is granted by the respondent, the next of kin, that the transfer has been completed."

**SECTION 8.** G.S. 122C-262 reads as rewritten:

**"§ 122C-262. Special emergency procedure for individuals needing immediate hospitalization.**

(a) Anyone, including a law enforcement officer, who has knowledge of an individual who is subject to inpatient commitment according to the criteria of G.S. 122C-263(d)(2) and who requires immediate hospitalization to prevent harm to self or others, may transport the individual directly to an area facility or other place, including a State facility for ~~the mentally ill~~ individuals with mental illnesses, for examination by a commitment examiner in accordance with G.S. 122C-263(c).

(b) Upon examination by the commitment examiner, if the individual meets the inpatient commitment criteria specified in G.S. 122C-263(d)(2) and requires immediate hospitalization to prevent harm to self or others, the commitment examiner shall so certify in writing before any official authorized to administer oaths. The certificate shall also state the reason that the individual requires immediate hospitalization. If the commitment examiner knows or has reason to believe that the individual is ~~mentally retarded~~, has an intellectual disability, the certificate shall so state.

...

(d) Anyone, including a law enforcement officer if necessary, may transport the individual to a 24-hour facility described in G.S. 122C-252 for examination and treatment pending a district court hearing. If there is no area 24-hour facility and if the respondent is indigent and unable to pay for care at a private 24-hour facility, the law enforcement officer or other designated person providing transportation shall take the respondent to a State facility for ~~the mentally ill~~ individuals with mental illnesses designated by the Commission in accordance with ~~G.S. 143B-147(a)(1)~~ G.S. 143B-147(a)(1)a, and immediately notify the clerk of superior court of this action. The commitment examiner's certificate shall serve as the custody order and the law enforcement officer or other designated person shall provide transportation in accordance with ~~the provisions of~~ G.S. 122C-251. If a 24-hour facility is not immediately available or appropriate to the respondent's medical condition, the respondent may be temporarily detained under appropriate supervision in accordance with G.S. 122C-263(d)(2) and released in accordance with G.S. 122C-263(d)(2).

In the event an individual known or reasonably believed to be ~~mentally retarded~~ have an intellectual disability is transported to a State facility for ~~the mentally ill~~ individuals with mental illnesses, in no event shall that individual be admitted to that facility ~~except as follows:~~ unless the individual is in one or more of the following categories:

- (1) Persons described in ~~G.S. 122C-266(b)~~ G.S. 122C-266(b).
- (2) Persons admitted pursuant to ~~G.S. 15A-1321~~ G.S. 15A-1321.
- (3) Respondents who are so extremely dangerous as to pose a serious threat to the community and to other patients committed to non-State hospital psychiatric inpatient units, as determined by the Director of the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services or ~~his designee~~ and the Director's designee.

- (4) Respondents who are so gravely disabled by both multiple disorders and medical fragility or multiple disorders and deafness that alternative care is inappropriate, as determined by the Director of the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services or ~~his~~ the Director's designee.

Individuals transported to a State facility for ~~the mentally ill~~ individuals with mental illnesses who are not admitted by the facility may be transported by law enforcement officers or designated staff of the State facility in State-owned vehicles to an appropriate 24-hour facility that provides psychiatric inpatient care.

No later than 24 hours after the transfer, the responsible professional at the original facility shall notify the petitioner, the clerk of court, and, if consent is granted by the respondent, the next of kin, that the transfer has been completed.

(e) Respondents received at a 24-hour facility under ~~the provisions of~~ this section shall be examined by a second physician in accordance with G.S. 122C-266. After receipt of notification that the district court has determined reasonable grounds for the commitment, further proceedings shall be carried out in the same way as for all other respondents under this Part.

(f) If, upon examination of a respondent presented in accordance with subsection (a) of this section, the commitment examiner finds that the individual meets the criteria for inpatient commitment specified in G.S. 122C-263(d)(2) but does not require immediate hospitalization to prevent harm to self or others, the commitment examiner may petition the clerk or magistrate in accordance with G.S. 122C-261(d) for an order to take the individual into custody for transport to a 24-hour facility described in G.S. 122C-252. If the commitment examiner recommends inpatient commitment and the clerk or magistrate finds probable cause to believe that the respondent meets the criteria for inpatient commitment, the clerk or magistrate shall issue an order for transport to or custody at a 24-hour facility described in ~~G.S. 122C-252; provided, however, that if~~ G.S. 122C-252. If, however, a 24-hour facility is not immediately available or appropriate to the respondent's medical condition, the respondent may be temporarily detained under appropriate supervision in accordance with G.S. 122C-263(d)(2) and released in accordance with G.S. 122C-263(d)(2).

(g) This section applies exclusively to an individual who is transported to an area facility or other place for an examination by a commitment examiner in accordance with subsection (a) of this section."

**SECTION 9.** G.S. 122C-263 reads as rewritten:

**"§ 122C-263. Duties of law enforcement officer; first examination.**

(a) Without unnecessary delay after assuming custody, the law enforcement officer or the individual designated or required to provide transportation pursuant to G.S. 122C-251(g) shall take the respondent to a facility or other location identified by the LME/MCO in the community crisis services plan adopted pursuant to G.S. 122C-202.2 that has an available commitment examiner and is capable of performing a first examination in conjunction with a health screening at the same location, unless ~~exigent circumstances require the respondent be transported to an emergency department~~ indicate the respondent appears to be suffering a medical emergency in which case the law enforcement officer will seek immediate medical assistance for the respondent. If a commitment examiner is not available, whether on-site, on-call, or via telemedicine, at any facility or location, or if a plan has not been adopted, the person designated to provide transportation shall take the respondent to an alternative non-hospital provider or facility-based crisis center for a first examination in conjunction with a health screening at the same location. If no non-hospital provider or facility-based crisis center for a first examination in conjunction with a health screening at the same location for health screening and first examination exists, the person designated to provide transportation shall take the respondent to a private hospital or clinic, a general hospital, an acute care hospital, or a State facility for ~~the mentally ill~~ individuals with mental illnesses. If a commitment examiner is not immediately

available, the respondent may be temporarily detained in an area facility, if one is available; if an area facility is not available, the respondent may be detained under appropriate supervision in the respondent's home, in a private hospital or a clinic, in a general hospital, or in a State facility for ~~the mentally ill, individuals with mental illnesses,~~ but not in a jail or other penal facility. For the purposes of this section, "non-hospital provider" means an outpatient provider that provides either behavioral health or medical services.

...

(c) The commitment examiner described in subsection (a) of this section shall examine the respondent as soon as possible, and in any event within 24 hours after the respondent is presented for examination. When the examination set forth in subsection (a) of this section is performed by a commitment examiner, the respondent may either be in the physical face-to-face presence of the commitment examiner or may be examined utilizing telemedicine equipment and procedures. A commitment examiner who examines a respondent by means of telemedicine must be satisfied to a reasonable medical certainty that the determinations made in accordance with subsection (d) of this section would not be different if the examination had been done in the physical presence of the commitment examiner. A commitment examiner who is not so satisfied must note that the examination was not satisfactorily accomplished, and the respondent must be taken for a face-to-face examination in the physical presence of a person authorized to perform examinations under this section. As used in this section, "telemedicine" is the use of two-way real-time interactive audio and video between places of lesser and greater medical capability or expertise to provide and support health care when distance separates participants who are in different geographical locations. A recipient is referred by one provider to receive the services of another provider via telemedicine.

The examination shall include an assessment of at least all of the following with respect to the respondent:

- (1) Current and previous mental illness and ~~mental retardation~~ intellectual disability including, if available, previous treatment history.
- (2) Dangerousness to self, as defined in G.S. 122C-3(11)a. or others, as defined in G.S. 122C-3(11)b.
- (3) Ability to survive safely without inpatient commitment, including the availability of supervision from family, ~~friends~~ friends, or others.
- (4) Capacity to make an informed decision concerning treatment.

(d) After the conclusion of the examination the commitment examiner shall make the following determinations:

- (1) If the commitment examiner finds all of the ~~following~~ following, the commitment examiner shall so show on the examination report and shall recommend outpatient commitment:
  - a. The respondent ~~is mentally ill~~ has a mental illness.
  - b. The respondent is capable of surviving safely in the community with available supervision from family, friends, or others.
  - c. Based on the respondent's psychiatric history, the respondent is in need of treatment in order to prevent further disability or deterioration that would predictably result in dangerousness as defined by G.S. 122C-3(11).
  - d. The respondent's current mental status or the nature of the respondent's illness limits or negates the respondent's ability to make an informed decision to seek voluntarily or comply with recommended treatment.

~~The commitment examiner shall so show on the examination report and shall recommend outpatient commitment.~~ In addition ~~addition,~~ the commitment examiner shall show the name, address, and telephone number of the proposed outpatient treatment physician or center in accordance with subsection (f) of

this section. The person designated in the order to provide transportation shall return the respondent to the respondent's regular residence or, with the respondent's consent, to the home of a consenting individual located in the originating county, and the respondent shall be released from custody.

- (2) If the commitment examiner finds that the respondent ~~is mentally ill~~ has a mental illness and is dangerous to self, as defined in G.S. 122C-3(11)a., or others, as defined in G.S. 122C-3(11)b., the commitment examiner shall recommend inpatient commitment, and shall so show on the examination report. If, in addition to mental illness and dangerousness, the commitment examiner also finds that the respondent is known or reasonably believed to ~~be mentally retarded,~~ have an intellectual disability, this finding shall be shown on the report. Upon notification, the law enforcement officer or other designated person shall take the respondent to a 24-hour facility described in G.S. 122C-252 pending a district court hearing. To the extent feasible, in providing the transportation of the respondent, the law enforcement officer shall act within six hours of notification. The other designated person shall take the respondent to a 24-hour facility described in G.S. 122C-252 pending a district court hearing within six hours of notification. If there is no area 24-hour facility and if the respondent is indigent and unable to pay for care at a private 24-hour facility, the law enforcement officer or other designated person shall take the respondent to a State facility for ~~the mentally ill~~ individuals with mental illnesses designated by the Commission in accordance with G.S. 143B-147(a)(1)a. for custody, observation, and treatment and immediately notify the clerk of superior court of this action. If a 24-hour facility is not immediately available or appropriate to the respondent's medical condition, the respondent may be temporarily detained under appropriate supervision at the site of the first examination. Upon the commitment examiner's determination that a 24-hour facility is available and medically appropriate, the law enforcement officer or other designated person shall transport the respondent after receiving a request for transportation by the facility of the commitment examiner. To the extent feasible, in providing the transportation of the respondent, the law enforcement officer shall act within six hours of notification. The other designated person shall transport the respondent without unnecessary delay and within six hours after receiving a request for transportation by the facility of the commitment examiner. At any time during the respondent's temporary detention under appropriate supervision, if a commitment examiner determines that the respondent is no longer in need of inpatient commitment, the proceedings shall be terminated and the respondent transported and released in accordance with subdivision (3) of this subsection. However, if the commitment examiner determines that the respondent meets the criteria for outpatient commitment, as defined in subdivision (1) of this subsection, the commitment examiner may recommend outpatient commitment, and the respondent shall be transported and released in accordance with subdivision (1) of this subsection. Any decision to terminate the proceedings or to recommend outpatient commitment after an initial recommendation of inpatient commitment shall be documented and reported to the clerk of superior court in accordance with subsection (e) of this section. If the respondent is temporarily detained and a 24-hour facility is not available or medically appropriate seven days after the issuance of the custody order, a commitment examiner shall report this fact to the clerk of superior court and the proceedings shall be terminated. Termination of proceedings

pursuant to this subdivision shall not prohibit or prevent the initiation of new involuntary commitment proceedings when appropriate. A commitment examiner may initiate a new involuntary commitment proceeding prior to the expiration of this seven-day period, as long as the respondent continues to meet applicable criteria. Affidavits filed in support of proceedings terminated pursuant to this subdivision ~~may shall~~ not be submitted in support of any subsequent petitions for involuntary commitment. If the affiant initiating new commitment proceedings is a commitment examiner, the affiant shall conduct a new examination and ~~may shall~~ not rely upon examinations conducted as part of proceedings terminated pursuant to this subdivision.

In the event an individual known or reasonably believed to ~~be mentally retarded~~ have an intellectual disability is transported to a State facility for ~~the mentally ill, individuals with mental illnesses,~~ in no event shall that individual be admitted to that facility ~~except as follows:~~ unless the individual is in one or more of the following categories:

- a. Persons described in ~~G.S. 122C-266(b);~~ G.S. 122C-266(b).
- b. Persons admitted pursuant to ~~G.S. 15A-1321;~~ G.S. 15A-1321.
- c. Respondents who are so extremely dangerous as to pose a serious threat to the community and to other patients committed to non-State hospital psychiatric inpatient units, as determined by the Director of the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services or ~~his designee;~~ and the Director's designee.
- d. Respondents who are so gravely disabled by both multiple disorders and medical fragility or multiple disorders and deafness that alternative care is inappropriate, as determined by the Director of the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services or ~~his~~ the Director's designee.

Individuals transported to a State facility for ~~the mentally ill~~ individuals with mental illnesses who are not admitted by the facility may be transported by law enforcement officers or designated staff of the State facility in State-owned vehicles to an appropriate 24-hour facility that provides psychiatric inpatient care.

No later than 24 hours after the transfer, the responsible professional at the original facility shall notify the petitioner, the clerk of court, and, if consent is granted by the respondent, the next of kin, that the transfer has been completed.

...."

**SECTION 10.** G.S. 122C-271 reads as rewritten:

**"§ 122C-271. Disposition.**

(a) If a commitment examiner has recommended outpatient commitment and the respondent has been released pending the district court hearing, the court may make one of the following dispositions:

- (1) If the court finds by clear, cogent, and convincing evidence that the respondent ~~is mentally ill;~~ has a mental illness; ~~that he~~ the respondent is capable of surviving safely in the community with available supervision from family, friends, or others; that based on respondent's treatment history, the respondent is in need of treatment in order to prevent further disability or deterioration that would predictably result in dangerousness as defined in G.S. 122C-3(11); and that the respondent's current mental status or the nature of ~~his~~ the respondent's illness limits or negates ~~his~~ the respondent's ability to make an informed decision to seek voluntarily or comply with recommended

treatment, it may order outpatient commitment for a period not in excess of 90 days.

- (2) If the court does not find that the respondent meets the criteria of commitment set out in subdivision (1) of this subsection, the respondent shall be discharged and the proposed outpatient physician center shall be so notified.

...

(b) If the respondent has been held in a 24-hour facility pending the district court hearing pursuant to G.S. 122C-268, the court may make one of the following dispositions:

- (1) If the court finds by clear, cogent, and convincing evidence that the respondent ~~is mentally ill;~~ has a mental illness; that the respondent is capable of surviving safely in the community with available supervision from family, friends, or others; that based on respondent's psychiatric history, the respondent is in need of treatment in order to prevent further disability or deterioration that would predictably result in dangerousness as defined by G.S. 122C-3(11); and that the respondent's current mental status or the nature of the respondent's illness limits or negates the respondent's ability to make an informed decision voluntarily to seek or comply with recommended treatment, it may order outpatient commitment for a period not in excess of 90 days. If the commitment proceedings were initiated as the result of the respondent's being charged with a violent crime, including a crime involving an assault with a deadly weapon, and the respondent was found incapable of proceeding, the commitment order shall so show.
- (2) If the court finds by clear, cogent, and convincing evidence that the respondent ~~is mentally ill~~ has a mental illness and is dangerous to self, as defined in G.S. 122C-3(11)a., or others, as defined in G.S. 122C-3(11)b., it may order inpatient commitment at a 24-hour facility described in G.S. 122C-252 for a period not in excess of 90 days. However, no respondent found to ~~be both mentally retarded and mentally ill~~ have both an intellectual disability and a mental illness may be committed to a State, ~~area or private facility for the mentally retarded.~~ area, or private facility for individuals with intellectual disabilities. An individual who ~~is mentally ill~~ has a mental illness and is dangerous to self, as defined in G.S. 122C-3(11)a., or others, as defined in G.S. 122C-3(11)b., may also be committed to a combination of inpatient and outpatient commitment at both a 24-hour facility and an outpatient treatment physician or center for a period not in excess of 90 days. If the commitment proceedings were initiated as the result of the respondent's being charged with a violent crime, including a crime involving an assault with a deadly weapon, and the respondent was found incapable of proceeding, the commitment order shall so show. If the court orders inpatient commitment for a respondent who is under an outpatient commitment order, the outpatient commitment is terminated; and the clerk of the superior court of the county where the district court hearing is held shall send a notice of the inpatient commitment to the clerk of superior court where the outpatient commitment was being supervised.
- (3) If the court does not find that the respondent meets either of the commitment criteria set out in subdivisions (1) and (2) of this subsection, the respondent shall be discharged, and the facility in which the respondent was last a client shall be so notified.
- (4) Before ordering any outpatient commitment, the court shall make findings of fact as to the availability of outpatient treatment from an outpatient treatment physician or center that has agreed to accept the respondent as a client of

outpatient treatment services. The court shall also show on the order the outpatient treatment physician or center who is to be responsible for the management and supervision of the respondent's outpatient commitment. When an outpatient commitment order is issued for a respondent held in a 24-hour facility, the court may order the respondent held at the facility for no more than 72 hours in order for the facility to notify the designated outpatient treatment physician or center of the treatment needs of the respondent. The clerk of court in the county where the facility is located shall send a copy of the outpatient commitment order to the designated outpatient treatment physician or center and to the respondent or the legally responsible person. If the designated outpatient treatment physician or center shall be monitoring and supervising the respondent's outpatient commitment pursuant to a contract for services with an LME/MCO, the clerk of court shall ~~how [show]~~ show on the order the identity of the LME/MCO. The clerk of court shall send a copy of the order to the LME/MCO. Copies of outpatient commitment orders sent by the clerk of court to an outpatient treatment center or physician pursuant to this subdivision, including orders sent to an LME/MCO, shall be sent by the most reliable and expeditious means, but in no event less than 48 hours after the hearing. If the outpatient commitment will be supervised in a county other than the county where the commitment originated, the court shall order venue for further court proceedings to be transferred to the county where the outpatient commitment will be supervised. Upon an order changing venue, the clerk of superior court in the county where the commitment originated shall transfer the file to the clerk of superior court in the county where the outpatient commitment is to be supervised.

(c) If the respondent was found not guilty by reason of insanity and has been held in a 24-hour facility pending the court hearing held pursuant to G.S. 122C-268.1, the court may make one of the following dispositions:

- (1) If the court finds that the respondent has not proved by a preponderance of the evidence that ~~he-the respondent~~ no longer has a mental illness or that he-the respondent is no longer dangerous to others, it shall order inpatient treatment at a 24-hour facility for a period not to exceed 90 days.
- (2) If the court finds that the respondent has proven by a preponderance of the evidence that ~~he-the respondent~~ no longer has a mental illness or that he-the respondent is no longer dangerous to others, the court shall order the respondent discharged and released."

## **PART II. PEOPLE FIRST LANGUAGE AMENDMENTS TO OTHER STATUTES RELATING TO THE PROVISION OF SERVICES**

**SECTION 11.** G.S. 7B-2502 reads as rewritten:

**"§ 7B-2502. Evaluation and treatment of undisciplined and delinquent juveniles.**

...

(c) If the court believes, or if there is evidence presented to the effect that the juvenile is ~~mentally ill or is developmentally disabled~~, has a mental illness or a developmental disability, the court shall refer the juvenile to the area mental health, developmental disabilities, and substance abuse services director for appropriate action. A juvenile shall not be committed directly to a State hospital or ~~mental retardation center~~; State developmental center, and orders purporting to commit a juvenile directly to a State hospital or ~~mental retardation center~~ State developmental center, except for an examination to determine capacity to ~~proceed shall be proceed~~, are void and of no effect. The area mental health, developmental disabilities, and substance abuse director ~~shall be~~ is responsible for arranging an interdisciplinary evaluation of

the juvenile and mobilizing resources to meet the juvenile's needs. If institutionalization is determined to be the best service for the juvenile, admission shall be with the voluntary consent of the parent, guardian, or custodian. If the parent, guardian, or custodian refuses to consent to a ~~mental hospital or retardation center admission after such institutionalization~~ institutionalization after it is recommended by the area mental health, developmental disabilities, and substance abuse director, the signature and consent of the court may be substituted for that purpose. In all cases in which a regional mental hospital refuses admission to a juvenile referred for admission by the court and an area mental health, developmental disabilities, and substance abuse director or discharges a juvenile previously admitted on court referral prior to completion of the juvenile's treatment, the hospital shall submit to the court a written report setting out the reasons for denial of admission or discharge and setting out the juvenile's diagnosis, indications of mental illness, indications of need for treatment, and a statement as to the location of any facility known to have a treatment program for the juvenile in question."

**SECTION 12.(a)** G.S. 14-32.2 reads as rewritten:

**"§ 14-32.2. Patient abuse and neglect; ~~punishments;~~ punishments; definitions.**

(a) It ~~shall be~~ is unlawful for any person to physically abuse a patient of a health care facility or a resident of a residential care facility, when the abuse results in death or bodily injury.

(b) Unless the conduct is prohibited by some other provision of law providing for greater ~~punishment;~~ punishment, a violation of subsection (a) of this section is the following:

- (1) ~~A violation of subsection (a) above is a~~ A Class C felony where intentional conduct proximately causes the death of the patient or ~~resident;~~ resident.
- (2) ~~A violation of subsection (a) above is a~~ A Class E felony where culpably negligent conduct proximately causes the death of the patient or ~~resident;~~ resident.
- (3) ~~A violation of subsection (a) above is a~~ A Class F felony where such conduct is willful or culpably negligent and proximately causes serious bodily injury to the patient or ~~resident;~~ resident.
- (4) ~~A violation of subsection (a) is a~~ A Class H felony where such conduct evinces a pattern of conduct and the conduct is willful or culpably negligent and proximately causes bodily injury to a patient or resident.

(c) ~~"Health Care Facility" shall include hospitals, skilled nursing facilities, intermediate care facilities, intermediate care facilities for the mentally retarded, psychiatric facilities, rehabilitation facilities, kidney disease treatment centers, home health agencies, ambulatory surgical facilities, and any other health care related facility whether publicly or privately owned.~~

(c1) ~~"Residential Care Facility" shall include adult care homes and any other residential care related facility whether publicly or privately owned.~~

(d) ~~"Person" shall include any natural person, association, corporation, partnership, or other individual or entity.~~

(e) ~~"Culpably negligent" shall mean conduct of a willful, gross and flagrant character, evincing reckless disregard of human life.~~

(e1) ~~"Abuse" means the willful or culpably negligent infliction of physical injury or the willful or culpably negligent violation of any law designed for the health or welfare of a patient or resident.~~

(f) Any defense which may arise under G.S. 90-321(h) or G.S. 90-322(d) pursuant to compliance with Article 23 of Chapter 90 ~~shall be of the General Statutes~~ is fully applicable to any prosecution initiated under this section.

(g) Criminal process for a violation of this section may be issued only upon the request of a ~~District Attorney;~~ district attorney.

(h) The provisions of this section ~~shall do not~~ do not supersede any other applicable statutory or common law offenses.

(i) The following definitions apply in this section:

- (1) Abuse. – The willful or culpably negligent infliction of physical injury or the willful or culpably negligent violation of any law designed for the health or welfare of a patient or resident.
- (2) Culpably negligent. – Conduct of a willful, gross, and flagrant character, evincing reckless disregard of human life.
- (3) Health care facility. – Includes hospitals, skilled nursing facilities, intermediate care facilities, intermediate care facilities for individuals with intellectual disabilities, psychiatric facilities, rehabilitation facilities, kidney disease treatment centers, home health agencies, ambulatory surgical facilities, and any other health care–related facility whether publicly or privately owned.
- (4) Person. – Includes any individual, association, corporation, partnership, or other entity.
- (5) Residential care facility. – Includes adult care homes and any other residential care–related facility whether publicly or privately owned."

**SECTION 12.(b)** G.S. 90-106 reads as rewritten:

**"§ 90-106. Prescriptions and labeling.**

(a) ~~No Schedule II substance shall be dispensed pursuant to a written or electronic prescription more than six months after the date it was prescribed.~~Definitions. – As used in this section, the following terms have the following meanings:

- (1) Acute pain. – Pain, whether resulting from disease, accident, intentional trauma, or other cause, that the practitioner reasonably expects to last for three months or less. The term does not include chronic pain or pain being treated as part of cancer care, hospice care, palliative care, or medication-assisted treatment for a substance use disorder. The term does not include pain being treated as part of cancer care, hospice care, or palliative care provided by a person licensed to practice veterinary medicine pursuant to Article 11 of this Chapter.
- (2) Chronic pain. – Pain that typically lasts for longer than three months or that lasts beyond the time of normal tissue healing.
- (3) Surgical procedure. – A procedure that is performed for the purpose of structurally altering the human body by incision or destruction of tissues as part of the practice of medicine or a procedure that is performed for the purpose of structurally altering the animal body by incision or destruction of tissues as part of the practice of veterinary medicine. This term includes the diagnostic or therapeutic treatment of conditions or disease processes by use of instruments such as lasers, ultrasound, ionizing, radiation, scalpels, probes, or needles that cause localized alteration or transportation of live human tissue, or live animal tissue in the practice of veterinary medicine, by cutting, burning, vaporizing, freezing, suturing, probing, or manipulating by closed reduction for major dislocations and fractures, or otherwise altering by any mechanical, thermal, light-based, electromagnetic, or chemical means.

(a1) Electronic Prescription Required; Exceptions. – Unless otherwise exempted by this subsection, a practitioner shall electronically prescribe all targeted controlled substances. This subsection does not apply to prescriptions for targeted controlled substances issued by any of the following:

- (1) A practitioner, other than a pharmacist, who dispenses directly to an ultimate user.
- (2) A practitioner who orders a controlled substance to be administered in a hospital, nursing home, hospice facility, outpatient dialysis facility, or residential care facility, as defined in ~~G.S. 14-32.2~~G.S. 14-32.2(i).

- (3) A practitioner who experiences temporary technological or electrical failure or other extenuating circumstance that prevents the prescription from being transmitted electronically; ~~provided, however, that the practitioner documents electronically.~~ The practitioner, however, shall document the reason for this exception in the patient's medical record.
- (4) A practitioner who writes a prescription to be dispensed by a pharmacy located on federal property; ~~provided, however, that the practitioner documents property.~~ The practitioner, however, shall document the reason for this exception in the patient's medical record.
- (5) A person licensed to practice veterinary medicine pursuant to Article 11 of ~~Chapter 90 of the General Statutes.~~ this Chapter. A person licensed to practice veterinary medicine pursuant to Article 11 of ~~Chapter 90 of the General Statutes.~~ this Chapter may continue to prescribe targeted controlled substances from valid written, oral, or facsimile prescriptions that are otherwise consistent with applicable laws.

(a2) Verification by Dispenser Not Required. – A dispenser is not required to verify that a practitioner properly falls under one of the exceptions specified in subsection (a1) of this section prior to dispensing a targeted controlled substance. A dispenser may continue to dispense targeted controlled substances from valid written, oral, or facsimile prescriptions that are otherwise consistent with applicable laws.

(a3) Limitation on Prescriptions Upon Initial Consultation for Acute Pain. – A practitioner ~~may~~ shall not prescribe more than a five-day supply of any targeted controlled substance upon the initial consultation and treatment of a patient for acute pain, unless the prescription is for post-operative acute pain relief for use immediately following a surgical procedure. A practitioner shall not prescribe more than a seven-day supply of any targeted controlled substance for post-operative acute pain relief immediately following a surgical procedure. Upon any subsequent consultation for the same pain, the practitioner may issue any appropriate renewal, refill, or new prescription for a targeted controlled substance. This subsection does not apply to prescriptions for controlled substances issued by a practitioner who orders a controlled substance to be wholly administered in a hospital, nursing home licensed under Chapter 131E of the General Statutes, hospice facility, or residential care facility, as defined in ~~G.S. 14-32.2(e1).~~ G.S. 14-32.2(i). This subsection does not apply to prescriptions for controlled substances issued by a practitioner who orders a controlled substance to be wholly administered in an emergency facility, veterinary hospital, or animal hospital, as defined in G.S. 90-181.1. A practitioner who acts in accordance with the limitation on prescriptions as set forth in this subsection ~~shall be is~~ immune from any civil liability or disciplinary action from the practitioner's occupational licensing agency for acting in accordance with this subsection.

(a4) Definitions. – ~~As used in this subsection, the following terms have the following meanings:~~

- (1) ~~Acute pain. — Pain, whether resulting from disease, accident, intentional trauma, or other cause, that the practitioner reasonably expects to last for three months or less. The term does not include chronic pain or pain being treated as part of cancer care, hospice care, palliative care, or medication assisted treatment for substance use disorder. The term does not include pain being treated as part of cancer care, hospice care, or palliative care provided by a person licensed to practice veterinary medicine pursuant to Article 11 of Chapter 90 of the General Statutes.~~
- (2) ~~Chronic pain. — Pain that typically lasts for longer than three months or that lasts beyond the time of normal tissue healing.~~
- (3) ~~Surgical procedure. — A procedure that is performed for the purpose of structurally altering the human body by incision or destruction of tissues as~~

~~part of the practice of medicine or a procedure that is performed for the purpose of structurally altering the animal body by incision or destruction of tissues as part of the practice of veterinary medicine. This term includes the diagnostic or therapeutic treatment of conditions or disease processes by use of instruments such as lasers, ultrasound, ionizing radiation, scalpels, probes, or needles that cause localized alteration or transportation of live human tissue, or live animal tissue in the practice of veterinary medicine, by cutting, burning, vaporizing, freezing, suturing, probing, or manipulating by closed reduction for major dislocations and fractures, or otherwise altering by any mechanical, thermal, light-based, electromagnetic, or chemical means.~~

(a5) Dispenser Immunity. – A dispenser ~~shall be~~ is immune from any civil or criminal liability or disciplinary action from the Board of Pharmacy for dispensing a prescription written by a prescriber in violation of this section.

(b) Dispensing of Schedule II Controlled Substances. – No Schedule II substance shall be dispensed pursuant to a written or electronic prescription more than six months after the date it was prescribed. In emergency situations, as defined by rule of the Commission, Schedule II ~~drugs~~ controlled substances may be dispensed upon oral prescription of a practitioner, reduced promptly to writing and filed by the dispensing agent. Prescriptions shall be retained in conformity with the requirements of G.S. 90-104. No prescription for a Schedule II substance ~~may~~ shall be refilled.

(c) Dispensing of Schedule III and IV Controlled Substances. – Except when dispensed directly by a practitioner, other than a pharmacist, to an ultimate user, no controlled substance included in Schedules III or IV, except paregoric, U.S.P., as provided in ~~G.S. 90-91(e)1,~~ G.S. 90-91(e)1., shall be dispensed without a prescription, and oral prescriptions shall be promptly reduced to writing and filed with the dispensing agent. ~~Such~~ The prescription ~~may~~ shall not be filled or refilled more than six months after the date ~~thereof~~ of the prescription or be refilled more than five times after the date of the prescription.

(d) Dispensing of Schedule V Controlled Substances. – No controlled substance included in Schedule V of this Article or paregoric, U.S.P., ~~may~~ shall be distributed or dispensed other than for a medical purpose.

(e) Dispensing of Schedule VI Controlled Substances. – No controlled substance included in Schedule VI of this Article ~~may~~ shall be distributed or dispensed other than for scientific or research purposes by persons registered under, or permitted by, this Article to engage in scientific or research projects.

(f) Labeling Requirements. – No controlled substance shall be dispensed or distributed in this State unless ~~such~~ the substance ~~shall be~~ is in a container clearly labeled in accord with regulations lawfully adopted and published by the federal government or the Commission.

(g) Copies. – When a copy of a prescription for a controlled substance under this Article is given as required by G.S. 90-70, ~~such~~ the copy shall be plainly marked: "Copy – for information only." Copies of prescriptions for controlled substances shall not be filled or refilled.

(h) Fill Date. – A pharmacist dispensing a controlled substance under this Article shall enter the date of dispensing on the prescription order pursuant to which ~~such~~ the controlled substance was dispensed.

(i) Distribution of Complimentary Samples. – A manufacturer's sales representative may distribute a controlled substance as a complimentary sample only upon the written request of a practitioner. ~~Such~~ The request must be made on each distribution and must contain the names and addresses of the supplier and the requester and the name and quantity of the specific controlled substance requested. The manufacturer shall maintain a record of each ~~such~~ request for a period of two years."

**SECTION 12.(c)** This section becomes effective January 1, 2020, and applies to offenses committed on or after that date.

**SECTION 13.(a)** G.S. 58-55-35 reads as rewritten:

**"§ 58-55-35. Facilities, services, and conditions defined.**

(a) Whenever long-term care insurance provides coverage for the facilities, services, or physical or mental conditions listed below, unless otherwise defined in the policy and certificate, and approved by the Commissioner, ~~such the facilities, services, or conditions are defined as follows:~~have the following definitions:

- (1) ~~"Adult care home" shall be defined in accordance with the terms of Adult care home. – As defined in G.S. 131D-2.1(3).~~
- (1a) ~~"Adult day care program" shall be defined in accordance with the provisions of Adult day care program. – As defined in G.S. 131D-6(b).~~
- (2) ~~"Chore" services include Chore services. – Include the performance of tasks incidental to activities of daily living that do not require the services of a trained homemaker or other specialist. ~~Such~~The services are provided to enable individuals to remain in their own homes and may include such services as: assistance in meeting basic care needs such as meal preparation; shopping for food and other necessities; running necessary errands; providing transportation to essential service facilities; care and cleaning of the house, grounds, clothing, and linens.~~
- (3) ~~"Combination home" shall be defined in accordance with the terms of Combination home. – As defined in G.S. 131E-101(1a).~~
- (4) Repealed by Session Laws 1995, c. 535, s. 3.
- (5) ~~"Family care home" shall be defined in accordance with the terms of Family care home. – As defined in G.S. 131D-2.1(9).~~
- (6) Renumbered.
- (7) Repealed by Session Laws 1995, c. 535, s. 3.
- (8) ~~"Home health services" shall be defined in accordance with the terms of Home care services. – As defined in G.S. 131E-136(3).~~
- (9) ~~"Homemaker services" means supportive Homemaker services. – Supportive services provided by qualified para-professionals who are trained, equipped, assigned, and supervised by professionals within the agency to help maintain, strengthen, and safeguard the care of the elderly in their own homes. These standards must, at a minimum, meet standards established by the North Carolina Division of Social Services and may include: ~~Providing~~providing assistance in management of household budgets; planning nutritious meals; purchasing and preparing foods; housekeeping duties; consumer education; and basic personal and health care.~~
- (10) ~~"Hospice" shall be defined in accordance with the terms of Hospice. – As defined in G.S. 131E-176(13a).~~
- (11) ~~"Intermediate care facility for the mentally retarded" shall be defined in accordance with the terms of Intermediate care facility for individuals with intellectual disabilities. – As defined in G.S. 131E-176(14a).~~
- (12) ~~"Nursing home" shall be defined in accordance with the terms of Nursing home. – As defined in G.S. 131E-101(6).~~
- (13) ~~"Respite care, institutional" means provision Respite care, institutional. – Provision of temporary support to the primary caregiver of the ~~aged, disabled, or handicapped~~aged individual or individual with a disability by taking over the tasks of that person for a limited period of time. The insured receives care for the respite period in an institutional setting, such as a nursing home, family care home, rest home, or other appropriate setting.~~
- (14) ~~"Respite care, non-institutional" means provision Respite care, non-institutional. – Provision of temporary support to the primary caregiver~~

of the ~~aged, disabled, or handicapped~~ aged individual or individual with a disability by taking over the tasks of that person for a limited period of time in the home of the insured or other appropriate community location.

- (15) ~~"Skilled Nursing Facility" shall be defined in accordance with the terms of G.S. 135-40.1(18);~~ Skilled nursing facility. – An institution licensed under applicable State laws and primarily engaged in providing to inpatients, under the supervision of a doctor and a registered professional nurse, skilled nursing care and related services on a 24-hour basis, and rehabilitative services.
- (16) ~~"Supervised living facility for developmentally disabled adults" means a~~ Supervised living facility for adults with developmental disabilities. – A residential facility, as defined in G.S. 122C-3(14), which that has two to nine developmentally disabled adult residents. ~~adult residents with developmental disabilities.~~

(b) Whenever long-term care insurance provides coverage for organic brain disorder syndrome, progressive dementing illness, or primary degenerative dementia, such phrases shall be interpreted to include Alzheimer's Disease. ~~Clinical~~ A clinical diagnosis of "organic brain disorder ~~syndrome~~", ~~syndrome~~, "progressive dementing ~~illness~~", and ~~illness~~, or "primary degenerative dementia" must be accepted as evidence that ~~such conditions exist~~ such a condition exists in an insured ~~when if~~ a pathological diagnosis cannot be made; ~~provided that such~~ made, ~~the~~ the medical evidence substantially documents the diagnosis of the ~~condition~~ condition, and the insured received treatment for ~~such~~ the condition.

(c) All long-term care insurance policies must be filed with and approved by the Commissioner before they can be used in this State and are subject to the provisions of Article 38 of this Chapter."

**SECTION 13.(b)** This section becomes effective October 1, 2019, and applies to contracts entered into on or after that date.

**SECTION 14.** G.S. 108A-101(d) reads as rewritten:

"(d) The words "disabled adult" shall mean any person 18 years of age or over or any lawfully emancipated minor who is present in the State of North Carolina and who is physically or mentally incapacitated due to ~~mental retardation~~, an intellectual disability, cerebral palsy, epilepsy or autism; organic brain damage caused by advanced age or other physical degeneration in connection therewith; or due to conditions incurred at any age which are the result of accident, organic brain damage, mental or physical illness, or continued consumption or absorption of substances."

**SECTION 15.** G.S. 115C-108.1 reads as rewritten:

**"§ 115C-108.1. State Board lead agency.**

...

(c) All provisions of this Article that are specifically applicable to local school administrative units also are applicable to the Department of Health and Human Services, and the Division of Adult Correction and Juvenile Justice of the Department of Public Safety, and their divisions and agencies; all duties, responsibilities, rights, and privileges specifically imposed on or granted to local school administrative units by this Article also are imposed on or granted to the Department of Health and Human Services, and the Division of Adult Correction and Juvenile Justice of the Department of Public Safety, and their divisions and agencies. However, with respect to children with disabilities who are residents or patients of any State-operated or State-supported residential treatment facility, including a school for the deaf, school for the blind, mental hospital or center, ~~mental retardation center~~, developmental center, or in a facility operated by the Division of Adult Correction and Juvenile Justice of the Department of Public Safety, or any of their divisions and agencies, the Board may contract with the Department of Health and Human Services, and the Division of Adult Correction and Juvenile Justice of the Department of Public Safety for the provision of special education and related

services and the power to review, revise, and approve any plans for special education and related services to those residents.

(d) The Department of Health and Human Services and the Department of Public Safety shall submit to the Board their plans for the education of children with disabilities in their care, custody, or control. The Board may grant specific exemptions for programs administered by the Department of Health and Human Services or the Division of Adult Correction and Juvenile Justice of the Department of Public Safety when compliance by them with the Board's standards would, in the Board's judgment, impose undue hardship on that department or division and when other procedural due process requirements, substantially equivalent to those required under this Article and IDEA, are assured in programs of special education and related services furnished to children with disabilities served by that department. Further, the Board shall recognize that inpatient and residential special education programs within the ~~Departments~~ Department of Health and Human Services or the Division of Adult Correction and Juvenile Justice of the Department of Public Safety may require more program resources than those necessary for optimal operation of these programs in local school administrative units.

(e) The Board shall support and encourage joint and collaborative special education planning and programming at local levels to include local school administrative units and the programs and agencies of the ~~Departments~~ Department of Health and Human Services or the Division of Adult Correction and Juvenile Justice of the Department of Public Safety."

**SECTION 16.** G.S. 131D-10.4 reads as rewritten:

**"§ 131D-10.4. Exemptions.**

This Article ~~shall~~ does not apply ~~to~~ to any of the following:

- (1) Any residential child-care facility chartered by the laws of ~~the this State of North Carolina~~ (or operating under charters of other states which have complied with the corporation laws of ~~North Carolina~~ this State) which has a plant and assets worth sixty thousand dollars (\$60,000) or more and which is owned or operated by a religious denomination or fraternal order and which was in operation before July 1, ~~1977;~~ 1977.
- (2) State institutions for ~~emotionally disturbed or delinquent children, the mentally ill, mentally retarded, and substance abusers;~~ children with serious emotional disturbances, delinquent children, or individuals with mental illnesses, intellectual or other developmental disabilities, or substance use disorders.
- (3) Secure detention facilities as specified in Part 3 of Article 13 of Chapter 143B of the General ~~Statutes;~~ Statutes.
- (4) Licensable facilities subject to the rules of the Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services as specified in Article 2 of Chapter 122C of the General ~~Statutes;~~ Statutes.
- (5) Persons authorized by statute to receive and place children for foster care and adoption in accordance with ~~G.S. 108A-14;~~ G.S. 108A-14.
- (6) Primarily educational institutions as defined in ~~G.S. 131D-10.2(11);~~ G.S. 131D-10.2(11).
- (7) Individuals who are related by blood, marriage, or adoption to the child."

**SECTION 17.** G.S. 131D-31 reads as rewritten:

**"§ 131D-31. Adult care home community advisory committees.**

(a) Statement of Purpose. – It is the intention of the General Assembly that community advisory committee members function as representatives of the Office of the State Long-Term Care Ombudsman and through their designation work to maintain the intent of the Adult Care Home Residents' Bill of Rights within the licensed adult care homes in this State. It is the further intent of the General Assembly that the committees promote community involvement and

cooperation with adult care homes to ensure quality care for the elderly and ~~disabled adults~~ adults with disabilities.

(b) Establishment and Appointment of Committees. –

...

- (3) In counties with no adult care homes with 10 or more beds, the committee shall have five members. Regardless of how many members a particular community advisory committee is required to have, at least one member of each committee shall be a person involved in the area of ~~mental retardation~~ intellectual or other developmental disabilities.
- (4) The boards of county commissioners are encouraged to appoint the ~~Adult Care Home Community Advisory Committees~~ adult care home community advisory committees. Of the members, a minority (not less than one-third, but as close to one-third as possible) shall be chosen from among persons nominated by a majority of the chief administrators of adult care homes in the county. If the adult care home administrators fail to make a nomination within 45 days after written notification has been sent to them requesting a nomination, these appointments may be made without nominations. If the county commissioners fail to appoint members to a committee, the appointments shall be made by the Office of the State Long-Term Care Ombudsman no sooner than 45 days after nominations have been requested from the adult care home administrators. In making appointments, the Office of the State Long-Term Care Ombudsman shall follow the same appointment process as that specified for the ~~County Commissioners~~ county commissioners.
- (5) Notwithstanding any other provision of this Article, appointment to an ~~Adult Care Home Community Advisory Committee~~ adult care home community advisory committee is contingent upon designation of the appointee by the Office of the State Long-Term Care Ombudsman in accordance with G.S. 143B-181.18. A designated appointee is directly accountable to the State Long-Term Care Ombudsman Program in order to perform the duties as a representative of the Office of the State Long-Term Care Ombudsman. Removal of the appointee's designation by the Office of the State Long-Term Care Ombudsman automatically rescinds the appointment to the ~~Adult Care Home Community Advisory Committee~~ adult care home community advisory committee.

...

(c) Joint Nursing and Adult Care Home Community Advisory Committees. – Appointment to the ~~Nursing Home Community Advisory Committees~~ nursing home community advisory committees shall preclude appointment to the ~~Adult Care Home Community Advisory Committees~~ adult care home community advisory committees except where written approval to combine these committees is obtained from the Office of the State Long-Term Care Ombudsman. Where this approval is obtained, the ~~Joint Nursing and Adult Care Home Community Advisory Committee~~ joint nursing and adult care home community advisory committee shall have the membership required of ~~Nursing Home Community Advisory Committees~~ nursing home community advisory committees and one additional member for each adult care home with 10 or more beds licensed in the county. In counties with no adult care homes with 10 or more beds, there shall be one additional member for every four other types of adult care homes in the county. In no case shall the number of members on the ~~Joint Nursing and Adult Care Home Community Advisory Committee~~ joint nursing and adult care home community advisory committee exceed 25. Each member shall exercise the statutory rights and responsibilities of both ~~Nursing Home Committees~~ nursing home community advisory committees and ~~Adult Care Home Committees~~.

adult care home community advisory committees. In making appointments to this joint committee, the county commissioners shall solicit nominations from both nursing and adult care home administrators for the appointment of approximately (but no more than) one-third of the members.

...  
(g) Minimum Qualifications for Appointment. – Each member must be a resident of the county which the committee serves. No person or immediate family member of a person with a financial interest in a home served by the committee, or employee or governing board member of a home served by the committee, or immediate family member of a resident in a home served by the committee may be a member of that committee. Any county commissioner who is appointed to the committee ~~shall be deemed to be serving~~ serves on the committee in an ex officio capacity. Members of the committee shall serve without compensation, but may be reimbursed for actual expenses incurred by them in the performance of their duties. The names of the committee members and the date of expiration of their terms shall be filed with the Office of the State Long-Term Care Ombudsman.

...  
(i) Privilege. – Any written communication made by a member of an adult care home advisory committee within the course and scope of the member's duties, as specified in G.S. 131D-32, ~~shall be is~~ is privileged to the extent provided in this subsection. All communication ~~shall be considered~~ is the property of the Office of the State Long-Term Care Ombudsman and is subject to the Office's disclosure policies. This privilege ~~shall be is~~ is a defense in a cause of action for libel if the member was acting in good faith and the statements and communications do not amount to intentional wrongdoing.

To the extent that any adult care home advisory committee or any member is covered by liability insurance, that committee or member shall be deemed to have waived the qualified immunity ~~herein provided in this subsection~~ to the extent of indemnification by insurance."

**SECTION 18.** G.S. 131E-154.2 reads as rewritten:

**"§ 131E-154.2. Definitions.**

~~As used in this Part, unless the context clearly implies otherwise:~~ The following definitions apply in this Part:

- (1) ~~"Commission" means the Commission.~~ "Commission" means the Commission. – The North Carolina Medical Care Commission.
- (2) ~~"Department" means the Department.~~ "Department" means the Department. – The Department of Health and Human Services.
- (3) ~~"Health Care Facility" means a hospital, Health care facility.~~ "Health Care Facility" means a hospital; Health care facility. – A hospital; psychiatric facility; rehabilitation facility; long-term care facility; home health agency; intermediate care facility for ~~the mentally retarded;~~ individuals with intellectual disabilities; chemical dependency treatment facility; and ambulatory surgical facility.
- (4) ~~"Nursing pool" means any Nursing pool.~~ "Nursing pool" means any Nursing pool. – Any person, firm, corporation, partnership, or association engaged for hire in the business of providing or procuring temporary employment in health care facilities for nursing personnel, including nurses, nursing assistants, nurses aides, and orderlies. "Nursing pool" does not include an individual who engages solely in providing ~~his~~ the individual's own services on a temporary basis to health care facilities.
- (5) ~~"Trauma" means acute Trauma.~~ "Trauma" means acute Trauma. – Acute physical injury to the human body that is judged, by the use of standardized field triage criteria (anatomic, physiologic, or mechanism of injury), to create a significant risk of mortality or major morbidity."

**SECTION 19.** G.S. 131E-176 reads as rewritten:

**"§ 131E-176. Definitions.**

~~As used in this Article, unless the context clearly requires otherwise, the following terms have the meanings specified:~~The following definitions apply in this Article:

- (1) ~~"Adult care home" means a~~Adult care home. – A facility with seven or more beds licensed under Part 1 of Article 1 of Chapter 131D of the General Statutes or ~~Chapter 131E of the General Statutes under this Chapter~~ that provides residential care for aged ~~or disabled persons~~individuals or individuals with disabilities whose principal need is a home which provides the supervision and personal care appropriate to their age and disability and for whom medical care is only occasional or incidental.
- (1a) ~~"Air ambulance" means aircraft~~Air ambulance. – Aircraft used to provide air transport of sick or injured persons between destinations within the State.
- (1b) ~~"Ambulatory surgical facility" means a~~Ambulatory surgical facility. – A facility designed for the provision of a specialty ambulatory surgical program or a multispecialty ambulatory surgical program. An ambulatory surgical facility serves patients who require local, ~~regional~~regional, or general anesthesia and a period of post-operative observation. An ambulatory surgical facility may only admit patients for a period of less than 24 hours and must provide at least one designated operating room or gastrointestinal endoscopy ~~room, as defined in Article 5 Part 1 and Article 6, Part 4 of this Chapter,~~room and at least one designated recovery room, have available the necessary equipment and trained personnel to handle emergencies, provide adequate quality assurance and assessment by an evaluation and review committee, and maintain adequate medical records for each patient. An ambulatory surgical facility may be operated as a part of a physician or dentist's office, provided the facility is licensed under ~~G.S. Chapter 131E, Article 6, Part D, Part 4 of~~Article 6 of this Chapter, but the performance of incidental, limited ambulatory surgical procedures which do not constitute an ambulatory surgical program ~~as defined in subdivision (1c) of this section~~ and which are performed in a physician's or dentist's office does not make that office an ambulatory surgical facility.
- (1c) ~~"Ambulatory surgical program" means a~~Ambulatory surgical program. – A formal program for providing on a same-day basis those surgical procedures which require local, ~~regional~~regional, or general anesthesia and a period of post-operative observation to patients whose admission for more than 24 hours is determined, prior to surgery or gastrointestinal endoscopy, to be medically unnecessary.
- (2) ~~"Bed capacity" means space~~Bed capacity. – Space used exclusively for inpatient care, including space designed or remodeled for licensed inpatient beds even though temporarily not used for such purposes. The number of beds to be counted in any patient room shall be the maximum number for which adequate square footage is provided as established by rules of the Department except that single beds in single rooms are counted even if the room contains inadequate square footage. The term "bed capacity" also refers to the number of dialysis stations in kidney disease treatment centers, including freestanding dialysis units.
- (2a) ~~"Bone marrow transplantation services" means the~~Bone marrow transplantation services. – The process of infusing bone marrow into persons with diseases to stimulate the production of blood cells.

- (2b) ~~"Burn intensive care services" means services~~ Burn intensive care services. – Services provided in a unit designed to care for patients who have been severely burned.
- (2c) ~~"Campus" means the~~ Campus. – The adjacent grounds and buildings, or grounds and buildings not separated by more than a public right-of-way, of a health service facility and related health care entities.
- (2d) ~~"Capital expenditure" means an~~ Capital expenditure. – An expenditure for a project, including but not limited to the cost of construction, engineering, and equipment which under generally accepted accounting principles is not properly chargeable as an expense of operation and maintenance. Capital expenditure includes, in addition, the fair market value of an acquisition made by donation, lease, or comparable arrangement by which a person obtains equipment, the expenditure for which would have been considered a capital expenditure under this Article if the person had acquired it by purchase.
- (2e) Repealed by Session Laws 2005-325, s. 1, effective for hospices and hospice offices December 31, 2005.
- (2f) ~~"Cardiac catheterization equipment" means the~~ Cardiac catheterization equipment. – The equipment used to provide cardiac catheterization services.
- (2g) ~~"Cardiac catheterization services" means those~~ Cardiac catheterization services. – Those procedures, excluding pulmonary angiography procedures, in which a catheter is introduced into a vein or artery and threaded through the circulatory system into the heart specifically to diagnose abnormalities in the motion, contraction, and blood flow of the moving heart or to perform surgical therapeutic interventions to restore, repair, or reconstruct the coronary blood vessels of the heart.
- (3) ~~"Certificate of need" means a~~ Certificate of need. – A written order which affords the person so designated as the legal proponent of the proposed project the opportunity to proceed with the development of ~~such~~ the project.
- (4) Repealed by Session Laws 1993, c. 7, s. 2.
- (5) ~~"Change in bed capacity" means~~ Change in bed capacity. – Any of the following:
- a. ~~(i) any~~ Any relocation of health service facility beds, or dialysis stations from one licensed facility or campus to ~~another, or another.~~
  - b. ~~(ii) any~~ Any redistribution of health service facility bed capacity among the categories of health service facility ~~bed as defined in G.S. 131E-176(9c), or bed.~~
  - c. ~~(iii) any~~ Any increase in the number of health service facility beds, or dialysis stations in kidney disease treatment centers, including freestanding dialysis units.
- (5a) ~~"Chemical dependency treatment facility" means a~~ Chemical dependency treatment facility. – A public or private facility, or unit in a facility, which is engaged in providing 24-hour a day treatment for chemical dependency or ~~substance abuse.~~ a substance use disorder. This treatment may include detoxification, administration of a therapeutic regimen for the treatment of ~~chemically dependent or substance abusing persons~~ individuals with chemical dependence or substance use disorders, and related services. The facility or unit may ~~be~~ be any of the following:
- a. A unit within a general hospital or an attached or freestanding unit of a general hospital licensed under ~~Article 5, Chapter 131E, of the General Statutes,~~ Article 5 of this Chapter.

- b. ~~A unit within a psychiatric hospital or an attached or freestanding unit of a psychiatric hospital licensed under Article 1A of General Statutes Chapter 122 or Article 2 of General Statutes Chapter 122C, Article 1A of former Chapter 122 of the General Statutes or Article 2 of Chapter 122C of the General Statutes.~~
- c. ~~A freestanding facility specializing in treatment of persons who are substance abusers or chemically dependent licensed under Article 1A of General Statutes Chapter 122 or Article 2 of General Statutes Chapter 122C; and individuals with chemical dependence or substance use disorders that is licensed under Article 1A of former Chapter 122 of the General Statutes or Article 2 of Chapter 122C of the General Statutes. The facility may be identified as "chemical dependency, substance abuse, alcoholism, or drug abuse treatment units," "residential chemical dependency, substance abuse, use disorder, alcoholism or drug abuse facilities," or by other names if the purpose is to provide treatment of chemically dependent or substance abusing persons, but shall include individuals with chemical dependence or substance use disorders. The term, however, does not include social setting detoxification facilities, medical detoxification facilities, halfway houses, or recovery farms.~~
- (5b) ~~"Chemical dependency treatment beds" means beds~~ Chemical dependency treatment beds. – Beds that are licensed for the inpatient treatment of chemical dependency. Residential treatment beds for the treatment of chemical dependency or ~~substance abuse~~ substance use disorder are chemical dependency treatment beds. Chemical dependency treatment beds ~~shall do not~~ include beds licensed for detoxification.
- (6) ~~"Department" means the Department. – The~~ North Carolina Department of Health and Human Services.
- (7) ~~To "develop" when~~ Develop. – When used in connection with health services, means to undertake those activities which will result in the offering of institutional health service or the incurring of a financial obligation in relation to the offering of such a service.
- (7a) ~~"Diagnostic center" means a~~ Diagnostic center. – A freestanding facility, program, or provider, including but not limited to, physicians' offices, clinical laboratories, radiology centers, and mobile diagnostic programs, in which the total cost of all the medical diagnostic equipment utilized by the facility which cost ten thousand dollars (\$10,000) or more exceeds five hundred thousand dollars (\$500,000). In determining whether the medical diagnostic equipment in a diagnostic center costs more than five hundred thousand dollars (\$500,000), the costs of the equipment, studies, surveys, designs, plans, working drawings, specifications, construction, installation, and other activities essential to acquiring and making operational the equipment shall be included. The capital expenditure for the equipment shall be deemed to be the fair market value of the equipment or the cost of the equipment, whichever is greater.
- (7b) ~~"Expedited review" means the~~ Expedited review. – The status given to an application's review process when the applicant petitions for the review and the Department approves the request based on findings that all of the following are met:

...

- (7c) ~~"Gamma knife" means equipment~~ Gamma knife. – Equipment which emits photon beams from a stationary radioactive cobalt source to treat lesions deep within the brain and is one type of stereotactic radiosurgery.
- (7d) ~~"Gastrointestinal endoscopy room" means a~~ Gastrointestinal endoscopy room. – A room used for the performance of procedures that require the insertion of a flexible endoscope into a gastrointestinal orifice to visualize the gastrointestinal lining and adjacent organs for diagnostic or therapeutic purposes.
- (8), (9) Repealed by Session Laws 1987, c. 511, s. 1.
- (9a) ~~"Health service" means an~~ Health service. – An organized, interrelated activity that is medical, diagnostic, therapeutic, and/or rehabilitative activity ~~rehabilitative, or a combination thereof and~~ that is integral to the prevention of disease or the clinical management of ~~a sick, injured, or disabled person.~~ an individual who is sick or injured or who has a disability. "Health service" does not include administrative and other activities that are not integral to clinical management.
- (9b) ~~"Health service facility" means a~~ Health service facility. – A hospital; long-term care hospital; psychiatric facility; rehabilitation facility; nursing home facility; adult care home; kidney disease treatment center, including freestanding hemodialysis units; intermediate care facility for the mentally retarded; individuals with intellectual disabilities; home health agency office; chemical dependency treatment facility; diagnostic center; hospice office, hospice inpatient facility, hospice residential care facility; and ambulatory surgical facility.
- (9c) ~~"Health service facility bed" means a~~ Health service facility bed. – A bed licensed for use in a health service facility in the categories of (i) acute care beds; (ii) psychiatric beds; (iii) rehabilitation beds; (iv) nursing home beds; (v) intermediate care beds for the mentally retarded; individuals with intellectual disabilities; (vi) chemical dependency treatment beds; (vii) hospice inpatient facility beds; (viii) hospice residential care facility beds; (ix) adult care home beds; and (x) long-term care hospital beds.
- (10) ~~"Health maintenance organization (HMO)" means a~~ Health maintenance organization (HMO). – A public or private organization which has received its certificate of authority under Article 67 of Chapter 58 of the General Statutes and which either is a qualified health maintenance organization under Section 1310(d) of the Public Health Service Act or satisfies all of the following:
- a. Provides or otherwise makes available to enrolled participants health care services, including at least the following basic health care services: usual physician services, hospitalization, laboratory, X ray, emergency and preventive services, and out-of-area ~~coverage;~~ coverage.
  - b. Is compensated, except for copayments, for the provision of the basic health care services listed ~~above~~ in sub-subdivision a. of this subdivision to enrolled participants by a payment which is paid on a periodic basis without regard to the date the health care services are provided and which is fixed without regard to the frequency, extent, or kind of health service actually ~~provided;~~ and provided.
  - c. Provides physicians' services primarily (i) directly through physicians who are either employees or partners of such organizations, or (ii) through arrangements with individual physicians or one or more

- groups of physicians organized on a group practice or individual practice basis.
- (10a) ~~"Heart-lung bypass machine" means the Heart-lung bypass machine.~~ – The equipment used to perform extra-corporeal circulation and oxygenation during surgical procedures.
- (11) Repealed by Session Laws 1991, c. 692, s. 1.
- (12) ~~"Home health agency" means a Home health agency.~~ – A private organization or public agency, whether owned or operated by one or more persons or legal entities, which furnishes or offers to furnish home health services.
- (12a) ~~"Home health services" means items~~ Home health services. – Items and services furnished to an individual by a home health agency, or by others under arrangements with such others made by the agency, on a visiting basis, and except for ~~paragraph sub-subdivision e.~~ of this subdivision, in a place of temporary or permanent residence used as the individual's home as follows:
- a. Part-time or intermittent nursing care provided by or under the supervision of a registered ~~nurse;~~ nurse.
  - b. Physical, ~~occupational-occupational,~~ or speech ~~therapy;~~ therapy.
  - c. Medical social services, home health aid services, and other therapeutic ~~services;~~ services.
  - d. Medical supplies, other than drugs and biologicals and the use of medical ~~appliances;~~ appliances.
  - e. Any of the ~~foregoing~~ items and services listed in this subdivision which are provided on an outpatient basis under arrangements made by the home health agency at a hospital or nursing home facility or rehabilitation center and the furnishing of which involves the use of equipment of such a nature that the items and services cannot readily be made available to the individual ~~in his-at~~ home, or which are furnished at ~~such-the~~ the facility while he-the individual is there to receive any such item or service, but not including transportation of the individual in connection with any such item or service.
- (13) ~~"Hospital" means a Hospital.~~ – A public or private institution which is primarily engaged in providing to inpatients, by or under supervision of physicians, diagnostic services and therapeutic services for medical diagnosis, treatment, and care of injured, disabled, or sick persons, or rehabilitation services for the rehabilitation of injured, disabled, or sick persons. The term includes all facilities licensed pursuant to ~~G.S. 131E-77 of the General Statutes,~~ G.S. 131E-77, except long-term care hospitals.
- (13a) ~~"Hospice" means any Hospice.~~ – Any coordinated program of home care with provision for inpatient care for terminally ill patients and their families. This care is provided by a medically directed interdisciplinary team, directly or through an agreement under the direction of an identifiable hospice administration. A hospice program of care provides palliative and supportive medical and other health services to meet the physical, psychological, social, ~~spiritual~~ spiritual, and special needs of patients and their families, which are experienced during the final stages of terminal illness and during dying and bereavement.
- (13b) ~~"Hospice inpatient facility" means a Hospice inpatient facility.~~ – A freestanding licensed hospice facility or a designated inpatient unit in an existing health service facility which provides palliative and supportive medical and other health services to meet the physical, psychological, social, spiritual, and special needs of terminally ill patients and their families in an

inpatient setting. For purposes of this Article only, a hospital which has a contractual agreement with a licensed hospice to provide inpatient services to a hospice patient as defined in G.S. 131E-201(4) and provides those services in a licensed acute care bed is not a hospice inpatient facility and is not subject to the requirements in ~~G.S. 131E-176(5)(ii)~~ sub-subdivision (5)b. of this section for hospice inpatient beds.

- (13c) ~~"Hospice residential care facility" means a~~ Hospice residential care facility. – A freestanding licensed hospice facility which provides palliative and supportive medical and other health services to meet the physical, psychological, social, spiritual, and special needs of terminally ill patients and their families in a group residential setting.
- (14) Repealed by Session Laws 1987, c. 511, s. 1.
- (14a) ~~"Intermediate care facility for the mentally retarded" means facilities~~ Intermediate care facility for individuals with intellectual disabilities. – Facilities licensed pursuant to Article 2 of Chapter 122C of the General Statutes for the purpose of providing health and habilitative services based on the developmental model and principles of normalization for persons with mental retardation, individuals with intellectual disabilities, autism, cerebral palsy, epilepsy or related conditions.
- (14b) Repealed by Session Laws 1991, c. 692, s. 1.
- (14c) Reserved for future codification.
- (14d) Repealed by Session Laws 2001-234, s. 2, effective January 1, 2002.
- (14e) ~~"Kidney disease treatment center" means a~~ Kidney disease treatment center. – A facility that is certified as an end-stage renal disease facility by the Centers for Medicare and Medicaid Services, Department of Health and Human Services, pursuant to 42 C.F.R. § 405.
- ...
- (14g) ~~"Linear accelerator" means a~~ Linear accelerator. – A machine used to produce ionizing radiation in excess of 1,000,000 electron volts in the form of a beam of electrons or photons to treat cancer patients.
- (14h) Reserved for future codification.
- (14i) ~~"Lithotripter" means extra corporeal~~ Lithotripter. – Extra-corporeal shock wave technology used to treat persons with kidney stones and gallstones.
- (14j) Reserved for future codification.
- (14k) ~~"Long-term care hospital" means a~~ Long-term care hospital. – A hospital that has been classified and designated as a long-term care hospital by the Centers for Medicare and Medicaid Services, Department of Health and Human Services, pursuant to 42 C.F.R. § 412.
- (14l) Reserved for future codification.
- (14m) ~~"Magnetic resonance imaging scanner" means medical~~ Magnetic resonance imaging scanner. – Medical imaging equipment that uses nuclear magnetic resonance.
- (14n) ~~"Main campus" means all~~ Main campus. – All of the following for the purposes of G.S. 131E-184(f) and (g) only:
  - ...
- (14o) ~~"Major medical equipment" means a~~ Major medical equipment. – A single unit or single system of components with related functions which is used to provide medical and other health services and which costs more than seven hundred fifty thousand dollars (\$750,000). In determining whether the major medical equipment costs more than seven hundred fifty thousand dollars (\$750,000), the costs of the equipment, studies, surveys, designs, plans,

working drawings, specifications, construction, installation, and other activities essential to acquiring and making operational the major medical equipment shall be included. The capital expenditure for the equipment shall be deemed to be the fair market value of the equipment or the cost of the equipment, whichever is greater. Major medical equipment does not include replacement ~~equipment as defined in this section~~ equipment.

(15) Repealed by Session Laws 1987, c. 511, s. 1.

(15a) ~~"Multispecialty ambulatory surgical program" means a~~ Multispecialty ambulatory surgical program. – A formal program for providing on a same-day basis surgical procedures for at least three of the following specialty areas: gynecology, otolaryngology, plastic surgery, general surgery, ophthalmology, orthopedic, or oral surgery.

(15b) ~~"Neonatal intensive care services" means those~~ Neonatal intensive care services. – Those services provided by a health service facility to high-risk newborn infants who require constant nursing care, including but not limited to continuous cardiopulmonary and other supportive care.

(16) ~~"New institutional health services" means any~~ New institutional health services. – Any of the following:

...

c. Any change in bed ~~capacity as defined in G.S. 131E-176(5)~~ capacity.

...

f. The development or offering of a health service as listed in this subdivision by or on behalf of any person:

...

2a. Cardiac catheterization services, except cardiac catheterization services provided on equipment furnished by a person authorized to operate ~~such the~~ equipment in North Carolina pursuant to either a certificate of need issued for mobile cardiac catheterization equipment or a settlement agreement executed by the Department for provision of cardiac catheterization services.

...

s. The furnishing of mobile medical equipment to any person to provide health services in North Carolina, which was not in use in North Carolina prior to the adoption of this provision, if ~~such the~~ equipment would otherwise be subject to review in accordance with ~~G.S. 131E-176(16)(f1.) sub-subdivision f1. of this subdivision or G.S. 131E-176(16)(p) sub-subdivision p. of this subdivision~~ if it had been acquired in North Carolina.

...

(17) ~~"North Carolina State Health Coordinating Council" means the~~ North Carolina State Health Coordinating Council. – The Council that prepares, with the Department of Health and Human Services, the State Medical Facilities Plan.

(17a) ~~"Nursing care" means~~ Nursing care. – Any of the following:

a. Skilled nursing care and related services for residents who require medical or nursing ~~care;~~ care.

b. Rehabilitation services for the rehabilitation of ~~injured, disabled, or sick persons; or~~ individuals who are injured or sick or who have disabilities.

- c. Health-related care and services provided on a regular basis to individuals who because of their mental or physical condition require care and services above the level of room and board, which can be made available to them only through institutional facilities.

These are services which are not primarily for the care and treatment of mental diseases.

- (17b) ~~"Nursing home facility" means a Nursing home facility.~~ – A health service facility whose bed complement of health service facility beds is composed principally of nursing home facility beds.
- (18) ~~To "offer," when used in Offer.~~ – In connection with health services, means that the the act by a person holds himself of holding out as capable of providing, or as having the means for the provision of, to provide, specified health services.
- (18a) Repealed by Session Laws 2005-325, s. 1, effective for hospices and hospice offices December 31, 2005.
- (18b) ~~"Open heart surgery services" means the Open-heart surgery services.~~ – The provision of surgical procedures that utilize a heart-lung bypass machine during surgery to correct cardiac and coronary artery disease or defects.
- (18c) ~~"Operating room" means a Operating room.~~ – A room used for the performance of surgical procedures requiring one or more incisions and that is required to comply with all applicable licensure codes and standards for an operating room.
- (19) ~~"Person" means an individual, Person.~~ – An individual; a trust or estate, estate; a partnership, partnership; a corporation, including associations, joint stock companies, and insurance companies; the State, State; or a political subdivision or agency or instrumentality of the State.
- (19a) ~~"Positron emission tomography scanner" means equipment~~ Positron emission tomography scanner. – Equipment that utilizes a computerized radiographic technique that employs radioactive substances to examine the metabolic activity of various body structures.
- (20) ~~"Project" or "capital expenditure project" means a Project or capital expenditure project.~~ – A proposal to undertake a capital expenditure that results in the offering of a new institutional health service as defined by this Article. service. A project, or capital expenditure project, or proposed project may refer to the project from its earliest planning stages up through the point at which the specified new institutional health service may be offered. In the case of facility construction, the point at which the new institutional health service may be offered must take place after the facility is capable of being fully licensed and operated for its intended use, and at that time it shall be considered a health service facility.
- (21) ~~"Psychiatric facility" means a Psychiatric facility.~~ – A public or private facility licensed pursuant to Article 2 of Chapter 122C of the General Statutes and which is primarily engaged in providing to inpatients, by or under the supervision of a physician, psychiatric services for the diagnosis and treatment of mentally ill persons. individuals with mental illnesses.
- (22) ~~"Rehabilitation facility" means a Rehabilitation facility.~~ – A public or private inpatient facility which is operated for the primary purpose of assisting in the rehabilitation of disabled persons. individuals with disabilities through an integrated program of medical and other services which are provided under competent, professional supervision.

- (22a) ~~"Replacement equipment" means equipment~~ Replacement equipment. – Equipment that costs less than two million dollars (\$2,000,000) and is purchased for the sole purpose of replacing comparable medical equipment currently in use which will be sold or otherwise disposed of when replaced. In determining whether the replacement equipment costs less than two million dollars (\$2,000,000), the costs of equipment, studies, surveys, designs, plans, working drawings, specifications, construction, installation, and other activities essential to acquiring and making operational the replacement equipment shall be included. The capital expenditure for the equipment shall be deemed to be the fair market value of the equipment or the cost of the equipment, whichever is greater.
- (23) Repealed by Session Laws 1991, c. 692, s. 1.
- (24) Repealed by Session Laws 1993, c. 7, s. 2.
- (24a) ~~"Service area" means the~~ Service area. – The area of the State, as defined in the State Medical Facilities Plan or in rules adopted by the Department, which receives services from a health service facility.
- (24b) ~~"Simulator" means a~~ Simulator. – A machine that produces high quality diagnostic radiographs and precisely reproduces the geometric relationships of megavoltage radiation therapy equipment to the patient.
- (24c) Reserved for future codification.
- (24d) ~~"Solid organ transplantation services" means the~~ Solid organ transplantation services. – The provision of surgical procedures and the interrelated medical services that accompany the surgery to remove an organ from a patient and surgically implant an organ from a donor.
- (24e) Reserved for future codification.
- (24f) ~~"Specialty ambulatory surgical program" means a~~ Specialty ambulatory surgical program. – A formal program for providing on a same-day basis surgical procedures for only the specialty areas identified on the ambulatory surgical facility's 1993 Application for Licensure as an Ambulatory Surgical Center and authorized by its certificate of need.
- (25) ~~"State Medical Facilities Plan" means the~~ State Medical Facilities Plan. – The plan prepared by the Department of Health and Human Services and the North Carolina State Health Coordinating Council, and approved by the Governor. In preparing the Plan, the Department and the State Health Coordinating Council shall maintain a mailing list of persons who have requested notice of public hearings regarding the Plan. Not less than 15 days prior to a scheduled public hearing, the Department shall notify persons on its mailing list of the date, time, and location of the hearing. The Department shall hold at least one public hearing prior to the adoption of the proposed Plan and at least six public hearings after the adoption of the proposed Plan by the State Health Coordinating Council. The Council shall accept oral and written comments from the public concerning the Plan.
- (26) Repealed by Session Laws 1983 (Regular Session, 1984), c. 1002, s. 9.
- (27) Repealed by Session Laws 1987, c. 511, s. 1."

**SECTION 20.** G.S. 131E-184 reads as rewritten:

**"§ 131E-184. Exemptions from review.**

(a) Except as provided in subsection ~~(b)~~, (b) of this section, the Department shall exempt from certificate of need review a new institutional health service if it receives prior written notice from the entity proposing the new institutional health service, which notice includes an explanation of why the new institutional health service is required, for any of the following:

...

(c) The Department shall exempt from certificate of need review any conversion of existing acute care beds to psychiatric beds ~~provided:~~provided all of the following are true:

- (1) The hospital proposing the conversion has executed a contract with the Department's Division of Mental Health, Developmental Disabilities, and Substance Abuse ~~Services and/or Services, one or more of the Area Mental Health, Developmental Disabilities, and Substance Abuse Authorities~~area mental health, developmental disabilities, and substance abuse authorities, or a combination thereof to provide psychiatric beds to patients referred by the contracting agency or ~~agencies;~~agencies.
- (2) The total number of beds to be converted shall not be more than twice the number of beds for which the contract pursuant to subdivision (1) of this subsection shall provide.

...

(e) The Department shall exempt from certificate of need review a capital expenditure that exceeds the two million dollar (\$2,000,000) threshold set forth in G.S. 131E-176(16)b. if all of the following conditions are met:

- (1) The proposed capital expenditure ~~would:~~would meet all of the following requirements:
  - a. Be used solely for the purpose of renovating, replacing on the same site, or expanding ~~an existing:~~any of the following existing facilities:
    1. Nursing home ~~facility,~~facility.
    2. Adult care home ~~facility, or~~facility.
    3. Intermediate care facility for ~~the mentally retarded;~~and individuals with intellectual disabilities.
  - b. Not result in a change in bed capacity, as defined in G.S. 131E-176(5), or the addition of a health service facility or any other new institutional health service other than that allowed in G.S. 131E-176(16)b.

...."

**SECTION 21.** G.S. 131E-186 reads as rewritten:

**"§ 131E-186. Decision.**

(a) Within the prescribed time limits in G.S. 131E-185, the Department shall issue a decision to "approve," "approve with conditions," or "deny," an application for a new institutional health service. Approvals involving new or expanded ~~nursing care or intermediate care for the mentally retarded bed capacity~~bed capacity for nursing care or intermediate care for individuals with intellectual disabilities shall include a condition that specifies the earliest possible date the new institutional health service may be certified for participation in the Medicaid program. The date shall be set far enough in advance to allow the Department to identify funds to pay for care in the new or expanded facility in its existing Medicaid budget or to include these funds in its State Medicaid budget request for the year in which Medicaid certification is expected.

(b) Within five business days after it makes a decision on an application, the Department shall provide written notice of all the findings and conclusions upon which it based its decision, including the criteria used by the Department in making its decision, to the applicant."

**SECTION 22.** G.S. 131E-214.1 reads as rewritten:

**"§ 131E-214.1. Definitions.**

~~As used in this Article:~~The following definitions apply in this Article:

- (1) ~~"Division" means the Division.~~ – The Division of Health Service Regulation of the Department of Health and Human Services.
- (2) ~~"Freestanding ambulatory surgical facility" means a Freestanding ambulatory surgical facility.~~ – A facility licensed under Part D-Part 4 of Article 6 of this Chapter.

- (3) ~~"Hospital" means a Hospital.~~ – A facility licensed under Article 5 of this Chapter or Article 2 of Chapter 122C of the General Statutes, but does not include the following:
- a. A facility with all of its beds designated for medical type "LTC" (long-term care).
  - b. A facility with the majority of its beds designated for medical type "PSY-3" ~~(mental retardation).~~ (intellectual/developmental disability).
  - c. A facility operated by the Division of Adult Correction and Juvenile Justice of the Department of Public Safety.
- (4) ~~"Patient data" means data~~ Patient data. – Data that includes a patient's age, sex, race, ethnicity, zip code, third-party coverage, principal and other diagnosis, diagnoses, date of admission, procedure and discharge date, principal and other procedures, total charges and components of the total charges, attending physician identification number, and hospital or freestanding ambulatory surgical facility identification number.
- (5) ~~"Patient identifying information" means the~~ Patient identifying information. – The name, address, social security number, or similar information by which the identity of a patient can be determined with reasonable accuracy and speed either directly or by reference to other publicly available information. The term does not include a number assigned to a patient by a health care provider if that number does not consist of or contain numbers, including social security or drivers license numbers, that could be used to identify a patient with reasonable accuracy and speed from sources external to the health care provider.
- (6) ~~"Statewide data processor" means a~~ Statewide data processor. – A data processor certified by the Division as capable of complying with the requirements of G.S. 131E-214.4. The Division may deny, suspend, or revoke a certificate, in accordance with Chapter 150B of the General Statutes, if the statewide data processor does not comply with or is not capable of complying with the requirements of G.S. 131E-214.4. The Division is authorized to may promulgate rules concerning the receipt, consideration, and limitation of a certificate applied for or issued under this Article."

**SECTION 23.** G.S. 136-18 reads as rewritten:

**"§ 136-18. Powers of Department of Transportation.**

The ~~said~~ Department of Transportation ~~is vested with~~ has the following powers:

- ...
- (2) Related to right-of-way:
- ...
- c. Subject to the provisions of G.S. 136-19.5(a) and (b), to use existing rights-of-way, or locate and acquire such additional rights-of-way, as may be necessary for the present or future relocation or initial location, above or below ground, ~~of~~ of all of the following:
    1. Telephone, telegraph, distributed antenna systems (DAS), broadband communications, electric and other lines, as well as gas, water, sewerage, ~~oil~~ oil, and other pipelines, to be operated by public utilities as defined in G.S. 62-3(23) and which are regulated under Chapter 62 of the General Statutes, or by municipalities, counties, any entity created by one or more political subdivisions for the purpose of supplying any such utility services, electric membership corporations, telephone

membership corporations, or any combination thereof; ~~and thereof.~~

2. Nonutility owned or operated communications or data transmission infrastructure.

The Department ~~retains full power to~~ may widen, relocate, ~~change change,~~ or alter the grade or location thereof, or alter the location or configuration of ~~such the~~ lines or systems above or below ground. No agreement for use of Department right-of-way under this sub-subdivision shall abrogate the Department's ownership and control of the right-of-way. The Department ~~is authorized to~~ may adopt policies and rules necessary to implement ~~the provisions of this~~ sub-subdivision.

- d. To change or relocate any existing roads that the Department of Transportation ~~may now own or may acquire.~~ owns or acquires.

...

- f. ~~Provided, all changes or alterations authorized by this subdivision shall be subject to the provisions of G.S. 136-54 to 136-63, to the extent that said sections are applicable.~~

- g. ~~Provided, that nothing in this Chapter shall be construed to authorize or permit the Department of Transportation to allow or pay anything to any county, township, city or town, or to any board of commissioners or governing body thereof, for any existing road or part of any road heretofore constructed by any such county, township, city or town, unless a contract has already been entered into with the Department of Transportation.~~

All changes or alterations authorized by this subdivision are subject to G.S. 136-54 to G.S. 136-63, to the extent that those sections are applicable.

Nothing in this Chapter authorizes the Department of Transportation to allow or pay anything to any county, township, city, or town, or to any board of commissioners or governing body thereof, for any existing road or part of any road heretofore constructed by the county, township, city, or town, unless a contract has already been entered into with the Department of Transportation.

- (3) To provide for such road materials as may be necessary to carry on the work of the Department of Transportation, either by gift, purchase, or ~~condemnation: Provided, that when~~ condemnation. ~~When any person, firm firm,~~ or corporation owning a deposit of sand, ~~gravel-gravel,~~ or other ~~material, necessary,~~ material necessary for the construction of the system of State highways ~~provided herein,~~ has entered into a contract to furnish the Department of Transportation any of such material, at a price to be fixed by ~~said the~~ Department of Transportation, thereafter the Department of Transportation shall ~~have the right to~~ may condemn the necessary right-of-way under ~~the provisions of Article 9 of Chapter 136, this Chapter,~~ to connect ~~said the~~ deposit with any part of the system of State highways or public ~~carrier, provided that easements~~ carrier. Easements to material ~~deposits, deposits~~ condemned under this Article shall not become a public road and the condemned easement shall be returned to the owner as soon as the deposits are exhausted or abandoned by the Department of Transportation.

...

- (5) To make rules, ~~regulations-regulations,~~ and ordinances for the use of, and to police traffic on, the State highways, and to prevent their abuse by individuals,

~~corporations~~ corporations, and public corporations, by trucks, tractors, ~~trailers~~ trailers, or other heavy or destructive vehicles or machinery, or by any other means whatsoever, and to provide ample means for the enforcement of ~~same~~; ~~and the~~ the rules, regulations, and ordinances. The violation of any of the rules, ~~regulations~~ regulations, or ordinances so prescribed by the Department of Transportation ~~shall constitute~~ constitutes a Class 1 misdemeanor: ~~Provided, no rules, regulations or ordinances shall be made that will conflict~~ misdemeanor. The Department of Transportation shall not make a rule, regulation, or ordinance that conflicts with any statute ~~now in force~~ or any ordinance of incorporated cities or towns, except the Department of Transportation may regulate parking upon any street which forms a link in the State highway system, if ~~said the street be~~ is maintained with State highway funds.

...  
(7)

To assume full and exclusive responsibility for the maintenance of all roads other than streets in towns and cities, forming a part of the State highway system from the date of acquiring ~~said the~~ roads. The Department of Transportation ~~shall have authority to~~ may maintain all streets constructed by the Department of Transportation in towns of less than 3,000 population by the last census, and such other streets as may be constructed in towns and cities at the expense of the Department of Transportation, whenever in the opinion of the Department of Transportation it is necessary and proper so to do.

...  
(9)

To employ appropriate means for properly selecting, ~~planting~~ planting, and protecting trees, shrubs, vines, ~~grasses~~ grasses, or legumes in the highway right-of-way in the promotion of erosion control, ~~landscaping~~ landscaping, and general protection of ~~said the~~ highways; to acquire by gift or otherwise land for and to construct, ~~operate~~ operate, and maintain roadside parks, picnic areas, picnic tables, scenic ~~overlooks~~ overlooks, and other appropriate turnouts for the safety and convenience of highway users; and to cooperate with municipal or county authorities, federal agencies, civic ~~bodies~~ bodies, and individuals in the furtherance of those objectives. None of the roadside parks, picnic areas, picnic tables, scenic ~~overlooks~~ overlooks, or other turnouts, or any part of the highway right-of-way shall be used for commercial purposes except for any of the following:

- a. Materials displayed in welcome centers in accordance with G.S. 136-89.56.
- b. Vending machines permitted by the Department of Transportation and placed by the Division of Services for the ~~Blind~~, Blind of the Department of Health and Human Services, as the State licensing agency designated pursuant to Section 2(a)(5) of the Randolph-Sheppard Act (20 ~~USC~~ U.S.C. § 107a(a)(5)). The Department of Transportation shall regulate the placing of the vending machines in highway rest areas and shall regulate the articles to be dispensed.
- c. Activities permitted by a local government pursuant to an ordinance meeting the requirements of G.S. 136-27.4.

Every other use or attempted use of any of these areas for commercial purposes ~~shall constitute~~ constitutes a Class 1 misdemeanor, and each day's use ~~shall constitute~~ constitutes a separate offense.

- (10) To make proper and reasonable rules, ~~regulations~~regulations, and ordinances for the placing or erection of telephone, telegraph, ~~electric~~electric, and other lines, above or below ground, wireless facilities, signboards, fences, gas, water, sewerage, oil, or other pipelines, and other similar obstructions that may, in the opinion of the Department of Transportation, contribute to the hazard upon any of the ~~said~~highways or in any way interfere with the ~~same~~highways, and to make reasonable rules and regulations for the proper control thereof. And whenever the order of the ~~said~~ Department of Transportation shall require the removal of, or changes in, the location of telephone, telegraph, ~~electric~~electric, or other lines, wireless facilities, signboards, fences, gas, water, sewerage, oil, or other pipelines, or other similar obstructions, the owners thereof shall at their own expense, except as provided in G.S. 136-19.5(c), move or change ~~the same~~them to conform to the order of ~~said~~the Department of Transportation. Any violation of ~~such~~these rules and regulations or noncompliance with ~~such~~these orders ~~shall constitute~~constitutes a Class 1 misdemeanor. For purposes of this subdivision, "wireless facilities" ~~shall have~~has the definition set forth in G.S. 160A-400.51.
- (11) To regulate, ~~abandon~~abandon, and close to ~~use~~use grade crossings on any road designated as part of the State highway system, and whenever a public highway has been designated as part of the State highway system and the Department of Transportation, in order to avoid a grade crossing or crossings with a railroad or railroads, continues or constructs the ~~said~~ road on one side of the railroad or railroads, the Department of Transportation ~~shall have power to~~may abandon and close to use ~~such~~the grade crossings; and whenever an underpass or overhead bridge is substituted for a grade crossing, the Department of Transportation ~~shall have power to~~may close to use and abandon ~~such~~the grade crossing and any other ~~crossing~~adjacent theretoadjacent crossing.
- (12) ~~The Department of Transportation shall have such powers as are necessary to~~ To comply fully with the provisions of the Intermodal Surface Transportation Efficiency Act of 1991, Pub. L. No. 102-240, 105 Stat. 1914 (1991), as amended, and all other federal aid acts and programs the Department is authorized to administer. The ~~said~~ Department of Transportation is ~~hereby~~authorized to ~~may~~ enter into all contracts and agreements with the United States government relating to survey, construction, improvement and maintenance of roads, urban area traffic operations ~~studies~~studies, and improvement projects on the streets on the State highway system and on the municipal system in urban areas, under the provisions of the present or future congressional enactments, to submit such scheme or program of construction or improvement and maintenance as may be required by the Secretary of Transportation or otherwise provided by federal acts, and to do all other ~~things~~acts necessary to carry out fully the cooperation contemplated and provided for by present or future aid acts of Congress for the construction or improvement and maintenance of federal aid of State highways. The good faith and credit of the State are further ~~hereby~~ pledged to make available funds necessary to meet the requirements of the acts of Congress, present or future, appropriating money to construct and improve rural post roads and apportioned to this State during each of the years for which federal funds are now or may hereafter be apportioned by the ~~said~~ act or acts, to maintain the roads constructed or improved with the aid of funds so appropriated and to make adequate provisions for carrying out ~~such~~the construction and

maintenance. The good faith and credit of the State are further pledged to maintain ~~such the~~ roads now built with federal aid and hereafter to be built and to make adequate provisions for carrying out ~~such the~~ maintenance. Upon request of the Department of Transportation and in order to enable it to meet the requirements of acts of Congress with respect to federal aid funds apportioned to the State of North Carolina, the State Treasurer ~~is hereby authorized, may,~~ with the approval of the Governor and Council of State, ~~to~~ issue short term notes from time to time, and in anticipation of State highway revenue, and to be payable out of State highway revenue for such sums as may be necessary to enable the Department of Transportation to meet the requirements of ~~said the~~ federal aid appropriations, but in no event shall the outstanding notes under the provisions of this section amount to more than two million dollars (\$2,000,000).

- (12a) ~~The Department of Transportation shall have such powers as are necessary to~~ To establish, administer, and receive federal funds for a transportation infrastructure banking program as authorized by the Intermodal Surface Transportation Efficiency Act of 1991, Pub. L. 102-240, as amended, and the National Highway System Designation Act of 1995, Pub. L. 104-59, as amended. The Department of Transportation ~~is authorized to~~ may apply for, receive, administer, and comply with all conditions and requirements related to federal financial assistance necessary to fund the infrastructure banking program. The infrastructure banking program established by the Department of Transportation may utilize federal and available State funds for the purpose of providing loans or other financial assistance to governmental units, including toll authorities, to finance the costs of transportation projects authorized by the ~~above~~ federal aid ~~acts, acts~~ referenced in this subdivision. Such loans or other financial assistance shall be subject to repayment and conditioned upon the establishment of such security and the payment of such fees and interest rates as the Department of Transportation may deem necessary. The Department of Transportation ~~is authorized to~~ may apply a municipality's share of funds allocated under G.S. 136-41.1 or G.S. 136-44.20 as necessary to ensure repayment of funds advanced under the infrastructure banking program. The Department of Transportation shall establish jointly, with the State Treasurer, a separate infrastructure banking account with necessary fiscal controls and accounting procedures. Funds credited to this account shall not revert, and interest and other investment income shall accrue to the account and may be used to provide loans and other financial assistance as provided under this subdivision. The Department of Transportation may establish such rules and policies as are necessary to establish and administer the infrastructure banking program. The infrastructure banking program authorized under this subdivision shall not modify the formula for the distribution of funds established by G.S. 136-189.11. Governmental units may apply for loans and execute debt instruments payable to the State in order to obtain loans or other financial assistance provided for in this subdivision. The Department of Transportation shall require that applicants ~~shall~~ pledge as security for ~~such the~~ obligations revenues derived from operation of the benefited facilities or systems, other sources of revenue, or their faith and credit, or any combination thereof. The faith and credit of ~~such the~~ governmental units shall not be pledged or be deemed to have been pledged unless the requirements of ~~Article 4, Article 4~~ of Chapter 159 of the General Statutes have been met. The State Treasurer, with the assistance of the Local

Government Commission, shall develop and adopt appropriate debt instruments for use under this subdivision. The Local Government Commission shall develop and adopt appropriate procedures for the delivery of debt instruments to the State without any public bidding therefor. The Local Government Commission shall review and approve proposed loans to applicants pursuant to this subdivision under the provisions of ~~Articles 4 and 5,~~ Articles 4 and 5 of Chapter 159 of the General Statutes, as if the issuance of bonds was proposed, so far as those provisions are applicable. Loans authorized by this subdivision ~~shall be~~ are outstanding debt for the purpose of ~~Article 10,~~ Article 10 of Chapter 159 of the General Statutes.

- (12b) To issue "GARVEE" bonds (Grant Anticipation Revenue Vehicles) or other eligible debt-financing instruments to finance federal-aid highway projects using federal funds to pay a portion of principal, interest, and related bond issuance costs, as authorized by 23 U.S.C. § 122, as amended (the National Highway System Designation Act of 1995, Pub. L. 104-59). These bonds shall be issued by the State Treasurer on behalf of the Department and shall be issued pursuant to an order adopted by the Council of State under G.S. 159-88. The State Treasurer shall develop and adopt appropriate debt instruments, consistent with the terms of the State and Local Government Revenue Bond Act, Article 5 of Chapter 159 of the General Statutes, for use under this subdivision. Prior to issuance of any "GARVEE" or other eligible debt instrument using federal funds to pay a portion of principal, interest, and related bond issuance costs, the State Treasurer shall determine (i) that the total outstanding principal of ~~such the~~ the debt does not exceed the total amount of federal transportation funds authorized to the State in the prior federal fiscal year; or (ii) that the maximum annual principal and interest of ~~such the~~ the debt does not exceed fifteen percent (15%) of the expected average annual federal revenue shown for the period in the most recently adopted Transportation Improvement Program. Notes issued under the provisions of this subdivision ~~may shall~~ shall not be deemed to constitute a debt or liability of the State or of any political subdivision thereof, or a pledge of the full faith and credit of the State or of any political subdivision thereof, but shall be payable solely from the funds and revenues pledged therefor. All the notes shall contain on their face a statement to the effect that the State of North Carolina ~~shall not be~~ is not obligated to pay the principal or the interest on the notes, except from the federal transportation fund revenues as shall be provided by the documents governing the revenue note issuance, and that neither the faith and credit nor the taxing power of the State of North Carolina or of any of its political subdivisions is pledged to the payment of the principal or interest on the notes. The issuance of notes under this Part ~~shall does~~ does not directly or indirectly or contingently obligate the State or any of its political subdivisions to levy or to pledge any form of taxation whatever or to make any appropriation for their payment.
- (13) ~~The Department of Transportation may~~ To construct and maintain all walkways and driveways within the Mansion Square in the City of Raleigh and the Western Residence of the Governor in the City of Asheville including the approaches connecting with the city streets, and any funds expended therefor shall be a charge against general maintenance.
- (14) ~~The Department of Transportation shall have authority to~~ To provide roads for the connection of airports in the State with the public highway system, and

- to mark the highways and erect signals along the ~~same~~ highways for the guidance and protection of aircraft.
- (15) ~~The Department of Transportation shall have authority to~~ To provide facilities for the use of waterborne traffic and recreational uses by establishing connections between the highway system and the navigable and nonnavigable waters of the State by means of connecting roads and piers. ~~Such~~ The facilities for recreational purposes shall be funded from funds available for safety or enhancement purposes.
- (16) ~~The Department of Transportation, pursuant~~ Pursuant to a resolution of the Board of Transportation, ~~shall have authority,~~ under the power of eminent domain and under the same procedure as provided for the acquirement of rights-of-way, to acquire title in fee simple to parcels of land for the purpose of exchanging the ~~same~~ parcels of land for other real property to be used for the establishment of rights-of-way or for the widening of existing rights-of-way or the clearing of obstructions that, in the opinion of the Department of Transportation, constitute dangerous hazards at intersections. Real property may be acquired for ~~such~~ these purposes only when the owner of the property needed by the Department of Transportation has agreed in writing to accept the property so acquired in exchange for that to be used by the Department of Transportation, and when, in the opinion of the Department of Transportation, an economy in the expenditure of public funds and the improvement and convenience and safety of the highway can be effected thereby.
- (17) The Department of Transportation is ~~hereby authorized and required to~~ shall maintain and keep in repair, sufficient to accommodate the public school buses, roads leading from the ~~state-maintained~~ State-maintained public roads to all public schools and public school buildings to which children are transported on public school buses to and from their homes. ~~Said~~ The Department of Transportation is ~~further authorized to~~ may construct, pave, and maintain school bus driveways and sufficient parking facilities for the school buses at those schools. The Department of Transportation is ~~further authorized to~~ may construct, pave, and maintain all other driveways and entrances to the public schools leading from public roads not required in the preceding portion of this subdivision.
- ...
- (19) To prohibit the erection of any informational, regulatory, or warning signs within the right-of-way of any highway project built within the corporate limits of any municipality in the State where the funds for ~~such~~ the construction are derived in whole or in part from federal appropriations expended by the Department of Transportation, unless ~~such~~ the signs have first been approved by the Department of Transportation.
- (20) ~~The Department of Transportation is hereby authorized to~~ To maintain and keep in repair a suitable way of ingress and egress to all public or church cemeteries or burial grounds in the State notwithstanding the fact that ~~said~~ the road is not a part of the ~~state-maintained~~ State-maintained system of roads. For the purpose of this subdivision a public or church cemetery or burial ground ~~shall be~~ is defined as a cemetery or burial ground in which there are buried or permitted to be buried deceased persons of the community in which ~~said~~ the cemetery or burial ground is located, but ~~shall~~ does not mean a privately owned cemetery operated for profit or family burial plots.

- (21) The Department of Transportation is ~~hereby authorized and directed to shall~~ remove all dead animals from the traveled portion and rights-of-way of all primary and secondary roads and to dispose of ~~such the~~ animals by burial or otherwise. In cases where there is evidence of ownership upon the body of any dead dog, the Department of Transportation shall take reasonable steps to notify the owner thereof by mail or other means.
- (22) No airport or aircraft landing area shall be constructed or altered where ~~such the~~ construction or alteration when undertaken or completed may reasonably affect motor vehicle operation and safety on adjoining public roads except in accordance with a written permit from the Department of Transportation or its duly authorized officers. The Department of Transportation is ~~authorized and empowered to may~~ regulate airport and aircraft landing area construction and alteration in order to preserve safe clearances between highways and airways and the Department of Transportation is ~~authorized and empowered to may~~ make rules, regulations, and ordinances for the preservation of safe clearances between highways and airways. The Department of Transportation ~~shall be is~~ responsible for determining safe clearances and shall fix standards for ~~said this~~ determination which shall not exceed the standards adopted for similar purposes by the United States Bureau of Public Roads under the Federal Aid Highway Act of 1958. Any person, firm, ~~corporation corporation,~~ or airport authority constructing or altering an airport or aircraft landing area without obtaining a written permit as ~~herein provided, provided in this subdivision,~~ or not in compliance with the terms of ~~such the~~ permit, or violating the provisions of the rules, ~~regulations regulations,~~ or ordinances promulgated under the authority of this section ~~shall be is~~ guilty of a Class 1 ~~misdemeanor; provided, that this misdemeanor.~~ This subdivision ~~shall does~~ not apply to publicly owned and operated airports and aircraft landing areas receiving federal funds and subject to regulation by the Federal Aviation Authority.
- (23) When in the opinion of the Department of Transportation an economy in the expenditure of public funds can be effected thereby, the Department of Transportation ~~shall have authority to may~~ enter into agreements with adjoining states regarding the planning, location, engineering, right-of-way ~~acquisition acquisition,~~ and construction of roads and bridges connecting the North Carolina State highway system with public roads in adjoining states, and the Department of Transportation ~~shall have authority to may~~ do planning, surveying, locating, engineering, right-of-way ~~acquisition acquisition,~~ and construction on short segments of roads and bridges in adjoining states with the cost of ~~said the~~ work to be reimbursed by the adjoining state, and may also enter into agreements with adjoining states providing for the performance of and reimbursement to the adjoining state of the cost of ~~such the~~ work done within ~~the this~~ State of North Carolina by the adjoining state. ~~Provided, that the state.~~ The Department of Transportation shall retain the right to approve any contract for work to be done in this State by an adjoining state for which the adjoining state is to be reimbursed.
- (24) ~~The Department of Transportation is further authorized to~~ To pave driveways leading from ~~state maintained State-maintained~~ roads to rural fire district firehouses which are approved by the North Carolina Fire Insurance Rating Bureau and to facilities of rescue squads furnishing ambulance services which are approved by the North Carolina State Association of Rescue Squads, Inc.
- (25) The Department of Transportation is ~~hereby authorized and directed to shall~~ design, construct, repair, and maintain paved streets and roads upon the

campus of each of the State's institutions of higher education, at ~~state-owned~~ State-owned hospitals for the treatment of tuberculosis, ~~state-owned~~ State-owned orthopedic hospitals, juvenile correction centers, mental health hospitals and ~~retarded centers,~~ developmental centers, schools for the deaf, and schools for the blind, when such construction, maintenance, or repairs have been authorized by the General Assembly in the appropriations bills enacted by the General Assembly. Cost for ~~such—the~~ the construction, maintenance, and repairs shall be borne by the Highway Fund. Upon the General Assembly authorizing the construction, repair, or maintenance of a paved road or drive upon any of the ~~above-mentioned institutions,~~ institutions listed in this subdivision, the Department of Transportation shall give ~~such—the~~ the project priority to ~~insure—ensure~~ ensure that it shall be accomplished as soon as feasible, at the minimum cost to the State, and in any event during the biennium for which the authorization ~~shall have~~ has been given by the General Assembly.

- (26) The Department of Transportation, at the request of a representative from a board of county commissioners, ~~is hereby authorized to may~~ may acquire by condemnation new or additional right-of-way to construct, ~~pave—pave,~~ or otherwise improve a designated State-maintained secondary road upon presentation by ~~said—the~~ the board to the Department of Transportation of a duly verified copy of the minutes of its meeting showing approval of ~~such—the~~ the request by a majority of its members and by the further presentation of a petition requesting ~~such—the~~ the improvement executed by the abutting owners whose frontage on ~~said—the~~ the secondary road ~~shall equal or exceed equals or exceeds~~ exceeds seventy-five percent (75%) of the linear front footage along the secondary road sought to be improved. This subdivision ~~shall not be construed to—does not~~ limit the authority of the Department of Transportation to exercise the power of eminent domain.
- (27) ~~The Department of Transportation is authorized to—To~~ To establish policies and promulgate rules providing for voluntary local government, property ~~owner~~ owner, or highway user participation in the costs of maintenance or improvement of roads which would not otherwise be necessary or would not otherwise be performed by the Department of Transportation and which will result in a benefit to the property owner or highway user. By way of illustration and not as a limitation, ~~such—these~~ these costs include those incurred in connection with drainage improvements or maintenance, driveway connections, dust control on unpaved roads, surfacing or paving of roads and the acquisition of rights-of-way. Local government, property ~~owner—owner,~~ owner, and highway user participation can be in the form of materials, money, or land (for right-of-way) as deemed appropriate by the Department of Transportation. The authority of this section shall not be used to authorize, ~~construct—construct,~~ or maintain toll roads or bridges.
- (28) ~~The Department of Transportation may—To~~ To obtain land, either by gift, ~~lease~~ lease, or ~~purchase—purchase,~~ purchase, which shall be used for the construction and maintenance of ridesharing parking lots. The Department may design, construct, repair, and maintain ridesharing parking facilities.
- (29) ~~The Department of Transportation may—To~~ To establish policies and adopt rules about the size, location, direction of traffic flow, and the construction of driveway connections into any street or highway which is a part of the State Highway System. The Department of Transportation may require the construction and public dedication of acceleration and deceleration lanes, and

traffic storage lanes and medians by others for the driveway connections into any United States route, or North Carolina route, and on any secondary road route with an average daily traffic volume of 4,000 vehicles per day or more.

(29a) To coordinate with all public and private entities planning schools to provide written recommendations and evaluations of driveway access and traffic operational and safety impacts on the State highway system resulting from the development of the proposed sites. All public and private entities shall, upon acquiring land for a new school or prior to beginning construction of a new school, relocating a school, or expanding an existing school, request from the Department a written evaluation and written recommendations to ensure that all proposed access points comply with the criteria in the current North Carolina Department of Transportation "Policy on Street and Driveway ~~Access~~". Access. The Department shall provide the written evaluation and recommendations within a reasonable time, which shall not exceed 60 days. This subdivision applies to improvements that are not located on the school property. The Department ~~shall have~~ has the power to grant final approval of any project design under this subdivision. To facilitate completion of the evaluation and recommendations within the required 60 days, in lieu of the evaluation by the Department, schools may engage an independent traffic engineer prequalified by the Department. The resulting evaluation and recommendations from the independent traffic engineer shall also fulfill any similar requirements imposed by a unit of local government. This subdivision ~~shall not be construed to~~ does not require the public or private entities planning schools to meet the recommendations made by the Department or the independent traffic engineer, except those highway improvements that are required for safe ingress and egress to the State highway system, pursuant to subdivision (29) of this section, and that are physically connected to a driveway on the school property. The total cost of any improvements to the State highway system provided by a school pursuant to this subdivision, including those improvements pursuant to subdivision (29) of this section, shall be reimbursed by the Department. Any agreement between a school and the Department to make improvements to the State highway system shall not include a requirement for acquisition of right-of-way by the school, unless the school is owned by an entity that has eminent domain power. Nothing in this subdivision ~~shall preclude~~ precludes the Department from entering into an agreement with the school whereby the school installs the agreed upon improvements and the Department provides full reimbursement for the associated costs incurred by the school, including design fees and any costs of right-of-way or easements. The term "school," as used in this subdivision, means any facility engaged in the educational instruction of children in any grade or combination of grades from kindergarten through the twelfth grade at which attendance satisfies the compulsory attendance law and includes charter schools authorized under G.S. 115C-218.5. The term "improvements," as used in this subdivision, refers to all facilities within the right-of-way required to be installed to satisfy the road cross-section requirements depicted upon the approved plans. These facilities ~~shall include~~ roadway construction, including pavement installation and medians; ditches and shoulders; storm drainage pipes, culverts, and related appurtenances; and, where required, curb and gutter; signals, including pedestrian safety signals; street lights; sidewalks; and design fees. Improvements ~~shall do not~~ include any costs for public utilities.

...

(30) Consistent with G.S. 130A-309.14(a1), the Department of Transportation shall review and revise its bid procedures and specifications set forth in ~~Chapter 136 of the General Statutes~~ this Chapter to encourage the purchase or use of reusable, refillable, repairable, more durable, and less toxic supplies and products. The Department of Transportation shall require the purchase or use of ~~such~~ these supplies and products in the construction and maintenance of highways and bridges to the extent that the use is practicable and cost-effective. The Department shall prepare an annual report on October 1 of each year to the Environmental Review Commission as required under G.S. 130A-309.14(a1).

(31) ~~The Department of Transportation is authorized to~~ To designate portions of highways as scenic highways, and combinations of portions of highways as scenic byways, for portions of those highways that possess unusual, exceptional, or distinctive scenic, recreational, historical, educational, scientific, geological, natural, wildlife, ~~cultural~~ cultural, or ethnic features. The Department shall remove, upon application, from any existing or future scenic highway or scenic byway designation, highway sections ~~that~~ that meet all of the following:

- a. ~~Have no scenic value,~~ value.
- b. ~~Have been designated or would be so designated solely to preserve system continuity, and~~ continuity.
- c. Are adjacent to property on which is located one or more permanent structures devoted to a commercial or industrial activity and on which a commercial or industrial activity is actually conducted, in an unzoned area or an area zoned commercial or industrial pursuant to a State or local zoning ordinance or regulation, except for commercial activity related to tourism or recreation.

The Department shall adopt rules and regulations setting forth the criteria and procedures for the designation of scenic highways and scenic byways under this ~~subsection~~ subdivision.

Those portions of highways designated as scenic by the Department prior to July 1, 1993, are considered to be designated as scenic highways and scenic byways under this ~~subsection~~ subdivision, but the Department shall remove from this designation portions of those highway sections that meet the criteria set forth in this ~~subsection~~ subdivision, if requested.

(32) ~~The Department of Transportation may~~ To perform dredging services, on a cost reimbursement basis, for a unit of local government if the unit cannot obtain the services from a private company at a reasonable cost. A unit of local government is considered to be unable to obtain dredging services at a reasonable cost if it solicits bids for the dredging services in accordance with Article 8 of Chapter 143 of the General Statutes and does not receive a bid, considered by the Department of Transportation Engineering Staff, to be reasonable.

(33) ~~The Department of Transportation is empowered and directed,~~ shall, from time to time, ~~to~~ carefully examine into and inspect the condition of each railroad, its equipment and facilities, in regard to the safety and convenience of the public and the railroad employees. If the Department finds any equipment or facilities to be unsafe, it shall at once notify the railroad company and require the company to repair the equipment or facilities.

(34) ~~The Department of Transportation may~~ To conduct, in a manner consistent with federal law, a program of accident prevention and public safety covering all railroads and ~~may to~~ investigate the cause of any railroad accident. In order to facilitate this program, any railroad involved in an accident that must be reported to the Federal Railroad Administration shall also notify the Department of Transportation of the occurrence of the accident.

...

(36) The Department ~~shall have~~ has the following powers related to fixed guideway public transportation system safety:

...

c. ~~The Department may~~ To conduct, in a manner consistent with federal law, a program of accident prevention and public safety covering all rail fixed guideway public transportation systems and ~~may to~~ investigate the cause of any rail fixed guideway public transportation system accident. In order to facilitate this program, any rail fixed guideway public transportation system involved in an accident meeting the reporting thresholds defined by the Department shall report the accident to the Department.

...

g. The Department shall not receive funding for the activities authorized by sub-subdivisions a. through f. of this subdivision from any rail fixed guideway public transportation systems subject to the Department's authority pursuant to ~~the provisions of~~ sub-subdivisions a. through f. of this subdivision.

(37) To permit use of and encroachment upon the right-of-way of a State highway or road for the purpose of construction and maintenance of a bridge owned by a private or public entity, if the bridge ~~shall does~~ not unreasonably interfere with or obstruct the public use of the right-of-way. Any agreement for an encroachment authorized by this subdivision shall be approved by the Board of Transportation, upon a finding that the encroachment is necessary and appropriate, in the sole discretion of the Board. Locations, plans, and specifications for any pedestrian or vehicular bridge authorized by the Board for construction pursuant to this subdivision shall be approved by the Department of Transportation. For any bridge subject to this subdivision, the Department shall retain the right to reject any plans, specifications, or materials used or proposed to be used, inspect and approve all materials to be used, inspect the construction, maintenance, or repair, and require the replacement, reconstruction, repair, or demolition of any partially or wholly completed bridge that, in the sole discretion of the Department, is unsafe or substandard in design or construction. An encroachment agreement authorized by this subdivision may include a requirement to purchase and maintain liability insurance in an amount determined by the Department of Transportation. The Department shall ensure that any bridge constructed pursuant to this subdivision is regularly inspected for safety. The owner shall have the bridge inspected every two years by a qualified private engineering firm based on National Bridge Inspection Standards and shall provide the Department copies of the ~~Bridge Inspection Reports~~ bridge inspection reports where they shall be kept on file. Any bridge authorized and constructed pursuant to this subdivision ~~shall be~~ is subject to all other rules and conditions of the Department of Transportation for encroachments.

...

- (39) To enter into partnership agreements with private entities, and authorized political subdivisions to finance, by tolls, contracts, and other financing methods authorized by law, the cost of acquiring, constructing, equipping, maintaining, and operating transportation infrastructure in this State, and to plan, design, develop, acquire, construct, equip, maintain, and operate transportation infrastructure in this State. An agreement entered into under this subdivision requires the concurrence of the Board of Transportation. The Department shall report to the Chairs of the Joint Legislative Transportation Oversight Committee, the Chairs of the House of Representatives Appropriations ~~Subcommittee~~ Committee on Transportation, and the Chairs of the Senate Appropriations Committee on the Department of Transportation, at the same time it notifies the Board of Transportation of any proposed agreement under this subdivision. No contract for transportation infrastructure subject to ~~such~~ an agreement under this subdivision that commits the Department to make nonretainage payments for undisputed capital costs of a completed transportation infrastructure to be made later than 18 months after final acceptance by the Department of ~~such~~ the transportation infrastructure shall be executed without approval of the Local Government Commission. Any contracts for construction of highways, roads, streets, and bridges which are awarded pursuant to an agreement entered into under this section shall comply with the competitive bidding requirements of Article 2 of this Chapter.
- (39a) a. The Department of Transportation or Turnpike Authority, as applicable, may enter into up to three agreements with a private entity as provided under subdivision (39) of this section for which the provisions of this section apply.
- ...
- c. Notwithstanding the provisions of G.S. 143B-426.40A, an agreement entered into under this subdivision may allow the private entity to assign, transfer, sell, hypothecate, and otherwise convey some or all of its right, title, and interest in and to ~~such~~ the agreement, and any rights and remedies thereunder, to a lender, bondholder, or any other party. However, in no event shall any such assignment create additional debt or debt-like obligations of the State of North Carolina, the Department, or any other agency, authority, commission, or similar subdivision of the State to any lender, bondholder, entity purchasing a participation in the right to receive the payment, trustee, trust, or any other party providing financing or funding of projects described in this section. ~~The foregoing shall~~ This sub-subdivision does not preclude the Department from making any payments due and owing pursuant to an agreement entered into under this section.
- d. Article 6H of ~~Chapter 136 of the General Statutes shall apply~~ this Chapter applies to the Department of Transportation and to projects undertaken by the Department of Transportation under subdivision (39) of this section. The Department may assign its authority under that Article to fix, revise, charge, retain, enforce, and collect tolls and fees to the private entity.
- e. Any contract under this subdivision or under Article 6H of this Chapter for the development, construction, maintenance, or operation of a project shall provide for revenue sharing, if applicable, between the private party and the Department, and revenues derived from ~~such~~ the project may be used as set forth in G.S. 136-89.188(a),

notwithstanding the provisions of G.S. 136-89.188(d). Excess toll revenues from a Turnpike ~~project~~ Project shall be used for the funding or financing of transportation projects within the corridor where the Turnpike Project is located. For purposes of this subdivision, the term "excess toll revenues" means those toll revenues derived from a Turnpike Project that are not otherwise used or allocated to the Authority or a private entity pursuant to this subdivision, notwithstanding the provisions of G.S. 136-89.188(d). For purposes of this subdivision, the term "corridor" means (i) the right-of-way limits of the Turnpike Project and any facilities related to the Turnpike Project or any facility or improvement necessary for the use, design, construction, operation, maintenance, repair, rehabilitation, reconstruction, or financing of a Turnpike Project; (ii) the right-of-way limits of any subsequent improvements, additions, or extension to the Turnpike Project and facilities related to the Turnpike projects, including any improvements necessary for the use, design, construction, operation, maintenance, repair, rehabilitation, reconstruction, or financing of those subsequent improvements, additions, or extensions to the Turnpike Project; and (iii) roads used for ingress or egress to the toll facility or roads that intersect with the toll facility, whether by ramps or separated grade facility, and located within one mile in any direction.

- f. Agreements entered into under this subdivision shall comply with the following additional provisions:
1. The Department shall solicit proposals for agreements.
  2. ~~Agreement~~ The agreement shall be limited to no more than 50 years from the date of the beginning of operations on the toll facility.
  - ...
  4. Financial advisors and attorneys retained by the Department on contract to work on projects pursuant to this subsection ~~shall be~~ are subject to State law governing conflicts of interest.
  - ...

(43) For the purposes of financing an agreement under subdivision (39a) of this section, the Department of Transportation may act as a conduit issuer for private activity bonds to the extent the bonds do not constitute a debt obligation of the State. The issuance of private activity bonds under this subdivision and any related actions ~~shall be~~ is governed by ~~The the~~ State and Local Government Revenue Bond Act, Article 5 of Chapter 159 of the General Statutes, with G.S. 159-88 satisfied by adherence to the requirements of subdivision (39a) of this section.

(44) ~~The Department is authorized to~~ To contract for sponsorship arrangements for Department operations and may solicit contracts for ~~such these~~ arrangements pursuant to Article 2 of this Chapter. All amounts collected and all savings realized as a result of these sponsorship arrangements shall be used by the Department toward funding of maintenance activities.

...."

**SECTION 24.** G.S. 143-64.02 reads as rewritten:

**"§ 143-64.02. Definitions.**

As used in Part 1 of this Article, except where the context clearly requires otherwise: The following definitions apply in Part 1 of this Article:

- (1) ~~"Agency" means an Agency.~~ – An existing department, institution, commission, committee, board, division, or bureau of the State.
- (2) ~~"Nonprofit tax exempt organizations" means the Nonprofit tax exempt organizations.~~ – The following entities certified by the Internal Revenue Service as tax-exempt nonprofit organizations under ~~section~~Section 501(c)(3) of the United States Internal Revenue Code of 1954: medical institutions, hospitals, clinics, health centers, school systems, schools, colleges, universities, schools for ~~the mentally retarded,~~ individuals with intellectual or other developmental disabilities, schools for ~~the physically handicapped,~~ individuals with physical disabilities, radio and television stations licensed by the Federal Communications Commission as educational radio or educational television stations, public libraries, civil defense organizations, and nonprofit entities that are qualified under rules adopted by the State Surplus Property Agency of the Department of Administration to refurbish computers and donate them to low-income students or households throughout the State.
- (3) ~~"Recyclable material" means a Recyclable material.~~ – A recyclable material, as defined in G.S. 130A-290, that the Secretary of Administration determines, consistent with G.S. 130A-309.14, to be a recyclable material.
- (4) ~~"State owned" means supplies, State owned.~~ – Supplies, materials, and equipment in the possession of the State of North Carolina and purchased with State funds, personal property donated to the State, or personal property purchased with other funds that give ownership to the State.
- (5) ~~"Surplus property" means personal~~ Surplus property. – Personal property that is no longer needed by a State agency."

**SECTION 25.** G.S. 143-64.2 reads as rewritten:

**"§ 143-64.2. Authority and duties of the State agency for federal surplus property.**

(a) The State agency for federal surplus property ~~is hereby authorized and empowered~~ may do all of the following:

- (1) ~~To acquire~~ Acquire from the United States of America such property, including equipment, materials, books, or other supplies under the control of any department or agency of the United States of America as may be usable and necessary for educational purposes, public health purposes, or civil defense purposes, including ~~research;~~ research.
- (2) ~~To warehouse such property; and~~ Warehouse the property.
- (3) ~~To distribute such~~ Distribute the property to tax-supported or nonprofit and tax-exempt (under ~~section~~Section 501(c)(3) of the United States Internal Revenue Code of 1954) medical institutions, hospitals, clinics, health centers, school systems, schools, colleges, universities, schools for ~~the mentally retarded,~~ individuals with intellectual or other developmental disabilities, schools for ~~the physically handicapped,~~ individuals with physical disabilities, radio and television stations licensed by the Federal Communications Commission as educational radio or educational television stations, public libraries, civil defense organizations, and such other eligible donees within the State as are permitted to receive surplus property of the United States of America under the Federal Property and Administrative Services Act of 1949, as amended.

...

(d) The State agency for surplus property ~~is authorized and empowered to~~ may take such action, make such expenditures and enter into such contracts, ~~agreements~~ agreements, and undertakings for and in the name of the State, require such reports and make such investigations as may be required by law or regulation of the United States of America in connection with the

receipt, warehousing, and distribution of property received by the State agency for federal surplus property from the United States of America.

(e) The State agency for federal surplus property ~~is authorized and empowered to~~ may act as a clearinghouse of information for the public and private nonprofit institutions and agencies referred to in subsection (a) of this section, ~~to~~ may locate property available for acquisition from the United States of America, ~~to~~ may ascertain the terms and conditions under which ~~such the~~ property may be obtained, ~~to~~ may receive requests from the ~~above mentioned~~ institutions and agencies and ~~to~~ may transmit to them all available information in reference to ~~such the~~ property, and ~~to~~ may aid and assist ~~such the~~ institutions and agencies in every way possible in ~~the consummation or acquisition or transactions hereunder~~ transactions for the acquisition of federal surplus property.

...."

**SECTION 26.** G.S. 143-117 reads as rewritten:

**"§ 143-117. Institutions included.**

All persons admitted to the following institutions operated by the Department of Health and Human Services are required to pay the actual cost of their care, treatment, ~~training~~ training, and maintenance at these institutions: regional psychiatric hospitals, special care centers, ~~regional mental retardation centers~~, regional developmental centers, schools for ~~emotionally disturbed children~~, children with serious emotional disturbances, and alcohol and drug abuse treatment centers."

**SECTION 27.** G.S. 143-117.1 reads as rewritten:

**"§ 143-117.1. Definitions.**

~~As used in this Article, the following terms have the meaning specified unless the content clearly implies otherwise:~~ The following definitions apply in this Article:

- (1) ~~"Care" means care.~~ Care. – Care, treatment, training, maintenance, ~~habilitation~~ habilitation, and rehabilitation of a person admitted to institutions covered by this Article.
- (2) ~~"Department" means the Department.~~ – The Department of Health and Human Services.
- (3) ~~"Persons admitted" means clients~~ Persons admitted. – Clients of regional psychiatric hospitals, State special care centers, ~~regional mental retardation centers~~, regional developmental centers, schools for ~~emotionally disturbed children~~, children with serious emotional disturbances, and alcohol and drug abuse treatment centers, including clients who may be treated on an outpatient basis.
- (4) ~~"Secretary" means the Secretary.~~ – The Secretary of Health and Human Services.

**SECTION 28.** G.S. 148-19 reads as rewritten:

**"§ 148-19. Health services.**

(a) The general policies, ~~rules~~ rules, and regulations of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety shall prescribe standards for health services to prisoners, which shall include preventive, diagnostic, and therapeutic measures on both an outpatient and a hospital basis, for all types of patients. A prisoner may be taken, when necessary, to a medical facility outside the State prison system. The Division of Adult Correction and Juvenile Justice of the Department of Public Safety shall seek the cooperation of public and private agencies, institutions, ~~officials~~ officials, and individuals in the development of adequate health services to prisoners.

(b) Upon request of the Secretary of Public Safety, the Secretary of Health and Human Services may detail personnel employed by the Department of Health and Human Services to the Division of Adult Correction and Juvenile Justice of the Department of Public Safety for the purpose of supervising and furnishing medical, psychiatric, psychological, dental, and other

technical and scientific services to the Division of Adult Correction and Juvenile Justice of the Department of Public Safety. The compensation, allowances, and expenses of the personnel detailed under this section may be paid from applicable appropriations to the Department of Health and Human Services, and may be reimbursed from applicable appropriations to the Division of Adult Correction and Juvenile Justice of the Department of Public Safety. The Secretary of Public Safety may make similar arrangements with any other agency of State government able and willing to aid the Division of Adult Correction and Juvenile Justice of the Department of Public Safety to meet the needs of prisoners for health services.

(c) Each prisoner committed to the Division of Adult Correction and Juvenile Justice of the Department of Public Safety shall receive a physical and mental examination by a health care professional authorized by the North Carolina Medical Board to perform ~~such~~the examinations as soon as practicable after admission and before being assigned to work. The prisoner's work and other assignments shall be made with due regard for the prisoner's physical and mental condition.

(d) The Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services shall adopt standards for the delivery of mental health and ~~mental retardation~~ intellectual and other developmental disability services to inmates in the custody of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety. The Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services shall give the Secretary of Public Safety an opportunity to review and comment on proposed standards prior to promulgation of ~~such~~the standards; however, final authority to determine ~~such~~the standards remains with the Commission. The Secretary of the Department of Health and Human Services shall designate an agency or agencies within the Department of Health and Human Services to monitor the implementation by the Division of Adult Correction and Juvenile Justice of the Department of Public Safety of these standards and of substance abuse standards adopted by the Division of Adult Correction and Juvenile Justice of the Department of Public Safety."

**SECTION 29.** G.S. 148-22 reads as rewritten:

**"§ 148-22. Treatment programs.**

(a) The general policies, ~~rules~~rules, and regulations of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety shall provide for humane treatment of prisoners and for programs to effect their correction and return to the community as promptly as practicable. Visits and correspondence between prisoners and approved friends shall be authorized under reasonable conditions, and family members shall be permitted and encouraged to maintain close contact with the prisoners unless ~~such~~the contacts prove to be hurtful. Casework, counseling, and psychotherapy services provided to prisoners may be extended to include members of the prisoner's family if practicable and necessary to achieve the purposes of ~~such~~the programs. Education, library, recreation, and vocational training programs shall be developed so as to coordinate with corresponding services and opportunities which will be available to the prisoner when he or she is released. Programs may be established for the treatment and training of ~~mentally retarded~~ prisoners with intellectual or other developmental disabilities and other special groups. These programs may be operated in segregated sections of facilities housing other prisoners or in separate facilities.

(b) The Division of Adult Correction and Juvenile Justice of the Department of Public Safety may cooperate with and seek the cooperation of public and private agencies, institutions, officials, and individuals in the development and conduct of programs designed to give persons committed to the Division opportunities for physical, ~~mental~~mental, and moral improvement. The Division may enter into agreements with other agencies of federal, ~~State~~State, or local government and with private agencies to promote the most effective use of available resources.

Specifically the Secretary of Public Safety may enter into contracts or agreements with appropriate public or private agencies offering needed services including health, mental health, ~~mental retardation~~, behavioral health, intellectual and other developmental disability, substance

abuse, ~~rehabilitative-rehabilitative,~~ or training services for such inmates of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety as the Secretary may deem eligible. These agencies shall be reimbursed from applicable appropriations to the Division of Adult Correction and Juvenile Justice of the Department of Public Safety for services rendered at a rate not to exceed that which ~~such-the~~ agencies normally receive for serving their regular clients.

The Secretary may contract for the housing of work-release inmates at county jails and local confinement facilities. Inmates may be placed in the care of ~~such-the~~ agencies but shall remain the responsibility of the Division and shall be subject to the complete supervision of the Division. The Division may reimburse ~~such-the~~ agencies for the support of ~~such-the~~ inmates at a rate not in excess of the average daily cost of inmate care in the corrections unit to which the inmate would otherwise be assigned."

**SECTION 30.** G.S. 153A-221 reads as rewritten:

**"§ 153A-221. Minimum standards.**

(a) The Secretary shall develop and publish minimum standards for the operation of local confinement facilities and may from time to time develop and publish amendments to the standards. The standards shall be developed with a view to providing secure custody of prisoners and to protecting their health and welfare and providing for their humane treatment. The standards shall provide ~~for~~for all of the following:

- (1) Secure and safe physical ~~facilities;facilities.~~
- (2) Jail ~~design;design.~~
- (3) Adequacy of space per ~~prisoner;prisoner.~~
- (4) Heat, light, and ~~ventilation;ventilation.~~
- (5) Supervision of ~~prisoners;prisoners.~~
- (6) Personal hygiene and comfort of ~~prisoners;prisoners.~~
- (7) Medical care for prisoners, including mental health, ~~mental-retardation,~~ behavioral health, intellectual and other developmental disability, and substance abuse services;services.
- (8) ~~Sanitation;Sanitation.~~
- (9) Food allowances, food preparation, and food ~~handling;handling.~~
- (10) Any other provisions that may be necessary for the safekeeping, privacy, care, protection, and welfare of prisoners.

...."

**SECTION 31.** G.S. 153A-248 reads as rewritten:

**"§ 153A-248. Health-related appropriations.**

(a) A county may appropriate revenues not otherwise limited as to use by ~~law;law to any~~ of the following:

- (1) ~~To a~~A licensed facility for ~~the mentally retarded, individuals with intellectual or other developmental disabilities,~~ whether publicly or privately owned, to assist in maintaining and developing facilities and treatment, if the board of commissioners determines that the care offered by the facility is available to residents of the county. The facility need not be located within the county.
- (2) ~~To a~~A sheltered workshop or other private, nonprofit, charitable organization offering work or training activities to ~~the physically or mentally handicapped,~~ individuals with physical disabilities or intellectual or other developmental disabilities, and may otherwise assist ~~such-an-the~~ organization.
- (3) ~~To an~~An orthopedic hospital, whether publicly or privately owned, to assist in maintaining and developing facilities and treatment, if the board of commissioners determines that the care offered by the hospital is available to residents of the county. The hospital need not be located within the county.

- (4) ~~To a~~ A training center or other private, nonprofit, charitable organization offering education, treatment, rehabilitation, or developmental programs to ~~the physically or mentally handicapped, individuals with physical disabilities or intellectual or other developmental disabilities,~~ individuals with physical disabilities or intellectual or other developmental disabilities, and may otherwise assist ~~such organizations; provided, however, such action~~ the organizations. ~~Such action, however, shall be with the concurrence of the county board of education; and provided, further, that within~~ education. Within 30 days after receipt of the request for concurrence, the county board of education shall notify the board of county commissioners whether it concurs, and should it fail to so notify the board of county commissioners within ~~such~~ this period, it shall be deemed to have concurred.

(b) The ordinance making the appropriation shall state specifically what the appropriation is to be used for, and the board of commissioners shall require that the recipient account for the appropriation at the close of the fiscal year."

**SECTION 32.** G.S. 159-48 reads as rewritten:

**"§ 159-48. For what purposes bonds may be issued.**

(a) Each unit of local government ~~is authorized to~~ may borrow money and issue its bonds under this Article in evidence thereof for any one or more of the following purposes:

...

(b) Each county and city ~~is authorized to~~ may borrow money and issue its bonds under this Article in evidence thereof for the purpose of paying any capital costs of any one or more of the following:

...

- (7) Providing hospital facilities, including without limitation general, tuberculosis, mental, chronic disease, and other types of hospitals and related facilities such as laboratories, outpatient departments, nurses' homes and training facilities, and central service facilities operated in connection with hospitals; facilities for the provision of public health services, including related facilities such as laboratories, clinics, and administrative offices; facilities specially designed for the diagnosis, treatment, education, training, or custodial care of ~~the mentally retarded, individuals with intellectual or other developmental disabilities,~~ individuals with intellectual or other developmental disabilities, including facilities for training specialists and sheltered workshops for ~~the mentally retarded, individuals with intellectual or other developmental disabilities;~~ nursing homes; and in connection with the foregoing, laundries, nurses', doctors', or interns' residences, administrative buildings, research facilities, maintenance, storage, and utility facilities, auditoriums, dining halls, food service and preparation facilities, fire prevention facilities, mental and physical health care facilities, dental care facilities, nursing schools, mental teaching facilities, offices, parking facilities, and other supporting service structures.

...

(c) Each county ~~is authorized to~~ may borrow money and issue its bonds under this Article in evidence of the debt for the purpose of, in the case of subdivisions (1) through (4b) of this subsection, paying any capital costs of any one or more of the purposes and, in the case of subdivisions (5) and (6) of this subsection, to finance the cost of the purpose:

...

- (6) Providing housing projects for persons of low or moderate income, including construction or acquisition of projects to be owned by a county, redevelopment commission, or housing authority and the provision of loans, grants, interest supplements, and other programs of financial assistance to ~~such~~ these persons. A housing project may provide housing for persons of

other than low or moderate income if at least forty percent (40%) of the units in the project are exclusively reserved for persons of low or moderate income. No rent subsidy ~~may~~ shall be paid from bond proceeds.

(d) Each city is ~~authorized to~~ may borrow money and issue its bonds under this Article in evidence thereof for the purpose of paying any capital costs of any one or more of the following:

...

(4) Providing gas systems, including without limitation facilities for the production, storage, ~~transmission~~ transmission, and distribution of gas, where systems shall also include the purchase ~~and/or~~ or lease of natural gas fields and natural gas reserves and the purchase of natural gas supplies, and where any parts of ~~such~~ the systems may be located either ~~within the State or without~~ inside or outside the State.

...

(7) Providing housing projects for the benefit of persons of low income, or moderate income, or low and moderate income, including without limitation (i) construction or acquisition of projects to be owned by a city, redevelopment commission or housing authority, and (ii) loans, grants, interest supplements and other programs of financial assistance to persons of low income, or moderate income, or low and moderate income, and developers of housing for persons of low income, or moderate income, or low and moderate income. A housing project may provide housing for persons of other than low or moderate income, as long as at least twenty percent (20%) of the units in the project are set aside for housing for the exclusive use of persons of low income. No rent subsidy ~~may~~ shall be paid from bond proceeds.

(e) Each sanitary district, mosquito control district, hospital district, merged school administrative unit described in ~~G.S. 115C-513;~~ G.S. 115C-513, metropolitan sewerage district, metropolitan water district, metropolitan water and sewerage district, county water and sewer district, regional public transportation ~~authority~~ authority, and special airport district is ~~authorized to~~ may borrow money and issue its bonds under this Article in evidence thereof for the purpose of paying any capital costs of any one or more of the purposes for which it is authorized, by general laws uniformly applicable throughout the State, to raise or appropriate money, except for current expenses.

(f) For any of the purposes authorized by subsections (b), (c), (d), or (e) of this section, a unit may do any of the following that it considers necessary or convenient:

- (1) Acquire, construct, erect, provide, develop, install, furnish, and ~~equip;~~ and equip.
- (2) Reconstruct, remodel, alter, renovate, replace, refurnish, and ~~reequip;~~ and reequip.
- (3) Enlarge, expand, and ~~extend;~~ and extend.
- (4) Demolish, relocate, improve, grade, drain, landscape, pave, widen, and resurface.

(g) Bonds for two or more unrelated purposes, not of the same general class or character, shall not be authorized by the same bond order. However, bonds for any of the purposes listed in any subdivision of any subsection of this section shall be deemed to be for one purpose and may be authorized by the same bond order. In addition, nothing ~~herein may be deemed to prohibit in this section~~ prohibits the combining of purposes from any ~~of such paragraphs~~ subdivision of any subsection of this section and the authorization of bonds therefor by the same bond order to the extent that the purposes are not unrelated.

(h) As used in this section, "capital costs" include, without limitation, all of the following:

- (1) The costs of doing any or all of the things mentioned in subsection (f) of this ~~section; and~~section.
- (2) The costs of all property, both real and personal and both improved and unimproved, plants, works, appurtenances, structures, facilities, furnishings, machinery, equipment, vehicles, easements, water rights, franchises, and licenses used or useful in connection with the purpose ~~authorized; and~~authorized.
- (3) The costs of demolishing or moving structures from land acquired and acquiring any lands to which ~~such the~~ structures are to be ~~moved; and~~moved.
- (4) Financing charges, including estimated interest during construction and for six months ~~thereafter; and~~thereafter.
- (5) The costs of plans, specifications, studies and reports, surveys, and estimates of costs and ~~revenues; and~~revenues.
- (6) The costs of bond printing and ~~insurance; and~~insurance.
- (7) Administrative and legal ~~expenses; and~~expenses.
- (8) Any other services, costs, and expenses necessary or incidental to the purpose authorized.

(i) This section does not authorize any unit to undertake any program, function, joint undertaking, or service not otherwise authorized by law. It is intended only to authorize the borrowing of money and the issuance of bonds within the limitations set out ~~herein in this section~~ to finance programs, functions, joint undertakings, or services authorized by other portions of the General Statutes or by city charters."

## **PART II-A. GENERAL STATUTES COMMISSION MEMBERSHIP-RELATED CHANGES**

**SECTION 32.1.** G.S. 164-14 reads as rewritten:

### **"§ 164-14. Membership; appointments; terms; vacancies.**

- (a) The Commission shall consist of ~~14~~13 members, who shall be appointed as follows:
  - (1) One member, by the president of the North Carolina State ~~Bar; Bar.~~
  - (2) One member, by the General Statutes ~~Commission; Commission.~~
  - (3) One member, by the dean of the school of law of the University of North ~~Carolina; Carolina.~~
  - (4) One member, by the dean of the school of law of Duke ~~University; University.~~
  - (5) One member, by the dean of the school of law of Wake Forest ~~University; University.~~
  - (6) One member, by the Speaker of the House of Representatives of each General Assembly from the membership of the ~~House; House.~~
  - (7) One member, by the President Pro Tempore of the Senate of each General Assembly from the membership of the ~~Senate; Senate.~~
  - (8) Two members, by the ~~Governor; Governor.~~
  - (9) One member, by the dean of the school of law of North Carolina Central ~~University; University.~~
  - (10) One member by the president of the North Carolina Bar ~~Association; Association.~~
  - (11) One member, by the dean of the school of law of Campbell University.
  - (12) One member, by the dean of the school of law of Elon University.
  - (13) ~~One member, by the dean of the Charlotte School of Law (NC), Inc.~~

(b) ~~Appointments of original members of the Commission made by the president of the North Carolina State Bar, the president of the North Carolina Bar Association, and the deans of the schools of law of Duke University, the University of North Carolina, and Wake Forest University shall be for one year. Appointments of original members of the Commission made by~~

the Speaker of the House of Representatives, the President of the Senate, and the Governor shall be for two years.

(c) ~~After the appointment of the original members of the Commission, appointments~~ Appointments by the president of the North Carolina State Bar, the General Statutes Commission, and the deans of the schools of law of North Carolina Central University, Duke University, Elon University, the University of North Carolina, and Wake Forest University shall be made in the even-numbered years, and appointments made by the Speaker of the House of Representatives, the President Pro Tempore of the Senate, the president of the North Carolina Bar Association, the deans ~~dean~~ of the ~~School of Law school of law~~ of Campbell University and the ~~Charlotte School of Law (NC), Inc., University,~~ and the Governor shall be made in the odd-numbered years. ~~Such appointments~~ Appointments shall be made for two-year terms beginning ~~June first~~ September 1 of the year when ~~such~~ the appointments are to become effective and expiring ~~May 31~~ August 31 two years thereafter. ~~All such appointments shall be made not later than May 31 of the year when such appointments are to become effective.~~

(d) If any appointment provided for by this section is not made prior to June first of the year when it should become effective, a vacancy shall exist with respect thereto, and the vacancy shall then be filled by appointment by the Governor. If any member of the Commission dies or resigns during the term for which he was appointed, his successor for the unexpired term shall be appointed by the person who made the original appointment, as provided in G.S. 164-14, or by the successor of such person; and if such vacancy is not filled within 30 days after the vacancy occurs, it shall then be filled by appointment by the Governor. In any case where an appointment authorized to be made by G.S. 164-14(c) has not been made on or before July 31 of the year in which it was due to be made, a vacancy shall exist with respect to that appointment and the General Statutes Commission at its next meeting shall by majority vote fill the vacancy by appointment. a member of the Commission resigns, dies, or ceases to be a member for any other reason, a vacancy exists with respect to that appointment and the original appointing authority shall appoint a new member to fill the unexpired term.

This subsection does not apply when a member is continuing to serve under subsection (f) of this section.

(e) All appointments shall be reported to the secretary of the Commission.

(f) Notwithstanding the expiration of the term of the appointment, the terms of members of the General Statutes Commission shall continue until the appointment of a successor has been made and reported to the secretary of the Commission."

**SECTION 32.2.** The terms of the current members of the General Statutes Commission are extended to August 31 of the year in which they would otherwise expire.

### **PART III. SAVINGS PROVISION AND EFFECTIVE DATE**

**SECTION 33.** Parts I and II of this act do not affect the coverage, eligibility, rights, responsibilities, or provision of State or federal services or benefits for individuals who have been diagnosed with mental retardation and whose diagnosis has not been changed to a diagnosis of intellectual disability.

**SECTION 34.** Except as otherwise provided in Parts I and II of this act, those Parts become effective October 1, 2019, and apply to proceedings commenced or services rendered on or after that date. Except as otherwise provided, the remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 26<sup>th</sup> day of June, 2019.

s/ Daniel J. Forest  
President of the Senate

s/ Tim Moore  
Speaker of the House of Representatives

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Roy Cooper  
Governor

Approved \_\_\_\_\_m. this \_\_\_\_\_ day of \_\_\_\_\_, 2019